

# Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations

## Part 7: **Other Interested Parties**



NCAA



Youth  
Leagues



Government



Workers'  
Comp.  
Attys



Health-  
related  
Companies

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As described in the Introduction to this Report, the stakeholders analyzed were: those that as individuals, groups, and organizations *directly impact* player health, for example, as employers or caregivers; those who *reap substantial financial benefits* from players' work; and/or those who have some *capacity to influence* player health. Additionally, as described in depth in the Introduction and throughout this Report, we are generally focused on current players.

Nevertheless, there are a variety of parties that do not fit well into the criteria outlined above but have some role in NFL player health. In particular, some have more direct roles in the health of future or former players. And while the roles of these parties are not as integral as the stakeholders already discussed, they still merit identification and discussion. These other parties that have at least some role in NFL player health are: (a) the National Collegiate Athletic Association (NCAA); (b) youth leagues; (c) governments; (d) workers' compensation attorneys; and, (e) health-related companies. Additionally, these parties should consider the recommendations in this Report and how they might be applied to their environment. For example, the NCAA should strongly consider our recommendations concerning improvements to the structure of player healthcare.

## 1 ) THE NCAA

The NCAA is a non-profit unincorporated association headquartered in Indianapolis through which the nation's colleges and universities govern their athletic programs. The NCAA consists of more than 1,200 member institutions, all of which participate in the creation of NCAA rules and voluntarily submit to its authority.<sup>1</sup> The NCAA's member institutions hire a President to oversee its affairs, currently Mark Emmert, formerly the President of the University of Washington.

The NCAA is divided into three Divisions (I, II, and III) depending on the size, resources, and number of sports teams of the schools, with Division I being the largest and Division III being the smallest. When it comes to football, Division I is further divided between the Football Bowl Subdivision (FBS) and the Football Championship Subdivision (FCS). FBS schools are the largest schools with the greatest financial and physical resources. In 2015, there were 125 schools playing in the FBS and 127 schools playing in the FCS.<sup>2</sup>

Due to the NFL's requirement that a player be at least three years removed from his high school graduation before he is eligible for the NFL Draft,<sup>3</sup> almost all NFL players played

college football at an NCAA Division I member institution.<sup>a</sup> A handful of players come from Division II or III schools, international schools, or played for a college that is a member of the National Association of Intercollegiate Athletics, the NCAA's significantly smaller alternative.

Because the NCAA governs college football, it, its member institutions, and employees of member institutions have important legal and ethical obligations to current football student-athletes. In many respects, those obligations might track the obligations of the NFL, NFL clubs, and NFL club employees discussed herein.<sup>b</sup> However, those responsibilities largely if not entirely disappear once a player leaves an NCAA member institution. Thus, the NCAA generally has no current legal or ethical obligations toward current NFL players.

Nevertheless, the NCAA is an important and powerful component of the football ecosystem. The NCAA's member institutions, for better or worse, serve as the training ground for many NFL players, coaches, doctors, athletic trainers, and others working in the NFL. It is at these member institutions where policies and practices are learned and become part of the football culture.

It is perhaps thus not surprising that the NCAA, like the NFL, has faced litigation concerning concussions. In 2013, multiple lawsuits brought by student-athletes alleging that the NCAA had failed to institute appropriate safeguards concerning concussions were consolidated in the United States District Court for the Northern District of Illinois.<sup>4</sup> In October 2014, the parties reached a proposed settlement that included: (a) \$70 million in a medical monitoring fund whereby former student-athletes could obtain medical evaluations concerning possible medical problems related to concussions; (b) \$5 million for concussion-related research; and, (c) revised concussion protocols by the NCAA.<sup>5</sup> The court rejected the initial settlement on several procedural grounds, including that the class was not sufficiently represented by former student-athletes and those that played non-contact sports.<sup>6</sup> In April 2015, the parties submitted a revised proposed settlement agreement resolving the procedural issues but which did not change the financial

a FBS team rosters are limited to 105 student-athletes. NCAA Division I Manual § 17.10.2.1.2. FCS rosters are limited to 95 student-athletes. NCAA Division I Manual § 17.10.2.1.3. Thus, each year there are approximately 25,000 student-athletes playing Division I college football. According to the NCAA, only 1.6 percent of all Division I football student-athletes will ever play professionally. Jake New, *A Long Shot*, Inside Higher Ed, Jan. 27, 2015, <https://www.insidehighered.com/news/2015/01/27/college-athletes-greatly-overestimate-their-chances-playing-professionally>, archived at <https://perma.cc/MR9S-DZ7A>.

