

## NFL Play 60: Stay Off Our Bus

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Many of you may have already heard of the National Football League's Play 60 program, a campaign that encourages kids to be physically active for 60 minutes every day in order to prevent childhood obesity. Sounds good, right? The NFL even has a Play 60 tour bus with catchy slogan, "*Hop on the bus.*" Unfortunately, the Play 60 message escaped my children.

On 2011 November 15, my children's school was selected as the grand prize winning entry for the Seattle Seahawks market in the NFL Play 60 health and fitness contest. This prize included a \$10,000 grant to the school plus a variety of exercise and playground equipment. Great! Additionally, this prize included a celebration assembly to be held at the school along with a visit by a Seattle Seahawk player. This is where things went awry.

I was unaware any representative for the school had even entered this contest until my children came home with an announcement. According to the announcement, the contest was coordinated and submitted by the parent organization. The announcement was also clear regarding the intent of the Seattle Seahawks and NFL, "*This is a publicity event for them.*" The event was to be filmed and the NFL needed parental permission to use the images and biographical information of my children. While many people may not view this as all that bad, I took a different view.

What bothered me was the language of the NFL's accompanying Waiver of Liability and Release, primarily the following sentence: "*I consent to such photography, videotaping and/or recording and to use, in any and all media formats, including, without limitation, television and digital media formats, whether now known or hereafter devised, throughout the universe in perpetuity, of my child's name, nickname, image, likeness, voice, photograph, signature facsimile, and biographical information for any purpose whatsoever, without any further action required or any consideration owing to me or my child from the releases.*" Say what? "... *throughout the universe in perpetuity... for any purpose whatsoever.*" Yikes! Feel like being owned! I'm sorry, but how can anyone tell the true intent of the NFL in the future? How trustworthy are these people, especially since I didn't approve of their behavior at the moment? How would my children feel twenty years from now if the NFL used their image in a blooper reel? Won't happen you say? How do you know for sure? Any purpose whatsoever is a very broad discretion. Perpetuity is a long time. How do I know how my children will feel about the NFL when they become adults? How could I make such a decision for them, especially when they were to receive nothing in return?

Additionally, as I have aged I have grown tired of the general malfeasance that seems to have gripped our corporate culture and this was just another example. NFL Play 60 is supposed to be a charity. So let me ask, what kind of charity demands promotional materials, especially on such a grand scale? The NFL didn't stop at asking for volunteers; they demanded access to an entire school of children. If the NFL wants to be hypocritical that's their business. To ask me to not only turn a blind eye, but to participate in their hypocrisy is another thing altogether.

Again, the announcement was clear, "*Please review, sign and return the waiver on the back so your child can participate in our Seahawk event!*" Perhaps many parents never reviewed the waiver or didn't view its content as ominous. Perhaps, many parents just signed because they feared their children would feel left out. As you have already surmised, I refused to sign this waiver and my children were not allowed to attend the celebration assembly. Instead, they were sent to a classroom to watch a video; segregated from their peers because I sought to protect my children's rights and placed a much greater value on their likeness than did the NFL or the Snohomish School District.

One must consider that this event received quite a bit of hype and I believe it is pretty easy to envision the scene. With heads full of euphoria and shouts of, "Yea, we're winners," staff members began wearing their Seahawk jerseys, the posters were painted, the banners unfurled and the balloons inflated.

Everybody was excited about the upcoming celebration assembly and visit by a real Seattle Seahawk football player. But as that day approached and the excitement reached its climax, my children were delivered the letdown. While virtually all of their classmates were headed to the celebration assembly, my children were led away. Unwanted. The message they received, "Yea, we're winners, except for you!" Like Rudolph the Red-Nosed Reindeer, my children were sent to the land of misfit toys and essentially told that they weren't good enough to play in their reindeer games.

Now, to be fair to the Seattle Seahawks, while their name is mentioned prominently in the announcement, I have no proof that anyone from the Seattle Seahawks organization had any knowledge of what was transpiring behind the scenes or that any children would be excluded from the celebration assembly. While I do have my suspicions that they were aware, as far as I know all of the NFL Play 60 contests were coordinated by the NFL's corporate offices in New York. But the Seattle Seahawks cannot shirk from their accountability as they are making use of the captured images and video.

