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### It's Not Child's Play: A Regulatory Approach to Reforming American Youth Sports

N. Jeremi Duru

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*Article*

**It's Not Child's Play:  
A Regulatory Approach to Reforming American Youth Sports**

*N. Jeremi Duru\**

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## Introduction

The American youth sports industry has become an economic behemoth, totaling roughly \$19 billion in annual revenue.<sup>1</sup> This revenue outpaces National Football League (NFL) revenue by several billion dollars and is more than double the revenue earned by the National Basketball Association and the National Hockey League, combined.<sup>2</sup> The Covid-19 pandemic limited sport on all levels in 2020 and, to a lesser extent, in 2021, and the economic effects thereof will certainly stretch forward into succeeding years. However, as the nation overcomes the virus and children return in full numbers to gyms, fields, tracks, and rinks, youth sports will charge on as big business. They will continue to be televised on national networks and streamed across countless media platforms, and will continue to provide a livelihood for scores of adults, the most enterprising among whom will continue to make fortunes through youth sports entrepreneurship.<sup>3</sup> Towns that have based their entire economies around youth sports tourism will continue to thrive, and copycat towns will sprout up.<sup>4</sup> In short, scores of adults will continue to benefit from the youth sports industry. There is, however, a related cost, and it is born principally by youth athletes. What was once a fun and recreational endeavor for children has grown into a cash cow, substantially intensifying the environment within which the children play. This often operates to the children's physical, emotional and psychological detriment – driving some young athletes out of sport prematurely and damaging the experiences of those who remain involved.

This article argues that reform is necessary. Currently, youth sports stakeholders – coaches, trainers, sports clubs, training facility operators, and others – are essentially unregulated. They are bound only by their own standards, which ensures uneven regulation across regions, states, localities, and clubs. To protect America's children from mistreatment in an industry whose goal is ostensibly to ensure their well-being, uniform nationwide regulations are necessary.

Part I of this article details the history of youth sports development in the United States as well as the travel sports phenomenon that currently dominates America's youth sports landscape. Part II explores the dynamics driving families to commit substantial time and money to their children's participation in youth sports. Part III outlines the danger the youth sports industry poses to children and society, focusing principally on premature sports specialization, spectator incivility, and socioeconomic stratification. Part IV examines Norway's highly successful model of youth sports governance and presents it as a model for American youth sports reforms. Part V

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<sup>1</sup> Christopher Bjork, Youth sports needs a reset. Child athletes are pushed to professionalize too early, USA Today (March 24, 2021), <https://www.usatoday.com/story/opinion/voices/2021/03/24/youth-sports-competitive-covid-19-expensive-column/4797607001/>; Research and Markets, Youth Sports Market Projected to Reach \$77.6 Billion by 2026 – Comprehensive Industry Analysis & Insights, GlobeNewswire (Dec. 26, 2019), <https://www.globenewswire.com/news-release/2019/12/26/1964575/0/en/Youth-Sports-Market-Projected-to-Reach-77-6-Billion-by-2026-Comprehensive-Industry-Analysis-Insights.html>.

<sup>2</sup> American professional sports league revenues follow: the National Football League (\$13 billion), Major League Baseball (\$10 billion), the National Basketball Association (\$4.8 billion), and the National Hockey League (\$3.7 billion). See Garrett Parker, 10 Sports Leagues That Bring in the Most Money Worldwide, Money Inc. (Oct. 2019), <https://moneyinc.com/sports-that-bring-in-the-most-money-worldwide/>.

<sup>3</sup> See Research and Markets, *supra* note 1.

<sup>4</sup> Communities Banking on Mega Youth Sports Complexes, U.S. News (July 31, 2017), <https://www.usnews.com/news/best-states/articles/2017-07-31/communities-banking-on-mega-youth-sports-complexes>.

explores the United States federal government's engagement in youth sports historically and contemporarily. Finally, Part VI presents a prescription for American youth sports reform.

## I. The Development of Youth Sport in the United States

### A. *The History*

Youth sport was born, in its most rudimentary form, in the mid-1800s as the theory of “muscular Christianity” began to take hold across the nation.<sup>5</sup> Under the theory, being physically fit was an integral part of overall spiritual health and well-being.<sup>6</sup> Fitness, it was thought, endowed people with the strength and stamina to effectively serve humanity and correlated with upstanding moral character.<sup>7</sup> In addition, physical activity was deemed a productive means of relieving stress and a wholesome alternative to engaging in immoral pursuits during leisure time.<sup>8</sup> As such, Christianity largely encouraged physicality, often in the form of team sport.<sup>9</sup> Churches began organizing sports teams for their youth and constructing facilities to support those teams' activities, and the desire for more comprehensive such facilities ultimately spawned the Young Men's Christian Association (YMCA).<sup>10</sup> The YMCA was founded in London, England in 1844, but quickly spread to the United States, where the first U.S. branch of the YMCA opened in Boston, Massachusetts in 1851.<sup>11</sup> With the goal of “nurtur[ing] the healthy development of children . . . [and] strengthening families,” the YMCA gained steam, and forty years later there were nearly 350 YMCA branches across the United States.<sup>12</sup> As muscular Christianity blossomed during the late nineteenth and early twentieth centuries, so too did a secular campaign to increase opportunities for children to be physically active: the Playground Movement.<sup>13</sup> At the time, few cities had areas designed for outdoor play. Advocacy groups argued that this dearth of play space prevented youth from engaging in sufficient physical activity and drove those who sought such activity to play in streets and alleys, where they risked being struck by cars and exposed to criminal behavior.<sup>14</sup> Municipalities and townships across the country responded, building thousands of playgrounds between the years of 1909 and 1948.<sup>15</sup>

While YMCAs and emerging playground spaces offered youth an outlet for physical activity and the possibility of organized play, comprehensive team and league youth competition took hold most robustly in the public schools. One by one, beginning in 1852 and running through

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<sup>5</sup> Jenni Spies, *Only Orphans Should Be Allowed to Play Little League: How Parents Are Ruining Organized Youth Sports for Their Children and What Can Be Done About It*, 13 *Sports Laws. J.* 275, 276 (2006).

<sup>6</sup> *Id.* at 276.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> The YMCA, *History – Founding*, <https://www.ymca.net/history/founding.html> (last visited Dec. 17, 2021).

<sup>12</sup> Spies, *supra* note 5 at 276-77.

<sup>13</sup> *Id.* at 276-77.

<sup>14</sup> See generally Playground Association of America, *Play & Playground Encyclopedia*, <https://www.pgpedia.com/p/playground-association-america> (last visited Dec. 17, 2021).

<sup>15</sup> See Playground Association of America, *Play & Playground Movement*, <https://www.pgpedia.com/p/playground-movement> (last visited Dec. 17, 2021).

1917, individual states made schooling compulsory for children.<sup>16</sup> In an effort to ensure school was attractive to youth and maintained their interest, and also to inculcate in children “the ‘American’ values of cooperation, hard work, and respect for authority,” school systems began initiating formal team-based interscholastic athletic competition in the form of league play.<sup>17</sup> The first major public school league was the New York City Public School Athletic League for Boys, founded in 1903.<sup>18</sup> In the succeeding years, other school leagues formed,<sup>19</sup> but by the late 1920s, a new form of youth sporting competition, which still dominates the youth sporting landscape today, would take hold: pay-to-play privately run sports leagues.<sup>20</sup>

In 1929, Pop Warner Football was founded.<sup>21</sup> Ten years later, Little League Baseball was founded.<sup>22</sup> During the same era, other smaller youth sport organizations came into being.<sup>23</sup> As these private youth sports organizations gained a foothold on the youth sports landscape, public school youth sports programs decreased in number.<sup>24</sup> The Great Depression’s economic forces were part of the dynamic leading to that decrease.<sup>25</sup> Another part of the dynamic was an increasing sense among physical education professionals that youth athletic competition served only the best child athletes, resulting in most children being left out.<sup>26</sup> Whatever the panoply of factors involved, athletic competition in public elementary schools largely faded away and has never reemerged. The private youth organizations, however, filled the void, growing rapidly in the ensuing years. Consider, for instance, Little League Baseball, perhaps the most iconic of all youth sports organizations. Little League expanded quickly after its 1939 founding. By 1949, it held its first World Series, and by 1959, there were 5,000 youth baseball leagues in the United States operating under the Little League Baseball banner.<sup>27</sup> Both Little League Baseball and its World Series have continued to expand and are now big business, by any standard. Indeed, in 2013, Little League entered an eight-year \$76 million contract with ESPN to televise the Little League World Series through 2022.<sup>28</sup> In 2020, the parties extended the deal through 2030.<sup>29</sup>

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<sup>16</sup> Hilary Levey Friedman, *When Did Competitive Sports Take Over American Childhood?*, *The Atlantic* (Sept. 20, 2013), <https://www.theatlantic.com/education/archive/2013/09/when-did-competitive-sports-take-over-american-childhood/279868/>.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> History of Pop Warner Little Scholars, Inc., Pop Warner Little Scholars, <https://www.popwarner.com/Default.aspx?tabid=1579750> (last visited Dec. 17, 2021).

<sup>22</sup> About Our Organization, Little League, <https://www.littleleague.org/who-we-are/about/> (last visited Dec. 17, 2021).

<sup>23</sup> See, e.g., History of the Babe Ruth Program, Babe Ruth League, <https://www.baberuthleague.org/about-babe-ruth-league.aspx> (last visited Dec. 17, 2021) (youth baseball league created in 1951 named after Babe Ruth).

<sup>24</sup> Friedman, *supra* note 16.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> History of Little League, Little League, <https://www.littleleague.org/who-we-are/history/> (last visited Dec. 17, 2021).

<sup>28</sup> John Beauge, Little League, ESPN reach \$76 million, eight-year deal, *Penn Live* (Aug. 27, 2013), [https://www.pennlive.com/sports/2013/08/little\\_league\\_espn\\_reach\\_76\\_mi\\_1.html](https://www.pennlive.com/sports/2013/08/little_league_espn_reach_76_mi_1.html).

<sup>29</sup> Little League, ESPN sign eight-year deal to continue broadcasting Series, *North Central PA* (Aug. 23, 2020),

Pop Warner football, the Amateur Athletic Union (AAU), and other large umbrella youth sports organizations have experienced similar growth, in size as well as revenue.<sup>30</sup> Smaller, independent leagues and teams have also blossomed around the country, further crowding the youth sports landscape. Operating under, and perhaps perpetuating, the assumption that finding adequate levels of competition necessitated travel, many teams began adding out of town and out of state games and tournaments to their schedules, often in addition to league play.<sup>31</sup>

### *B. Travel Sports Culture and Cost*

Teams that travel have grown to be deemed more prestigious than those that do not, and generally the further and more frequent the travel, the greater the prestige, and, of course, the greater the cost.<sup>32</sup>

With more and more teams traveling to play games, a robust market has emerged to service them. Entrepreneurs and communities alike have built sports complexes to host travel sports tournaments. Indeed, some towns have invested in youth sports complexes as a strategy for economic survival and growth. For instance, Seminole County, Florida, a rural community north of Orlando, in 2016 spent \$27 million building a multi-sport athletic complex to host youth tournaments in hopes of boosting the local economy.<sup>33</sup> In its first nine months of existence, the complex generated \$25 million in revenues.<sup>34</sup> Seminole County, Florida is not alone. Similar facilities have emerged across the country in locations that might not otherwise present as traditional tourist destinations, such as Westfield, Indiana and Sandusky, Ohio.<sup>35</sup> These sports facility investments have been relatively safe economic bets for communities seeking to strengthen their economies due to the insatiable desire for youth travel sports opportunities. As Jim Arnold, Director of Business Development for The Sports Force & Fields, a planning and management company focused on youth sports complex development, explains, “[m]ore teams are going each and every year, because the one thing we found is families will always invest in their kids no matter what.”<sup>36</sup> The demand is such that these youth sports complexes are, in essence, recession proof.<sup>37</sup>

The complexes themselves are not the only economic winners. Local hotels, necessary to house the athletes and their families benefit as well, as do local eating establishments.<sup>38</sup> In fact, in many cases tournaments are explicitly “stay-to-play,” requiring that players participating in a

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<sup>30</sup> See Amateur Athletic Union of the United States, ProPublica, <https://projects.propublica.org/nonprofits/organizations/526055482> (last visited Dec. 17, 2021); see also Pop Warner Little Scholars Inc., ProPublica, <https://projects.propublica.org/nonprofits/organizations/592870285> (last visited Dec. 17, 2021).

<sup>31</sup> Sean Gregory, How Kids' Sports Became a \$15 Billion Industry, *Time* (Aug. 24, 2017), <https://time.com/magazine/us/4913681/september-4th-2017-vol-190-no-9-u-s/>.