b A key distinction is that generally student-athletes are not considered employees of the institution. See Steven L. Wilborn, *College Athletes as Employees: An Overflowing Quiver*, 69 U. Miami L. Rev. 65 (2014).

components of the settlement.<sup>7</sup> In January 2016, the Court approved the settlement.<sup>8,c</sup>

The principal document governing intercollegiate athletics and setting forth relevant policies is the NCAA's Division I Manual, a complex set of thousands of rules. The Manual covers topics such as, but not limited to, ethical conduct, conduct and employment of athletics personnel, amateurism and athletics eligibility, recruiting, financial aid, scholarships, playing and practice seasons, championships, and enforcement.

The Division I Manual includes several provisions related to the health of student-athletes. In Section 2.2, entitled “The Principle of Student-Athlete Well-Being,” the Division I Manual declares that “[i]ntercollegiate athletics programs shall be conducted in a manner designed to protect and enhance the physical and educational well-being of student-athletes.”<sup>9</sup> Section 2.2 goes on to list and describe several principles relevant to student-athlete health, including: overall educational experience; cultural diversity and gender equity; health and safety; student-athlete/coach relationship; fairness, openness and honesty; and, student-athlete involvement. Moreover, in 2010, the Division I Manual was amended to require each member institution to create a concussion management plan for its student-athletes.<sup>10</sup>

The NCAA has recently made additional important progress on player health issues. In January 2014, the NCAA hosted a Safety in College Football Summit.<sup>11</sup> The stated purpose of “the summit was to bring together a multi-faceted group of experts who share a common interest in improving the culture of safety in intercollegiate sports in general, and football in particular.”<sup>12</sup> The summit working group consisted of 65 people, including doctors, athletic trainers, NCAA officials and consultants, school athletic department officials, athletic conference officials, military officials, attorneys, and others.<sup>13</sup> The summit resulted in “consensus guidelines for three paramount safety issues in intercollegiate athletics: (1) Independent medical care in the collegiate setting; (2) Concussion diagnosis and management; and (3) Football practice contact.” These guidelines substantially supplement the Division I Manual and are an important step forward for the health of college football players.

In addition, the NCAA has a Committee on Competitive Safeguards and Medical Aspects of Sports, which monitors

student-athlete health and safety issues, and promulgates a Sports Medicine Handbook, which establishes requirements and guidelines regarding student-athlete health and safety issues.<sup>14</sup>

While the NCAA does not have direct dealings with current NFL players, many NFL players' health issues may stem (at least in part) from their collegiate careers and earlier. The NCAA's policies and practices influence and guide those playing or working in college football who might later play or work in the NFL. Additionally, the NCAA is a powerful organization and has the authority to influence positive policy and culture changes around player health. And similarly, the NCAA is likely to be influenced and affected by changes made at the NFL level. For these reasons, the NCAA is an interested and important party concerning the health of football players, particularly future players, and should strongly consider the recommendations made in this Report. At the same time, because of their overlapping interests, it is advisable for the NFL, the NCAA and youth leagues (discussed next) to discuss and create a bottom-up approach to solving many of the health and safety issues that impact football players at all levels.

## 2) YOUTH LEAGUES

Youth football leagues present important opportunities for children to learn and play the game of football. Even though the number of children who play youth football and who ultimately play in the NFL is infinitesimal,<sup>d</sup> youth football is still almost always the first step in a future NFL player's career.

