

STATE OF NEW YORK

2564

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. FALL, SIMON, O'DONNELL, TAYLOR, ENGLEBRIGHT --
read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to updating school
concussion management and response protocols and increasing concussion
data collection and reporting

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "concussion
2 management and awareness improvement act of 2021".

3 § 2. Subdivision 42 of section 305 of the education law, as added by
4 chapter 496 of the laws of 2011, is amended to read as follows:

5 42. a. The commissioner, in conjunction with the commissioner of
6 health, shall promulgate and review as necessary rules and regulations
7 relating to pupils who suffer mild traumatic brain injuries, also
8 referred to as a "concussion," while receiving instruction or engaging
9 in any school sponsored or related activity. In developing such rules
10 and regulations, the commissioner shall consider comments from stake-
11 holders and other interested parties including but not limited to
12 parents, teachers, students, school administrators, school athletic
13 trainers, sport coaches, medical and health professionals, the public
14 schools athletic league (PSAL), the New York state public high school
15 athletic association (NYSPHSAA), and other athletic associations. Such
16 regulations shall include, but not be limited to:

17 (i) requiring a course of instruction relating to recognizing the
18 symptoms of mild traumatic brain injuries and monitoring and seeking
19 proper medical treatment for pupils who suffer mild traumatic brain
20 injuries. Such course of instruction shall be required to be completed
21 on a biennial basis by all school coaches, physical education teachers,
22 nurses and athletic trainers. Such course of instruction or an equiv-
23 alent hour of continuing medical education shall also be required to be
24 completed on an annual basis by all medical directors, physicians, nurse

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 practitioners, and physician assistants employed by a school or school
2 district. The course of instruction required by this subparagraph shall
3 include, but not be limited to, the definition of a "concussion," signs
4 and symptoms of mild traumatic brain injuries, how such injuries may
5 occur, practices regarding prevention, and the guidelines for the return
6 to school and to certain school activities after a pupil has suffered a
7 mild traumatic brain injury regardless of whether such injury occurred
8 outside of school. Such training may be completed by means of courses of
9 instruction, including but not limited to, courses provided online and
10 by teleconference approved by the department;

11 (ii) providing that the department and the department of health shall
12 post on their internet websites information relating to mild traumatic
13 brain injuries, which shall include but not be limited to, the defi-
14 nition of a "concussion," signs and symptoms of mild traumatic brain
15 injuries, how such injuries may occur, and the guidelines for the return
16 to school and to certain school activities after a pupil has suffered a
17 mild traumatic brain injury regardless of whether such injury occurred
18 outside of school. Schools shall be required to include such information
19 in any permission form or parent or person in parental relation consent
20 form or similar document that may be required for a pupil's partic-
21 ipation in interscholastic sports and shall also include such informa-
22 tion, or reference how to obtain such information from the department
23 and the department of health internet websites, on the school's internet
24 website, if one exists;

25 (iii) requiring the immediate removal from athletic activities of any
26 pupil believed to have sustained or who has sustained a mild traumatic
27 brain injury. In the event that there is any doubt as to whether a pupil
28 has sustained a concussion, it shall be presumed that he or she has been
29 so injured until proven otherwise. No such pupil shall resume athletic
30 activity until he or she shall have been symptom free for not less than
31 twenty-four hours, has returned to a full class schedule without academ-
32 ic adjustments or accommodations made due to the mild traumatic brain
33 injury, and has been evaluated by and received written and signed
34 authorization from a licensed physician. Such authorization shall be
35 kept on file in the pupil's permanent health record. Furthermore, such
36 rules and regulations shall provide guidelines for limitations and
37 restrictions on school attendance and activities, as well as athletic
38 attendance and activities, for pupils who have sustained mild traumatic
39 brain injuries, consistent with the directives of the pupil's treating
40 physician.

41 (iv) [~~authorizing~~] requiring each school or school district[~~, in its~~
42 ~~discretion,~~] to establish a concussion management team which may be
43 composed of the athletic director (if any), a school nurse, the school
44 principal, a school guidance counselor, a school teacher, the school
45 physician, a coach of an interscholastic team, an athletic trainer or
46 such other appropriate personnel as designated by the school or school
47 district. The concussion management team shall oversee the implementa-
48 tion of the rules and regulations promulgated pursuant to this subdivi-
49 sion as it pertains to their associated school including the requirement
50 that all school coaches, physical education teachers, nurses and athlet-
51 ic trainers that work with and provide instruction to pupils engaged in
52 school sponsored athletic activities complete training relating to mild
53 traumatic brain injuries. Furthermore, every concussion management team
54 may establish and implement a program which provides information on mild
55 traumatic brain injuries to parents and persons in parental relation
56 throughout each school year. Every concussion management team shall

1 report annually to their applicable district superintendent or chief
2 school officer, board of education or governing body, and to the depart-
3 ment the following information: (a) the number of pupils who sustain a
4 mild traumatic brain injury each year, regardless of the setting in
5 which such injury is sustained; (b) the cause of such injuries; (c) the
6 duration of symptoms of such injuries; and (d) any modifications or
7 accommodations made for pupils that have sustained such injuries.

8 (v) recommending that schools retain access to an athletic trainer to
9 provide services to students.

10 b. The rules and regulations established pursuant to this subdivision
11 shall be deemed to be the minimum standards that must be complied with
12 by every public and nonpublic school and every competitive/travel youth
13 sports team relating to mild traumatic brain injuries. [~~Such rules and~~
14 ~~regulations may also be implemented by nonpublic schools if they so~~
15 ~~authorize.~~] Nothing in this subdivision shall prohibit any public school
16 or nonpublic school from adopting and implementing more stringent stand-
17 ards.

18 § 3. This act shall take effect on the first of July next succeeding
19 the date on which it shall have become a law. Effective immediately, the
20 addition, amendment, and/or repeal of any rule or regulation necessary
21 for the implementation of this act on its effective date are authorized
22 to be made on or before such date.