<sup>32</sup> *Id.*

<sup>33</sup> U.S. News, *supra* note 4.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> The National Association of Sports Commissions and Ohio University conducted a joint study in 2009 revealing that participation in youth sports travel increased from 2008 to 2009, during the heart of the Great Recession. This sense that youth sports complexes are recession-proof served to inspire town councils and developers to enter the business. See *id.*

<sup>38</sup> *Id.* (reporting youth sports tourism brought one Indiana hotel 1.5 million total visitors in 2016, which amounts to approximately 60,000 hotel nights).

tournament stay at a particular hotel for a minimum number of nights.<sup>39</sup> And the hotels are often surrounded by resort-like amenities, encouraging families to orient their annual vacations around youth sporting events.<sup>40</sup> Indeed, these complexes often cater to adult desires as much as to youth sporting pursuits. For instance, All-Star Village – one of two massive youth baseball complexes in Cooperstown, New York that host national 12-year-old baseball tournaments all summer – features an indoor climate controlled full-service bar with views of the numerous baseball fields below from which parents can watch their children playing while consuming alcohol and day-partying.<sup>41</sup>

Notably, travel teams are generally not open to all comers.<sup>42</sup> Rather, as early as eight years old, children are required to try out for the teams, with some being accepted and others being rejected.<sup>43</sup> Making the team, though, results in only temporary security, because to ensure the team's competitiveness, tryouts are repeated once or twice per year.<sup>44</sup> To help their children survive the rigors of tryouts, improve their skills, and maintain spots on the team, parents often expend substantial amounts of money in a variety of ways, including private lessons, speed and agility training, equipment, travel, and, of course, league and team fees.<sup>45</sup> The Aspen Institute, a Washington, DC-based think tank that focuses on youth sports through its Project Play Initiative, estimates that families spend an average of \$692 on each season of sport that a child plays per year.<sup>46</sup> So, a family with one child who plays a fall sport and a spring sport, spends nearly \$1,400. Some sports, however cost substantially more than others. Two seasons of baseball, with an average cost of \$659.96 per year, would work out close to the average. But if a child participates in, for instance, field hockey (\$2,124.62) and gymnastics (\$1,580.28) the annual cost would be nearly \$3,700.<sup>47</sup> Having multiple children involved in youth sports drives the cost up exponentially. Depending on the amount of travel involved, the distance a team travels, and the intensity of private instruction an athlete receives, the cost could go even higher.

## II. The Parental Problem and the Illusory Goal

The reasons for the extraordinary growth in the youth sports industry are varied. A key component, however, is parents' desires to do and spend whatever necessary to provide their children with the best possible opportunities – not just in sport but in life generally – for the benefit of the children as well as for their own sense of parental accomplishment. And those desires, with increased urgency during the mid-twentieth century, were often oriented around higher

<sup>39</sup> See Eric B. Hansen, *How to Win the Stay-To-Play Game*, *Hotel News Now* (Feb. 9, 2015), <http://www.hotelnewsnow.com/Articles/25055/How-to-win-the-stay-to-play-game> (detailing how tournaments can obtain hotel rates for participants).

<sup>40</sup> See *id.*

<sup>41</sup> See Cooperstown All Star Village, *Dining – Family*, <https://cooperstownallstarvillage.com/about-us/dining> (last visited Dec. 17, 2021).

<sup>42</sup> See Derek Thompson, *American Meritocracy Is Killing Youth Sports*, *The Atlantic* (Nov. 6, 2018), <https://www.theatlantic.com/ideas/archive/2018/11/income-inequality-explains-decline-youth-sports/574975/>.

<sup>43</sup> See, e.g., *Indiana Soccer Registration Rules*, *Ind. Soccer Ass'n 15-19* (Oct. 2018), [https://www.soccerindiana.org/assets/58/6/indiana\\_soccer\\_registration\\_rules\\_oct\\_20181.pdf](https://www.soccerindiana.org/assets/58/6/indiana_soccer_registration_rules_oct_20181.pdf) (including requirements for age limits, registration fees, and tryouts for travel teams).

<sup>44</sup> See *id.*

<sup>45</sup> Thompson, *supra* note 42.

<sup>46</sup> Kelly Cohen, *Kids Aren't Playing Enough Sports. The Culprit? Cost*, *ESPN* (Aug. 11, 2019), [https://www.espn.com/espn/story/\\_/id/27356477/kids-playing-enough-sports-culprit-cost](https://www.espn.com/espn/story/_/id/27356477/kids-playing-enough-sports-culprit-cost).

<sup>47</sup> *Id.*

education.<sup>48</sup> Historian Peter Stearns explains that as early as the 1960s, there existed in the United States “a growing competitive frenzy over college admissions as a badge of parental fulfillment.”<sup>49</sup> With the baby boomer generation reaching college age, “it became increasingly clear that the top schools could not keep up with the demand, meaning that students might not be admitted to the level of college they expected.”<sup>50</sup> This created widespread parental anxiety and, for parents with the economic means, led “to an increased focus on athletics as a protection for kids against getting pushed out of colleges where they ‘deserved’ to earn slots.”<sup>51</sup>

A half century later, these forces remain salient, as evidenced by the 2019 nationwide college admissions scandal that spurred a federal criminal investigation dubbed “Operation Varsity Blues.”<sup>52</sup> The scandal was wide-ranging and involved bribery and deception, but a central aspect involved parents fraudulently presenting their children as accomplished athletes to increase their chances of admission.<sup>53</sup> In some cases, those facilitating the scandal created false athletic bios for applicants.<sup>54</sup> In other cases, they photoshopped an image of the prospective applicant’s face onto the image of an accomplished athlete’s body.<sup>55</sup> In still other cases, they assisted parents in bribing collegiate coaches to present the applicants to admissions officers as athletic recruits.<sup>56</sup> Several people, including coaches and parents, were criminally convicted.<sup>57</sup>

The extent to which the parents implicated in the Varsity Blues scheme went in order to disguise their children as athletes highlights the preference that applicants deemed capable of contributing to a university’s athletic program are often given during the admissions process.<sup>58</sup> In addition to preferential admission, many schools also provide full and partial scholarships to prospective intercollegiate athletes.<sup>59</sup>

Few parents will engage in criminal enterprise such as that laid bare by Operation Varsity Blues to leverage the collegiate athletics preference for their children’s benefit, but millions of parents seek to groom their children from early ages to avail their children of that preference, just as parents did in the 1960s. Some parents today, however, have athletic aspirations for their children that go beyond college admission and a college scholarship, aspirations that essentially

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<sup>48</sup> Friedman, *supra* note 16.

<sup>49</sup> See *id.* (quoting Peter N. Stearns, *Anxious Parents: A History of Modern Childrearing in America* 100 (2004)).

<sup>50</sup> Friedman, *supra* note 16.

<sup>51</sup> *Id.* (citing William G. Bowen et al., *The Game of Life: College Sports and Educational Values* (2001)).

<sup>52</sup> See Jennifer Medina, et al., *Actresses, Business Leaders and Other Wealthy Parents Charged in U.S. College Entry Fraud*, N.Y. Times (Mar. 12, 2019), <https://www.nytimes.com/2019/03/12/us/college-admissions-cheating-scandal.html>.

<sup>53</sup> See Brian Pascus, *Every Charge and Accusation Facing the 33 Parents in the College Admissions Scandal*, CBS News (June 3, 2019), <https://www.cbsnews.com/news/college-admissions-scandal-list-operation-varsity-blues-every-charge-plea-accusation-facing-parents-2019-05-16/>.

<sup>54</sup> See, e.g., Nathan Fenno, *Ex-coach Charged in Admissions Scandal Accuses UCLA of Admitting Unqualified Athletes*, L.A. Times (Jan. 24, 2020), <https://www.latimes.com/sports/ucla/story/2020-01-24/soccer-coach-jorge-salcedo-accuses-ucla-admitting-unqualified-athletes> (describing how UCLA admitted non-athletes as sports recruits).

<sup>55</sup> Aaron Feis, *College Scam Mastermind Photoshopped Students’ Faces onto Athletes*, N.Y. Post (Mar. 12, 2019), <https://nypost.com/2019/03/12/college-scam-mastermind-photoshopped-students-faces-onto-athletes/>.

<sup>56</sup> Medina, *supra* note 52.

<sup>57</sup> Pascus, *supra* note 53.

<sup>58</sup> See Edward B. Fiske, *Gaining Admission: Athletes Win Preference*, N.Y. Times (Jan. 7, 2001), <https://www.nytimes.com/2001/01/07/education/gaining-admission-athletes-win-preference.html>.

<sup>59</sup> *Id.*



did not exist in the 1960s: life changing wealth through professional athletics.<sup>60</sup> While professional sports leagues existed in the United States for most of the twentieth century, player salaries did not begin to substantially outpace average Americans' salaries until the dawn of player free agency and unionization in the 1970s.<sup>61</sup> Players' salaries steadily increased moving forward, often in relation to ever increasing television broadcast deals, but player contracts worth tens and hundreds of millions of dollars are a relatively recent phenomenon.<sup>62</sup>

For decades, dreams of preferential college admission, college scholarships, and, more recently, potential riches, have driven parents' decisions with respect to their children's participation in youth sport, and those decisions drive the multi-billion-dollar youth sports industry. Unfortunately, for the vast majority of youth athletes, playing collegiate or professional sports is an illusory goal.

Participating in collegiate athletics is a highly unlikely outcome no matter how young an athlete is when the athlete begins training and no matter how assiduously the athlete trains. The National Collegiate Athletic Association (NCAA) estimates that only seven percent of high school athletes go on to participate in intercollegiate athletics.<sup>63</sup> A yet smaller number of high school athletes receive athletic scholarships.<sup>64</sup> And for various reasons,<sup>65</sup> many youth athletes do not become high school athletes, so the percentage of youth athletes who go on to participate in intercollegiate athletics and receive an athletic scholarship is even smaller.

Furthermore, it bears noting that most athletic scholarships are partial scholarships, covering only a fraction of the ever-increasing cost of a college education.<sup>66</sup> The NCAA is comprised of three divisions: Division I, Division II, and Division III.<sup>67</sup> Division III schools have the least competitive athletic programs among NCAA institutions and do not offer scholarships at all.<sup>68</sup> Division I (the NCAA's most competitive athletic division) schools and Division II (more competitive than Division III but less competitive than Division I) schools both offer scholarships,<sup>69</sup> but the average amount of those scholarships would likely disappoint a parent hoping that their child's athletic success will result in a fully-funded education. During the 2020-2021 academic year, the average Division I athletic scholarship amount was \$18,722 for women

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<sup>60</sup> Douglas Brunt, *Money Has Ruined Youth Sports*, Time (May 3, 2017), <https://time.com/4757448/youth-sports-pay/> (“[M]any parents are obsessively desirous of seeing their child play baseball for a \$100 million contract, plus endorsements. It’s a way out, a way up.”).

<sup>61</sup> Darryl Hale, *Step Up to the Scale: Wages and Unions in the Sports Industry*, 5 Marq. Sports L. J. 123, 128-33 (1994).

<sup>62</sup> Debbie Stephenson, *When Did Athletes Start Getting Rich?*, Touchpoint, <https://www.firmex.com/resources/unategorized/when-did-athletes-start-getting-rich/> (last visited Dec. 17, 2021).

<sup>63</sup> NCAA Recruiting Facts, NCAA (Aug. 2020), [https://ncaaorg.s3.amazonaws.com/compliance/recruiting/NCAA\\_RecruitingFactSheet.pdf](https://ncaaorg.s3.amazonaws.com/compliance/recruiting/NCAA_RecruitingFactSheet.pdf).

<sup>64</sup> Id.

<sup>65</sup> See Don Sabo & Phil Veliz, *Mapping Attrition Among U.S. Adolescents in Competitive, Organized School and Community Sports*, The Aspen Inst. Project Play (Apr. 21, 2014), <https://www.dyc.edu/academics/research/crpash/docs/mapping-attrition-us-sports.pdf> (summarizing the results of attrition rates among 13,000 students over three years).

<sup>66</sup> Deborah Ziff Soriano & Emma Kerr, *5 Myths About Athletic Scholarships*, U.S. News (Mar. 9, 2020), <https://www.usnews.com/education/best-colleges/paying-for-college/articles/myths-about-athletic-scholarships>.

<sup>67</sup> See NCAA Recruiting Facts, *supra* note 63.

<sup>68</sup> Id.

<sup>69</sup> Id.

and \$18,013 for men.<sup>70</sup> In Division II, it was \$8,054 for women and \$6,588 for men.<sup>71</sup> These are substantial sums of money. However, the average scholarship amounts do not cover the average annual cost of attending a four-year private institution (\$38,185) or a four-year public institution in a state of which the student is not a resident (\$22,698).<sup>72</sup>

So, it is a rarity for a youth athlete to develop to the point at which the athlete can compete collegiately, and it is even rarer that the athlete will receive a scholarship to do so. The few who are able to play collegiately on a scholarship will generally play on a scholarship worth well less than the cost of attendance. As unlikely as it is that a youth athlete will ever participate in intercollegiate athletics – on a scholarship or otherwise – the odds of a youth athlete playing sports professionally are exponentially longer: fewer than two percent of NCAA athletes become professional athletes.<sup>73</sup> Yet the illusory goal persists, creating dynamics that damage children as well as society in general.

