

Seton Hall University

eRepository @ Seton Hall

Student Works

Seton Hall Law

2024

FUMBLE! How Professional Leagues Have Dropped the Ball in Gambling Regulation

Dylan Teixeira

Follow this and additional works at: https://scholarship.shu.edu/student_scholarship



Part of the [Law Commons](#)

I. Introduction

Athletes and team personnel are generally prohibited from betting on both games they participate in and on games for which they possess specialized knowledge beyond what the average bettor would have. Imagine a world that permits the starting lineup of a professional baseball team to collude on the biggest stage and throw away the World Series for personal gain. Entertain the thought of a college baseball coach giving a friend advanced notice of the coach's decision to bench the starting pitcher, and in turn, that friend places a \$100,000 wager before the first pitch. Unfortunately for sports integrity, these scenarios are the harsh reality and serve as illustrations of the perpetual challenge for leagues struggling to prevent players and staff from gambling on their own games.¹

This paper undertakes a comparative analysis of the gambling regulations governing professional sports leagues, with a focus on rules preventing players and team staff from placing wagers on games in which they have influence over. This analysis is primarily concerned with the National Football League (NFL) in the United States and the English Football Association (FA) in England, as representatives of the American and European approaches, respectively. While the NFL vests itself with authority to govern the overall top revenue-generating professional league in the world, the FA is the external governing body responsible for regulating the Premier League, the highest revenue-generating professional soccer league in the world.² The central argument of this analysis is that the rules governing impermissible athlete

¹ This introduction implicitly references both the White Sox Scandal of 1919 and the University of Alabama Baseball Scandal of June 2023. Given the significant separation in time between both events, it follows that professional leagues continuously face gambling scandals even today, when league rules are fully developed and regulation is purported to be as stringent as ever.

² Mike Florio, *NFL National Revenue Reaches \$11.98 Billion In 2022*, NBC Sports (July 19, 2023), <https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/nfl-national-revenue-reaches-11-98-billion-in-2022>; Deloitte UK, *2023 Annual Review of Football Finance*, (June 2023), <https://www2.deloitte.com/content/dam/Deloitte/uk/Documents/sports-business-group/deloitte-uk-annual-review-of-football-finance-2023.pdf>.

gambling do not meaningfully prevent athletes from betting on games in which their specialized knowledge is unduly advantageous. While these regulations are designed to maintain the integrity of sports and protect athletes from potential manipulation and corruption, the rules are largely ineffective.

Section II of the analysis highlights recent scandals, and provides an overview of both the evolution of and existing gambling regulatory framework by the NFL and FA. Section III then assesses the effectiveness of each league's regulatory framework, and discusses issues related to due process and accommodation to sponsorships in both approaches. The section next offers recommendations to professional leagues on how to enhance their gambling regulations, focusing on substantive strategies beyond mere linguistic rule changes. In conclusion, fostering a fair and ethical sports environment necessitates a firm commitment from both athletes and professional leagues. An inherent hypocrisy exists when athletes are consistently reminded to steer clear of impermissible betting, while professional leagues reap the benefits of lucrative business relationships with sportsbooks. To address this, the most effective approach for professional leagues involves increased preventative education to athletes on the contours of league gambling policies, and transitioning the profit-centered relationship between professional leagues and sportsbooks towards one of collaboration in regulation.

II. Background of Regulatory Framework

While professional league gambling regulation is seemingly thorough, numerous players have voiced their confusion regarding the intricacies of the rules.³ Several players within the NFL are outspoken with their lack of familiarity with, and their desire to change, the league policy, especially the provisions preventing the placement of bets from team and league facilities

³ Sports Business Journal, *NFL Players Voice Concerns Over Confusion Around League's Betting Policy*, (Aug. 8, 2023), <https://www.sportsbusinessjournal.com/Articles/2023/08/28/nfl-gambling-policy-player-debate.aspx>.

and while on the road with their teams.⁴ The following were quotes from an ESPN interview of 53 NFL players to determine whether they fully understood NFL gambling policy, providing each player with anonymity to speak freely:

"You're telling me that if I walk 10 feet from the [facility's] door it doesn't matter anymore?" one player said. "I just think that's kind of dumb. It's pointless. I don't see how that's helping anything."

"Why can't players bet on other sports that don't compromise the integrity of the game?"⁵

"I think a lot of us, even including myself, was not aware of not being able to bet on other sports, especially when it came on league time -- in team hotels, on the bus. You would think it was just in the facility. I don't think a lot of guys truly understood what it meant by 'when you [are] on the league's time.'"⁶

Clearly, a distinct gap exists between athletes and professional leagues when it comes to athlete comprehension of league gambling regulations, highlighting that these regulations are far from perfect. As the gaming law landscape continues to evolve, there is a pressing need to ensure athletes are continuously updated on regulations which may be already difficult to comprehend.

The rationale in prohibiting athletes from gambling on games in which they participate in stems from the dual-need to uphold the integrity and fairness of sports and to protect athletes whose lifestyles make them susceptible to developing gambling addictions.⁷ By enforcing their anti-gambling rules, professional leagues ensure that fans can continue to enjoy games and

⁴ Stephen Holder, *Amid Gambling Violations NFL Players Debate Betting Policy*, ESPN (Aug. 24, 2023), https://www.espn.com/nfl/story/_/id/38245548/why-some-players-want-change-nfl-gambling-policy-2023.

⁵ This quote in itself represents a misunderstanding the NFL Gambling Policy. While NFL players are allowed to bet on sports that do not compromise the integrity of the game, they are prevented from doing so at NFL facilities and while on the road with their teams.

⁶ *Id.*

⁷ See Matthew Adam Turk et. al., *Predictors of Adverse Gambling Behaviors Amongst Elite Athletes*, Nature Journal Scientific Reports, (Jan. 16, 2023) (finding a harmful gambling culture amongst young athletes and targeted intervention for such vulnerable groups is heavily suggested); see also Matthew S. Lim et. al., *The Experience of Gambling Problems in British Professional Footballers: A Preliminary Qualitative Study*, Oxford University Research Archive (July 2016) (finding professional athletes are more susceptible towards gambling addictions due to high salaries, spare time, and an intensified culture where gambling is shared as a leisure pursuit).

matches with confidence that they are witnessing genuine contests of skill and effort. Despite the best efforts of professional leagues, history has shown that no league is immune from the occurrence of a betting scandal and compromises of league integrity.⁸

The NFL has grappled with a series of scandals involving player violations of its gambling policy in recent years. As of June 2023, Isaiah Rodgers and Rashod Berry of the Indianapolis Colts and free agent Demetrius Taylor were suspended indefinitely through the conclusion of the 2023 season for betting on NFL games in the 2022 season, and Nicholas Petit-Frere of the Tennessee Titans was suspended for the team's first six regular-season games of the 2023 season for betting on non-NFL sports at the club facility.⁹ The NFL's most recent high profile scandal involved prominent Atlanta Falcons wide receiver, Calvin Ridley, who bet on his own team in November 2021.¹⁰ Ridley violated the league's gambling policy by placing three multi-leg parlay bets via Hard Rock sportsbook, including at least one NFL game.¹¹ Specifically, he placed a three-team, five-team and eight-team parlay, risking \$500 on each.¹² His parlays included his own team, the Atlanta Falcons, to win on the road as favorites over the Jacksonville Jaguars on November 28, 2021.¹³ Ridley's placing of the bet on Hard Rock sportsbook from an

