




TO: P-12 Education Committee
FROM: Ken Slentz 
SUBJECT: Addition of section 136.5 and amendment of section 135.4 of the Commissioner's Regulations, relating to the Concussion Management Awareness Act.

DATE: April 6, 2012

AUTHORIZATION(S):



SUMMARY

Issue for Discussion

Should the Board of Regents add a new section 136.5 and amend section 135.4 of the Commissioner's Regulations, relating to the requirements of the Concussion Management Awareness Act?

Reason(s) for Consideration

Required by Chapter 496 of the Laws of 2011.

Proposed Handling

The proposed rule is being presented to the P-12 Education Committee for discussion at the April 2012 Regents meeting.

Procedural History

Chapter 496 of the Laws of 2011 was signed by the Governor on September 19, 2011 with an effective date of July 1, 2012. A Notice of Proposed Rule Making was published in the State Register on March 14, 2012. A copy of the proposed rule is attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

The Concussion Management Awareness Act, as added by Chapter 496 of the Laws of 2011, authorizes the Commissioner of Education, in conjunction with the Commissioner of Health, to promulgate and review as necessary rules and regulations relating to pupils who suffer mild traumatic brain injuries, also referred to as concussions, while receiving instruction or engaging in any school sponsored or related activity. The statute's provisions take effect July 1, 2012.

The proposed rule requires all public school coaches, physical education teachers, school nurses, and athletic trainers to complete biennially, a course approved by the Department, related to recognizing the symptoms of mild traumatic brain injuries.

The proposed rule would also require the Department along with the Department of Health; to post information on mild traumatic brain injuries, guidelines for the return to school and to certain school activities after a student has suffered such injury regardless of where the injury occurred; on their respective websites. Districts would be required to provide guidance on how to obtain such information as part of their permission or consent forms that may be required for students to participate in interscholastic athletics.

During school athletic activities, schools would be required to remove from activity, any student suspected of having sustained a mild traumatic brain injury. The student would not be permitted to return to athletic activity until they have been symptom free for not less than 24 hours, and have been evaluated by and received written signed authorization from a licensed physician. Students would be required to receive clearance by the district's medical director in order to resume participation in extra class athletic activities. Such authorization is required to be kept in the student's permanent health record. Schools are also required to follow any guidance from the student's treating physician in regards to limitations on school attendance and activities.

Finally the proposed rule permits school districts to choose to establish a concussion management team to oversee the implementation of the regulations, and may establish a program which provides information on mild traumatic brain injuries to parent(s)/guardian(s).

Recommendation

It is recommended that the P-12 Education Committee reach consensus on the intent of the proposed rule prior to taking action at the May 2012 Regents meeting.

Timetable for Implementation

It is anticipated that the proposed rule will be presented for action at the May Regents meeting. If adopted at the May meeting, the proposed rule will become effective on June 13, 2012.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305 and 2854, and Chapter 496 of the Laws of 2011.

1. Section 136.5 of the Regulations of the Commissioner of Education is added, effective June 13, 2012, to read as follows:

§136.5 Concussion Management and Awareness.

(a) Applicability.

(1) The provisions of this section relate to pupils who have sustained, or are believed to have sustained, mild traumatic brain injuries (also referred to as a "concussion") while receiving instruction or engaging in any school sponsored or related activity.

(2) The provisions of this section:

(i) shall apply to each school district and charter school;

(ii) may be implemented by nonpublic schools if they so authorize; and

(iii) shall be deemed to be the minimum standards that must be complied with;

provided that nothing in this section shall prohibit any public school or nonpublic school from adopting and implementing more stringent standards.

(b) Course of instruction.

(1) Each school coach, physical education teacher, nurse and athletic trainer, who works with and/or provides instruction to pupils engaged in school sponsored athletic activities, shall complete, on a biennial basis, a course of instruction relating to recognizing the symptoms of mild traumatic brain injuries and monitoring and seeking proper medical treatment for pupils who suffer mild traumatic brain injuries.

(2) Components of such course shall include, but not be limited to:

(i) the definition of a mild traumatic brain injury;

(ii) signs and symptoms of mild traumatic brain injuries;

(iii) how mild traumatic brain injuries may occur;

(iv) practices regarding prevention; and

(v) guidelines for the return to school and school activities of a pupil who has suffered a mild traumatic brain injury, regardless of whether such injury occurred outside of school.

(3) Such course shall be completed by means of instruction approved by the Department including, but not limited, to courses provided online and by teleconference.

(c) Information.

(1) The Department shall post on its internet website information relating to mild traumatic brain injuries including, but not limited to:

(i) the definition of a mild traumatic brain injury;

(ii) signs and symptoms of mild traumatic brain injuries;

(iii) how mild traumatic brain injuries may occur; and

(iv) department guidelines for return to school and school activities of a pupil who has suffered a mild traumatic brain injury, regardless of whether such injury occurred outside of school.

(2) A school shall include the information required under paragraph (1) of this subdivision in any permission form or consent form or similar document that may be required from a parent or person in parental relation for a pupil's participation in interscholastic sports.

(3) A school shall include the information required under paragraph (1) of this subdivision, or reference how to obtain such information from the websites of the State Education Department and the Department of Health, on the school's internet website if one exists.

(d) Removal from athletic activities.

(1) A school shall require the immediate removal from athletic activities of any pupil who has sustained, or who is believed to have sustained, a mild traumatic brain injury. In the event that there is any doubt as to whether a pupil has sustained a concussion, it shall be presumed that the pupil has been so injured until proven otherwise.