### III. The Ills of American Youth Sports

The pursuit of youth sports success and the intensity that accompanies it produces substantial negative externalities, which damage the children involved in the sports and impact society as well. Three in particular are of substantial concern: early sport specialization, spectator incivility, and socioeconomic stratification in the youth sports world.

#### A. Early Specialization

According to the Journal of Athletic Training, published by the National Athletic Trainers' Association, early sport specialization is defined as occurring "when a young athlete chooses to focus participation on one sport, possibly to the exclusion of all other sports, and typically results in year-round participation and high-intensity training in a single sport."<sup>74</sup> Such specialization has become endemic in youth sports.<sup>75</sup> Thirty years ago, youth athletes generally cycled through sports throughout the year, playing the sport that was in-season among professionals and then moving on to the next sport as that season wound down.<sup>76</sup> Thus, a typical annual youth sports schedule would be football or soccer in the fall, basketball in the winter, and baseball or softball in the spring, with no organized sports played during summer break from school. Athletes with other interests might substitute basketball for wrestling in the winter or lacrosse for a fall or spring sport, and some

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<sup>70</sup> College Athletic Scholarship Limits 2019-20, Scholarship Stats.com, <http://www.scholarshipstats.com/ncaalimits.html> (last visited Dec. 17, 2021).

<sup>71</sup> Id.

<sup>72</sup> Faran Powell, See the Average College Tuition in 2021-2022, US News (Sept. 13, 2021), <https://www.usnews.com/education/best-colleges/paying-for-college/articles/paying-for-college-infographic>.

<sup>73</sup> NCAA Recruiting Facts, *supra* note 63.

<sup>74</sup> Joel S. Brenner, et al., The Psychosocial Implications of Sport Specialization in Pediatric Athletes, 54 J. Athletic Training 1021, 1021 (2019).

<sup>75</sup> Id.

<sup>76</sup> See Robert M. Malina, Early Sport Specialization: Roots, Effectiveness, Risks, 9 Current Sports Med. Repts. 364, 365 (2010) (noting the shift towards early specialization began in the 1990s).

athletes might go a season without playing any sport, but playing multiple sports during any given year was the norm.<sup>77</sup> Single sport athletes were a rarity.<sup>78</sup> This is no longer the case.<sup>79</sup>

Various factors have driven this specialization, but they generally revolve around a belief that specialization will yield better performance, and the college admission, college scholarship, and professional riches thought to come with it.<sup>80</sup> This belief finds traction in Tiger Woods's success as a professional golfer. In the quest to give their children the greatest possible athletic advantage, countless parents have seized upon Woods's story.<sup>81</sup> The elements are well known: Woods began swinging a golf club at ten months old, impressed a national television audience with his golf skills at two years old, was featured in *Golf Digest* at five years old, and went on to become arguably the best golfer in history – all with an intense focus on golf to the exclusion of other pursuits.<sup>82</sup> Malcolm Gladwell's best-selling book, *Outliers*, which asserts that 10,000 hours of practice in any discipline will yield world-class expertise,<sup>83</sup> reinforced the point, solidifying for many parents that specialization is the key to their children's athletic glory.

Largely lost in the specialization hysteria is the story of the child who would become arguably the best men's tennis player in history. Roger Federer grew up in Switzerland participating in a variety of sports – basketball, badminton, handball, soccer, squash, swimming, and wrestling – sometimes through formal instruction and sometimes informally with friends.<sup>84</sup> Soccer and tennis became his favorite sports, and as a teenager, he finally began to focus primarily on tennis.<sup>85</sup> By that time, other young Swiss tennis aspirants were hundreds or thousands of hours ahead of him and had worked with sports psychologists and sport-specific fitness instructors.<sup>86</sup> In the end, Federer surpassed them all, becoming the number one ranked player in the world.<sup>87</sup>

The Federer story does not stand alone. Consider the height of glory at the most iconic position in American sports: Super Bowl winning quarterback. In 2021 and 2019, Tom Brady, an elite baseball player drafted by an MLB team before choosing football, won his sixth and seventh Super Bowl games with two different teams.<sup>88</sup> In 2020, the Super Bowl winning quarterback was the Kansas City Chiefs' Patrick Mahomes II, who played basketball, baseball, and football in high school and who, like Brady, was an MLB draftee.<sup>89</sup> In 2018, it was Nick Foles. Foles participated in football, basketball, baseball, and karate before fielding offers to play basketball and football in college.<sup>90</sup>

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<sup>77</sup> See Chris Preston, *Sport Specialization Among Reasons for Decline in Multisport Athletes*, ESPN (July 28, 2008), <https://www.espn.com/college-sports/news/story?id=3507788> (detailing the shift from multisport to single-sport athletes through Darius Savage's college athletic experience).

<sup>78</sup> See *id.*

<sup>79</sup> See Preston, *supra* note 77; see also Malina, *supra* note 76.

<sup>80</sup> Gregory, *supra* note 31.

<sup>81</sup> David Epstein, *Range: Why Generalists Triumph in a Specialized World*, 1-2 (2019).

<sup>82</sup> *Id.*

<sup>83</sup> See generally, Malcolm Gladwell, *Outliers* (2011).

<sup>84</sup> Epstein, *supra* note 81, at 3.

<sup>85</sup> *Id.* at 4.

<sup>86</sup> *Id.* at 4.

<sup>87</sup> *Id.* at 4.

<sup>88</sup> *Id.* at 8.

<sup>89</sup> Dan Wetzel, *Patrick Mahomes Didn't Stick to One Sport, Making Him a Prime Example for Multisport Youths*, Yahoo Sports (Jan. 21, 2020), <https://sports.yahoo.com/patrick-mahomes-didnt-stick-to-one-sport-making-him-a-prime-example-for-multisport-youths-200712740.html>.

<sup>90</sup> *Id.*

The stories of Federer and the recent Super Bowl winning quarterbacks do not invalidate stories like Tiger Woods's, but they do present an alternative path to elite athletic accomplishment. And while no recent comprehensive study of early sport specialization among *professional* athletes exists, a 2019 NCAA study reveals this alternative path to be more fruitful.<sup>91</sup> Over 95% of the NCAA Division I athletes surveyed reported that they played a different organized sport before college, and the mean age at which those athletes specialized was 14.9 years old.<sup>92</sup> So, while early sport specialization has certainly spawned elite athletes, this study indicates that the vast majority of those who reach the highest level of collegiate athletics did not specialize in any one sport until they were in high school. The inferiority of early sport specialization as a means of producing elite athletes, however, is the least of the theory's problems. Worse yet, early sport specialization can physically and emotionally harm children.

### *1. Physical Damage*

Consensus has developed in both the medical community and the sports community that early sport specialization is detrimental to children's physical health. The Academy of Pediatrics, the American Orthopedic Society for Sports Medicine, and the International Olympic Committee all agree that early specialization increases the risk of injury.<sup>93</sup> Put simply, "increasing degrees of specialization" create "greater odds of sustaining significant overuse injuries."<sup>94</sup>

The particular risk tends to depend on the sport. For instance, baseball specialization imperils a child's throwing arm, and it has produced among young players a rash of injuries that once only afflicted grown men playing professionally.<sup>95</sup> Among the more severe such injuries is trauma to the elbow's ulnar collateral ligament (UCL), caused by "repeated stress from overhead movement."<sup>96</sup> This injury was once deemed career ending,<sup>97</sup> but in 1974, a Major League Baseball pitcher named Tommy John opted for an innovated surgical procedure in which a tendon is harvested from the patient's arm or leg to replace the ruptured UCL.<sup>98</sup> John was able to resume pitching at a high level, and other pitchers who suffered similar injuries began opting for the operation, which came to be called Tommy John surgery.<sup>99</sup> By the mid 1990's, though, orthopedists began noticing that more and more adolescents were suffering the injury.<sup>100</sup> And as

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<sup>91</sup> See Hasani W. Swindell, An Analysis of Sports Specialization in NCAA Division I Collegiate Athletics, 7 *Orthopaedic J. Sports Med.* 1 (2019).

<sup>92</sup> Individual sport athletes tend to specialize at an earlier stage (14 years old) than team sport athletes (15.5 years old). See Swindell, *supra* note 91, at 3; see also Wetzel, *supra* note 89.

<sup>93</sup> Swindell, *supra* note 91.

<sup>94</sup> *Id.* (citing Gregory D. Myer et al., Sport Specialization, Part I, 7 *Sports Health* 437 (2015)).

<sup>95</sup> Brian Pia, Most Tommy John Surgeries Are Performed on Teenage Baseball Players, *Andrews Sports Med. & Orthopaedic Ctr.* (July 17, 2017), <https://www.andrewssportsmedicine.com/news/most-tommy-john-surgeries-are-performed-on-teenage-baseball-players>.

<sup>96</sup> Ulnar Collateral Ligament (UCL) Injuries of the Elbow, *Johns Hopkins Med.*, <https://www.hopkinsmedicine.org/health/conditions-and-diseases/ulnar-collateral-ligament-ucl-injuries-of-the-elbow> (last visited Dec. 17, 2021).

<sup>97</sup> P. Langer et al., Evolution of the Treatment Options of Ulnar Collateral Ligament Injuries of the Elbow, 40 *British J. Sports Med.* 499, 499 (2006).

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at 499-500.

<sup>100</sup> Craig Davis, Teen Tommy John Surgeries, Youth Sports Injuries Reach Epidemic Proportions, *S. Fla. Sun Sentinel* (June 28, 2018), <https://www.sun-sentinel.com/sports/fl-sp-tommy-john-youth-injuries-20180618-story.html> (reporting the 30% increase of tommy john surgeries for youth athletes between the years of 1998 to 2010).

of 2020, due to early baseball specialization and overuse, roughly half of the nation's Tommy John surgeries were performed on teenagers.<sup>101</sup> While UCL tears are not the norm among youth baseball players, less traumatic, but still serious overuse arm injuries are extremely common.<sup>102</sup> Chief among these are injuries to growth plates, which are the soft parts of a bone that grow and then harden as a child's body develops.<sup>103</sup> These injuries can linger for months, require rest to resolve, and can cause permanent damage if not properly treated.<sup>104</sup> They have become so common and so commonly associated with youth baseball that orthopedists describe them as "Little Leaguer's Elbow" and "Little Leaguer's Shoulder."<sup>105</sup>

In basketball, overuse causes a different form of damage, which has become commonplace, because as the NBA's Vice President of Youth Basketball Development, David Krichavsky, explains, "parents and coaches have kids playing way too much basketball way too early."<sup>106</sup> Those who specialize in the sport early, routinely subjecting their bones, tendons, and ligaments to intense forces as children, inevitably begin to break down. Before joining the National Basketball Association's Los Angeles Lakers to serve as the team's head strength and conditioning coach, Tim DiFrancesco worked as a physical therapist at an outpatient clinic in the Boston, Massachusetts area.<sup>107</sup> There he saw scores of young basketball players with injuries "that one might expect to find in those who worked for decades in hard-labor jobs."<sup>108</sup> Dr. Chris Powers, a University of Southern California professor and the director of the school's biokinesiology program, offers a similar assessment of the youth basketball players he sees: "They just march in here and out – knee pain, ankle pain, head pain, back pain. ... We see kids all the time that are 10, 11 years old with really bad tendinitis and overuse injuries all the time."<sup>109</sup> The specialized youth basketball circuit is so intense that Dr. Marcus Elliott, founder of the P3 Applied Sports Science Lab, a California-based advanced athlete assessment and training consultancy, describes the athletes who emerge from it as "survivors."<sup>110</sup> He explains: "What they put their bodies through is so rigorous. It's so extreme. And a lot of them don't make it out to the other side."<sup>111</sup> Even some

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<sup>101</sup> UCL Surgeries on Adolescent Baseball Pitchers, Am. Sports Med. Inst., <http://www.asmi.org/research.php?page=research&section=UCL> (last visited Dec. 17, 2021) (tracking the percentage of UCL surgeries performed on youth pitchers per year).

<sup>102</sup> See Overuse Injuries, Johns Hopkins Med., <https://www.hopkinsmedicine.org/health/conditions-and-diseases/overuse-injuries> (last visited Dec. 17, 2021) (summarizing the most common types of overuse injuries in youth athletes).

<sup>103</sup> Little Leaguer's Elbow or Little Leaguer's Shoulder, Tex. Children's Hosp., <https://www.texaschildrens.org/health/when-your-child-has-little-leaguer%E2%80%99s-elbow-or-little-leaguer%E2%80%99s-shoulder> (last visited Dec. 17, 2021).