There are approximately 2.8 million children between the ages of 6 and 14 who play football each year.<sup>15</sup> According to numerous media reports, this number has declined over the last decade,<sup>16</sup> though the Sports & Fitness Industry Association (SFIA) found that participation in tackle football among individuals aged 6 and above increased from 2014 to 2015.<sup>17</sup> Moreover, according to SFIA, 40 percent of adolescent boys play football, tied with basketball as the sport most likely to be played by young boys.<sup>18</sup>

These children play in hundreds of different leagues, the largest being Pop Warner.<sup>19</sup> Pop Warner has a participation level of approximately 225,000 annually, and, reportedly, 60 to 70 percent of current NFL players began playing football in a Pop Warner league.<sup>20</sup> Most youth football

c The settlement did not preclude additional lawsuits against individual schools (as opposed to schools collectively in the form of the NCAA). As a result, new lawsuits were brought against individual schools. See Ben Strauss, *Six Concussion Suits Are Filed Against Colleges and N.C.A.A.*, N.Y. Times, May 17, 2016, [http://www.nytimes.com/2016/05/18/sports/ncaafotball/six-head-injury-suits-filed-in-new-front-against-colleges-and-ncaa.html?\\_r=0](http://www.nytimes.com/2016/05/18/sports/ncaafotball/six-head-injury-suits-filed-in-new-front-against-colleges-and-ncaa.html?_r=0), archived at <https://perma.cc/5JY5-VEZT>.

d According to the NCAA, of 1,093,234 high school football players in 2013–2014, only 6.5 percent of those players will play college football. *Research—Football*, NCAA (Feb. 25, 2015), <http://www.ncaa.org/about/resources/research/football>, archived at <http://perma.cc/73HT-TTLW>. And, of those that play college football, only 1.6 percent will play in the NFL. By multiplying the figures together, it appears that only about 1 in every 1,000 high school football players will reach the NFL.

leagues, including Pop Warner, are members of USA Football, a non-profit organization based in Indianapolis that acts as the sport's national governing body for youth football.<sup>21</sup> USA Football is supported by or affiliated with the NFL, NCAA, National Federation of State High School Associations (NFHS), the American Football Coaches Association, and the five most powerful conferences in college football (ACC, Big 12, Big Ten, Pac-12 and SEC).<sup>22</sup> Additionally, NFL Commissioner Roger Goodell sits on USA Football's Board of Directors.<sup>23</sup>

While Pop Warner leagues govern children between the ages of 5 and 14, NFHS generally creates the rules for high school football. NFHS is an organization consisting of each of the 50 states' high school athletic associations,<sup>24</sup> and makes rules of play that are generally adopted by each of its members.<sup>25</sup> For example, NFHS' rules for football require all equipment meet the standards set forth by the National Operating Committee on Standards for Athletic Enforcement (NOCSAE),<sup>26</sup> as discussed in Chapter 16: Equipment Manufacturers.

Like the NFL, both Pop Warner and NFHS have many rules concerning player safety, some of which were added in recent years. For example, in 2010, Pop Warner instituted rules that required a player who may have a concussion to receive clearance from a doctor before he can return to play.<sup>27</sup> Then, in 2012, Pop Warner prohibited certain drills that cause helmet-to-helmet collisions and limited the amount of contact during practice to one-third of the practice time.<sup>28</sup> Similarly, in 2010, NFHS instituted rules requiring clearance by a doctor before a player suspected of having suffered a concussion can return to play.<sup>29</sup> Then, in 2016, Pop Warner banned kickoffs, believed to be the most dangerous play in the game.<sup>30</sup> Additionally, all youth leagues must comply with the Lystedt Laws, which are discussed below in the Government section.

Youth sports leagues can be held liable for the negligent actions of its employees when those employees are engaged in work on behalf of the league.<sup>31</sup> However, youth sports leagues are sometimes protected by statutes that provide immunity to non-profit or volunteer organizations<sup>32</sup> as well as the assumption of risk doctrine.<sup>33</sup> Similarly, while some state courts have found "that state high school athletic associations owe a duty of care to their participating athletes and that duty of care includes the responsibility to establish and enforce rules to protect the health and safety of participating athletes,"<sup>34</sup> high school athletic associations, which are often largely intertwined with the state government, may be protected, at least in part, by sovereign immunity laws.<sup>35</sup>

The possibility of litigation and heightened scrutiny concerning player health has caused concerns for youth leagues. Pop Warner has faced multiple lawsuits from former players alleging they had suffered serious injuries as a result of playing Pop Warner football,<sup>36</sup> settling some for undisclosed sums.<sup>37</sup> Moreover, dwindling participation and cautious exclusion of potentially injured athletes has forced schools to forfeit games or give up the sport.<sup>38</sup> Finally, increased liability exposure has increased leagues' insurance premiums,<sup>39</sup> potentially threatening the financial viability of the leagues.<sup>40</sup>

