

Clear Thinking: The State Board of Education's Concussion Education Plan and Guidelines for Connecticut Schools

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With each new year, it seems as if Connecticut legislators collectively agree to the same resolution – create new legal obligations for local and regional school boards. This year is no different. Although passed in early 2014, the most sweeping components of Public Act 14-66, entitled “An Act Concerning Youth Athletics and Concussions” [“the Act”], kick in this year. The Act imposes new mandates on school boards regarding the increase in concussions suffered by student athletes. As of January 1, 2015, the State Board of Education [“SBE”] -- after consultation with the Department of Public Health, the CIAC, and various medical groups – was required to develop and approve a concussion education plan that would serve as a template for local and regional boards of education. The resultant *Concussion Education Plan and Guidelines for Connecticut Schools* [“the Guidelines”] elucidates the Act, delineating the components of the plans that school boards must implement no later than July 1, 2015.

Boards are expected to incorporate these concussion education plans into their policies and procedures, and the plans must, at a minimum, focus on:

1. The signs or symptoms of concussions;
2. The means of obtaining proper medical assessment of and treatment for concussions;
3. The nature and risks of concussions, including the dangers of further engaging in athletics;
4. The protocol for allowing a student athlete to return to athletics following a concussion; and
5. The current best practices for preventing and treating concussions.

The Act – as expanded upon in the Guidelines -- also *prohibits* any student from participating in *any* school-based athletic activity until both the student and the student's parent or legal guardian has read written materials, viewed online training or videos, or attended in-person training regarding the district's concussion education plan. In addition, the parent or guardian must sign and provide the district with an informed consent form, authorizing the student to participate in athletics. At a minimum, the consent form – which must first be approved by the SBE -- must include a summary of the concussion education plan and a summary of the board's policies pertaining to concussions. Additionally, the Act requires coaches to complete an SBE-approved initial training course on concussions, to annually review any current information developed

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or approved by the SBE, and beginning with the 2015-2016 school year to complete a refresher course on concussions within five years of having completed the initial class.

The Guidelines also set forth the steps that coaches must take if they suspect that a student has incurred a concussion. For example, coaches must “immediately remove” a student from participating in any interscholastic or intramural athletic activity – including practices – if the student exhibits signs or symptoms consistent with concussions or is currently diagnosed with a concussion. In addition, the coach or other “qualified school employee” – including a principal, teacher, school nurse, licensed athletic trainer, licensed physical or occupational therapist employed by the district – must make reasonable efforts to immediately inform the student’s parent or guardian of the suspected concussion, but in any event within 24 hours.

Following a concussion, coaches are prohibited from allowing the student to participate in any activities, including practice or conditioning, until the student receives written clearance from a licensed health care professional “trained in the evaluation and management of concussions.” The Guidelines’ language suggests that this clearance may need to be issued by a neurologist, or, at the very least, by a physician who possesses the requisite knowledge of concussions. Although the student and his parents or guardians are responsible for obtaining that clearance, there is some question as to whether the district would be accountable were the clearance issued by someone who lacks the requisite expertise. Thus, boards should consider specifying in their policies and plans the health care professionals – such as neurologists or pediatricians – from whom they would accept such clearance. Finally, even after clearance has been issued, coaches are precluded from permitting full participation until the student has been medically cleared for *unrestricted* activity and is no longer exhibiting any symptomology, although it is unclear as to who is responsible for assessing the latter.

Given the July 1 deadline, it is incumbent upon school boards to begin revising their policies, drafting their concussion education plans and obtaining SBE approval for their informed-consent authorizations. Additionally, districts should strongly consider forming a School Concussion Management Team, charged with overseeing the creation and the implementation of the district’s concussion education plan and protocols. Compliance with the Act is, obviously, a legal requirement, but it also serves the greater purpose of helping protect students against the deleterious effects of concussions.

Attorney McKeon is a Member of the law firm of Pullman & Comley LLC, which represents a number of Connecticut school districts. More articles about issues pertaining to school districts and other educational institutions can be found on the firm’s blog Education Law Notes at <http://schoollaw.pullcomblog.com>. Reposted with permission from the February 2015 Connecticut Association of Boards of Education Journal.

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