⁸ See Scott Eden, *How Former Ref Tim Donaghy Conspired to Fix NBA Games*, ESPN (July 9, 2020), https://www.espn.com/nba/story/_/id/25980368/how-former-ref-tim-donaghy-conspired-fix-nba-games (outlining the Tim Donaghy Scandal, in which FBI investigative reports were made public and revealed that NBA referee Tim Donaghy bet on games in which he officiated during the 2005-2007 NBA seasons); see also Pat Forde, *Inside the Alabama Baseball Gambling Scandal*, Sports Illustrated (July 10, 2023), <https://www.si.com/college/2023/07/10/inside-the-alabama-baseball-gambling-scandal> (discussing the University of Alabama Baseball Scandal, in which Coach Brad Bohannon committed NCAA gambling violations after giving confidential roster updates to a personal friend actively standing at the betting window of a sportsbook); see also NBC News, *Ottawa's Shane Pinto Suspended For 41 Games in NHL's First Modern Sports Betting Ban*, (Oct. 27, 2023), <https://www.nbcnews.com/news/sports/nhl-suspends-ottawas-shane-pinto-41-games-gambling-rcna122452> (discussing the first modern-day ban for NHL gambling violations by Shane Pinto, who accepted a 41 game suspension and did not exercise his right to appeal).

⁹ NFL Staff, *NFL Suspends Four Players for Violating League's Gambling Policy*, NFL (June 29, 2023) <https://www.nfl.com/news/nfl-suspends-four-players-for-violating-league-gambling-policy>.

¹⁰ David Purdum, *Calvin Ridley Exemplifies Challenge of Stopping Players from Betting*, ESPN (Mar. 10, 2022), https://www.espn.com/chalk/story/_/id/33462075/faq-calvin-ridley-exemplifies-challenge-stopping-players-betting.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

account in Florida triggered a geolocation notice to the sportsbook.¹⁴ Hard Rock sportsbook then notified Genius Sports, an NFL partner that monitors the betting market for the league, prompting the investigation that ultimately led to Ridley's suspension.¹⁵ Genius Sports is a London-based company that distributes data from leagues, including the NFL, to sportsbooks around the world, while also detecting unusual betting patterns.¹⁶

Similarly, the Premier League, the top flight of soccer in England, has equally experienced violations of its gambling regulations. Prominent English and Brentford F.C. forward Ivan Toney was banned until January 2024 after admitting to 232 breaches of the FA's rules on gambling.¹⁷ Ivan Toney repeatedly placed bets on matches in which his own team was involved in.¹⁸ Notably, he bet on his own team to lose on 13 occasions and obstructed the investigation process by virtue of false answers to the disciplinary committee.¹⁹ Significantly, Toney's initial 15-month ban was handed down a reduced punishment after taking into account his guilty plea and evidence from a psychiatry expert who concluded Toney was a gambling addict.²⁰ In addition, Premier League club Newcastle United F.C. have suffered a huge blow after €70 million signing, Sandro Tonali, was suspended for 10 months by the FA in response to Tonali's gambling habits at his previous clubs in Italy.²¹ Tonali bet on several games involving his prior clubs in Italy (Brescia Calcio and A.C. Milan), but never to lose, which meant there was

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ The FA, *Ivan Toney Suspended, Fined and Warned for Betting Breaches*, (May 17, 2023), <https://www.thefa.com/news/2023/may/17/ivan-tonney-suspended-170523#:~:text=Ivan%20Toney%20has%20been%20suspended,of%20The%20FA's%20Betting%20Rules>.

¹⁸ Jay Harris, *Explained: Ivan Toney's Ban, His Bets and Why He Could Have Missed Next Season*, The Athletic (May 26, 2023), <https://theathletic.com/4555618/2023/05/26/ivan-tonney-betting-ban/>.

¹⁹ Id.

²⁰ Id.

²¹ Mark Doyle, *The Italian Football Betting Scandal Explained: Why Newcastle's £60 million Signing Sandro Tonali Has Been Banned for 10 Months*, GOAL (Oct. 26, 2023), <https://www.goal.com/en-us/lists/italian-betting-scandal-explained-sandro-tonali-nicolo-zaniolo-banned/bltcfb9b8e6958b4d79>.

no element of alleged match-fixing.²² Two mitigating factors in Tonalì's ban were his cooperation in the investigation and diagnosis of a gambling addiction from a certified medical professional.²³ Tonalì's ban means he will miss Newcastle United F.C.'s run in the Champions League for the first time since 2002, and will be a key missing piece for Italy in the upcoming Euro 2024 tournament played in Germany.²⁴ The fact that Tonalì was a cherished A.C. Milan academy product and was seen as a 'captain in the making' raises speculation that his former club A.C. Milan may have been aware of the looming charges and sought to 'get rid of damaged goods.' Lastly, West Ham and Brazil midfielder Lucas Paquetá had an £80m deal agreed in principle fall through with currently reigning European champions Manchester City.²⁵ Prior to the Summer 2023 transfer window closing, the FA conducted a gambling investigation into Paquetá's alleged betting breaches.²⁶ The investigation occurred when a larger than usual number of bets were placed in Brazil on Paquetá receiving a yellow card in West Ham's home game against Aston Villa on March 12, 2023.²⁷ Paquetá was shown a yellow card by referee Chris Kavanagh in the 70th minute for a seemingly deliberate tackle on Aston Villa midfielder, John McGinn.²⁸ These bets were placed from accounts registered in Paquetá, an island off Rio de Janeiro, but the bets were not placed by Lucas Paquetá individually and he denies any

²² *Id.*

²³ Philip Buckingham, *Tonalì, Toney, Toffolo: How Betting Bans Are Decided and Why They Vary So Much*, The Athletic (Oct. 27, 2023), <https://theathletic.com/4994509/2023/10/27/tonali-toney-toffolo-betting-ban-difference/>.

²⁴ Mark Doyle, *The Italian Football Betting Scandal Explained: Why Newcastle's £60 million Signing Sandro Tonalì Has Been Banned for 10 Months*; The Champions League is an annual European club football competition organized by the featuring only the elite teams throughout Europe, while the European Championship is an international tournament played every four years showcasing the best national teams in Europe competing for the continental title.

²⁵ ESPN, *West Ham's Paquetá Investigated for Alleged Betting Breaches*, (Aug. 18, 2023), https://www.espn.com/soccer/story/_/id/38216254/west-ham-lucas-paqueta-investigated-alleged-betting-breaches.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

wrongdoing.²⁹ The bets were reported to the International Betting Integrity Association who alerted FIFA and the FA.³⁰

As these scandals illustrate, allowing athletes to wager on their own games introduces a significant conflict of interest, where personal financial gain overshadows a core principle of sport: fair competition. Self-interested athlete gambling creates an easy avenue for match-fixing, as athletes could be tempted to manipulate the outcome of games in favor of their bets. With these considerations in mind, paired with juggling leagues' vested interest in safeguarding players' financial and emotional well-being and all-the-while workings towards maintaining public trust, professional leagues have adopted regulatory and disciplinary frameworks designed to prevent and limit gambling by league personnel and athletes. This section will now analyze the regulatory and disciplinary framework of both the National Football League (NFL) and the English Football Association (FA).