Despite decreasing participation, millions of children still play football. Consequently, youth football leagues remain important to both the game of football and those who play it.<sup>e</sup> The youth leagues teach players how to play the game and how to play it safely and thus also promote lifelong interest in the game. For these reasons, many of the issues and recommendations discussed in this Report are relevant to youth leagues. And again, as recommended above, because of their overlapping interests, it is advisable for the NFL, the NCAA, and youth leagues to work together in addressing these issues.

### 3 ) GOVERNMENTS

The federal government has occasionally involved itself in professional sports. In 1961, Congress passed the Sports Broadcasting Act (at the NFL's prompting), which, among other things, immunizes the NFL, NBA, NHL, and MLB from the antitrust laws when the leagues want to collectively sell their television rights;<sup>41</sup> in 1992, Congress passed the Professional and Amateur Sports Protection Act (again, at the NFL's prompting), a federal statute that generally forbids state-sponsored sports gambling;<sup>42</sup> and, in the mid-2000s, Congress held a series of hearings concerning performance-enhancing drugs in sports.<sup>43</sup> Of most relevance, in 2007 Congress held hearings concerning retirement and disability benefits for former NFL players,<sup>44</sup> in 2009 held a hearing concerning concussions in the NFL,<sup>45</sup> and in 2016 held a hearing concerning concussions generally.<sup>46</sup>

While Congress has never passed legislation specifically concerned with NFL player health, the possibility exists. Moreover, although governments' interest in sports is sporadic, the power that governments wield makes them a potentially powerful change agent. For example, shortly after the 2009 hearing, the NFL overhauled the Mild

e "The mission of Pop Warner . . . is to enable young people to benefit from participation in team sports and activities in a safe and structured environment." *The Pop Warner Mission*, Pop Warner Little Scholars, [http://www.popwarner.com/About\\_Us/mission.htm](http://www.popwarner.com/About_Us/mission.htm) (last visited Aug. 7, 2015), archived at <http://perma.cc/3UMX-YGGF>.

Traumatic Brain Injury (MTBI) Committee<sup>f</sup> by removing its controversial leaders, renaming it the Head, Neck and Spine Committee, and appointing respected, independent neurosurgeons to lead the Committee and the NFL's research into concussions.<sup>47</sup>

State governments have taken more action concerning football player health, focusing on youth football. Since youth football players have no sophisticated union to represent their interests, government actions to protect their health have been particularly important. The most important of these initiatives are known as “Lystedt Laws,” after Zackery Lystedt, who, as a 13-year old in October 2006, suffered brain hemorrhaging after he returned to a youth football game 15 minutes after having suffered a concussion.<sup>48</sup> Lystedt's experience left him in a coma for nine months, on a feeding tube for two years, and with severe physical disabilities.<sup>49</sup>

In 2009, as a result of Lystedt's experience, Washington, Lystedt's home state, passed a law in his name that: (1) requires youth athletes suspected of having sustained a concussion or head injury in a practice or game to be removed from competition at that time; and, (2) prevents the youth athlete from returning to play “until the athlete is evaluated by a licensed health care provider trained in the evaluation and management of concussion and receives written clearance to return to play from that health care provider.”<sup>50</sup> Soon, other states began passing similar legislation.

In 2010, NFL Commissioner Roger Goodell sent a letter to the Governors of 44 states that had not yet passed a version of the Lystedt Law, urging them to do so.<sup>51,52</sup> In 2014, with the passage of the Mississippi Youth Concussion Act, all 50 states and the District of Columbia had passed a version of the Lystedt Law.<sup>52</sup>

Nearly all states' Lystedt Laws also require concussion-related information to be provided to youth athletes.<sup>53</sup> Nevertheless, there is substantial variation in the laws concerning the content of the information and whether the athletes must acknowledge receipt of the information.<sup>54</sup> The content can vary concerning the nature of a concussion, the risks of a concussion, the risk of continued play after a suspected concussion, actions to be taken in response to a concussion, return to play guidelines, and the short- and long-term consequences of concussions.<sup>55</sup> Thirty-five states require that both the athlete and his or her parents acknowledge receipt of the information while an

additional eight states require only that the parent acknowledge receipt.<sup>56</sup>

