

The Law Pertaining to Management of Concussions and Head Injuries in Student Sports

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I. Head Injury Policies for Student Sports

During the 2012 legislative session, the New Hampshire legislature introduced a bill that ultimately became law and is now codified at RSA 200:49-200:52. See N.H. Gen. Laws of 2012, Ch. 203. In doing such, the legislature made the following findings:

- Concussions are caused by “a blow or motion to the head or body that causes the brain to move rapidly inside the skull.”
- “The risk of catastrophic injuries or death [is] significant when a concussion or head injury is not properly evaluated and managed.”
- “Continuing to play with a concussion or symptoms of head injury leaves the student-athlete especially vulnerable to greater injury and even death.”

Consequently, the legislature encouraged school boards to adopt guidelines and distribute information to parents and student-athletes:

Education is the key to identification and appropriate management of all concussions. The school board of each school district is *encouraged* to develop guidelines and other pertinent information and forms for student sports to inform and educate coaches, student-athletes, and student-athletes’ parents or guardians of the nature and risk of concussion and head injury including continuing to play after concussion or head injury. On an annual basis, a school district is *encouraged* to distribute a concussion and head injury information sheet to all student-athletes.

RSA 200:49 (italics added).

II. Removing Student Athletes From Play

A. When to remove

School employee coaches, officials, licensed athletic trainers, or health care providers who suspect that a student-athlete has sustained a concussion or head injury during a practice or game shall remove the student-athlete from play immediately. RSA 200:50, I (emphasis added).

B. What happens a Student-Athlete is removed from play?

A student-athlete who has been removed from play shall not return to play on the same day or until he or she is evaluated by a health care provider and receives medical clearance and written authorization from that health care provider to return to play. RSA 200:50, II.

“No person who authorizes a student-athlete to return to play shall be liable for civil damages resulting from any act or omission in the rendering of such care, other than acts or omissions constituting gross negligence or willful or wanton misconduct.” RSA 200:50, III.

C. Definitions

The law defines a “student-athlete” as “a student involved in any intramural sports program conducted outside the regular teaching day or competitive student sports program between schools in **grades 4-12.**” RSA 200:52, III (revised by N.H. Gen. Laws of 2013, Ch. 19 (2013)).¹

A “health care provider” is “a person who is licensed, certified, or otherwise statutorily authorized by the state to provide medical treatment and is trained in the evaluation and management of concussions.” RSA 200:52, I.

“Student sports” are defined as “intramural sports programs conducted outside the regular teaching day for students in grades **4-12** or competitive athletic programs between schools for students in grades 4-12.” RSA 200:52, IV ((revised by N.H. Gen. Laws of 2013, Ch. 19 (2013)).

III. Limitation of Liability

As indicated above, school boards are encouraged to develop guidelines and other pertinent information for student athletes and parents, and there is no requirement that a policy be adopted by the board. However, the law provides incentive for adopting such policies by limiting liability for individuals who comply with policies adopted by the Board. RSA 200:51 states:

An employee of a [SAU], school, or chartered public school, or a school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, [SAU], or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the injury or death of a student-athlete provided the action or inaction was in compliance with this subdivision and local school board policies relative to the management of concussions and head injuries.

This limitation of liability shall extend to school-sponsored athletic activities. A school district or school may provide concussion guidelines to other organizations sponsoring athletic activities on school property,²

¹ N.H. Gen. Laws of 2013, Ch. 19 (2013) took effect on July 15, 2013.

² School property is defined by adopting the definition set forth in RSA 193-D:1, V, the Safe School Zones Act. RSA 200:52, II.

however the school district or school shall not be required to enforce compliance with such guidelines.

RSA 200:51 (underline added).