A. The National Football League (NFL)

The NFL's regulatory framework was not created overnight. The league was founded in 1920 and adhered to the rules of the game established at the collegiate level in its first twelve years of existence.³¹ By 1932, the NFL appointed its own Rules Committee, charged with developing rule changes independent from that of the college game.³² By the end of 1940, the NFL first published its own independent rulebook.³³ Alas, by 1941, NFL franchise owners

²⁹ *Id.*

³⁰ *Id.*; The International Betting Integrity Association (IBIA) is a private trade association representing various private betting operators which collaborates with FIFA, the international governing body for football, to safeguard the integrity of the sport by addressing issues related to betting and match-fixing.

³¹ NFL Football Operations, *Bent, but not Broken: The History of the Rules*, (2023), <https://operations.nfl.com/the-rules/evolution-of-the-nfl-rules>.

³² *Id.*

³³ *Id.*

amended the league's constitution to change the chief executive's title from “president” to “commissioner”, closely resembling the modern regulatory framework.³⁴

Today, the NFL’s broad gambling policy revolves around the disciplinary powers of the commissioner. The disciplinary authority of the commissioner is set forth in NFL Bylaw Article VIII, Section 8.13, which gives the commissioner extensive discretionary authority in determining when player, staff, and employees of the league are guilty of conduct ‘detrimental to the league.’³⁵ Section 8.13(A) grants the commissioner complete authority to issue suspensions or fines not in excess of \$500,000 and cancel any contract with any member of the league.³⁶ Further, under Section 8.13(B), the commissioner is permitted to refer to an Executive Committee for further penalties and punishments after the commissioner makes a determination that his disciplinary authority is inadequate.³⁷

In 2018, the NFL reshaped its gambling regulations to better protect the integrity of competition. The 2018 NFL Gambling Policy is broad in its scope and application. The policy sets forth the standards of conduct expected of all full-time and part-time Club and League personnel associated with the league, including office employees, players, owners, coaches, athletic trainers, game officials, security personnel, consultants, Club employees, game-day stadium personnel and other staff.³⁸ Thus, from quarterback to team facility kitchen staff, all

³⁴ Gregor Lentze, *The Legal Concept of Professional Sports Leagues: The Commissioner and an Alternative Approach from a Corporate Perspective*, 6 Marq. Sports L. J. 65 (1995) at 6, <http://scholarship.law.marquette.edu/sportslaw/vol6/iss1/4> (citing to The NFL’s Official Encyclopedic History of Professional Football 33 (1977)).

³⁵NFL, *Constitution and Bylaws of the National Football League*, (February 1, 1970 (Revised as of September 14, 2016)).

³⁶ *Id.*

³⁷ *Id.*

³⁸ NFL, *Gambling Policy for NFL Personnel 2018*, <https://nflcommunications.com/Documents/2018%20Policies/2018%20Gambling%20Policy%20-%20FINAL.pdf>.

NFL personnel associated with the league must be mindful of their actions relative to the league's gambling policy.

The 2018 Gambling Policy first bans any participation of illegal gambling in any form, with regulations on legal gambling following thereafter.³⁹ Pursuant to Section 7, the Commissioner or his designee has wide discretion to enforce the policy on a case-by-case basis.⁴⁰ While all NFL personnel are prohibited from betting on any NFL game, practice, or event, either directly, or indirectly through a third-party, the same restrictions are not extended to other sports.⁴¹ All NFL personnel, except for players, are prohibited from betting on any other professional, college, international, or Olympic sports competition, tournament or event.⁴² Players, however, are permitted to bet on the NBA, MLB, NHL, or any sport other than NFL football. While NFL personnel are permitted to place non-sports wagers at legally-operated casinos and horse or dog racing tracks on personal time and at any point during the season, Section 2.6 explicitly prohibits any form of gambling at the 'workplace', including but not limited to locker rooms, practice or office facilities, team buses, trains, flights, or hotels, or while traveling on Club or League business.⁴³

The 2018 Gambling Policy also explicitly bans game fixing and as a catch-all, requires that NFL personnel always give their best effort.⁴⁴ The league's stance on game fixing is further reinforced by Section 2.5, which clearly outlaws any sharing or using inside information for

³⁹ *Id.* at 2. Gambling Activities – No Illegal Gambling.

⁴⁰ *Id.* at 7. Violations.

⁴¹ *Id.* at 2. Gambling Activities – Restrictions on Legal Gambling – 1. Betting on Football and 2. Betting on Other Sports.

⁴² *Id.* at 2. Gambling Activities – Restrictions on Legal Gambling – 2. Betting on Other Sports.

⁴³ *Id.* at 2. Gambling Activities – Permitted Non-Sports Gambling & 2. Gambling Activities – Restrictions on Legal Gambling – 6. Gambling in the Workplace.

⁴⁴ *Id.* at 2. Gambling Activities – Restrictions on Legal Gambling – 4. Best Effort & 5. Inside Information and Tipping.

gambling.⁴⁵ Thus, NFL personnel are prohibited from providing access to confidential, non-public information regarding NFL games, participating individuals' availability, or any other conditions material to any NFL game for a gambling-related purpose.⁴⁶ The remainder of the 2018 Gambling Policy governs NFL personnel association with gambling related entities. Section 2.7 prohibits NFL personnel from utilizing sportsbooks at any time during the NFL season.⁴⁷ Section 2.8 prohibits NFL personnel using their name, image, and likeness to promote gambling-related enterprises, whereas Section 2.9 similarly prevents NFL personnel from maintaining social, business, or personal relationship with persons generally known to be professional gamblers, in a manner that discredits the reputation of the league.⁴⁸ While the NFL's disciplinary disputes are either handled internally via the commissioner or compelled to arbitration, Section 2.8 and 2.9 of the Gambling Policy have led to legal action and required enforcement of the Gambling Policy in courts of law.⁴⁹

NFL players are also subject to Section 15 of the standard NFL Player Contract, outlined in Appendix A of the 2020 CBA, which also specifically restricts players from wagering on NFL games.⁵⁰ The NFL CBA is a labor agreement which reflects the results of collective bargaining

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id. at 2. Gambling Activities – Restrictions on Legal Gambling – 7. Sportsbooks.

⁴⁸ Id. at 2. Gambling Activities – Restrictions on Legal Gambling – 8. Endorsements and Promotional Appearance and 9. Associations.

⁴⁹ See Strikes for Kids v. NFL, 2017 U.S. Dist. LEXIS 79246 (N.D. Tex. 2017) (Plaintiffs alleged fraud after NFL allegedly told Plaintiffs that it would be in violation of the gambling policy for players to attend plaintiff's scheduled charity event at a bowling alley within a casino complex. Plaintiffs alleged that the change in venue caused it to suffer lost revenue. In failing to demonstrate that the bowling alley was "casino or gambling-related establishment" as prohibited by the 2018 Gambling Policy, the Court determined that the NFL timely filed its Notice of Removal to federal court under 28 U.S.C. § 1446(b)(3), as Plaintiff's state-law fraud claim depended on an interpretation of the CBA, which made the claim federal in nature.); see also Fan Expo, LLC v. NFL, 2018 Tex. App. LEXIS 2824 (Tex. App. 2018) (Plaintiffs alleged tortious interference with contract and tortious interference with prospective business relationships against the NFL after its cancellation of an event by falsely representing to players and NFL personnel that participation would violate the NFL's Gambling Policy. Here, the Texas Court of Appeals found that the trial court properly granted summary judgment for the NFL because its conduct was not so independently tortious as to preclude it from establishing the affirmative defense of justification.)