The application of the Lystedt Laws in the event of non-compliance is unclear. None of the state statutes provide for criminal or civil penalties.<sup>57</sup> In the only case to date concerning Washington's law, the court seemingly used the law as a guideline for determining whether the defendants were negligent. After briefly discussing the law's requirements, the court found that “[t]he Administrators and Coaches responsible for the football program . . . were not negligent in administering the eligibility requirements or monitoring the safety and health of the players on the team.”<sup>58</sup>

Governments are appropriately aware of situations posing threats to the health of the public, including practices in particular industries. While any problems concerning NFL player health are generally best left to the collective bargaining process, it might be appropriate for the government to involve itself if the situation is particularly concerning. More importantly, governments can play a more robust role in changing the culture around football safety by protecting youth football players, some of whom are future NFL players.

#### 4 ) WORKERS' COMPENSATION ATTORNEYS

As discussed in Chapter 8: NFL Clubs, NFL clubs' obligations to pay for workers' compensation benefits to players has been a contentious issue. Although the benefits a player might receive are quite small compared to the amounts he earned while playing, the player will have medical care stemming from a football-related injury covered for life. Workers' compensation attorneys are a crucial part of players receiving benefits to which they are entitled.

To assist NFL players with workers' compensation claims, the NFLPA makes available to players and their contract advisors a document describing the benefits claim process, benefits amount, and statutes of limitations. Additionally, the NFLPA has recommended workers' compensation attorneys in each city in which an NFL club plays (collectively, the “Panel”). The Panel consists of approximately 60 attorneys. Because players play in many states, they are often eligible for workers' compensation benefits in many states. The advantage of the Panel is coordination and communication (with the NFLPA's assistance) that permits a player to determine which state will provide the player with the best benefits. Finally, contract advisors are prohibited from referring a player to a workers' compensation attorney who is not a member of the Panel.<sup>59</sup>

<sup>f</sup> For more on the MTBI Committee, see Chapter 7: The NFL and NFLPA.

<sup>g</sup> Dr. Richard Ellenbogen, Lystedt's treating physician and the co-chairman of the NFL Head, Neck and Spine Committee was also involved in the efforts to have the laws passed.

The Panel provides NFL players with easy access to attorneys experienced in workers' compensation and sensitive to the specific issues that might arise concerning NFL players. In addition, the Panel attorneys are generally the first to know of changes in the workers' compensation laws, whether by judicial decision or legislative action, and can alert the NFLPA accordingly.

Workers' compensation attorneys are also in a relatively unique position to judge a player's post-career health. Workers' compensation claims generally must be filed within 1 to 3 years from the date of injury. Professional football players are most likely to file claims for career-ending or threatening injuries when the likelihood of future compensation becomes less certain. Workers' compensation attorneys are thus likely working with players whose careers are about to end or have recently ended. Moreover, as part of the workers' compensation claim, the attorney will undoubtedly become familiar with the player's medical history and issues and the likely effect of those issues on the player's quality of life moving forward.

Many of the issues discussed in this Report potentially contribute and are relevant to workers' compensation claims. Consequently, workers' compensation attorneys' are well-versed in many of these issues. For these reasons, we believe it would help players and their health if workers' compensation attorneys reviewed this Report and considered the ways in which they can help improve player health.

## 5) HEALTH-RELATED COMPANIES

Many technology companies are creating biological and other health-related products principally geared towards a sports application. Some of these companies are working on biological technologies while others are working on genetic ones. Additional detail on these technologies and tests, and their legal and ethical implications as they relate to NFL players, are discussed at length in our forthcoming law review article, *Evaluating NFL Player Health and Performance: Legal and Ethical Issues*.<sup>60</sup>

Several companies are putting cutting-edge technology into devices that can generate a variety of biological data. For example, there are technologies that can be used to track player movement (Catapult Sports, Zebra Technologies), or measure the force exerted by players (Catapult Sports, PUSH, EliteForm), a player's readiness for practice or competition (Omegawave, BioForce HRV), a player's heart rate (Polar, Proteus Digital Health, BioForce HRV), the quality of a player's sleep (Fatigue Science), a player's body temperature (Proteus Digital Health, HQInc.), a player's hydration level (Atago), and head impacts (X2 Biosystems,

Riddell). Many of these products are already being utilized by NFL clubs.