(2) No such pupil shall resume athletic activity until the pupil has been symptom free for not less than twenty-four hours, and has been evaluated by and received written and signed authorization from a licensed physician; and for extra class athletic activities, has received clearance from the medical director to participate in such activity.

(i) Such authorization shall be kept on file in the pupil's permanent health record.

(ii) The school shall follow any directives issued by the pupil's treating physician with regard to limitations and restrictions on school attendance and activities for the pupil.

(e) Concussion Management Team

(1) Each school or school district, in its discretion, may establish a concussion management team.

(2) The concussion management team may be composed of:

(i) the athletic director;

(ii) a school nurse;

(iii) the school physician;

(iv) a coach of an interscholastic team;

(v) an athletic trainer; or

(vi) such other appropriate personnel as designated by the school or school district.

(3) The concussion management team shall oversee the implementation of subdivision (42) of Education Law section 305 and the provisions of this section as it pertains to their associated school and may establish and implement a program which provides information on mild traumatic brain injuries to parents and persons in parental relation throughout each school year.

2. Sub-item (2) of item (c) of subparagraph (i) of paragraph (7) of subdivision (c) of section 135.4 of the Regulations of the Commissioner of Education is amended, effective June 13, 2012, to read as follows:

(2) Teachers with coaching qualifications and experience certified only in areas other than physical education may coach any sport in any school, provided they have completed:

(i) the first aid requirement set forth in section 135.5 of this Part; [and]

(ii) an approved pre-service or in-service education program for coaches or will complete such a program within five years of appointment. Such program shall include an approved course in philosophy, principles and organization of athletics, which shall be completed within two years after initial appointment as a coach, and approved courses in health sciences applied to coaching, and theory and techniques of coaching that is sport specific, which shall be completed within five years after initial appointment as a coach. Such approved programs for coaches will consist of one of the following (credits and hours vary depending upon the contact and endurance involved in the sport): a department-approved college program of from two to eight credits; or a department approved in-service education program, conducted by schools, colleges, professional organizations or other recognized groups or agencies, from 30 to 120 clock hours; or an equivalent experience which is approved by the Commissioner of Education. Upon application to the Commissioner of Education in a format prescribed

by the commissioner and setting forth the reasons for which an extension is necessary, the period in which to complete such training may be extended to no more than seven years after such appointment; provided that coaches who have a lapse in service due to maternity leave, military leave, or other extenuating circumstances may apply to the commissioner for an additional extension of no more than two years to complete course work; and

(iii) on a biennial basis, a course of instruction relating to mild traumatic brain injuries pursuant to section 136.5(b) of this Title.

3. Sub-item (3) of item (c) of subparagraph (i) of paragraph (7) of subdivision (c) of section 135.4 of the Regulations of the Commissioner of Education is amended, effective June 13, 2012, to read as follows:

(3) Temporary coaching license. Except as provided in subclause (4) of this clause and notwithstanding the provisions of section 80-5.10 of this Title, other persons with coaching qualifications and experience satisfactory to the board of education may be appointed as temporary coaches of interschool sport teams whether in a paid or non-paid (volunteer) status, when certified teachers with coaching qualifications and experience are not available, upon the issuance by the commissioner of a temporary coaching license. A temporary coaching license, valid for one year, will be issued under the following conditions:

(i) . . .

(ii) . . .

(iii) candidates for the first renewal of a temporary license shall have completed or be enrolled in an approved course in philosophy, principles and organization of athletics; [and]

(iv) candidates for any subsequent renewal of a temporary license shall have completed an approved pre-service or in-service education program for coaches which shall include an approved course in philosophy, principles and organization of athletics, which shall be completed within two years after initial appointment as a coach, and approved courses in health sciences applied to coaching, and theory and techniques of coaching that is sport specific, which shall be completed within five years after initial appointment as a coach. Such approved programs for coaches shall consist of one of the following (credits and hours vary depending upon the contact and endurance involved in the sport): a department-approved college program of from two to eight credits; or a department approved in-service education program, conducted by schools, colleges, professional organizations or other recognized groups or agencies, from 30 to 120 clock hours; or an equivalent experience which is approved by the Commissioner of Education. Upon application in a format prescribed by the Commissioner of Education and setting forth the reasons for which an extension is necessary, the period in which to complete such training may be extended to no more than seven years after such appointment; provided that coaches who have a lapse in service due to maternity leave, military leave, or other extenuating circumstances may apply to the commissioner for an additional extension of no more than two years to complete course work; and

(v) on a biennial basis, candidates shall have completed a course of instruction relating to mild traumatic brain injuries pursuant to section 136.5(b) of this Title.

4. Sub-item (A) of item (i) of subclause (4) of clause (c) of subparagraph (i) of paragraph (7) of subdivision (c) of section 135.4 of the Regulations of the Commissioner of Education is amended, effective June 13, 2012, to read as follows:

(A) the candidate has completed the requirements set forth in items (3)(ii),(iii) [and], (iv) and (v) of this clause; and

5. Item (xi) of subclause (2) of clause (d) of subparagraph (i) of paragraph (7) of subdivision (c) of section 135.4 of the Regulations of the Commissioner of Education is amended, effective June 13, 2012, to read as follows:

(xi) professional development and responsibilities, including:

(A) . . .

(B) . . .

(C) educating the community of health care professionals as to the role of the certified athletic trainer; [and]

(D) informing parents, coaches and athletes as to the importance of quality health care for the physically active; and

(E) on a biennial basis, completing a course of instruction relating to mild traumatic brain injuries pursuant to section 136.5(b) of this Title.