⁵⁰ NFL-NFLPA, *2020 NFL Collective Bargaining Agreement. Appendix A, NFL Player Contract*, at 334. https://nflpaweb.blob.core.windows.net/media/Default/NFLPA/CBA2020/NFL-NFLPA_CBA_March_5_2020.pdf.

negotiations between the National Football League Players Association (NFLPA), a labor union representing NFL player interests, and the NFL, comprised of the commissioner and 32 team owners.⁵¹ The current CBA agreement adopted in February 2020 runs through March 2030.⁵² In its collective bargaining negotiations, the NFLPA has persistently advocated for a neutral arbiter in its disciplinary proceedings, highlighting a long-drawn out power struggle with the league over disciplinary authority. From 2015 through 2017, the NFLPA faced a series of unfavorable federal court rulings, involving players Tom Brady, Adrian Peterson, and Ezekiel Elliot.⁵³ Each of these decisions reaffirmed the NFL commissioner's broad disciplinary authority under Article 46 of the CBA.⁵⁴ Despite the NFLPA's efforts in establishing a neutral arbiter to issue discipline, these decisions have significantly made it more difficult for players to challenge the rulings of the commissioner in court.⁵⁵ While recent efforts to curtail commissioner authority were again put forward by NFLPA in the 2020 CBA negotiations through the establishment of a Disciplinary Officer, this position appears to be more symbolic than substantive.

The commissioner's authority over the personal conduct policy only marginally diminished under the 2020 CBA, and the commissioner still retains final say over the disciplinary process, including the ability to both reduce and enhance the punishment implemented by the neutral Disciplinary Officer.⁵⁶ While the newly created Disciplinary Officer makes an initial disciplinary decision, his final rulings are always subject to appeal by the

⁵¹ *Id.*

⁵² *Id.*

⁵³ Daniel Wallach, *Deflategate Lessons Unlearned: Player Discipline Under New CBA Largely Unchanged*, The Athletic (Mar. 26, 2020), <https://theathletic.com/1698099/2020/03/26/deflategate-lessons-unlearned-player-discipline-under-new-cba-largely-unchanged/>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ NBC Sports, *New CBA Doesn't Diminish Commissioner's Ultimate Power Over Personal Conduct Policy Case*, (Mar. 6, 2020), <https://www.nbcsports.com/nfl/profootballtalk/rumor-mill/news/new-cba-doesnt-diminish-commissioners-ultimate-power-over-personal-conduct-policy-cases>.

Commissioner, who can, based on the record originally presented to the Disciplinary Officer, impose even greater discipline than the discipline imposed by the Disciplinary Officer.⁵⁷ Thus, the regulatory power of the Disciplinary Officer is seemingly illusory.

A memo issued by current NFL commissioner Roger Goodell in September 2023 has now imposed even harsher penalties on players gambling on their own teams.⁵⁸ With this memo, the NFL's gambling regulation evolution reaches its current condition. The changes in the 2023 Revised Policy apply exclusively to players, as opposed to the general regulations applying to all NFL personnel.⁵⁹ First, a player who places a bet involving his own team will now be suspended at least two years.⁶⁰ Further, bets placed by players on any NFL game will result in at least a one-year suspension.⁶¹ In addition, betting on non-NFL sports while at a team facility or during team-related travel will now result in a two-game suspension for a first violation, six games for a second violation, and at least one year for a third violation.⁶² This last change in the 2023 Revised Policy has immediate implications, with reinstatements coming to Detroit Lions wide receiver Jameson Williams, Tennessee Titans offensive tackle Nick Petit-Frere, and free agent Stanley Berryhill.⁶³ All three players had been originally suspended six games, but only served four games prior to the rule change.⁶⁴ Further, the 2023 Revised Policy also resulted in the reinstatement of players suspended indefinitely under the previous policy for betting on NFL games.⁶⁵

⁵⁷ *Id.*

⁵⁸ Adam Schefter and David Purdum, *NFL Toughens Ban for Betting on Own Teams under New Policy*, ESPN (Sep. 29, 2023), https://www.espn.com/nfl/story/_/id/38521972/nfl-toughens-bets-own-team-new-gambling-policy.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*; Lions wide receiver Quintez Cephus, Washington Commanders defensive end Shaka Toney, and three members of the Indianapolis Colts are set to seek reinstatement after the 2023 season.

B. The Football Association (FA)

The Football Association is English football's governing body.⁶⁶ The FA controls every aspect of the organized game, at both the amateur and professional level, and sponsors all national competitions, with the English Premier League unquestionably being the top league within the FA's jurisdiction.⁶⁷ To contextualize the league's scale and significance, it's worth noting that in the 2021-22 season, the Premier League generated £5.5 billion in revenue, surpassing the combined earnings of Spain's La Liga and Germany's Bundesliga.⁶⁸ While the Premier League remains the FA's primary focus, it is crucial to emphasize that the Football Association bears the responsibility of formulating and disseminating the rules of the game, along with overseeing the myriad of 37,500+ clubs and 2,000+ competitions within England; underscoring that the FA serves as the overarching governing body, meticulously controlling every facet of organized soccer throughout the country.⁶⁹

The FA was formed and formally codified the laws of the game in 1863.⁷⁰ The laws of English football naturally evolve through the FA Council, which comprises 92 elected representatives responsible for making major policy decisions.⁷¹ Today, the FA's regulatory authority is established in the "FA Handbook 2023/2024."⁷² The Handbook serves as an all-encompassing guide to the organization's regulations of conduct and laws of the game, and relies on a comprehensive system of delegation to effect its control.⁷³

⁶⁶ The FA, *The History of the FA*, <https://www.thefa.com/about-football-association/what-we-do/history>.

⁶⁷ *Id.*

⁶⁸ Philip Buckingham, *Premier League Generated £5.5bn in 2021-22 – More than La Liga and Bundesliga Combined*, *The Athletic* (Jun 14, 2023), <https://theathletic.com/4610513/2023/06/14/premier-league-revenue-football-finance/>.

⁶⁹ The FA, *The History of the FA*.

⁷⁰ *Id.*

⁷¹ The FA, *The FA Handbook 2023/2024*, <https://www.thefa.com/football-rules-governance/lawsandrules/fa-handbook>.

⁷² *Id.*

⁷³ *Id.*

Under the FA, regulatory authority is delegated to and shared between the Football Regulatory Authority and a Judicial Panel, which includes a distinct appellate board.⁷⁴ The Football Regulatory Authority (FRA) is vested with power as set forth in Handbook Section 7(1)(1.1), and serves as a separate division of the FA tasked with performing regulatory, disciplinary, and rule-making functions.⁷⁵ Specifically, the FRA formulates, amends, and publishes any rules and regulations of the association, and makes recommendations to the FA Council regarding changes to the association's and Judicial Panel's terms.⁷⁶ The FRA is the first line of defense in monitoring compliance and detecting any breaches or potential violations of the association's rules, Laws of the Game, statutes, and any external regulations from UEFA and FIFA.⁷⁷ It is also responsible for disciplinary matters, investigating and prosecuting breaches, and applying penalties when necessary, except for those reserved for the Judicial Panel.⁷⁸ While the FRA is composed of roughly 12 appointed FA council members, the decision that facts or matters may give rise to misconduct is made by a Chief Regulatory Officer (or his nominee) on behalf of The Association.⁷⁹

Where the FRA's Chief Regulatory Officer makes the initial determination that misconduct has occurred, Section 8(1)(1.1) vests a Judicial Panel with authority to either affirm or deny this determination.⁸⁰ The Judicial Panel is the overarching body responsible for

⁷⁴ *Id.* at Section 7 – Football Regulatory Authority at 37 & Section 8 – The Judicial Panel at 43.