As these technologies get smaller and smaller, and thus easier to incorporate into equipment, the trend will be toward more robust data generation and collection over time. In all of these situations, the companies are responding to market demands, including for technologies that can help athletes (professional and amateur) improve their performance and also those that can help athletes be healthier and safer. Recognizing that these demands are principal concerns of the NFL and many other powerful sports leagues provides strong economic incentives for the continued creation and expansion of biotechnologies.

Turning to products focused on genetics, a 2011 study in the *Journal of Personalized Medicine* found 13 companies providing sports-specific DNA tests or analyses to American consumers.<sup>61</sup> The tests were given names such as "Sports DNA Test," "Sports X Factor Standard Panel," "Athletic Gene Test," "Sports Gene Test," and "Athletics Profile Test" and ranged in price from \$99 to about \$1,000.<sup>62</sup> However, in August 2013, the Food and Drug Administration (FDA) ordered one of the leading companies offering sports-specific DNA tests, 23andMe, to stop advertising its genetic tests without authorization from the FDA.<sup>63</sup> At that time, the FDA had not developed any rules for direct-to-consumer (DTC) genetic testing. Thus, the FDA was concerned about whether the test was clinically validated and how consumers might interpret genetic test results provided to them.<sup>64</sup> Shortly thereafter, 23andMe and its American competitors ceased offering the DTC genetic tests.<sup>65</sup>

The reliability of these genetic tests is suspect. A 2013 article summed up the state of research: "A favorable genetic profile, when combined with an optimal training environment, is important for elite athletic performance; however, few genes are consistently associated with elite athletic performance, and none are linked strongly enough to warrant their use in predicting athletic success."<sup>66</sup> This opinion is not uniformly held, and indeed a 2013 *Journal of Sports Medicine* article took an even dimmer view of the current science, arguing that: "Current genetic testing has zero predictive power on talent identification and should not be used by athletes, coaches or parents."<sup>67</sup>