Once school district administrators agreed to the NFL's demand to use these students to provide promotional materials for corporate interests, they expose themselves to many ethical and legal questions, some of which I am about to raise. Some of the questions that come to mind are: Why did the NFL need to conduct an award assembly on school property, during normal school hours, and in place of regular curriculum? Why would the NFL require students for their photo opportunity and not just adult representatives? After all, no child actually entered the contest, nor could they legally. Also, just who assumed to have the authority to obligate our children to become uncompensated fundraisers for the school? Since when did my children's education become predicated upon providing a private enterprise with promotional materials? And just what educational purpose is served by filming this event? I simply contend that school district administrators did not have the authority to offer my children for rent to a private enterprise or to penalize them when I refused to enter into that agreement. For those of you who do not think that my children were penalized never had to deal with their behaviors during the days that followed. They felt punished and did not understand why they could not attend the event with their classmates. They felt ostracized. They were angry about it and they let me know that. And I don't blame them.

While my children were hurt over what had happened to them - and this was enough in itself to step in for their defense - what bothered me the most was the impact to their education. So, not only do I feel that my children were treated with disrespect - even discriminated against - but that their education was substandard during the celebration assembly. While my children may have moved on, I have not. I feel that their rights were violated and I am going to defend them. After all, isn't this part of the responsibilities of a parent?

While I expect the school district to argue that my children's educational standards were met, I argue to the contrary. I wasn't able to extract much information from two upset and angry children, but what I did learn is that during the celebration assembly they were placed into a classroom with two other children within their age group. Assuming this classroom was tended by a certified teacher, we now have a one to four teacher student ratio. What a wonderful teaching opportunity. What parent wouldn't dream of this type of classroom environment? Great, some individualized attention, right? But no, the best they could come up with was to play a video; and one that we owned and my children had already seen more than once. Talk about squandering a teaching opportunity. No, I don't think this was planned with much care or forethought at all. Rather, my children were tended by a glorified babysitter while the rest of the school staff tended to their paying guests.

We're sure everybody can recall a situation during their education when the regular teacher was absent on a given day. No substitute teacher, no matter how qualified, can compete with the regular teacher. Usually, substitute teachers step into a classroom without much preparation. They don't know where the students are within a lesson plan and the continuity is lost. Substitute teachers do not know the students and lack the ability to interact with them on the same level as the regular teacher. Substitute teachers do not know the discipline or tolerance levels to which the students are accustomed. Most of all, substitute teachers do not know the abilities of these students. All of these factors contribute to a degradation of educational quality. Substitute teachers are a necessity in most circumstances and school districts must

be allowed to utilize these resources. Teachers need sick days like everybody else and no matter how well we attempt to plan our daily schedules, things happen in people's lives that are important and require urgent attention. In these circumstances, a substitute teacher is necessary. But this wasn't one of them.

I am sure school district administrators will attempt to defend their position by claiming that they provided an adequate alternative for my children; that my children were adequately accommodated. This is simply not true and lies at the heart of the dispute. There was a time people of color were accommodated by providing them with their own water fountains because they weren't allowed to use the same ones as white folks. There was a time when a person of color was expected to give up their seat on a bus to a white person and the absence of injury was justified by saying that the person was still able to use the bus to get to their destination. There was a time when... yes, I can go on. However, in the case regarding my children, they weren't even allowed on the NFL's Play 60 bus just because they wouldn't show their appreciation for their award. Some award! Accommodated? No! How about using words like sacrificed and discrimination?

Certainly the NFL or any other private enterprise may present an award or provide a grant to public institutions and I suppose it would be expected that they would desire some photo opportunities to show for their generosity. However, these publicity materials are typically limited to just those individuals who applied for or accepted the grant. Requiring parents to agree to have their children filmed and relinquishing the rights to photographic materials and biographical information as a condition of accepting this or any award exceeds expectations. By asking - no, requiring - something of value in exchange for their generosity, the "grant" takes on a new form and can no longer be called a grant. It becomes a payment; a payment for services to be rendered. I always thought a charity was supposed to give something to the community or to those in need. Instead, the NFL took from the community; arguably something not only of greater value than their award grants, but of much greater marketing value than they would lead everyone to believe.

There are many financial questions that arise from this situation as well, primarily the issue of value. Just what is the commercial value of having all of these children present in promotional videos? One way to look at this would be to ask, what would it cost the NFL if they were to contract a private advertising firm and produce similar videos? To simplify a financial analysis, let's say you hold all overhead costs to be the same (cost of equipment, location, technicians, etc.) and focus just on the cost of child labor. What would it cost to hire over 400 children for these promotional materials? To use an industry term, many of these children were just "extras," but up to 50 students were active participants. Now it can be argued that the school district received the short end of this agreement. In fact, the NFL may have just found a very inexpensive way to project a very positive public image. So now I ask, just who decided the commercial value of all of these children? What is the brand value of "NFL Play 60" and what is it costing the NFL to produce this brand? Remember, the NFL is using taxpayer resources to help fund their promotional campaign so not only do the questions of value come into play, but what was the actual cost to taxpayers to engage in this activity. What I do know is that there was an educational cost for my children.