⁷⁵ *Id.* at Section 7(1)(1.1) – Football Regulatory Authority – Introduction at 37.

⁷⁶ *Id.* at Section 7(3)(3.1.1) – Football Regulatory Authority – FRA Establishment and Purpose at 37-38.

⁷⁷ *Id.* at Section 7(3)(3.1.2 - 3.1.8) – Football Regulatory Authority – FRA Establishment and Purpose at 38; UEFA, or the Union of European Football Associations, is the governing body of European football and the umbrella organization for 55 European national associations, whereas FIFA serves as the governing body of all football internationally. UEFA, *What UEFA Does*, (Jan. 22, 2019), <https://www.uefa.com/insideuefa/about-uefa/>; FIFA, *Inside FIFA*, (2023), <https://www.fifa.com/about-fifa>.

⁷⁸ *The FA Handbook 2023/2024*. Section 7(3)(3.1.2 - 3.1.8) – Football Regulatory Authority – FRA Establishment and Purpose at 38.

⁷⁹ *Id.* at Section 11(2)(30) – Disciplinary Regulations – Regulatory Commissions – Charge at 175.

⁸⁰ *Id.* at Section 8(1)(1.1) – The Judicial Panel - Introduction at 43.

appointing members to both Regulatory Commissions and Appeal Boards.⁸¹ The Regulatory Commission imposes ultimate penalties pursuant to the organization's rules and regulations, and the Appeal Board, composed of independent non-FA Council members, is responsible for hearing cases and appeals.⁸²

The combined efforts of the FRA and Judicial Panel enforce the association's rules on gambling - codified in FA Handbook Rule E8.⁸³ Rule E8 applies to all various individuals associated with the football club, including players, coaches, match officials, and accessory club staff.⁸⁴ Specifically, E8.1 prohibits participants from directly or indirectly betting on football matches, competitions, or any other football-related matters worldwide, including player transfers, managerial employment, team selection, or disciplinary issues, while E8.2 specifies that sharing non-public football information with others for betting purposes is also a violation.⁸⁵ Although, E8.3 provides a potential defense, stating that participants may not be in breach of E8.2, if they can prove that they had no knowledge and could not reasonably have known that the information they provided would be used for betting.⁸⁶ E8.4 extends the prohibition on betting to various scenarios, including betting on matches in which a participant is involved, has influence over, or concerning clubs they are associated with in league competitions.⁸⁷ It also includes restrictions on betting related to matches played at youth levels, using non-public football information for betting, and sharing such information with others for betting purposes.⁸⁸ In addition, E8.5 restricts individual participants, acting in a personal capacity, from advertising

⁸¹ Id.

⁸² Id. at Section 8(6)(6.1 – 6.5) – The Judicial Panel – Regulatory Commissions at 47 & Section 8(7)(7.1 – 7.7) – The Judicial Panel – Appeals Boards at 48.

⁸³ Id. at Section 10(E8) – Rules of the Association – Betting at 145.

⁸⁴ Id.

⁸⁵ Id. at Section 10(E8.1) & Section 10(E8.2) – Rules of the Association – Betting at 145.

⁸⁶ Id. at Section 10(E8.2) & Section 10(E8.3) – Rules of the Association – Betting at 145-146.

⁸⁷ Id. at Section 10(E8.4) - Rules of the Association – Betting at 146.

⁸⁸ Id.

or promoting betting activities they are prohibited from engaging in by the preceding rules, whereas E8.6 prevents participants from deliberately creating audio or audiovisual content that actively encourages betting activities they are prohibited from by previous rules.⁸⁹ E8.7 places responsibility on clubs and teams to ensure their participants do not breach E8.6 by instructing, compelling, permitting, causing, or enabling them to engage in such behavior.⁹⁰ Lastly, Rule E9 provides that any attempts or agreements to violate the aforementioned rules are treated as if an actual breach of the relevant provisions had occurred.⁹¹

Analyzing the gambling regulatory frameworks of the NFL and the Premier League reveals challenges in their effectiveness. The NFL's historical evolution, as seen in the 2018 Gambling Policy and 2023 Revised Policy, raises questions about the concentration of disciplinary powers in the commissioner's office. On the other hand, the Premier League, governed by the FA, employs an intricate regulatory structure involving the Football Regulatory Authority (FRA) and the Judicial Panel. The complexity of the shared distribution of power between these FA entities raises questions about the practicality and efficiency of the FA regulatory framework. The most effective approach to efficient gambling regulation likely lies in finding a balance between the heavily concentrated power of the NFL commissioner and the complex distribution of authority between the FA and its sub-entities. Nonetheless, both leagues face hurdles in achieving optimal effectiveness, emphasizing the need for further refinement to balance stakeholder interests while upholding sports integrity in the process.

⁸⁹ Id. at Section 10(E8.5) & Section 10(E8.6) – Rules of the Association – Betting at 145-146.

⁹⁰ Id. at Section 10(E8.6) & Section 10(E8.7) – Rules of the Association – Betting at 145-146.

⁹¹ Id. at Section 10(E9) - Rules of the Association – Betting at 147.

III. ANALYSIS

The following analysis of effectiveness illustrates how professional leagues have struggled in maintaining a level playing field, even since the advent of the above described developments in modern league constitutions, rules, and player union agreements governing athlete conduct.

A. Analysis of the Rules

The gambling regulations of the NFL and the FA exhibit several noteworthy similarities and differences. In terms of similarities, both sets of regulations extend their reach to encompass all club personnel, which includes full-time and part-time employees, players, coaches, and staff.⁹² While athletes and coaches are the most direct source of insider information, the regulations ensure compressive coverage by extending to the streamline of information to less influential part-time employees within team facilities with ample access to confidential information. Further, both sets of regulations contain express language preventing the disclosure of confidential information to other bettors and disallowing the promotion or advertising of gambling-related activities or content that encourages betting.⁹³ Additionally, both sets of regulations extend beyond the realm of their respective sports, covering aspects such as advertising and promoting betting activities, and how these activities reflect upon the league.

The distinctions that do exist are generally inconsequential. Perhaps in an effort to keep their premium assets happy and respect player autonomy, the NFL has explicit language

⁹² *Gambling Policy for NFL Personnel 2018* at 2. Gambling Activities – Restrictions on Legal Gambling – 1. Betting on Football and 2. Betting on Other Sports.; *The FA Handbook 2023/2024*. Section 10(E8) – Rules of the Association – Betting at 145.