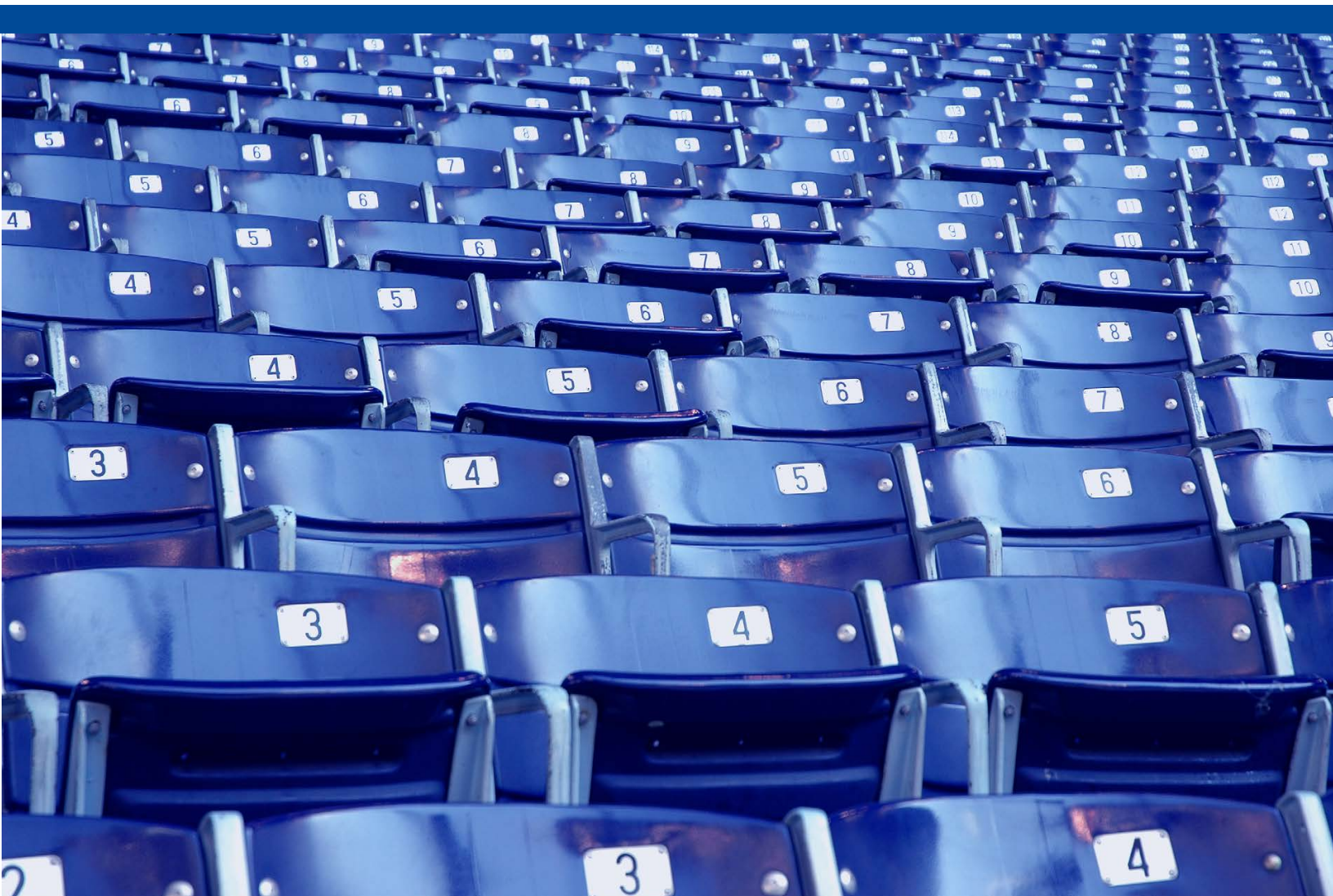
Nevertheless, interest in genetic testing in sports remains extremely high. Researchers and companies have claimed there are more than 200 genes associated with physical performance and that at least 20 of them might be tied to elite athletic performance.<sup>68</sup> In February 2015, 23andMe received FDA approval to begin marketing a genetic test designed to determine whether prospective parents carry

mutations that could cause a rare disorder known as Bloom syndrome in their children.<sup>69</sup> Thus, it seems likely that 23andMe and other American companies will seek or already are seeking FDA approval for sports-specific genetic tests.

Many of the issues discussed in this Report are decades old—ingrained in the culture and nature of the NFL. The health-related technology companies are an interesting component of the future of the NFL. Nevertheless, these technologies have the potential to be bad for players—by contributing to many of the problems discussed in this Report—or good for players—by using their technologies in ways that are principally designed to protect and promote player health. Health-related technologies can both contribute to many of the problems discussed in this Report and be used in ways that are principally designed to protect

and promote player health. Health-related technology companies should review the issues discussed in this Report and carefully consider what their role in player health will be moving forward.

Health-related technologies can both contribute to many of the problems discussed in this Report and be used in ways that are principally designed to protect and promote player health.