There are many private enterprises that engage in business with school districts, but each of these agreements follow a standardized bidding process. What makes this arrangement different is that there was no bidding process to determine fair value and that the money was provided by the private enterprise to the school instead of the other way around. Now I'm no lawyer, but this arrangement seems to meet all of the elements of a contract or at least a quid pro quo agreement. The NFL provided the money and some exercise equipment and they expected something of value in exchange for their generosity. However, it was not the school district that performed the primary service, but the students. In all my years, I have never known of a single private enterprise that has ever required all of the students of a school to relinquish any personal rights for the purpose of providing that enterprise with promotional materials. These promotional materials do have value and the NFL is acknowledging this by virtue of the language contained within their waiver, otherwise they wouldn't have required anyone to give up their rights to the images and biographical information of their children. In fact, I held a high enough value on the likeness of my children as to not sign the waiver. So again I ask, just who had the authority to obligate all of these students to fulfill the performance portion of this agreement?

To use an analogy, when a salesperson comes to your door and pitches their product or service, you have the right to say no. While disappointed, the salesperson leaves without throwing eggs at your door or stringing toilet paper through your yard. In short, there are no consequences for exercising your right to decline their offer. This was not the case with the NFL. What happened to my freedom to choose (or for my children) those private enterprises I want to support or to deny support? While I did exercise a choice to reject this agreement, it did carry consequences. As a result, my children's self esteem and education were sacrificed in school's pursuit of an award. In effect, the NFL and school district egged my children.

So just what was the primary purpose of this award? Was it generosity, or was it the selfish pursuit of image management? After all, to many the NFL does suffer from image problems brought on both by the misbehaviors of some of their players and by management as well. It wouldn't take much effort to compile a list of some of these role-model behaviors on the part of NFL players... physical assaults, weapons use and associated violations, alcohol and drug use and their associated misbehaviors, even animal cruelty and a reward system for injuring you colleagues. NFL management has been criticized over their lack of attention to player safety and the integrity of the game (remember those replacement referees?). What better way can be found to project a more positive image than to film NFL players promoting something positive for children? But what the NFL is not showing the public is that not all children are included in their campaign. Not without giving up something of value. No, they won't tell you about the kids who were ushered into the back rooms on the account of their demands to show the public their acts of benevolence. This is just hypocritical!

While on the subject of hypocrisy, since when has the NFL become role models for fitness and health? Sure, a great many of their athletes are in excellent physical shape. But not all of them are in such great shape and all you need to do when you review all of the NFL's Play 60 videos is to ask, where are all of the linemen? After all, don't linemen comprise about forty percent of a team's roster?

Then there are the questions surrounding the NFL Play 60 contest rules and the validity of those rules. While I was unable to find the exact set of rules from the NFL for the contest that was entered, I did find a set of rules for a similar contest. In that instance, the NFL does a fine job of covering their hide in legalese by placing most, if not all of the procedural burden upon the school administrators. But could any reasonable person assume that any school could speak on behalf of all their students and their parents for something of commercial value? What did the NFL think was going to happen to those students whose parents refused to sign the waiver? What the NFL attempts to do to limit their liability doesn't excuse them from the reasonable assumption that not all parents will sign the waiver and consequently have their children barred from their celebration assemblies. By demanding a signed waiver, the NFL created an environment where class distinctions would be made between those who cooperated with their desires to collect promotional materials and those who did not. And providing a private enterprise with promotional materials is not the purpose of any school. While this scenario may not qualify as the legal definition of discrimination because our children do not belong to a protected class (age, race, gender, religion, etc), this does meet the standard dictionary definition of discrimination as a class distinction was made for no legitimate reason. The analogy in this situation is easy... as my children watched Rudolph the Red-Nosed Reindeer over the holiday seasons, even they - like most kids - understood that Rudolph was not treated fairly, and he was in a class by himself.