⁹³ *Gambling Policy for NFL Personnel 2018* at 2. Gambling Activities – Restrictions on Legal Gambling – 4. Best Effort & 5. Inside Information and Tipping.; *The FA Handbook 2023/2024*. Section 10(E8.2) – Rules of the Association – Betting at 145.

restricting all NFL team personnel, except players, from betting on other sports other than football.⁹⁴ In contrast, the FA permits all club personnel, including players, staff, coaches, and others, to bet on any sports other than football that do not compromise the integrity of their game.⁹⁵ The NFL regulations also go a step further by explicitly prohibiting "betting in the workplace" and all betting on NFL facilities, aiming to create a clear boundary between the professional environment and gambling activities.⁹⁶ The NFL's "best effort" catch-all rule obliges all athletes to exert their utmost efforts during games, discouraging any form of match-fixing.⁹⁷ Further, the FA uniquely places the responsibility of ensuring compliance with its regulations on the clubs, in addition to players individually.⁹⁸ When teams are incentivized to keep their athletes in compliance with regulations, it can only be seen as a proactive measure contributing to preventing future violations. Lastly, the FA affords additional affirmative defenses to alleged violators that can prove they had no knowledge and could not reasonably have known that the information they provided would be used for betting.

Ultimately, there is minimal disparity between the language of both sets of regulations, as they are designed to prohibit the very same type of conduct. While the explicit wording of gambling regulations may not directly restrain more efficient regulation, there is a case to be made that other factors, such as concerns related to due process in disciplinary rulings and league accommodation of gambling sponsorships, can play more substantial roles in this regard.

⁹⁴ *Gambling Policy for NFL Personnel 2018* at 2. Gambling Activities – Restrictions on Legal Gambling – 1. Betting on Football and 2. Betting on Other Sports.

⁹⁵ *The FA Handbook 2023/2024*. Section 10(E8) – Rules of the Association – Betting at 145.

⁹⁶ *Gambling Policy for NFL Personnel 2018* at 2. Gambling Activities – Permitted Non-Sports Gambling & 2. Gambling Activities – Restrictions on Legal Gambling – 6. Gambling in the Workplace.

⁹⁷ *Id.* at 2. Gambling Activities – Restrictions on Legal Gambling – 4. Best Effort.

⁹⁸ *The FA Handbook 2023/2024*. Section 10(E8.6) & Section 10(E8.7) – Rules of the Association – Betting at 145-146.

B. Due Process Concerns

The structure of disciplinary rulings in professional sports plays a pivotal role in upholding the integrity of the game and is largely guided by the due process rights afforded to alleged violators of league policy. Generally, due process rights are provided to private employees such as NFL players when there is a contractual agreement providing such rights.⁹⁹ The NFL operates as a unionized workforce, where the Collective Bargaining Agreement (CBA) serves as the contractual framework, outlining the rights and responsibilities of both players and the league.¹⁰⁰ Under this agreement, discipline is handled under a “just cause” standard, which means that an employee will only be disciplined for conduct that constitutes a subjective determination of “cause.”¹⁰¹

When assessing the due process rights generally granted to private, unionized employees such as NFL players, two distinct elements are typically outlined in a CBA.¹⁰² Firstly, there is the requirement for adequate notice, which represents a fundamental aspect of due process in employee discipline.¹⁰³ Adequate notice entails informing employees about the specific behaviors or actions that may lead to disciplinary measures and the nature of those consequences.¹⁰⁴ This aspect also encompasses disclosing whether certain behaviors have been subject to discipline in the past and whether the employee is currently facing any disciplinary

⁹⁹ Cole Renicker, *A Comparative Analysis of the NFL's Disciplinary Structure: The Commissioner's Power and Players' Rights*, 26 Fordham Intell. Prop. Media & Ent. L.J. 1051, 1064, (2016), <https://ir.lawnet.fordham.edu/iplj/vol26/iss4/5>.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*; In private labor, businesses may opt for either a nonunionized or unionized workforce. In contrast to the “just-cause” criteria typical in unionized employment settings such as the NFL, nonunionized employment is characterized by individual contracts, often featuring “at-will” terms, allowing for termination by either party at any time for any reason.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

actions.¹⁰⁵ It is crucial for employees to have this information to understand the boundaries of acceptable conduct and the potential consequences. The second component of due process in employee discipline is the provision of a fair and impartial hearing.¹⁰⁶ This procedural due process right allows employees to present their side of the situation before the entity responsible for disciplinary actions.¹⁰⁷ A fair hearing is pivotal because it provides employees with the opportunity to explain their actions, offer evidence, or provide context for their behavior. This process can make a significant difference in the outcome of disciplinary proceedings, as it may lead to mitigated penalties or, in some cases, the complete exoneration of the employee. Thus, a fair hearing ensures that employees have a chance to defend themselves and seek a just resolution to the disciplinary matter. When comparing and contrasting the disciplinary structures of the NFL and the FA, it is readily apparent that NFL's due process guarantees are fundamentally lacking in both respects.

Specifically, significant due process concerns arise concerning the NFL commissioner's determination of the severity of punishment and the Players' rights to appeal that punishment.¹⁰⁸ Ultimately, the due process rights afforded to NFL players in player discipline are not on par with those of other professional athletes or employees in other industries and it is clear why the NFLPA has consistently advocated for impartial decision-making when negotiating its CBA.¹⁰⁹ In the NFL, the ultimate decision-making authority rests with the commissioner, who is arguably not a neutral party. The commissioner has the authority to both reduce and enhance the punishment determined by a newly created, seemingly neutral Disciplinary Officer.¹¹⁰ This setup

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 1104.

¹⁰⁹ *Id.*; Daniel Wallach, *Deflategate Lessons Unlearned: Player Discipline Under New CBA Largely Unchanged*.

¹¹⁰ NBC Sports, *New CBA Doesn't Diminish Commissioner's Ultimate Power Over Personal Conduct Policy Case*.

raises concerns about the impartiality and independence of disciplinary rulings. It creates a scenario where the disciplinary officer's regulatory power appears illusory, as the commissioner retains the final say. This lack of clear separation of powers and the potential for undue influence can raise doubts about the fairness and consistency of disciplinary outcomes.

In the NFL, the primary due process rights afforded are adequate notice of the pending punishment and protection against being disciplined for the same incident twice.¹¹¹ Importantly and unlike other contexts where an opportunity for the disciplined party to be heard is commonly provided, the NFL does not afford its players this opportunity before discipline is issued.¹¹² It is also unique to the NFL compared to other private labor contexts when commissioners have the authority to appoint themselves as a hearing officer for a player challenging a punishment.¹¹³ This lack of impartiality can pose challenges for NFL players seeking to challenge disciplinary actions, which is even more of an uphill battle when courts of law generally defer to decisions made by arbitrators and show reluctance in overturning arbitration decisions.¹¹⁴

When a commissioner of a professional league has the ultimate authority over disciplinary rulings, a clear conflict of interest is presented due to the inherent duality of the commissioner's role. On one hand, the commissioner is tasked with overseeing the league's overall operations, promoting the sport, maintaining its image, ensuring its financial success, and making decisions in the "best interest of the league." On the other hand, they are responsible for making impartial disciplinary decisions, particularly in cases involving player violations related to gambling, substance abuse, or on-field misconduct. It is certainly plausible that a decision to

¹¹¹ Cole Renicker, *A Comparative Analysis of the NFL's Disciplinary Structure: The Commissioner's Power and Players' Rights*, at 1065.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.* at 1066.

discipline or suspend a player may not align with the league's financial interests. The NFL commissioner seemingly juggles two roles that appear to be at odds with one another. The pressure to protect the league's reputation or financial interests could consciously or unconsciously influence a commissioner's decisions in disciplinary rulings. In such cases, there is a risk that disciplinary decisions may be swayed by the desire to appease stakeholders, rather than solely focusing on upholding the integrity of the game and ensuring fair and impartial judgments for players

On the other hand, the FA's disciplinary structure is characterized by a distinct separation of powers. Regulatory authority is delegated from the FA Council to an independent Football Regulatory Authority (FRA) and Judicial Panel.¹¹⁵ The FRA serves as the initial line of defense in investigating and prosecuting breaches, as well as applying penalties. However, the determinations made by the FRA are subject to review by an independent judicial panel, which includes an appeals board.¹¹⁶ Notably, the members of the appeals board are independent individuals who are not affiliated with the FA Council.¹¹⁷ This setup minimizes the risk of conflicts of interest and ensures that disciplinary decisions are made with a higher degree of impartiality and fairness. The FA's disciplinary structure, with its clear separation of powers and independent decision-making bodies, provides a more robust framework for handling player violations related to gambling. This structure not only helps maintain the integrity of the sport, but also instills confidence in the fairness of disciplinary processes, ultimately serving as a more effective deterrent against gambling-related misconduct.