## Endnotes

- 1 See *Who We Are*, Nat'l Collegiate Athletic Ass'n, <http://www.ncaa.org/about/who-we-are> (last visited Aug. 7, 2015), *archived at* <http://perma.cc/2S7M-GL89>; *Membership*, Nat'l Collegiate Athletic Ass'n, <http://www.ncaa.org/about/who-we-are/membership> (last visited Aug. 7, 2015), *archived at* <http://perma.cc/5J5P-RQ2V> (describing membership as more than 1,200 schools).
- 2 See *NCAA Members by Division*, <http://web1.ncaa.org/onlineDir/exec2/divisionListing> (last visited Aug. 7, 2015), *archived at* <https://perma.cc/EJP3-S2V4?type=pdf>.
- 3 See 2011 CBA, Art. 6 § 2(b).
- 4 See *In re: Nat'l Collegiate Athletic Ass'n Student-Athlete Concussion Injury Litigation*, 13-cv-9116, 2014 WL 7237208, \*1-3 (N.D. Ill. Dec. 17, 2014) (discussing procedural history of case).
- 5 See *id.* at \*3-4 (discussing terms of proposed settlement).
- 6 See *In re: Nat'l Collegiate Athletic Ass'n Student-Athlete Concussion Injury Litigation*, *supra* note 4, \*6-10.
- 7 See Ben Strauss, *Former Player Opposes Settlement in N.C.A.A. Concussion Suit*, N.Y. Times, June 9, 2015, <http://www.nytimes.com/2015/06/10/sports/football/former-player-opposes-settlement-in-ncaa-concussion-suit.html>, *archived at* <https://perma.cc/WE4D-7JJR?type=source>.
- 8 *In re: Nat'l Collegiate Ath. Ass'n Student-Athlete Concussion Injury Litigation*, 13-cv-9116, 2016 WL 305380 (N.D. Ill. Jan. 26, 2016).
- 9 NCAA Division I Manual at § 2.2.
- 10 See *id.*
- 11 *Health and Safety—Appendix*, Nat'l Collegiate Athletic Ass'n, <http://www.ncaa.org/health-and-safety/appendix> (last visited Apr. 30, 2015), *archived at* <http://perma.cc/9XSN-6RZ6>.
- 12 *Id.*
- 13 *Id.*
- 14 *Committee on Competitive Safeguards and Medical Aspects of Sports*, NCAA, <http://www.ncaa.org/governance/committees/committee-competitive-safeguards-and-medical-aspects-sports> (last visited Dec. 11, 2015), *archived at* <https://perma.cc/785B-5WDV?type=source>.
- 15 Steve Fainaru & Mark Fainaru-Wada, *Youth Football Participation Drops*, ESPN (Nov. 14, 2013), [http://espn.go.com/espn/otl/story/\\_/page/pop-warner/pop-warner-youth-football-participation-drops-nfl-concussion-crisis-seen-causal-factor](http://espn.go.com/espn/otl/story/_/page/pop-warner/pop-warner-youth-football-participation-drops-nfl-concussion-crisis-seen-causal-factor), *archived at* <http://perma.cc/FHB7-ZU5C>.
- 16 See *id.* (discussing Pop Warner's reported 6.7-percent decline in participation from 2010 to 2011 and 4.0-percent decline from 2011 to 2012); Neil Paine, *Fewer Kids Are Playing Football, But Mark Cuban Might Be Wrong About Why*, FiveThirtyEight (Mar. 25, 2014, 4:37 PM), <http://fivethirtyeight.com/datalab/fewer-kids-are-playing-football-but-mark-cuban-might-be-wrong-about-why/>, *archived at* <http://perma.cc/22EQ-XB8X> (discussing a Wall Street Journal study that found a 5.4% decline in youth football between 2008 and 2014); Bob Cook, *Why Is Football Participation Declining? The Answer Isn't Concussions*, Forbes, Nov. 26, 2013, <http://www.forbes.com/sites/bobcook/2013/11/26/why-is-football-participation-declining-the-answer-isnt-concussions/>, *archived at* <https://perma.cc/Y9C9-X579?type=image> (discussing a National Sporting Goods Association report finding a 13% decline from 2011 to 2012).
- 17 *Date Shows Team Sports Participation Increased in '15, Including Hoops, Football*, Sports Business Daily (Mar. 10, 2016), <http://www.sportsbusinessdaily.com/Daily/Issues/2016/03/10/Research-and-Ratings/SFIA.aspx>, *archived at* <https://perma.cc/PQ86-E29E>.
- 18 Bruce Kelley & Carl Carchia, *Hey, Data Data—Swing!* ESPN (Jul. 16, 2013), [http://espn.go.com/espn/story/\\_/id/9469252/hidden-demographics-youth-sports-espn-magazine](http://espn.go.com/espn/story/_/id/9469252/hidden-demographics-youth-sports-espn-magazine), *archived at* <http://perma.cc/TQ4P-TUQG>.
- 19 Fainaru & Fainaru-Wada, *supra* note 15.
- 20 See *id.*
- 21 *USA Football*, USA Football, <http://usafootball.com/about-us> (last visited Aug. 7, 2015), *archived at* <http://perma.cc/V48Q-37P6>.
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- 23 *Directory*, USA Football, [http://usafootball.com/contact\\_us](http://usafootball.com/contact_us) (last visited Aug. 7, 2015), *archived at* <http://perma.cc/R4W8-K3D7>.
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