<sup>104</sup> Andrew Gregory, Overuse Injuries in Young Athletes, Nat'l Youth Sports Health & Safety Inst. (2015), <http://nyshsi.org/wp-content/uploads/2012/08/NYSHSI-Overuse-Injuries-in-Young-Athletes.pdf>.

<sup>105</sup> Throwing Injuries in the Elbow in Children, Am. Acad. Orthopaedic Surgeons, <https://orthoinfo.aaos.org/en/diseases--conditions/throwing-injuries-in-the-elbow-in-children> (last visited Apr. 22, 2020); Texas Children's Hospital, *supra* note 103.

<sup>106</sup> Baxter Holmes, 'These Kids Are Ticking Time Bombs': The Threat of Youth Basketball, ESPN (July 11, 2019), [https://www.espn.com/nba/story/\\_/id/27125793/these-kids-ticking-bombs-threat-youth-basketball](https://www.espn.com/nba/story/_/id/27125793/these-kids-ticking-bombs-threat-youth-basketball).

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

players who do 'make it out the other side' have pressed their bodies so intensely for so long as children that as young adults they break down performing rudimentary athletic moves.<sup>112</sup>

Early specialization in other sports produces other telltale injuries. For instance: anterior cruciate knee ligament injuries in soccer from sudden, violent changes in direction,<sup>113</sup> and lateral epicondylitis (known colloquially as tennis elbow) in tennis from repeatedly swinging a racquet.<sup>114</sup>

The phenomenon of early specialization has left a trail of physical damage across youth sports. Unfortunately, it has spawned emotional damage as well.

## 2. Emotional Damage

Early sport specialization negatively impacts children's mental health.<sup>115</sup> Although "optimal levels of physical activity and sport participation are generally associated with improved mental health outcomes in children and adolescents[,] ... sport specialization typically introduces multiple stressors that could be expected to adversely affect mental health and function in young athletes."<sup>116</sup> Anxiety, depression, stress, inadequate sleep, and social isolation are all potential byproducts of hyper-intensive commitment to one sport.<sup>117</sup> Moreover, several studies reveal that children who specialize at an early age in one sport are more likely than those who do not specialize to burn out and withdraw from that sport,<sup>118</sup> defeating the point of specializing altogether.

Though experts warn against early sports specialization, the phenomenon, by many estimates, is worsening, as those with a financial stake in early sports specialization preach its importance.<sup>119</sup> As David Epstein explains, "it is in the interest of people who run youth sports leagues to claim that year-round devotion to one activity is necessary for success, never mind evidence to the contrary."<sup>120</sup> The beneficiaries of early sports specialization, however, go beyond just those who run youth sports leagues. Stakeholders throughout the youth sports "ecosystem" –

<sup>112</sup> A dramatic example involves Julius Randle, a youth and high school basketball phenom who played only one year of college basketball before being selected in the 2014 NBA draft's first round by the Los Angeles Lakers. See Kyle Tucker, Kentucky's Julius Randle Declares for the NBA Draft, USA Today (Apr. 22, 2014), <https://www.usatoday.com/story/sports/nba/2014/04/22/kentucky-julius-randle-declares-for-the-nba-draft/8005193/>. During the first game of his professional career, Randle jumped into the air to shoot the ball and then collapsed, suffering a season ending injury. See Baxter Holmes, Julius Randle Breaks Leg in Debut, ESPN (Oct. 29, 2014), [https://www.espn.com/nba/story/\\_/id/11783195/julius-randle-los-angeles-lakers-suffers-serious-right-leg-injury-opener](https://www.espn.com/nba/story/_/id/11783195/julius-randle-los-angeles-lakers-suffers-serious-right-leg-injury-opener). The team's strength and conditioning coach studied video on the injury at length and saw nothing that should have felled a healthy athlete. See Holmes, *supra* note 106. The trainer noted that "Randle's takeoff and landing appear[ed] normal, that he suffered no mid-air collision in between. There is no clear culprit. No explanation. Randle's leg simply snapped." *Id.* Analysis would later conclude that "repetitive impacts to that bone had led its structure to break down," and a simple jump in his first professional game was the last straw. See Holmes, *supra* note 106.

<sup>113</sup> Boyi Dai et al., Anterior Cruciate Ligament Injuries in Soccer: Loading Mechanisms, Risk Factors, and Prevention Programs, 3 J. Sport & Health Sci. 299 (2014).

<sup>114</sup> Thomas De Smedt et al., Lateral Epicondylitis in Tennis: Update on Aetiology, Biomechanics and Treatment, 41 J. Sports Medicine 816 (2007).

<sup>115</sup> See generally, Brenner, *supra* note 74.

<sup>116</sup> *Id.* at 1021.

<sup>117</sup> David Geir, Examining the Effects of Sport Specialization On Mental Health of Young Athletes, Post & Courier (Oct. 9, 2019), [https://www.postandcourier.com/sports/examining-the-effects-of-sport-specialization-on-mental-health-of/article\\_ec9872b2-e9e9-11e9-a76f-2f3a79047141.html](https://www.postandcourier.com/sports/examining-the-effects-of-sport-specialization-on-mental-health-of/article_ec9872b2-e9e9-11e9-a76f-2f3a79047141.html).

<sup>118</sup> See Timothy Neal, Burnout in Athletes, Nat'l Athletic Trainers' Ass'n (Apr. 19, 2016), <https://www.nata.org/blog/beth-sitzler/burnout-athletes> (explaining the signs and symptoms of burnout in young athletes).

<sup>119</sup> Holmes, *supra* note 106.

<sup>120</sup> Epstein, *supra* note 81, at 11-12.

sport-specific skills coaches, sport-specific training facilities, and equipment manufacturers, among others – stand to gain as well.<sup>121</sup>

## *B. Spectator Incivility*

### *1. The Nature of the Problem*

The intensity that courses through youth sports often creates an unhealthy atmosphere at youth sporting events, characterized by disputatious interactions among spectators, coaches, and officials that sometimes result in violence. Such behavior has plagued youth sporting events for years, often gaining national attention. A paradigmatic example occurred on June 15, 2019, in Lakewood, Colorado. On that occasion, two baseball teams in the 7-year-old division of the Bear Creek Junior Sports Association met to play a game at Westgate Elementary School.<sup>122</sup> As the game progressed, coaches and parents from both teams grew dissatisfied with the umpire, a 13-year-old boy, and began yelling and cursing.<sup>123</sup> The umpire warned both groups about their behavior, but after another disputed call, coaches from one team surrounded him.<sup>124</sup> A coach from the other team stepped in and shoving ensued, followed by punches leading to a full scale brawl involving approximately 20 adults.<sup>125</sup> Several people were injured, including one who was hospitalized, and police cited twelve people for disorderly conduct.<sup>126</sup> The children, some crying, looked on.<sup>127</sup> The brawl was recorded and shared extensively on social media, triggering shock and condemnation.<sup>128</sup>

While the Lakewood incident was certainly more dramatic than most, other examples of uncivil, violent, and sometimes bizarre encounters at youth sporting events abound:

- During a Catholic youth basketball game, a parent attacked and bit off the opposing team's coach's ear, leading to a conviction and four-year prison sentence.<sup>129</sup>
- A man whose son was engaged in a wrestling match grew so enraged while watching that he stormed the wrestling mat and pinned his son's opponent.<sup>130</sup>

<sup>121</sup> Holmes, *supra* note 106.

<sup>122</sup> Eric Ruble & Shaul Turner, *Injuries Reported After Brawl Breaks Out at Youth Baseball Game in Lakewood*, Fox Denver 31 (June 18, 2019), <https://kdvr.com/news/local/brawl-breaks-out-at-childrens-baseball-game-in-lakewood-police-seeking-information/>.

<sup>123</sup> Jeremy Gottlieb, *Teenage Umpire Warned Coaches and Spectators to Calm Down Before Brawl at Youth Baseball Game*, Wash. Post (June 22, 2019), <https://www.washingtonpost.com/sports/2019/06/22/teenage-umpire-warned-coaches-spectators-calm-down-before-brawl-youth-baseball-game/>.

<sup>124</sup> Óscar Contreras, *Video: Fight Breaks Out Between Parents During Youth Baseball Game in Lakewood*, Denver Channel (June 18, 2019), <https://www.thedenverchannel.com/news/crime/video-fight-breaks-out-between-parents-during-youth-baseball-game-in-lakewood>.

<sup>125</sup> *Id.*

<sup>126</sup> Michael Konopasek, *12 People Now Cited in Brawl at Youth Baseball Game in Lakewood*, Fox Denver 31 (June 27, 2019), <https://kdvr.com/news/local/12-people-now-cited-in-brawl-at-youth-baseball-game-in-lakewood/>.

<sup>127</sup> Contreras, *supra* note 124.

<sup>128</sup> Sonia Gutierrez & Allison Sylte, *Kids Pay For Parents' Fist Fight at Youth Baseball Game*, 9NEWS (June 18, 2019), <https://www.9news.com/article/news/local/kids-pay-for-parents-fist-fight-at-youth-baseball-game/73-fb0b5518-414d-44f2-adb5-085c234f9c3c>.

<sup>129</sup> John S. Eory, *Parental Behavior: Little League Parent Syndrome*, Nat'l L. Rev. (Jan. 17, 2017), <https://www.natlawreview.com/article/parental-behavior-little-league-parent-syndrome>.

<sup>130</sup> Mark Hyman, *Until It Hurts: America's Obsession with Youth Sports and How It Harms Our Kids*, x (2009).

- Three men intentionally modified their sons' athletic gear to be "sharp enough to shred a magazine cover" and therefore injurious to opponents.<sup>131</sup>

In some cases, the hostilities progress to murder, such as when a father in Reading, Massachusetts beat to death the father of an opposing team's player after a game.<sup>132</sup> In a separate instance, a mob of parents in Kissimmee, Florida severely battered the coaches of an opposing football team, stopping only once they believed, incorrectly, that one of the coaches was dead.<sup>133</sup> In other cases, the aim is premeditated murder, such as when the mother of a junior high school cheerleading aspirant hired a man to kill the mother of a rival cheerleader.<sup>134</sup>

In countless other cases, although no violence erupts, spectators engage in shouting matches and trade insults. There exists no authoritative data on the amount of incivility and violence that occurs at youth sporting events in the United States each year, but as commentator Matthew Hall expressed in his article, *Weapons and drugs not welcome: how pushy parents ruined US youth sports*: "Pretty much every parent whose kid plays an organized sport can tell a tale about a sideline parent who crosses a line, or two lines, or sometimes three."<sup>135</sup>

## 2. Attempts at Self-Regulation

American youth sports organizations have attempted to control spectator behavior at games through a number of different initiatives. One approach has been the implementation of a "parent's pledge."<sup>136</sup> For instance, in 2001 the American Youth Soccer Organization (AYSO), a non-profit that operates youth soccer leagues across the nation – including over 50,000 teams and 500,000 players – began requiring that parents sign a comportment agreement before their children could participate.<sup>137</sup> Under the agreement, parents promise to "show respect for coaches, players, opponents, and opposing fans and agree to 'refrain from questioning, insulting or making personal attacks' against referees."<sup>138</sup> In addition, they promise to "not yell out instructions ... [and] during the game ... make only sportsmanlike comments that encourage [their] child and other players on both teams."<sup>139</sup> While AYSO was an early actor in this regard, most youth sports leagues have since enacted similar requirements.<sup>140</sup> Many leagues, however, have taken further – sometimes quite creative – steps to keep games civil. Professor Mark Hyman, one of the nation's leading authorities on youth sports and author of *Until it Hurts: America's Obsession with Youth Sports and How it Harms Our Kids*, details various approaches leagues have employed over the years, explaining that the general goal is often to keep parents entirely quiet.<sup>141</sup> A girls soccer league in

<sup>131</sup> Eory, supra note 129.

<sup>132</sup> Matthew Hall, *Weapons and Drugs Not Welcome: How Pushy Parents Ruined US Youth Sports*, Guardian (Aug. 9, 2017), <https://www.theguardian.com/sport/blog/2017/aug/09/pushy-parents-us-youth-sports>.

<sup>133</sup> Id.

<sup>134</sup> Eory, supra note 129.

<sup>135</sup> Hall, supra note 132.

<sup>136</sup> Id.

<sup>137</sup> Id.

<sup>138</sup> Id.

<sup>139</sup> Id.

<sup>140</sup> See, e.g., Little League, *Sport Parent Code of Conduct* (2020), [https://www.littleleague.org/downloads/parent-code-conduct/\(template for individual little leagues\)](https://www.littleleague.org/downloads/parent-code-conduct/(template%20for%20individual%20league)).

<sup>141</sup> Hyman, supra note 130, at 136.



suburban Cleveland started the “movement to end adult chatter” at games, and scores of other leagues have followed suit.<sup>142</sup> A soccer league in central Pennsylvania that adopted the approach innovatively handed out thousands of lollipops to parents during game weekends to both incentivize quietude and occupy parents’ mouths so as to hamper speech.<sup>143</sup> Other leagues have taken a punitive approach, creating disincentives to speech, such as fining vocal parents on the spot.<sup>144</sup> While effective in small pockets of the youth sports world, the silence movement has not appreciably reduced incidents of youth sports incivility nationwide.