¹¹⁵ *The FA Handbook 2023/2024* at Section 7 – Football Regulatory Authority at 37 & Section 8 – The Judicial Panel at 43.

¹¹⁶ *Id.* at Section 7(3)(3.1.2 - 3.1.8) – Football Regulatory Authority – FRA Establishment and Purpose at 38.

¹¹⁷ *Id.* at Section 8(6)(6.1 – 6.5) – The Judicial Panel – Regulatory Commissions at 47 & Section 8(7)(7.1 – 7.7) – The Judicial Panel – Appeals Boards at 48.

C. Professional League Accommodation to Sponsorships

The NFL's pursuit of lucrative sponsorships with prominent betting companies not only establishes a top-down endorsement of gambling, but also underscores a distinct contradiction within the league's values. While the NFL penalizes its players for even minor gambling infractions, it simultaneously profits from multimillion-dollar partnerships with sportsbooks. In April 2021, the NFL announced its first-ever U.S. sportsbook partnerships with Caesars Entertainment, DraftKings and FanDuel.¹¹⁸ Later in August 2021, the NFL inked deals with FOX Bet, BetMGM, PointsBet, and WynnBET, designating them as Approved Sportsbook Operators for the 2021 NFL season.¹¹⁹ These partnerships grant these operators the exclusive privilege to acquire NFL in-game commercial units and advertising during matches and related programming.¹²⁰ Other sportsbooks are not allowed to access this particular NFL advertising and media inventory.¹²¹ In addition, team owners recently voted to allow NFL stadium sportsbooks to take bets on gamedays.¹²² The Washington Commanders are the only NFL franchise with a physical sportsbook on stadium premises, while the Arizona Cardinals, New York Giants and New York Jets have ones located just outside their gates.¹²³ Not all teams can take advantage of the change though, as only 18 franchises exist in states with legal in-person sports betting.¹²⁴ Locating sportsbooks outside of stadiums has allowed teams like the Cardinals to avoid splitting gaming revenue with other teams under the league's gate revenue-sharing

¹¹⁸ NFL, *NFL Announces Agreements with Four Approved Sportsbook Operators*, (Aug. 30, 2021), <https://www.nfl.com/news/nfl-announces-agreements-with-four-approved-sportsbook-operators>.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Sam McQuillan and Mike Mazzeo, *NFL Owners Vote To Let Stadium Sportsbooks Take Bets During Games*, Legal Sports Report (Mar. 20, 2023), <https://www.legalsportsreport.com/109827/nfl-owners-vote-to-let-stadium-sportsbooks-take-bets-during-games/>.

¹²³ *Id.*

¹²⁴ *Id.*

agreement.¹²⁵ Under Article 12 of the NFL-NFLPA CBA, each NFL franchise receives an equal part of the proceeds from home games to ensure that each team in the league has access to the same financial resources, regardless of the size of their market.¹²⁶ Although, local teams will be able to keep roughly the first \$20 million in gaming revenue, before having to pool the excess with other teams.¹²⁷

In contrast, in June 2017, the FA decided to discontinue all sponsorships with betting companies, effective at the end of the 2016-17 season.¹²⁸ This move stemmed from a three-month review of the FA's approach to betting sponsorship, given its dual role as a governing body and regulator of sports betting in the sport.¹²⁹ Consequently, the FA mutually agreed to terminate its long term partnership with Ladbrokes, but agreed to maintain its collaboration with the company, insofar as it related to sharing information on suspicious betting pattern to aide in the regulation of the sport.¹³⁰ Additionally, in April 2023 the Premier League's 20 clubs collectively announced they will no longer have gambling sponsorship on the front of their matchday shirts beginning at the end of the 2025-26 season.¹³¹ Although teams will still to be able to have gambling companies shown on jersey sleeves of the kit and on LED advertising at stadiums, a gambling sponsorship may not be a prominent sponsor on the front of the shirt.¹³²

¹²⁵ Id.

¹²⁶ NFL, *2020 Collective Bargaining Agreement*, https://nflpaweb.blob.core.windows.net/media/Default/NFLPA/CBA2020/NFL-NFLPA_CBA_March_5_2020.pdf.

¹²⁷ Sam McQuillan and Mike Mazzeo, *NFL Owners Vote To Let Stadium Sportsbooks Take Bets During Games*.

¹²⁸ The FA, *Football Association Board Agrees to Cease All Sponsorships with Betting Companies*, (June 22, 2017), <https://www.thefa.com/news/2017/jun/22/ladbrokes-the-fa-220617>.

¹²⁹ Id.

¹³⁰ Id.

¹³¹ Tom Hamilton, *Premier League Clubs Agree to Drop Gambling Sponsors from Front of Shirts*, ESPN (Apr. 13, 2023), https://espn.com/soccer/story/_/id/37637954/premier-league-clubs-drop-gambling-sponsors-shirts.

¹³² Id.

Currently, eight Premier League Clubs must have their prominent gambling sponsors phased out, sacrificing deals valued at \$60 million per year to promote the integrity of the league.¹³³

The FA's reluctance to accommodate betting sponsors creates an environment that discourages athletes and staff from engaging in gambling activities. The FA clubs' willingness to voluntarily forgo gambling sponsorships worth \$60 million demonstrates their seriousness in implementing preventative measures and enhancing their gambling regulations. In contrast to leagues like the NFL, where lucrative gambling sponsorships are prevalent, the FA's stance sends a clear message that it prioritizes the integrity of the sport over financial gain. By avoiding such associations, the FA promotes a culture that deters players, staff, and employees from feeling entitled to indulge in gambling.

The NFL's approach to gambling creates a glaring hypocrisy within the league.¹³⁴ On one hand, it readily punishes its players for minor gambling violations, sending a strong message about the importance of maintaining the integrity of the game. Yet, on the other hand, the league willingly reaps the benefits of multimillion-dollar gambling partnerships, effectively capitalizing on the very industry it condemns its players for being involved with. While the NFL may claim to prioritize the integrity of the sport, its lucrative gambling partnerships suggest a different set of values.

In conclusion, the due process concerns within the NFL's disciplinary structure, particularly the lack of fair and impartial hearings for players, underscore the need for a more balanced and transparent approach. Notably, the NFL's reliance on the commissioner's dual role

¹³³ Id.