Like many public agencies, school districts are funded by taxpayer approved levies. There are several reasons for funding public schools in this manner, one of which is to prevent outside influences in our public schools. In fact, Article IX, Section 4 of the Washington State Constitution simply states, "*All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.*" While I'm sure there could be extensive argument over the definition of sectarian, I will argue that the actual behaviors of the NFL could qualify as sectarian. After all, each and every play of a NFL game results in many violent collisions, sometimes resulting in serious injuries to its members. As the adage goes, don't listen to what they say, look at what they do; and what the NFL promotes is violence. Even if this constitutional provision was not violated by definition, I would argue that at least the

spirit of this constitutional protection was broken as an outside entity did at least influence school officials and even controlled those schools during these celebration assemblies. But we need not focus on just that issue. What about a simple conflict of interest? After all, what would happen if a member of our publicly funded police force or judiciary accepted a payment from an outside source? How would you feel to learn that your medical clinic has been accepting payments from a pharmaceutical company? Wouldn't you wonder if you really needed that medication your doctor had been prescribing for you or that it was really the best medication for you? Yet, this type of conduct has happened in the past and we all know of the dangers of these corruptive influences. When exposed, these acts are classified as professional misconduct and their perpetrators are subject to internal disciplinary action such as fines and/or suspension or loss of professional licenses. Depending on the severity of those arrangements, the acts may also be classified as crimes. Yet the NFL and the Snohomish School District saw no conflicts. As long as the NFL labeled its payment as an award everything was fine, right? Just give it a new label and some new packaging and nobody will be any wiser. However, unlike some arrangements that are made with just a wink or a nudge, what the NFL desired was spelled out explicitly. If individuals were direct beneficiaries, the NFL's payment could be classified as a bribe, but as long as these payments remain institutionalized it somehow seems to become acceptable.

Further, as long as taxpayer resources are being used for promotional purposes - no matter who controls those materials - then the argument can be made that these school districts are engaged in a form of state sponsored social activism. Now I'm not going to argue against the message being presented because I believe it is positive, but what I am calling your attention to is how those messages are being manufactured and the hypocritical way in which they are presented. Clearly, NFL Play 60 is not a program that is open to all children as they would lead you to believe.

This past summer I was presented with an angle that should have been obvious; that of freedom of speech. I was so focused on the issue of contractual validity that I overlooked this until I read about a case that was decided by the United States Supreme Court concerning the matter of Agency for International Development et al v Alliance for Open Society International, Inc et al. To paraphrase from this decision, the court affirms that no government official can force someone to adopt a particular point of view as their own just because they are the recipient of a source of funding. Although the funding in our case was from a private source as opposed to a public source as in the case referenced, we view the effect as the same; the school district chose to adopt the NFL's message as their own and then chose to coerce their students and their parents into supporting that same message. In his opinion for the majority, Chief Justice John Roberts sites a passage from Justice Robert Jackson regarding a U S Supreme Court decision some seventy years ago, "*If there is a fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or matters of opinion or force citizens to confess by word or act their faith therein.*" While I was not forced to support the National Football League and NFL Play 60, I contend that my children did incur a penalty because I refused to allow the Snohomish School District to use my children in an act which would show their support for the NFL. Please bear in mind that the promotional materials collected by the NFL were not restricted to just the specific message endorsed by the NFL Play 60 program, rather - according to the language in the NFL's waiver - could be used "*for any purpose whatsoever.*" I contend that although the NFL, the Seattle Seahawks and all associated franchise teams are private businesses, that they - along with the school - represent a form of nationalism to which they expected our pledge/demonstration of loyalty. In effect, my children were to demonstrate their loyalty to the NFL, the Seattle Seahawks, and Cathcart Elementary, "or else!"

Finally, I would like to return to the issue regarding the educational purpose of having cameras in classrooms. Again, in this instance I see no educational purpose served by having the NFL's cameras at this event. But since school district administrators and teachers were so enthusiastic to embrace the presence of the NFL's cameras, then I have a suggestion for them; one that arguably does serve not only educational purposes, but student safety as well. Let's start by placing cameras in school playgrounds, something already in consideration. Certainly arguments for student safety can be made to support this idea. And how about the argument that administrators can monitor students for the issue du jour: bullying. But why stop there. Let's continue by placing cameras in every classroom. We can even connect these cameras to the Internet so parents can observe their child's progress at any time during

the school day. Again, why stop there? Now parents can provide input to school administrators in preparation for teacher performance reviews. How long do you think it would take before concerned parents began to calling the school to complain that their child was not receiving a fair amount of the teacher's time, or that another child was not treating their child appropriately? Now, how long do you think it would take the teachers and their union officials to cry foul? Then we'll watch the school district perform an about-face as those safety issues turn into liability issues. Of course, this is a bad idea. What professional wants to perform their trade before the ever-present watchful eye? If implemented, I believe you would see a degradation of the classroom environment as teachers took a more defensive approach to their craft, much like the approach medical professionals currently use by ordering cautionary procedures whose only real use is to protect themselves from lawsuits. In the end, I am quite certain you would see an exodus of teachers from this type of environment. So with this in mind, would somebody please explain to me why school administrators so enthusiastically allowed the NFL's cameras into school? I eagerly await the rationalization from the school district about this one.