Among other negative externalities of uncivil behavior at youth sporting events is a reduction in the pool of umpires, referees, and other game-day officials necessary for the events to take place.<sup>145</sup> According to the New York Times, “more than seventy percent of new [game-day officials] in all sports quit the job within three years,” creating a shortage that results in cancelled games.<sup>146</sup> Predictably, the National Association of Sports Officials’ (NASO) survey of its members on the matter produced a clear cause of attrition: “pervasive abuse from parents and coaches.”<sup>147</sup> Indeed, the abuse is so pervasive that NASO offers its members “assault insurance,”<sup>148</sup> advertised as providing “up to \$6 million per occurrence, with a per official policy aggregate of \$14 million for claims...”<sup>149</sup> According to NASO’s president, Barry Mano, the organization receives one or two calls a week about the insurance or for the legal advice available to the insured.<sup>150</sup>

Having observed countless incidents of verbal and physical abuse of game-day officials, Brian Barlow, a youth soccer referee in Oklahoma, pioneered a public-shaming approach to quelling such behavior.<sup>151</sup> He seeks out video clips of incivility at youth sporting events – paying \$100 per clip – and posts them on a Facebook page titled “Offside.”<sup>152</sup> Barlow explains: “It’s a very visual deterrent, and not just to the person caught on video but to others who ask themselves: Do I look like that jerk?”<sup>153</sup>

Notwithstanding both organizational and individual efforts to thwart uncivil and violent behavior at youth sporting events, it persists.

### 3. *Judicial Involvement*

Courts have had sparing opportunity to opine on spectator behavior at youth sporting events, but when they have, they have pushed for reform. Consider the Superior Court of New Jersey’s disposition of *D.W. v. M.W.*, a 2016 case of first impression involving a legally separated couple whose seven-year-old son played both baseball and football on teams with other seven-year-olds.<sup>154</sup> The child’s mother, D.W., brought the action to prevent the child’s father, M.W., from attending the child’s games alleging that when at the games the father consistently engaged

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<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.* at 135.

<sup>145</sup> Bill Pennington, Parents Behaving Badly: A Youth Sports Crisis Caught on Video, N.Y. Times (July 18, 2018), <https://www.nytimes.com/2018/07/18/sports/referee-parents-abuse-videos.html>.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> SOS Program Provides Insurance Coverage for Sports Officiating, NASO, <https://www.naso.org/member-benefits/insurance/> (last visited Dec. 17, 2021).

<sup>150</sup> Pennington, *supra* note 145.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> *D.W. v. M.W.*, No. FV-15-1025-16, 2016 WL 7411566, at \*1 (N.J. Super. Ch. Div. Sep. 15, 2016) (Trial Order).

in “inappropriate public criticizing and disparaging of the coach’s . . . decisions and abilities in an embarrassing and demeaning manner.”<sup>155</sup> M.W. countered with similar allegations about D.W.<sup>156</sup>

In conducting its analysis, the court stressed the value of youth sport “as a social and cultural tool for positive childhood development and inclusion” and, in fact, took “judicial notice that the results of particular Little League games are not nearly as significant as the underlying goal of developing a child’s ongoing personal character in a positive fashion.”<sup>157</sup> To effectuate that goal, the Court explained, it is critical that the environment at youth sporting events “promotes respect, integrity, responsibility, discipline and self-restraint.”<sup>158</sup>

The Court noted that registration for the league in question required a parental pledge of good conduct – such as those used in youth sports for decades, referenced above – but that the pledge was clearly ineffective.<sup>159</sup> And the court then, essentially, reaffirmed the good conduct pledge in the form of a court order. The court wrote, “with respect to the children’s involvement in Little League, American Youth Football, and any and all other organized youth sports leagues, the court directs that both parties will follow all league rules concerning parental conduct” and then listed five particular parameters to which the parties must adhere.<sup>160</sup> These included “not publicly harass[ing] or demean[ing] any coach or official,” “not publicly harass[ing] or demean[ing] any parent or other spectator in the stands,” and “not act[ing] in a manner which is directly contrary to the core purposes of [youth sports], such as teaching children concepts of maturity, respect, and discipline, and good sportsmanship.”<sup>161</sup>

The court acknowledged, however, that the objectionable behavior detailed in the parties’ briefings was neither easily corrigible nor unique. Rather, it was just one example of the intractable, widespread social phenomenon of “out-of-control sports parents,” which the court referred to as “‘Little League Parent Syndrome.’”<sup>162</sup> An individual court order cautioning two bickering parents, therefore, no matter how passionate, falls short of solving the problem. Systemic reform is necessary.

### C. Socioeconomic Stratification

The cost of youth sports has priced millions of American children out of participation. *Real Sports*, an HBO investigative television program that engages controversial issues in sports, made this plain in its recent exploration of the youth sports industry.<sup>163</sup> It detailed the high cost of youth sports participation, describing typical expenditures – like those set out in Part I.B., *supra* – but noted that some families’ expenditures are far higher, at times exceeding \$10,000 per child per

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<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.* at 2.

<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at 2-3.

<sup>160</sup> *Id.* at 5-6.

<sup>161</sup> *Id.* at 6.

<sup>162</sup> *Id.* at 3. Behavioral specialists and psychologists suggest this Syndrome springs from vicarious association, meaning “parents are vicariously living through their children but with an adult aggression.” See Eory, *supra* note 129.

<sup>163</sup> Real Sports with Bryant Gumbel, *The Price of Youth Sports*, YouTube (Nov. 28, 2018), <https://www.youtube.com/watch?v=AGxxBER5xJU>.

year.<sup>164</sup> “For the first time in American history,” the program reported, “youth sports has become for the haves, and out of reach for the have nots.”<sup>165</sup>

Even those profiting from the escalating cost of youth sports recognize the consequences for children in families without the means to access increasingly costly youth sports opportunities. Dev Pahtik, owner of Bo Jackson’s Elite Sports Development, a sprawling indoor youth training facility in Hilliard, Ohio, acknowledges: “This gap between who gets to play and who doesn’t is widening. We’re watching it before our eyes. Those with means get to play, get to travel, get to be in travel sports leagues and private clubs, and those who don’t have means, don’t get to play.”<sup>166</sup>

Importantly, the inability to afford high-priced youth sports opportunities is not the only reason children with limited means are decreasingly able to participate in sport.<sup>167</sup> In addition, as those with means have flocked to such opportunities, once ubiquitous public youth sports programs have received less support and are increasingly being cut out of recreation department budgets.<sup>168</sup> “It is part of a nationwide trend,” the HBO exposé explains, “as cash-strapped communities, accepting that youth sports has become a big-ticket private industry, have cut back on providing free or inexpensive sports programs and facilities to the public.”<sup>169</sup> In St. Louis, Missouri, for instance, half of the recreation centers that once existed have been shut down and many of the remaining facilities are in disrepair.<sup>170</sup>

The consequence, the Aspen Institute concludes, is stark and irrefutable: “children from low-income families are half as likely to play sports as children from homes with higher incomes.”<sup>171</sup> This means they are half as likely to achieve elite athletic status in the form of intercollegiate athletics participation, attaining a college athletic scholarship, or becoming a professional athlete. But more importantly and immediately, they are half as likely to have sport as a conduit to numerous well-documented benefits available to all youth athletes. Children who are physically active are, on the whole, far healthier than those who are not.<sup>172</sup> Perhaps intuitively, consistent athletic involvement produces “improved bone health, weight status, cardiorespiratory and muscular fitness, [and] cardiometabolic health.”<sup>173</sup> The health benefits of physical activity, however, go beyond the physical, improving cognitive function and reducing incidence of depression as well.<sup>174</sup> Youth engaged in organized sports enjoy these benefits, but participation in organized sports also offers additional benefits – many psychosocial – beyond those derived simply from informal physical activity.<sup>175</sup> These include higher levels of perceived “competence, confidence, and self-esteem; reduc[ed] risk of suicide and suicidal thoughts and tendencies; and

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<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> Cohen, *supra* note 46.

<sup>172</sup> Kelsey Logan & Steven Cuff, Organized Sports for Children, Preadolescents, and Adolescents, 143 *Pediatrics* 1 (2019).

<sup>173</sup> Assistant Sec’y for Health, U.S. Dep’t of Health & Hum. Servs., Nat’l Youth Sports Strategy (2019), [https://health.gov/sites/default/files/2019-10/National\\_Youth\\_Sports\\_Strategy.pdf](https://health.gov/sites/default/files/2019-10/National_Youth_Sports_Strategy.pdf) (citing U.S. Dep’t of Health & Hum. Servs., Physical Activity Guidelines for Americans 2nd Ed. (2018), [https://health.gov/paguidelines/second-edition/pdf/Physical\\_Activity\\_Guidelines\\_2nd\\_edition.pdf](https://health.gov/paguidelines/second-edition/pdf/Physical_Activity_Guidelines_2nd_edition.pdf)).

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

improv[ed] life skills, such as goal setting, time management, and work ethic.”<sup>176</sup> Team sports provide additional benefits still, including the opportunity to develop interpersonal, leadership, and relationship building skills.<sup>177</sup> Finally, participation in organized sports correlates with improved academic outcomes and reduced youth violence and crime.<sup>178</sup> America’s youth sports system increasingly deprives children in low income families of these life-enhancing benefits.

#### IV. The Norwegian System: A Model for Reform

##### A. *The Seeds of Change*

The Norwegian sporting community has long held the concerns that New Jersey Superior Court Judge L.R. Jones expresses in *D.W. v. M.W.* The Norwegian Olympic and Paralympic Committee and Confederation of Sports (NIF) is Norway’s sports governing body, responsible for all of the nation’s sports federations.<sup>179</sup> In 1976, the NIF first took youth sports under its ambit, and in doing so recognized that youth sports are unique – that they hold “an intrinsic value of [their] own, which [is] different from the values associated with elite [adult] sport.”<sup>180</sup> As such, the NIF recognized, youth sport must be treated specially. It established guidelines designed to maintain and emphasize the spontaneity of free play among children and to ensure that adults involved in youth sports, such as coaches and league organizers, “have knowledge of the development of young people.”<sup>181</sup> In addition, the guidelines were meant to thwart early specialization in any particular sport.<sup>182</sup>

The guidelines, however, were essentially ignored by many sports entities around the country.<sup>183</sup> So, in 1978, the NIF’s general assembly debated instituting binding regulations that would impose restrictions on the federations for the various sports and the sports clubs under their purview.<sup>184</sup> The proposal faced resistance and ultimately failed, sparking a nine-year philosophical struggle over the direction of youth sports in Norway. In particular, opponents feared the consequences of abandoning early sports specialization, arguing that it would hamper elite athletic development.<sup>185</sup> Proponents, on the other hand, insisted the regulations could reduce the rate at which children drop out of sports altogether.<sup>186</sup>

In 1987, the proponents of reform prevailed and the NIF implemented nationwide compulsory regulations, titled the Regulations on Children’s Sport, across all of youth sports.<sup>187</sup>

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<sup>176</sup> *Id.*

<sup>177</sup> Youth Sports Facts: Benefits of Physical Activity, Aspen Inst. Project Play, <https://www.aspenprojectplay.org/youth-sports-facts/benefits>.

<sup>178</sup> *Id.*; see Mohammad Ehsani et al., The Influence of Sport and Recreation Upon Crime Reduction: A Literature Review, 2 *Int’l J. Acad. Rsch. Bus. & Soc. Sci.* 98 (2012).

<sup>179</sup> Norges, Norges Idrettsforbund, <https://www.idrettsforbundet.no/english/> (last visited Dec. 17, 2021) (noting that NIF is comprised of approximately 1.9 million members, 55 national federations, 11 regional confederations, 328 sports councils, and 9,454 clubs).

<sup>180</sup> Berit Skirstad et al., Issues and Problems in the Organization of Children’s Sport: A Case Study on Norway, 18 *Eur. Physical Educ. Rev.* 309, 316 (2012).

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> *Id.* at 316-317.

<sup>185</sup> *Id.* at 317.

