

STATE OF NEW YORK

1977

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. FALL -- 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 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 2023".

3 § 2. Subdivision 42 of section 305 of the education law, as added by
4 chapter 496 of the laws of 2011 and paragraph b as amended by chapter
5 617 of the laws of 2022, is amended to read as follows:

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

19 (i) requiring a course of instruction relating to recognizing the
20 symptoms of mild traumatic brain injuries and monitoring and seeking
21 proper medical treatment for pupils who suffer mild traumatic brain
22 injuries. Such course of instruction shall be required to be completed
23 on a biennial basis by all school coaches, physical education teachers,
24 nurses ~~[and]~~, athletic trainers, 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 or under contract to
2 a school or school district. The course of instruction required by this
3 subparagraph shall include, but not be limited to, the definition of a
4 "concussion," signs and symptoms of mild traumatic brain injuries, how
5 such injuries may occur, practices regarding prevention, and the guide-
6 lines for the return to school and to certain school activities after a
7 pupil has suffered a mild traumatic brain injury regardless of whether
8 such injury occurred outside of school. Such training may be completed
9 by means of courses of instruction, including but not limited to, cours-
10 es provided online and 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 a collective bargain-
47 ing organization of the employee or the school or school district if no
48 such collective bargaining organization exists. The concussion manage-
49 ment team shall oversee the implementation of the rules and regulations
50 promulgated pursuant to this subdivision as it pertains to their associ-
51 ated school including the requirement that all school coaches, physical
52 education teachers, nurses and athletic trainers that work with and
53 provide instruction to pupils engaged in school sponsored athletic
54 activities complete training relating to mild traumatic brain injuries.
55 Furthermore, every concussion management team may establish and imple-
56 ment a program which provides information on mild traumatic brain inju-

1 ries to parents and persons in parental relation throughout each school
2 year. Every concussion management team shall report annually to their
3 applicable district superintendent or chief school officer, board of
4 education or governing body, and to the department the following infor-
5 mation: (a) the number, sex, age and grade of pupils who sustain a mild
6 traumatic brain injury each year, regardless of the setting in which
7 such injury is sustained; (b) the cause of such injuries; (c) the dura-
8 tion of symptoms of such injuries; and (d) any modifications or accommo-
9 dations made for pupils that have sustained such injuries.

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

12 b. The rules and regulations established pursuant to this subdivision
13 shall be deemed to be the minimum standards that must be complied with
14 by every public school and nonpublic school and every group or organiza-
15 tion that uses property or facilities owned by a school district for
16 competitive, travel youth sports, relating to mild traumatic brain inju-
17 ries. Nothing in this subdivision shall prohibit any public school or
18 nonpublic school from adopting and implementing more stringent stand-
19 ards.

20 § 3. This act shall take effect on the first of July next succeeding
21 the date on which it shall have become a law; provided, however, that if
22 chapter 617 of the laws of 2022 shall not have taken effect on or before
23 such date then section two of this act shall take effect on the same
24 date and in the same manner as such chapter of the laws of 2022 takes
25 effect. Effective immediately, the addition, amendment, and/or repeal of
26 any rule or regulation necessary for the implementation of this act on
27 its effective date are authorized to be made on or before such date.