But it doesn't end here. Once these schools opened the door to one private enterprise for this type of activity, whether it's a for-profit corporation or a nonprofit organization, then based upon the principle of equal opportunity they must allow access to everyone. I'm sure the award money and the popularity of the NFL had a considerable influence on the situation, but I'm sure a less popular organization can gain access as long as they're willing to part with a larger payment. It wouldn't take long to formulate the equation based upon popularity and money to develop a new business model for funding public schools. Oh it helps to entice the schools into initiating the business such as sponsoring a contest and everybody likes to be the winner. You will also need to have an educational program so you can pass muster and slip on in. So what's preventing, say, condom manufacturers from sponsoring an event? They can provide an educational program on safe sex and disease prevention. Certainly this is something that is beneficial, yet can you not hear the religious conservatives screaming and especially after they hear about the "playground activities" for practical demonstrations? Now get you're mind out of the gutter... but after the demonstration the students can have a healthy snack after they peel their bananas, twice! Yet, if the payment is large enough I'm willing to bet they would find a liberal enough community to go along. So just why have so many educated people ignored the concept of the door that this activity has opened? We seem to be able to have open discussions about placing cameras in public settings for surveillance and we justify placing cameras at traffic intersections in the name of safety, yet nobody has said a thing about placing commercial cameras in public schools for publicity purposes. I don't get it.

From my perspective, the NFL created a bright shiny object and cast it into the waters. Those blinded by the award and the opportunity to be graced by the presence of our modern day gladiators took the bait. Administrators of a cash strapped school district never bothered question motives or the ethics of offering up my children to a private enterprises so they could promote themselves. Oh sure, the NFL's Play 60 campaign does present a positive message, but this campaign's message provides no additional information that isn't already communicated by the school's physical education teacher. If the NFL is truly interested in promoting physical fitness to children, then why exclude some of them?

Teaching is a complex job, but it must remain in the context of ethical conduct. Proper citizenship is a part of the school's AIM statement, but I must ask, what kind of citizenship example did the school just demonstrate to my children? How can these lessons be taught when our teaching professionals have difficulty recognizing what these are? My experience tells me that children learn more by example than they do by what they're told and the example set by the NFL and school district just lowered the ethical bar.

While I support the NFL's Play 60 physical fitness message, I am offended by the implementation of their award assembly and their demands to exploit my children. I also question their true motives. But what it comes down to is that I care far more about my children's welfare and education than promoting the NFL.

The NFL had other options available to gain promotional materials, but that might mean that they couldn't provide the image that they want to project; that they were being so generous to all of these kids. It's time you knew the ugly truth about this program and how a few students are being sacrificed while school administrators choose to cater to their paying guests. As long as nobody is the wiser, all is well, right?

Well, the time has come (overdue actually) to shine the light on what is really happening and the hypocrisy that surrounds NFL Play 60. The simple solution is that if you want to practice charity, then I suggest that you leave the cameras at home. The bottom line is that you can't be effective in promoting your cause when you're more concerned about promoting yourself. As that old saying goes, you can't force someone to love you.

As for Cathcart Elementary and all of the other participating schools, the conflict of interest should be obvious. As soon as you accepted the NFL's money and agreed to cooperate with their demands for promotional materials you chose to serve the NFL. Pointing to all of the other parents who were willing to sign away their rights is no justification for infringing upon our rights. This simply resulted in a mob that ruled the day. It takes more to be a super school than to win a contest, especially a contest that placed limitations on participation. So let's be honest about it; you sold out the principles of fairness and equality so you could engage in a fundraising activity. To think that this is the example our educators are setting for our students, then it is no wonder America's public education system is falling behind the rest of the world.

NFL Play 60 ... "*Hop on the bus.*" Nice slogan. But the only message conveyed by the NFL to me and my children was, "Either give up your rights, or stay off our bus!" And with their eye firmly on the prize, school district administrators proceeded to throw my children under that bus.

One last thing... you want publicity? You can't have my children, but you will get me.