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

Through the regulations, the NIF sought “to stimulate children’s physical, psychological, and social development[,] and to provide an educational introduction to a wide range of sporting activities.”<sup>188</sup> Still, many clubs paid the regulations little mind, complying with them only in part or ignoring them altogether.<sup>189</sup>

The 1989 United Nations Convention on the Rights of the Child (the “CRC”), put in motion a series of events that would change that. The CRC acknowledges and emphasizes that children are “human beings and individuals with their own rights” and that “childhood . . . is a special, protected time, in which children must be allowed to grow, learn, play, develop and flourish with dignity.”<sup>190</sup> Norway ratified the CRC in 1991 and was one of the first nations to do so.<sup>191</sup> And in 2003, the Norwegian legislature incorporated the CRC into the Norway Human Rights Act.<sup>192</sup> Norwegian Law’s recognition of the CRC inspired the NIF to, in 2007, amend the Regulations on Children’s Sport developed in 1987 to include two documents – Children’s Rights in Sport and Provisions for Children’s Sport – which derive their spirit and philosophical underpinning from the CRC and together created a new regulatory framework for Norwegian youth sports.<sup>193</sup>

#### *B. Children’s Rights in Sport and Provisions for Children’s Sport*

The Children’s Rights in Sport articulates the rights to which all Norwegian youth sports participants are entitled, and the Provisions for Children’s Sport sets out the policies designed to effectuate those rights.<sup>194</sup> The Children’s Rights in Sport, most recently revised in 2015, reads as follows:<sup>195</sup>

- i. Safety: Children have the right to play in a “safe and secure” training environment free from undue pressure and risk of injury. Adults should accompany child participants under six.
- ii. Friendship and Enjoyment: Children have the right to train for and to compete in sports activities which “are designed to help develop friendship and solidarity among them.”

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<sup>188</sup> *Id.*

<sup>189</sup> *Id.* at 318. The reasons for limited compliance and non-compliance are not entirely clear but seemed to have two primary causes: 1) clubs’ failure to distinguish between voluntary guidelines and mandatory regulations; and 2) the absence of penalties associated with the regulations. See *id.* at 317.

<sup>190</sup> What is the Convention on the Rights of the Child?, UNICEF, <https://www.unicef.org/child-rights-convention/what-is-the-convention> (last visited Dec. 17, 2021).

<sup>191</sup> Convention on the Rights of the Child, U.N. Treaty Collection, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en) (last visited Dec. 17, 2021).

<sup>192</sup> Ministry of Child. & Equal. & Ministry of Foreign Affs., The Rights of the Child: Norway’s Fourth Periodic Report to the UN Committee on the Rights of the Child, 9 (2008), [https://www.regjeringen.no/globalassets/upload/bld/rapporter/2008/the\\_rights\\_of\\_the\\_child.pdf](https://www.regjeringen.no/globalassets/upload/bld/rapporter/2008/the_rights_of_the_child.pdf) (hereinafter The Rights of the Child).

<sup>193</sup> Jan Emil Ellingsen & Anne Grete Danielsen, Norwegian Children’s Rights in Sport and Coaches’ Understanding of Talent, 25 *Int’l J. Child.’s Rts.* 412, 414 (2017).

<sup>194</sup> Nor. Olympic & Paralympic Comm. & Confederation, Children’s Rights in Sport Provisions on Children’s Sport 1, 2 (2007) (hereinafter *Child.’s Rts.* 2007).

<sup>195</sup> See *id.* at 2 (defining “children,” for the purposes of youth sports regulations, as those 12 and under).

- iii. Competency: Children have the right to develop a “varied skillset” and to experience “feelings of competency,” and so should be afforded the opportunity to “experience variation in their sports, training[,] and interaction with others.”
- iv. Influence: Children have the right to express their viewpoints, and so must be afforded opportunities to participate in the structuring and execution of the sports activities in which they are involved.
- v. Freedom to Choose: Children have the right to select which sport, the number of sports, and the level of training for sports in which they desire to compete.
- vi. Competitions for All: Children have the right to decide whether they want to participate in competitions, and to be granted “equal opportunities to participate.” Children who transfer to new clubs within the same sport have the right to compete for said new club as soon as the transfer has been recorded.
- vii. On the Children’s Terms: Children have the right to train for and compete in sports activities commensurate with “their age, physical development[,] and maturation level.”<sup>196</sup>

The Provisions for Children’s Sport, enforced to ensure allegiance to the Children’s Rights in Sport, are wide-ranging, and too numerous to list in full, but for instance:

- Prior to age 11, no rankings or game scores of any sort may be compiled or recorded.
- Prior to age 13, children may not compete in championships.
- If prizes are awarded in a competition, all children must receive a prize.
- All youth sports clubs must appoint a person responsible for, among other things:
  - Familiarizing coaches, parents, and other club-involved individuals with the Children’s Rights in Sport;
  - Ensuring that children are introduced to and participate in various sports (assuming the club offers various sports); and
  - Working to keep the cost of participation low so that children from all economic backgrounds can be involved.<sup>197</sup>

All coaches, managers, parents, and other stakeholders must comply with these policies or face penalty.<sup>198</sup> The NIF and member sports federations are empowered to reprimand, suspend, expel and/or fine non-complying individuals and clubs.<sup>199</sup>

<sup>196</sup> Nor. Olympic & Paralympic Comm. & Confederation, Children’s Rights in Sport Provisions on Children’s Sport 1, 5 (2015) (hereinafter Child.’s Rts. 2015). See Child.’s Rts. 2007, supra note 194, at 2.

<sup>197</sup> Child.’s Rts. 2015, supra note 196, at 9-10.

<sup>198</sup> Ellingsen, supra note 193, at 415. (Fines can range from a maximum of “NKR 5.000 [approximately \$486.31 USD] for individuals [to] NKR 25.000 for organi[z]ation[s] [approximately \$2,431.71 USD] . . . .”) See Nor. Olympic & Paralympic Comm. & Confederation of Sports, NIF’s Law ch. XI, §§11-1, 11-2.

<sup>199</sup> Ellingsen, supra note 193, at 415.

The Children's Rights in Sport and the Provisions for Children's Sport together create in Norway a "participation ethos" that is fundamental to their youth sports industry.<sup>200</sup> The prohibition on rankings and tabulated results as well as the regulations regarding prizes dramatically reduces the pressure on children as well as the vicarious pressure on parents. Consequently, in comparison to American children – ensconced in a youth sports system steeped in a "competition ethos" in which children are routinely cut from teams at a young age – Norwegian children participate in sports at higher rates and for longer periods of time.<sup>201</sup> Norwegian children, therefore, have more exposure to the socially beneficial aspects of youth sports and, because specialization is discouraged and pressure is reduced, have less exposure to the detrimental aspects of youth sports.

### *C. Nurturing a Better Athlete*

Importantly, as Tom Farrey, Director of the Aspen Institute's Sports & Society Program notes, Norway's "participation ethos" holds a benefit beyond children's enjoyment of their youth sports experiences.<sup>202</sup> It appears to produce better athletes and, therefore, better national sporting outcomes.<sup>203</sup> Through privileging participation above competition in youth sports, the Norwegian youth sports system allows for children's talents to develop over a longer period of time and at a slower rate.<sup>204</sup> In Norway, potentially late-blooming athletes are given time to come into their own as teenagers whereas their American age-mates, discouraged by being buried in regional and national rankings and being cut from travel teams as children, often drop out of organized sports before having a chance to bloom.<sup>205</sup> Indeed, whereas the average American child abandons organized sports by age 11,<sup>206</sup> the peak participation age range for Norwegian youth is between 16 and 19 years old.<sup>207</sup> So, during those mid-to-late teenage years, when elite performance presents the possibility of becoming an Olympic or professional athlete,<sup>208</sup> most Americans have long since selected out of sports, among them potential late bloomers. The American athletes still in the athletic pool at that age are disproportionately those who specialized and excelled as children and thus had the opportunity to stay engaged in organized sports. As Norwegian sports authorities

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<sup>200</sup> Tom Farrey, How Norway Won the Winter Olympics, Aspen Inst. (Feb. 27, 2018), <https://www.aspeninstitute.org/blog-posts/norway-won-winter-olympics/>.

<sup>201</sup> Tom Farrey, Does Norway Have the Answer to Excess in Youth Sports?, N.Y. Times (Apr. 28, 2019), <https://www.nytimes.com/2019/04/28/sports/norway-youth-sports-model.html> (stating that approximately 93% of children in Norway grow up playing organized sports).

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> Aspen Inst., State of Play 2019 Trends and Developments (2019), [https://assets.aspeninstitute.org/content/uploads/2019/10/2019\\_SOP\\_National\\_Final.pdf?\\_ga=2.150932470.1968157043.1584646864-488025437.1581279944](https://assets.aspeninstitute.org/content/uploads/2019/10/2019_SOP_National_Final.pdf?_ga=2.150932470.1968157043.1584646864-488025437.1581279944).

<sup>207</sup> Ken Green, Youth Sport in Norway, Routledge Handbook of Youth Sport 72, 73 (Ken Green & Andy Smith eds., 2016).

<sup>208</sup> See Tom Farrey, *supra* note 201 (It bears noting that Norway underperforms in sports in which athletes generally reach elite status by their mid-teens and in which specialization to achieve elite status by then begins at an extremely young age).

recognize, however, excelling in sports as a teenager correlates far more closely with achieving elite athletic status than excelling in sports as a pre-pubescent child.<sup>209</sup>

Johann Olav Koss, four time gold-medal winning Norwegian speed skater, notes that “people [in countries such as the US] are having a discussion about specialization at 6, 7 and 8, which is an absurd discussion in Norway.”<sup>210</sup> Koss emphasizes that Norwegian children at those ages are active, but instead of specializing, they are typically experimenting with various sports and therefore developing a broad athletic foundation.<sup>211</sup> He explains, “[t]here’s a 10-year high intensity period [in elite development]. If you specialize from ages 7 to 17, you might not ever get to that level. If you do it from 17 to 27, you peak at the right time.”<sup>212</sup>

Norway’s unprecedented sporting success on the global level serves as a testament to the Norwegian Way. At the most recent Olympic Winter Games – the 2018 Olympics in Pyeongchang, South Korea – Norway, with a population of 5.3 million people, earned 39 medals, the most any single country has earned in Winter Olympic history.<sup>213</sup> Norway’s sporting success ties directly back to the nation’s youth sports system: “everything starts with the kids, the parents and the clubs.”<sup>214</sup> The Children’s Rights in Sport and the Provisions for Children’s Sport, Farrey explains, binds these stakeholders together in a culture that “maximize[s] enjoyment and limit[s] attrition as youth move into adolescence.”<sup>215</sup> The storied 2018 Winter Olympic Medalists were a product of that culture.<sup>216</sup> The medalists’ average age was 27 years old, and a 27-year-old in 2018 would have been born in 1991 – the year Norway ratified the CRC and four years after the NIF implemented the Regulations on Children’s Sport.<sup>217</sup> This generation of Norwegian athletes entered, and developed in, a youth sports system dedicated to producing a positive sporting experience for children.<sup>218</sup> And as adults, they proved to be the most successful generation of athletes in Norwegian history: winning 33% more medals than any other generation of Olympic athletes.<sup>219</sup> Notably, despite being a cold weather nation, this Norwegian generation’s athletic success is not restricted to winter sports. Indeed, since 2017, an organization called Greatest Sporting Nation: The Quest for the Best, which annually employs statistical analyses to compare nations’

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<sup>209</sup> Child’s Rts 2015, *supra* note 196, at 7. The experience of Cody Webster, perhaps the most famous 12-year-old athlete in American history, provides a poignant example. Webster was the star player for the Kirkland, Washington Little League baseball team that beat Taiwan to win the 1982 Little League World Series in what ABC’s Jim McKay, who was broadcasting the game, called “the biggest upset in the history of Little League.” See Craig Smith, 1982 Kirkland Story Retold, *Seattle Times* (Aug. 2, 2018), <https://www.seattletimes.com/sports/other-sports/1982-kirkland-story-retold/>. Webster was wildly celebrated throughout the nation and appeared to the American public as a “can’t miss” professional prospect. In fact, despite continuing to play baseball, he would never come close to playing professionally. As Webster matter-of-factly states in an ESPN documentary about the Little League victory: “I was really good when I was 12.... I wasn’t really good when I was 18.” See *id.*

<sup>210</sup> Farrey, *supra* note 200.

<sup>211</sup> *Id.*

<sup>212</sup> *Id.*

<sup>213</sup> *Id.* (noting that Norwegian athletes outperformed U.S. athletes by 16 medals).

<sup>214</sup> *Id.* (quoting Tore Øvrebø, head of the Norwegian Olympic Committee delegation to the Pyeongchang Olympics).

<sup>215</sup> *Id.*

<sup>216</sup> *Id.* (explaining that a goal of the Norwegian youth sports model was to win 30 medals and place in the top 3, which was achieved in the 2018 Winter Olympics).

<sup>217</sup> See Olympian Database, Norwegian Athletes at the PyeongChang 2018 Olympics, <https://www.olympiandatabase.com/index.php?id=26637&L=1> (last visited Dec. 17, 2021) (listing the Norwegian athletes and their medals earned); UNICEF, *supra* note 190; Skirstad, *supra* note 180, at 317.

<sup>218</sup> See Farrey, *supra* note 200; see also Farrey, *supra* note 201.

