

STATE OF NEW YORK

2564--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. FALL, SIMON, O'DONNELL, TAYLOR, ENGLEBRIGHT, BENEDETTO -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, 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 2022".
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 [~~ex~~], school related activity, or competitive,
10 travel youth sport on school district property. In developing such
11 rules and regulations, the commissioner shall consider comments from
12 stakeholders and other interested parties including but not limited to
13 parents, teachers, students, school administrators, school athletic
14 trainers, sport coaches, medical and health professionals, the public
15 schools athletic league (PSAL), the New York state public high school
16 athletic association (NYSPHSAA), and other athletic associations. Such
17 regulations shall include, but not be limited to:
18 (i) requiring a course of instruction relating to recognizing the
19 symptoms of mild traumatic brain injuries and monitoring and seeking
20 proper medical treatment for pupils who suffer mild traumatic brain
21 injuries. Such course of instruction shall be required to be completed

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

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1 on a biennial basis by all school coaches, physical education teachers,
2 nurses [~~and~~], athletic trainers, medical directors, physicians, nurse
3 practitioners, and physician assistants employed by or under contract to
4 a school or school district. The course of instruction required by this
5 subparagraph shall include, but not be limited to, the definition of a
6 "concussion," signs and symptoms of mild traumatic brain injuries, how
7 such injuries may occur, practices regarding prevention, and the guide-
8 lines for the return to school and to certain school activities after a
9 pupil has suffered a mild traumatic brain injury regardless of whether
10 such injury occurred outside of school. Such training may be completed
11 by means of courses of instruction, including but not limited to, cours-
12 es provided online and by teleconference approved by the department;

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

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

43 (iv) [~~authorizing~~] requiring each school or school district[~~, in its~~
44 ~~discretion,~~] to establish a concussion management team which may be
45 composed of the athletic director (if any), a school nurse, the school
46 principal, a school guidance counselor, a school teacher, the school
47 physician, a coach of an interscholastic team, an athletic trainer or
48 such other appropriate personnel as designated by a collective bargain-
49 ing organization of the employee or the school or school district if no
50 such collective bargaining organization exists. The concussion manage-
51 ment team shall oversee the implementation of the rules and regulations
52 promulgated pursuant to this subdivision as it pertains to their associ-
53 ated school including the requirement that all school coaches, physical
54 education teachers, nurses and athletic trainers that work with and
55 provide instruction to pupils engaged in school sponsored athletic
56 activities complete training relating to mild traumatic brain injuries.

1 Furthermore, every concussion management team may establish and imple-
2 ment a program which provides information on mild traumatic brain inju-
3 ries to parents and persons in parental relation throughout each school
4 year.

5 Every concussion management team shall report annually to their
6 applicable district superintendent or chief school officer, board of
7 education or governing body, and to the department the following infor-
8 mation: (a) the number, sex, age and grade of pupils who sustain a mild
9 traumatic brain injury each year, regardless of the setting in which
10 such injury is sustained; (b) the cause of such injuries; (c) the dura-
11 tion of symptoms of such injuries; and (d) any modifications or accommo-

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

14 b. The rules and regulations established pursuant to this subdivision
15 shall be deemed to be the minimum standards that must be complied with
16 by every public and nonpublic school and every group or organization
17 that uses property or facilities owned by a school district for compet-
18 itive, travel youth sports relating to mild traumatic brain injuries.

19 [~~Such rules and regulations may also be implemented by nonpublic schools~~
20 ~~if they so authorize.~~] Nothing in this subdivision shall prohibit any
21 public school or nonpublic school from adopting and implementing more
22 stringent standards.

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