

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305 and 2854 of the Education Law and Chapter 617 of the Laws of 2022.

Section 136.5 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 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] all school [district and] districts, charter [school] schools, and nonpublic schools; and

(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) ...

(c) ...

(d) Removal from athletic activities.

(1) For purposes of this section the term “athletic activities” means participation in sessions for instruction and practice in skills, attitudes, and knowledge through

participation in individual, group and team activities organized on an intramural, extramural, interschool athletic, or inclusive athletic basis to supplement regular physical education class instruction, otherwise known as extraclass periods in physical education or extraclass activities.

(2) 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 24 hours, and has been evaluated by and received written and signed authorization from a licensed physician; and for extra class athletic activities in public schools, has received clearance from the [medical director] director of school health services 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] a district's director of school health services;
- (iv) a coach of an interscholastic team;
- (v) a certified 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.