<sup>219</sup> See Farrey, *supra* note 200 (noting that prior to 2018, no Norwegian Olympic delegation won more than 26 medals).



achievements in international sporting competitions, has more often than not proclaimed Norway the number one “per capita sports nation in the world.”<sup>220</sup>

## V. United States Federal Engagement in Youth Sports

### A. The Origins of Engagement

In 1953, physician Hans Kraus and physical fitness advocate Bonnie Prudden published an incisive and groundbreaking article in the *Journal of the American Association for Health, Physical Education, and Recreation*, titled *Muscular Fitness and Health*.<sup>221</sup> The article argued that Americans of all ages – adults and children alike – were disproportionately unfit.<sup>222</sup> Certain aspects of modernization, they posited, promoted a sedentary way of life, sapping from Americans the vitality previous generations enjoyed.<sup>223</sup> To protect their health, Kraus and Prudden warned, Americans would have to “engage in regular exercise to attain a state of physical fitness comparable to that of an earlier era, when Americans walked for transportation, worked on farms, and accomplished most activities of daily living and work through manual labor.”<sup>224</sup> The pair published a separate article in 1954 in the *New York State Journal of Medicine* focusing on America’s youth and raising alarms about their fitness compared with their European age-mates.<sup>225</sup> The article noted that thousands of American children and thousands of European children took the Kraus-Weber Minimum Muscular Fitness Test and, while 56 percent of Americans between six and sixteen failed one or more components of the test, only eight percent of Europeans in that age range failed one or more components.<sup>226</sup>

President Dwight Eisenhower learned of Kraus and Prudden’s work, invited them to present their findings at the White House, and, upon hearing the findings, grew alarmed.<sup>227</sup> To further investigate the lack of basic athleticism among American youth and to chart a path forward, President Eisenhower in 1956 convened governmental officials, health and medical experts, and youth organizations for the President’s Conference on the Fitness of American Youth.<sup>228</sup> Later that year, President Eisenhower formed the President’s Council on Youth Fitness (PCYF) by way of Executive Order, as a “catalytic agency [to] educate, stimulate, motivate, and encourage local communities and individual Americans to promote and adopt active lifestyles.”<sup>229</sup>

<sup>220</sup> Farrey, *supra* note 200 (quoting Per Capita Cup 2021, Greatest Sporting Nation, <http://www.greatestsportingnation.com/per-capita-cup-2021> (last visited Dec. 17, 2021)).

<sup>221</sup> Hans Kraus & Ruth P. Hirschland, *Muscular Fitness and Health*, *J. Am. Ass’n for Health, Physical Education, & Recreation* 17, 17-18 (1953).

<sup>222</sup> *Id.*

<sup>223</sup> *Id.* at 18.

<sup>224</sup> Dep’t of Health & Hum. Servs., *President’s Council on Physical Fitness & Sports: The First 50 Years: 1956-2006* 1, 40 (2006), <https://www.hhs.gov/sites/default/files/fitness/pdfs/50-year-anniversary-booklet.pdf> (citing Kraus & Hirschland, *supra* note 221, at 18).

<sup>225</sup> Hans Kraus & Ruth P. Hirschland, *Muscular Fitness and Orthopedic Disability*, 54 *N.Y. State J. Med.* 212, 212-15 (1954).

<sup>226</sup> *Id.* The test itself consists of five non-rigorous core strength exercises and one basic flexibility exercise: 1) A simple sit-up with knees bent and feet planted on the ground; 2) A sit-up with legs extended and not bent; 3) Raising feet while lying on the back; 4) Raising head, chest and shoulders off the ground while lying on the stomach; 5) Raising legs off the ground while lying on the stomach; 6) With knees straight, bending forward to touch the floor.

<sup>227</sup> *Id.*

<sup>227</sup> Dep’t of Health & Hum. Servs., *supra* note 224.

<sup>228</sup> *Id.* at 43.

<sup>229</sup> *Id.*

Seventy years later, the PCYF, now called the President's Council on Fitness, Sports and Nutrition (PCFSN), still exists.<sup>230</sup> And while its target has expanded beyond American youth to the American population generally, it remains a leading force in emphasizing the import of children's involvement in athletic activity.<sup>231</sup>

*B. Contemporary Engagement: The National Youth Sports Strategy*

When President Eisenhower created the PCYF, the problems that currently beset youth sports did not exist, and even as those problems developed, the PCYF (and then the PCFSN) delved only sparingly into the *manner* in which children experience sport and the state of the youth sports industry. In 2015, however, the PCFSN partnered with the Aspen Institute to launch an initiative titled *Sports for All, Play for Life: A Playbook to Get Every Kid in the Game*, which presented those involved in youth sports with strategies to encourage children's participation.<sup>232</sup> And some of the strategies, such as requiring training for coaches and encouraging children to participate in a variety of sports, would, if widely adopted, address some of the youth sports industry's failures.<sup>233</sup> Still, the *Sports for All, Play for Life* initiative was never intended as an antidote for what ails youth sports, and it did not serve as one.

In 2019, the United States Department of Health and Human Services launched the National Youth Sports Strategy (NYSS),<sup>234</sup> which is the federal government's most expansive youth sports initiative since the Eisenhower administration launched the PCYF in 1956. While the NYSS presented the opportunity to institute measures capable of reforming youth sport, it unfortunately did no such thing. The NYSS's articulated purpose is "to expand children's participation in youth sports; encourage regular physical activity, including active play; and promote good nutrition for all Americans,"<sup>235</sup> which is not substantially different from the PCFSN's articulated purpose: "to increase sports participation among youth of all backgrounds and abilities and to promote healthy and active lifestyles for all Americans."<sup>236</sup> It bears noting that the NYSS engages troubling aspects of youth sport that the PCFSN does not. For instance, the NYSS encourages "sport sampling" to avoid specialization, identifies the need for "positive parental behavior on the sidelines," and recognizes the negative consequences of a "pay-to-play system" in youth sports.<sup>237</sup> Still, the NYSS is not meant to be, and is not, a call to action to reform the youth sports industry. The United States has issued no such call, and young athletes suffer the consequences.

*C. United States' Refusal to Ratify the CRC and its Consequences for Youth Sports*

One reason the United States has failed to protect youth athletes and youth sports generally, while Norway has made great strides in doing so, may lie in the principles at the foundation of Norway's youth sport reformation. As noted *supra*, the United Nations Convention on the Rights

<sup>230</sup> See President's Council on Sports, Fitness, & Nutrition (PCFSN), Dep't of Health & Hum. Servs., <https://www.hhs.gov/fitness/index.html> (last visited Dec. 17, 2021).

<sup>231</sup> See *id.*

<sup>232</sup> Sport For All Play For Life, Aspen Inst. Project Play (2015), [https://assets.aspeninstitute.org/content/uploads/2015/01/Aspen-Institute-Project-Play-Report.pdf?\\_ga=2.11424564.1896367672.1587835004-1260601373.1587429037](https://assets.aspeninstitute.org/content/uploads/2015/01/Aspen-Institute-Project-Play-Report.pdf?_ga=2.11424564.1896367672.1587835004-1260601373.1587429037).

<sup>233</sup> *Id.* at 16-17, 24-25.

<sup>234</sup> Assistant Sec'y for Health, *supra* note 173, at 1.

<sup>235</sup> *Id.* at 20.

<sup>236</sup> PCFSN, *supra* note 230.

<sup>237</sup> Assistant Sec'y for Health, *supra* note 173, at 1, 11, 54, 65.

of the Child has been incorporated into the Norway Human Rights Act.<sup>238</sup> Notably, it is not an afterthought. Indeed, the Norwegian legislature has made clear that “[i]f there is discord between the Convention and other legislation, the Convention shall have precedence.”<sup>239</sup> The CRC’s prominence in Norwegian Law laid the foundation for the NIF to create the Children’s Rights in Sport and the Provisions for Children’s Sport, which have reformed Norway’s youth sports landscape.

The United States has not incorporated the CRC into its body of law. In fact, it is the one nation in the world that has not ratified the CRC.<sup>240</sup> The United States was a part of the CRC’s drafting process and the U.S. Ambassador to the United Nations signed the CRC in 1995, but both Democrat and Republican Presidents – from Bill Clinton to Donald Trump – have failed to forward the CRC to the Senate for ratification.<sup>241</sup> The reasons for which the United States has failed to ratify the CRC are complex, with resistance having formed on many fronts. For instance, the American conception of capital punishment presented obstacles to ratification.<sup>242</sup> When the CRC came into being, the commission of a crime at the age of 16 or older could trigger the death penalty in the United States, while the CRC set the threshold at 18 years old.<sup>243</sup> This inconsistency presented an obvious challenge to ratification at the time, but the United States Supreme Court in 2005 shifted the constitutional threshold to 18, eliminating that challenge.<sup>244</sup> Another politically fraught issue, however, has continued to thwart ratification: abortion. On the one hand, abortion rights advocates express concern that language in Article 6 of the CRC reading “every child has an inherent right to life” is not sufficiently nuanced with respect to a distinction between before birth and after birth.<sup>245</sup> On the other hand, anti-abortion advocates find fault with the CRC because it does not prohibit abortion.<sup>246</sup> Finally, some CRC opponents argue ratification would weaken familial sovereignty and restrict parental decision-making with respect to child rearing,<sup>247</sup> while proponents maintain CRC ratification would not impact parental rights.<sup>248</sup>

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<sup>238</sup> The Rights of the Child, *supra* note 192.

<sup>239</sup> Norway and the UN Convention on the Rights of the Child, Regjeringen (June 2, 2019), <https://www.regjeringen.no/en/topics/families-and-children/child-welfare/child-welfare-cases-across-national-borders/norway-and-the-un-convention-on-the-rights-of-the-child/id2480148/> (citing Article 3 of the Human Rights Act).

<sup>240</sup> U.N. Treaty Collection, *supra* note 191. Somalia and South Sudan had for some time been the only other two nations to have not ratified the CRC, but both did so in 2015.

<sup>241</sup> See *id.*

<sup>242</sup> Maria Grahn-Farley, The U.N. Convention on the Rights of the Child and the Forgotten History of the White House Children’s Conference, 1909-1971, 20 *Transnat’l L. & Contemp. Probs.*, 307, 309, 366 (2011).

<sup>243</sup> Kenneth Jost, Children’s Legal Rights, *CQ Researcher* (Apr. 23, 1993),

<https://library.cqpress.com/cqresearcher/document.php?id=cqresrre1993042300>; see Robert Kiener, *Rescuing Children*, *CQ Researcher* (Oct. 2009),

<https://library.cqpress.com/cqresearcher/document.php?id=cqrglobal2009100000>.

<sup>244</sup> See *Roper v. Simmons*, 543 U.S. 551, 568 (2005).

<sup>245</sup> Jost, *supra* note 243.

<sup>246</sup> *Id.*

<sup>247</sup> Brian Hansen, *Children in Crisis*, *CQ Researcher* (Aug. 31, 2001),

<https://library.cqpress.com/cqresearcher/document.php?id=cqresrre2001083100>; see Home-Schooling: U.N. Treaty Might Weaken Families, *Wash. Times* (Jan. 11, 2009), <https://www.washingtontimes.com/news/2009/jan/11/un-treaty-might-weaken-families/> (implying some opponents view the CRC as a potential threat to home schooling).

<sup>248</sup> Hansen, *supra* note 247 (relying on Pope John Paul II’s endorsement for why the CRC would not hinder parental rights and family life).

The absence of the CRC in United States law does not prevent a federal effort to create strong youth sports reform, but Norwegian efforts at reform were certainly buoyed by its presence.<sup>249</sup> As buoyed as they were, however, the key to Norway's more child-centered and effective youth sports system has been uniform nationwide mandates.<sup>250</sup> The aforementioned failure of informal and local measures to spark substantive change in America's youth sports system to date suggests uniform nationwide mandates will also be necessary for youth sports reform in the United States.

## VI. A Prescription for American Youth Sports Reform

Effective and uniform youth sports reform will require federal action. This presents a structural challenge in that the United States is one of the world's few nations with no sports ministry,<sup>251</sup> the sort of entity that would typically coordinate such action. The United States' closest analogue to a sports ministry is the United States Olympic and Paralympic Committee (USOPC), but the analogy is weak, making the USOPC a suboptimal vehicle for youth sports reform. First, the USOPC is not a governmental entity – rather, it is a non-profit corporation<sup>252</sup> and so although federally affiliated, it does not carry the full weight of federal authority. Second, the USOPC receives no federal funding, relying instead on “sponsorships, media revenues, and individual donations to support operations.”<sup>253</sup> And third, the USOPC's core function relates to Olympic development and performance and not youth sports.<sup>254</sup> Indeed, in 1978, Congress tasked the USOPC (then called the USOC) with organizing and coordinating sports development nationwide, but the Committee's limited resources were directed largely toward Olympic hopefuls, as their success was calculated to increase sponsorships and media revenues.<sup>255</sup> The USOPC would seem even less equipped to tackle the particular challenge of reforming youth sports.

