

ALERTS

NYS Concussion Management Law Now Applicable to Private Schools

June 27, 2023

Governor Kathy Hochul has amended the New York Education Law to require nonpublic schools to abide by the same rules and regulations regarding concussion management as public schools. Specifically, effective July 1, 2023, nonpublic schools must comply with New York's Concussion Management and Awareness Act ("CMAA"), which sets forth requirements for schools relating to students who suffer a concussion/mild traumatic brain injury. Compliance with the CMAA was previously optional for nonpublic schools; it will now be mandatory. The statutory requirements fall into three general categories – training, information to parents/guardians and a student's removal from athletic activities.

Training

Schools must provide a course of instruction related to concussions, which includes, at minimum, the definition of a "concussion," signs and symptoms of mild traumatic brain injuries, how such injuries may occur, practices regarding prevention, and guidelines for a student returning to school and certain school activities after a student has suffered a concussion (regardless of whether the injury occurred in school or otherwise). These courses of instruction must be completed every two years by all school coaches, physical education teachers, nurses and athletic trainers.

Information to Parents/Guardians

In any permission form or consent form that may be required for a student's participation in interscholastic sports, schools must include the definition of a concussion, signs and symptoms of mild traumatic brain injuries, how such injuries may occur, and the guidelines for a student's return to school. The same information should be included on the school's website, if one exists, either directly or by referencing how to obtain such information from the New York State Education Department's ("NYSED") and the New York State Department of Health's websites.

Removal From Athletic Activity

Schools are required to immediately remove any student who is believed to have sustained a concussion from athletic activities. In the event there is doubt as to whether a concussion has been sustained, it must be presumed one was sustained. Students must be prohibited from resuming athletic activity until they have been symptom free for not less than 24 hours, and have been evaluated and authorized to return by a licensed physician and the school's medical director, if applicable. Such authorization must be kept in the student's permanent health record. Schools must also follow the physician's recommendations regarding the student's reintegration to school and athletic activities.

Though not legally required, schools may choose to establish a concussion management team to oversee the school's concussion management protocols, including individuals such as an athletic director, school nurse/physician, coach of an interscholastic team, medical director or any other appropriate personnel as designated by the school.

In response to these requirements, nonpublic schools should review their current policies and procedures related to concussion management to ensure they are compliant with the CMAA. NYSED's current guidance on concussion management in schools can be found [here](#), though updated guidance is anticipated for nonpublic schools specifically.

Authored by *Mark E. Brossman, Donna K. Lazarus, Laura R. Horowitz and Michelle M. Orge.*

If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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Related People



**Mark
Brossman**

Partner
New York



**Donna
Lazarus**

Partner
New York



**Michelle
Orge**

Associate
New York

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