

NFL and Players Union Agree to New Game Day Concussion Protocol Enforcement Policy

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In the latest efforts to improve player safety, the **NFL** and **National Football League Players Association (NFLPA)** have [announced an agreement](#) to implement specific penalties for violations of the league's game-day concussion protocol. The agreement calls for greater mandates on player protection and higher penalties for non-compliance.

Player concussions in the NFL increased by an alarming 32% during the 2015 season.

In one specific instance, it is alleged that the St. Louis Rams permitted quarterback Case Keenum to remain in the game despite Keenum having suffered a concussion and being unable to stand without assistance after being sacked in a 2015 contest against the Baltimore Ravens.

The new policy marks further collaboration between the league and the union regarding player health and safety. The concussion protocol policy adds to previously agreed upon sharing of injury data to see if specific game rules needed to be changed to improve player safety and the implementation of an infectious disease prevention and response program for all 32 teams.

As detailed in the joint announcement, the league and the players association will each choose one representative to monitor compliance with the game-day concussion protocol and investigate possible violations. If a potential violation takes place, the representatives will conduct an investigation to determine whether the protocol was followed. The NFL and NFLPA then will review the findings to determine if a violation occurred and, if one had occurred, recommend a disciplinary response. If the NFL and NFLPA are unable to reach an agreement, a third-party arbitrator will issue a report to Commissioner Roger Goodell, NFLPA Executive Director DeMaurice Smith, and the involved parties.

Although the NFL and NFLPA may recommend disciplinary action, Commissioner Goodell will retain absolute discretion to determine the extent of any disciplinary action against the

violating team(s).

The potential for disciplinary action and substantial fines show that both parties are serious about following previously established game-day concussion protocol. Any team that violates the protocol can be penalized as follows:

- A first violation requires team employees or medical team members to attend remedial education; and/or result in a maximum fine of \$150,000 against the team;
- Second and subsequent violations will result in a minimum fine of \$100,000;
- If the parties agree that the violation involved aggravating circumstances, the team shall be subject, in the first instance, to a fine of no less than \$50,000. The Commissioner retains authority to determine appropriate discipline for subsequent violations involving aggravating circumstances; and
- If the Commissioner determines that the violating team's medical team failed to follow the game-day concussion protocol for competitive reasons, the Commissioner may require the team to forfeit draft pick(s) and impose additional fines.

The new enforcement policy builds on the NFL's previous efforts to address concussion-related issues and creates repercussions for teams that attempt to skirt the game-day concussion protocol. The new policy provides Commissioner Goodell with significant authority to impose penalties on violating teams.

While players such as Tom Brady, Adrian Peterson, and Ray Rice have challenged the Commissioner's power under the collective bargaining agreement, it will be worth watching whether penalized teams will raise similar complaints and challenges to the Commissioner's ultimate authority and unlimited power once the new enforcement policy is implemented.

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