



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
120 BROADWAY
NEW YORK, NY 10271

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

(212) 416-8050

March 14, 2013

VIA HAND DELIVERY

Mr. Roger Goodell
Commissioner
National Football League
345 Park Avenue
New York, New York 10154

Re: Sexual Orientation Non-Discrimination

Dear Commissioner Goodell:

I am writing to address recent reports that at least three prospective National Football League players -- Nick Kasa, Denard Robinson and Le'veon Bell -- were asked questions related to sexual orientation at the national recruitment Scouting Combine held in late February 2013 in Indianapolis. According to one prospective player, Nick Kasa, teams within the League asked prospects whether they have a girlfriend, are married, or like girls.

As you may be aware, it is illegal under the New York State Human Rights Law, N.Y. Executive Law § 296, *et seq.* for an employer to refuse to hire or employ, bar or discharge from employment, or discriminate in compensation or in terms, conditions or privileges of employment against an individual because of sexual orientation. N.Y. Executive Law § 296(1)(a). The law further bars any employer from "mak[ing] any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination as to . . . sexual orientation . . . or any intent to make any such limitation, specification or discrimination." N.Y. Executive Law § 296(1)(d). Under New York State law, my office has the authority to investigate allegations of employment discrimination by companies that conduct business in the State of New York.

It is our understanding that at least 20 of the League's 32 teams are located in jurisdictions that similarly prohibit discrimination in hiring and employment based on sexual



orientation.¹ Many of these laws, including the New York State Human Rights Law, also prohibit retaliation for opposing discrimination in hiring or employment based on sexual orientation. *See, e.g.*, N.Y. Executive Law §§ 296(6) & (7).

In 2011, the League incorporated into its Collective Bargaining Agreement a commitment that, "[t]here will be no discrimination in any form against any player by the Management Council, any Club or by the NFLPA because of race, religion, national origin, sexual orientation, or activity or lack of activity on behalf of the NFLPA." This provision does not, however, appear to provide any protection to prospective players during the recruitment process. In response to the recent allegations, League spokesman Greg Aiello indicated that "[i]t is league policy to neither consider nor inquire about sexual orientation in the hiring process." Mr. Aiello has also indicated that the League would be opening an investigation into this matter. It is our understanding that the League has not offered further comment on the situation nor revealed the results of its investigation.

Equal protection under the law is an essential issue for employers, employees and prospective job applicants. For that reason, I ask that the League clarify its position by issuing a public statement that any form of discrimination or harassment on the basis of sexual orientation by League teams or their employees or agents against potential recruits or players constitutes a violation of state, local and, in some cases, contractual law, and will not be tolerated. I also urge the League to memorialize this commitment in a written policy that, once finalized, is appropriately distributed and disseminated throughout the League. Our office stands prepared to offer guidance and support in the development of this policy.

I further request that the League advise any potential recruits or players who have been subjected to inquiries related to their sexual orientation by League or League team employees or agents that they should contact designated League officials so that the League can ensure a thorough inquiry.

Finally, we will be seeking a meeting with the League staff supervising your investigation of the incidents reported by prospective players. To that end, please contact my office by Wednesday, March 20, 2013 to schedule a meeting to discuss this matter further. You can reach my office by contacting Kristen Clarke, Chief, Civil Rights Bureau at 212-416-8252.

Sincerely,



Eric T. Schneiderman
Attorney General of the State of New York

cc. Mr. Jeff Pash, General Counsel

¹ Given the National Football League's status as a 501 c(6) non-profit association and to the extent that the League conducts charitable activities in New York or raises funds in New York for charitable purposes, the League may also be subject to injunctive and other action by our office, pursuant to New York Charities Laws. *See* Not-for-Profit Corporation Law; Executive Law, Article 7(A); and Estates Powers and Trust Laws.