Some other entity, therefore, would have to propel youth sports reform. Determining the nature of the entity – whether it be an appendage to a currently existing entity such as the Department of Health and Human Services or a standalone federal agency, department or commission – goes beyond the scope of this article. Whatever the case, as the NYSS makes clear, there must exist one entity that “coordinate[s] Federal efforts on youth sports to ensure consistent messaging and to further the Government's engagement in youth sports.”<sup>256</sup> And this entity's charge must be clear: to guide the youth sports industry in a manner that affords all American children the opportunity to engage in organized sports and maximizes the physical health, emotional health, and athletic potential of all young athletes. For ease of use, this proposed entity will be referred to, going forward, as the National Youth Sports Council (NYSC).

To remedy the youth sports industry's most prevalent failures, the NYSC's initiatives should be organized around four key issues: Parental Education; Athlete Well Being; Civility; and

<sup>249</sup> See Norges, *supra* note 179.

<sup>250</sup> See Child.'s Rts. 2015, *supra* note 196.

<sup>251</sup> Bonnie Tiell & Kerri Cebula, *Governance in Sport: Analysis and Application* 68-69 (2020).

<sup>252</sup> About the United States Olympic & Paralympic Committee, U.S. Olympic & Paralympic Comm., <https://www.teamusa.org/about-the-usopc> (last visited Dec. 17, 2021).

<sup>253</sup> Farrey, *supra* note 200. But see U.S. Olympic & Paralympic Comm., *supra* note 252 (explaining how there exists one exception to the lack of funding: funding is available for certain military programs related to Paralympic athletics).

<sup>254</sup> See Farrey, *supra* note 200 (stating the mission is to “[e]mpower Team USA athletes to achieve sustained competitive excellence and well-being”).

<sup>255</sup> Farrey, *supra* note 200.

<sup>256</sup> Assistant Sec'y for Health, *supra* note 173, at 89.

Socioeconomic Considerations. The Department of Health and Human Services's 2019 National Youth Sports Strategy identifies Norway as a nation that "could be used as [an] example[] of how to [best] create a sports-focused environment."<sup>257</sup> And, indeed, the NYSC would benefit from following Norway's lead in many respects in developing its youth sports regulations.

#### *A. Parental Education*

Generally, parents desire what is best for their children. With respect to youth sports, parents often do not know what that is and consequently often make choices that harm, rather than help, their children.<sup>258</sup> Whether these choices stem from unrealistic expectations about the likelihood of their children realizing financial benefits through sports, incorrect assumptions about the inputs that produce an elite athlete, or other sources, they damage children and youth sports. Therefore, the NYSC should require that all clubs host an educational seminar for parents and guardians at the start of every athletic season. Clubs should have some latitude in structuring the curriculum for the seminars, but dissemination of the following information (provided by the NYSC) should be compulsory:

- Statistics on the percentage of high school seniors receiving collegiate scholarships per year, and the average value of the scholarship, broken down by sport;
- Statistics on the percentage of high school seniors who become professional athletes;
- Pediatric orthopedic guidelines on safe thresholds for organized sports participation per sport;
- Pediatric psychological guidelines on safe thresholds for organized sports participation per sport;
- Video compilation of uncivil spectator activity at youth sports events; and
- Explanation of penalties for violating the NYSC's regulations.

Ideally, parental education would be sufficient to propel youth sports in a safer direction, as parents are the industry's consumers and their consumer behavior sends signals to youth sports clubs and affiliate service providers. Parental education, however, is sometimes insufficient to conform parental behavior to what is in their children's best interests. The NYSC's regulations, must, therefore, go beyond education.

#### *B. Athlete Well-Being*

Because parents cannot be relied upon solely to consistently protect youth athletes' well-being, the federal government, through the NYSC, must do so. The NYSC's regulations should serve that purpose by establishing maximums on the amount of time a child can participate in a particular sport per year and per week. In keeping with the American Academy of Pediatrics guidelines, the NYSC's regulations should prohibit any club from allowing any child to participate

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<sup>257</sup> Id. at 46.

<sup>258</sup> Jim Taylor, Sports Parents, We Have a Problem, *Psych. Today* (Dec. 3, 2018), <https://www.psychologytoday.com/us/blog/the-power-prime/201812/sports-parents-we-have-problem> (explaining the psychological, emotional, physical, behavioral, and performance-based harms parents may cause).

in any particular sport for more than nine months per year.<sup>259</sup> And during those nine months, clubs should be prohibited from allowing any child to engage in that sport more than five or six days a week.<sup>260</sup> Further, the NYSC should require that all youth athletes take at least one day per week off from organized sports altogether.<sup>261</sup> While clubs should be permitted to impose more stringent restrictions than these, these restrictions should be a hard floor. Such restrictions can serve to prevent both psychological burnout and physical overuse injuries.

Protecting youth athlete well-being will also require sport-specific limitations, as some sports – and certain aspects of some sports – create particular concerns. For instance, while the general limitation would restrict a youth baseball player to a maximum of five days a week of baseball during nine months a year, the stress that pitching a baseball puts on a child's body requires an additional limitation for baseball pitchers. The NYSC, drawing upon advice from sport-specific experts, should be responsible for developing such sport-specific limitations.

### C. Civility

While lollipop giveaways and other ploys to induce parents' silence have been successful in some pockets of the country and public shaming tactics such as Brian Barlow's "Offside" Facebook page have been successful in others, incivility at youth sporting events persists. A broad-based, uniform approach is necessary, and the NYSC should set it forth. Like Norway's NIF, the NYSC should have the authority to fine, reprimand, suspend or expel non-compliant parents and spectators. Once the NYSC's regulations are in place and it becomes clear they are being enforced, civility should rapidly increase for the same reason sideline civility suffers when unchecked: what the *D.W. v. M.W.* court described as "Little League Parent Syndrome."<sup>262</sup> Parents are deeply and fundamentally connected to their children's sporting endeavors. Behavioral specialists and psychologists suggest this Syndrome springs from vicarious association, in that "parents are vicariously living through their children."<sup>263</sup> Faced with the possibility of being suspended from attendance or of having one's child expelled from a club, parents are likely to conform to spectator restrictions rather than lose the youth sports outlet altogether. Those who are unable to conform, together with their children, will eventually be ousted, leaving behind a more civil community.

With respect to fines, the NYSC's regulations should mandate that all clubs require parents to sign a parents' civility pledge, such as those discussed *supra* at Part III.B.2. In addition, the regulations should require that each club charge each family a civility fee at the start of each season, to be returned to the family at season's end assuming family members engage in no instances of incivility. In the case of uncivil behavior, the money should be kept by the club. Postured as such, the families of youth athletes will be in the position of earning the money back through appropriate sideline behavior. As with NYSC's athlete well-being regulations, clubs should be permitted to enact more stringent civility restrictions than those imposed by the NYSC, but the NYSC's civility regulations must be the floor.

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<sup>259</sup> Joel S. Brenner, Sports Specialization and Intensive Training in Young Athletes, 138 *Am. Acad. of Pediatrics* 3, 6 (Sept. 2016), <https://pediatrics.aappublications.org/content/pediatrics/early/2016/08/25/peds.2016-2148.full.pdf>.

<sup>260</sup> *Id.*

<sup>261</sup> *Id.*

<sup>262</sup> *D.W. v M.W.*, No. FV-15-1025-16, 2016 WL 7411566, at \*3 (N.J. Super. Ch. Div. Sep. 15, 2016) (Trial Order).

<sup>263</sup> Eory, *supra* note 129.

#### D. Reducing Socioeconomic Stratification

Chapter 6 of the federal government's NYSS – Benefits and Barriers Related to Youth Sports – identifies cost as a substantial hurdle to participation in youth sports.<sup>264</sup> It describes the “professionalization and pay-to-play system” as both a “barrier[] to entry” and a “barrier[] to sustained participation.”<sup>265</sup> It notes that those who manage to engage initially often struggle to keep pace with the growing economic demands of participation, including “the need to purchase new equipment as youth grow and develop,” and increased costs “as the competition level increases, due to increased travel requirements.”<sup>266</sup> The same chapter of the NYSS emphasizes the physical health benefits, psychosocial health benefits, and academic benefits that youth derive from sports.<sup>267</sup> In light of these widely acknowledged benefits, failure to expand access to under-resourced children is problematic.

The Norwegian System provides an interesting model for expanding athletic access to under-resourced children, but it is unlikely to be uniformly effective in the United States. Norway's youth sports programs are funded largely through sports gambling and other forms of gambling.<sup>268</sup> A small proportion of each bet placed is collected by a government-owned non-profit entity called Norsk Tipping, for distribution to cultural, humanitarian, and sports (including youth sports) organizations, and the amounts ultimately distributed can be substantial.<sup>269</sup> In that Norway's Provisions for Children's Sport require that youth sports costs be kept affordable so as to ensure access “for groups of people with limited financial resources,”<sup>270</sup> some of that money allocated to youth sports programs serves to reduce financial barriers to participation.<sup>271</sup>

While sports gambling in Norway is administered on the national level, sports gambling in the United States is administered on the state level.<sup>272</sup> Prior to 2018, Nevada was the only U.S. state in which sports gambling was legal, but the Supreme Court's decision that year in *Murphy v. National Collegiate Athletic Association* opened the door for other states to offer, and tax, sports gambling.<sup>273</sup> States and Washington DC quickly began passing legislation to legalize sports gambling, and over two dozen states currently permit it.<sup>274</sup> Legislation that would permit it in many other states is pending.<sup>275</sup> So individual states, like Norway, could choose to utilize tax revenues from sports gambling – which will continue to grow in aggregate as an increasing number of states legalize sports betting – to subsidize youth sports opportunities. In other words, as Farrey puts it,

<sup>264</sup> Assistant Sec'y for Health, *supra* note 173, at 54-55.

<sup>265</sup> *Id.*

<sup>266</sup> *Id.* at 55.

<sup>267</sup> *Id.* at 49-50.

<sup>268</sup> Overskudd og samarbeidsavtaler – Overskudd og fordeling, Norsk Tipping, <https://www.norsk-tipping.no/selskapet/overskudd-og-samarbeidspartnere/Overskudd+og+fordeling> (last visited Dec. 17, 2021) (detailing the profits of gaming and explaining that gaming is Norwegian sports' most important source of funding).

<sup>269</sup> *Id.* (providing an overview of how gaming profits are spent).

<sup>270</sup> Child.'s Rts. 2015, *supra* note 196.

<sup>271</sup> See Real Sports with Bryant Gumbel, *The Norwegian Way*, YouTube (May 20, 2019),

<https://www.youtube.com/watch?v=bh2SB42xsEU> (interviewing Per Wangen, who runs a youth skiing club in Lillehammer, which he explained only costs \$60 for six months of skiing and which is open to children even if they are unable to pay).

<sup>272</sup> *Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461, 1484-85 (2018).

<sup>273</sup> *Id.*

<sup>274</sup> Ryan Rodenberg, *United States of Sports Betting: An Updated Map of Where Every State Stands*, ESPN (May 25, 2021), [https://www.espn.com/chalk/story/\\_/id/19740480/the-united-states-sports-betting-where-all-50-states-stand-legalization](https://www.espn.com/chalk/story/_/id/19740480/the-united-states-sports-betting-where-all-50-states-stand-legalization).

<sup>275</sup> *Id.*

states could “leverag[e] the top of the sports pyramid – big-time entertainment – to underwrite the base.”<sup>276</sup> This would certainly be a positive development.

Federal funding, however, will still be necessary to ensure sports opportunities are available nationwide and not just in states in which sports gambling tax revenues serve this purpose. Just as the NYSS recognizes cost as a hurdle to participation in youth sports, it acknowledges the federal government can offer “funding support to communities and organizations in the public and private sectors” to provide pathways to such participation.<sup>277</sup> If the NYSC follows through on the NYSS’s recommendation to “administer federal grants” in this space,<sup>278</sup> the gap between the haves and have nots in youth sports should shrink, increasing the likelihood that all children will have the opportunity to enjoy the many benefits of sports participation.

### **Conclusion**

America’s youth sports system is broken. Over-involved and under-informed parents, often encouraged by stakeholders in the youth sports industry, push their children into expensive yet damaging sports experiences in pursuit of illusive athletic glory and the financial benefits they imagine come with it. This phenomenon physically and emotionally burdens young athletes, creates unhealthily intense youth sporting events, and prices children in low-income families out of athletic opportunities. The problem is national in scope and demands a comprehensive, national response. In order to reform the youth sports system – returning to children the benefits of sports in their purest form – the federal government must initiate broad-based youth sports reform. This article provides a prospective approach for doing so.

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<sup>276</sup> Tom Farrey, *States Like Colorado Should Embrace Sports Betting For a Public Good*, Denver Post (Aug. 17, 2018), <https://www.denverpost.com/2018/08/17/states-like-colorado-should-embrace-sports-betting-for-a-public-good/>.

<sup>277</sup> Assistant Sec’y for Health, *supra* note 173, at 18, 89.

<sup>278</sup> *Id.* at 89.