¹³⁴ Rodger Sherman, *The NFL Is Struggling to Walk the Ethical High Wire of Sports Betting*, The Ringer (Apr. 21, 2023), <https://www.theringer.com/nfl/2023/4/21/23693329/nfl-sports-gambling-suspensions-jameson-williams-detroit-lions>.

raises questions about conflicts of interest and potential financial motivations in disciplinary decisions. In contrast, the FA's disciplinary framework demonstrates a clear separation of powers and a commitment to impartial decision-making. Additionally, the divergence in approaches to gambling sponsorships between the NFL and the FA further emphasizes the importance of prioritizing integrity over financial gains. Ultimately, the contrasting disciplinary frameworks of the NFL and the FA may be indicative of their respective sizes and workload, with the NFL's concentrated style arguably suited for managing its 32 franchises, while the FA's comprehensive distributed power structure appears necessary for overseeing the thousands of amateur and professional clubs under its governance.

D. Recommendations

In light of the difficulties experienced by professional leagues in enforcing gambling regulations, several recommendations emerge as viable enhancements. The following suggestions are particularly noteworthy as they do not require excessive capital resources relative to league revenues, and if enacted, can yield immediate and tangible effects. Thus, professional leagues should double-down on the following framework to enhance their gambling regulations.

1. Data Integration with Sportsbooks

Professional leagues must embrace data integration with sportsbooks and start-up companies to enable efficient and rapid reporting of bets placed in violation of their league's gambling policy. Rather than viewing partnerships with sportsbooks solely as lucrative revenue streams, leagues should embrace collaboration as a strategic avenue to fortify gambling regulation. By sharing and integrating official and real-time league data, leagues and sportsbooks can collaboratively monitor betting patterns, identify anomalies, and swiftly detect potential instances of match-fixing or other gambling-related misconduct.

When navigating gambling sponsorships, professional sports leagues should adopt the approach of the FA. The FA's decision to terminate long-term sponsorship agreements with sportsbooks, while still maintaining relationships to share information regarding suspicious betting patterns, exemplifies a commitment to maintaining the integrity of the sport. While such a stance may mean forgoing substantial sponsorship revenue, professional leagues could explore alternative revenue streams by advocating for integrity fees. Although sportsbooks may resist this proposition, citing thin profit margins, professional leagues are arguably justified in seeking integrity fees.¹³⁵ These fees serve as compensation for providing valuable intellectual property in the form of official league data.¹³⁶ The leagues invest significantly in developing and maintaining the integrity of their competitions, and by sharing this exclusive data, they contribute to the sports betting ecosystem's legitimacy.

In addition, a series of startups are emerging with a specific focus on matching the volumes of bets placed and changes in betting data against sporting events. Specifically, U.S. Integrity offers services in identifying suspicious behavior by analyzing changes in betting data against a benchmark of normal betting activity.¹³⁷ The company monitors data to see if discrepancies coincide with notable player or coaching events, reveal officiating abnormalities, or are indicative of the misuse of insider information.¹³⁸ Additionally, Accertify is another company which uses technology to verify player identities and authenticate transactions.¹³⁹ Recently, the NFL extended its partnership with Genius Sports, an international firm responsible

¹³⁵ Gregory Miele, *Online Sports Gambling: The Integrity Fee and the Use of Official League Data*, Fordham Intellectual Property, Media, & Entertainment Law Journal (Feb. 11, 2022), <http://www.fordhamiplj.org/2022/02/11/online-sports-gambling-the-integrity-fee-and-the-use-of-official-league-data>.

¹³⁶ *Id.*

¹³⁷ U.S. Integrity, <https://www.usintegrity.com/about>.

¹³⁸ *Id.*

¹³⁹ Accertify, *PayNearMe and Accertify Offering Enhanced Fraud Prevention for Online Sports Betting and iGaming Operators*, (Oct. 4, 2023), <https://www.accertify.com/gaming-fraud-prevention-partnership/>.

for the league's official play-by-play data to media outlets and sports betting operators.¹⁴⁰ The company uses low-latency live video feed so bettors can engage in-game betting on sportsbook websites while watching the game.¹⁴¹ Importantly, the Genius Sports partnership uses NFL data to track betting activity on the league and identify abnormalities and impermissible bettors.¹⁴² The creation of impermissible bettors lists, include athletes and coaches, to a shared database would allow sportsbooks to cross-reference with their customer list.¹⁴³ By partnering with private companies specializing in identifying abnormal gambling activity and impermissible bettors, professional leagues can significantly enhance their ability to regulate and monitor impermissible gambling.

2. Increase Preventative Education and Uphold Stringent Penalties

The recent surge in gambling violations has prompted the NFL to adjust its gambling education curriculum to players.¹⁴⁴ A new directive for this season requires rookies to watch additional training videos regarding NFL compliance with gambling regulations and the integrity of the game.¹⁴⁵ Additionally, NFL compliance officials travel to team facilities in the off-season, giving presentations on gambling policies to players and personnel.¹⁴⁶ While these are steps in the right direction, the NFL and other professional leagues should require continuing educational training on compliance with gambling regulations from rookies to veterans.

Further, it is crucial for professional leagues to remain steadfast in issuing equal and firm punishments to violations of their gambling policy to maintain the integrity and trust of their

¹⁴⁰ David Purdum, *Calvin Ridley Exemplifies Challenge of Stopping Players from Betting*.

¹⁴¹ Id.

¹⁴² Id.

¹⁴³ Id.

¹⁴⁴ Stephen Holder, *Amid Gambling Violations, NFL Players Debate Betting Policy*.

¹⁴⁵ Id.

¹⁴⁶ Id.

sport. Despite the NFL's stance on sponsorship, the NFL's 2023 Revised Gambling Policy, with increased punishment durations for violating players, undeniably represents a positive step towards a stronger stance against match-fixing.¹⁴⁷ In contrast, the above-discussed disciplinary rulings by the FA in the Premier League considered mitigating factors which reduced sentences, particularly an individual's acceptance of a gambling addiction diagnosis from a medical professional.¹⁴⁸ While addiction is understandably a very serious issue, the discretion used in these disciplinary rulings effectively operates as a blanket reduction to punishments, potentially undermining the overall deterrence of the policy. Presuming their eagerness to get back on the field, what athlete in their right mind wouldn't accept a gambling addiction diagnosis if it meant a reduction in their sentence? Going forward, professional leagues must issue discipline with an even hand, giving no regard to a player's skill, market value, or medical diagnosis.

IV. CONCLUSION

Gambling regulations, no matter how comprehensive, would still face challenges in curbing the sensations of pleasure and reward that stem from gambling. While the regulations represent a sincere effort to mitigate gambling's allures, these sensations are unfortunately exacerbated in professional athletes who, early in their careers, experience drastic lifestyle changes accompanied by substantial increases in salary. On the other hand, veteran athletes, having spent significant time at the pinnacle of their careers with high salaries, may be drawn to the rush of betting as they seek fulfillment in activities beyond their sport. Nonetheless, professional leagues, by withstanding the temptation of lucrative gambling sponsorships, upholding stringent penalties, delivering thorough education in prevention to athletes and team

¹⁴⁷ Adam Schefter and David Purdum, *NFL Toughens Ban for Betting on Own Teams under New Policy*.

¹⁴⁸ Jay Harris, *Explained: Ivan Toney's Ban, His Bets and Why He Could Have Missed Next Season*; Philip Buckingham, *Tonali, Toney, Toffolo: How Betting Bans Are Decided and Why They Vary So Much*.

personnel, and partnering with sportsbooks in data integration, would strengthen their ability to effectively tackle the enduring problem of athletes and staff betting on games within their influence.