

Policy News



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Concussion and Head Injuries Legislation

The *Zackery Lystedt* law was passed during the 2009 legislative session in response to a head injury suffered by Zack Lystedt in a 2006 junior high school football game. His family's experience resulted in a campaign for protections and preventive measures against brain injuries and concussions for student athletes. Concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities. According to the legislation, the Centers for Disease Control and Prevention estimates that as many as 3,900,000 sports- and recreation-related concussions occur in the United States each year.

Literature reveals the following facts about concussions.

- Concussions are caused by a blow or motion to the head or body

that causes the brain to move rapidly inside the skull.

- Concussions injure the brain and can range from mild to severe and can disrupt the way the brain normally works.
- Concussions occur in organized and unorganized sport or recreational activities and typically result from a fall or from players colliding with each other, the ground or with obstacles.
- Concussions occur with or without loss of consciousness, but the vast majority occur without loss of consciousness.

Young athletes are particularly vulnerable to injury and even death if they continue to play after the initial concussion or head injury. The Legislature recognized and addressed the concern with youth athletes' concussions. Specifically the fact that, despite recognized return-to-play stan-

dards for concussion and head injury, some affected youth athletes are prematurely returned to play resulting in actual or potential permanent physical injury or death.

The legislation contains two primary sections. First, prior to the change in the law, a school district received immunity from liability for a youth program occurring on school property if the group provided proof of insurance prior to the use of school facilities. The required insurance had to cover any injury or damage arising from the delivery of the program and meet the minimum of \$50,000 for bodily injury or death, or \$100,000 coverage for bodily injury or death of two or more persons in any incident. This part of the law was amended to add a new provision addressing private nonprofit youth programs which are defined as "any program or service, offered by a private nonprofit

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Policy News

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About the WSSDA

Founded in 1922, the Washington State School Directors' Association is comprised of all 1,477 school board members from Washington's 295 school districts. The districts they lead serve more than one million students, have a combined annual budget of \$6 billion, and employ nearly 100,000 people. WSSDA's core mission is focused on ensuring that school board members have the knowledge, tools and services they need to effectively govern their districts and improve student learning.

group, that is operated primarily to provide persons under the age of 18 with opportunities to participate in services or programs." The new provision states that such programs must provide a statement of compliance with policies for the management of concussion and head injury when using district facilities. This means that nonprofit youth programs must understand the nature and risk of head injuries and concussion in a practice or game. Further, they must understand the consequences of an athlete prematurely returning to play.

The second section of the new law is titled the *Zackery Lystedt* law, in honor of the Lystedt family and their statewide awareness campaign regarding concussions and head injuries in sports. The school district board of directors is directed to work in concert with the Washington Interscholastic Activities Association (WIAA) to develop guidelines, information sheets and forms to inform and educate coaches, youth athletes and their parents and/or guardians of the nature and risk of concussion and head injury including continuing to play after a concussion or head injury. Immediately after the law passed, using a very proactive approach, the WIAA developed numerous fact sheets for coaches, athletics and parents/guardians. A video, as well as forms and fact sheets, are available on their Web site at www.wiaa.com. Additionally, the WIAA plans to contact individual districts and provide customized assistance or information regarding concussions and head injuries.

A major part of the law is the requirement for districts to collect signed concussion and head injury information sheets on an annual basis from the youth athlete and the athlete's parent and/or guardian. The district must have this information on file prior to the athlete's initiating practice or competition. Until this acknowledgment is received, the student may not participate in competitive district athletics.

Another key provision of the new legislation relates to the management of a suspected concussion or head injury. The law requires that any youth athlete that is suspected of having a concussion or head injury in a practice or a game must be immediately removed from competition.

After removal from play, the player may not return until assessed by a licensed health care provider trained in the evaluation and management of concussion. The health care provider must provide a written clearance to return the student to play. Understanding that many districts rely on volunteers to assist with sports teams, the law specifically provides that the health care provider may be a volunteer.

Policy

A new model policy 3422, *Competitive Sports – Concussions and Head Injuries*, is provided as a foundation for districts' management of concussions and head injuries in competitive sports. Adoption of this new board policy provides the opportunity for the board to understand the topic, the concerns and their role in overseeing the district's response.

The policy requires that districts conduct an assessment of all competitive sports activities. This assessment allows districts to identify appropriate activities. Once identification occurs, districts can disseminate information to the appropriate coaches and volunteers.

The policy restates the districts' responsibility to work with the WIAA to disseminate information to coaches, youth athletes and their parent/guardians regarding the risk of concussions or head injuries and the dangers associated with continuing to play. Also restated is the requirement for the parent and student to return a signed acknowledgment confirming their review and understanding of the head injury and concussion information sheet. It is crucial that the student athlete and the parent/guardian

understand that participation is prohibited until the acknowledgment form is received by the district.

The policy also directs all coaches, including volunteers, to complete training and comply with the WIAA guidelines for the management of head injuries and concussion. Each provision of the policy is designed to ensure that the district is legally compliant and using best practices.

The requirements of the law are divided between two WSSDA policies. The legal provisions regarding private nonprofit youth groups using districts' facilities are incorporated into the existing WSSDA model policy 4260, *Use of Facilities*. This requires youth groups to provide a written statement of compliance with the legal requirements for the management of concussions and head injuries, in addition to obtaining appropriate liability coverage.

Procedure

The model procedure 3422, *Competitive Sports – Concussions and Head Injuries*, provides a template for the districts' administration in implementing the new board of directors' policy. It incorporates the details of how the district will carry out the concussion and head injury management plan, thereby providing the guidance necessary to successfully implement the law.

The athletic director or administrator responsible for the district's competitive sports activities is charged with ensuring that the district utilizes current information from the WIAA. This is accomplished by regular review of the WIAA Web site and adopting and revising the district's forms as necessary. That individual is also responsible for identifying the district's competitive sports activities and distributing current WIAA information to the appropriate coaching staff and volunteers.

Additionally, the sample procedure provides that coaches' training will occur through attendance at a WIAA presentation or by completing the WIAA training through another provider. It is possible that another entity may offer training on concussion and head injury management, however, the objective is that the training offered satisfies the requirements of Washington's law and the guidelines developed and distributed by the WIAA.

The requirement that the student athlete and the parent/guardian receive and acknowledge the annual parent information sheet, prior to the student athlete's participation, is restated. The procedure also clarifies that the district may incorporate the brain injury and concussion information in the parent permission sheet that allows students to generally participate in extracurricular athletics. This inclusion with an existing form is intended to lessen the administrative and fiscal impact on districts in implementing the new law.

The last two provisions in the procedure specifically address the issue of concussion and head injury management by stating the coaches' duty to immediately remove the athlete who is suspected of sustaining a concussion or head injury; and the requirement for written clearance from a licensed health care provider trained in the evaluation and management of concussion prior to the athlete's return to play.

Parents, Students, Coaches

The successful implementation of this law requires compliance by the district, coaches, student athletes and parents/guardians. Their roles interact and must complement each other to fulfill the intent of the Legislature. Foremost, coaches must educate themselves to the nature and risk of head injuries and concussions, in-

cluding the risk of continuing to play after a concussion or head injury. Coaches should also educate athletes about symptoms so that they can self-monitor and notify the coach if they or a team member exhibits head injury or concussion symptoms. Furthermore, coaches must be prepared to immediately remove a player who exhibits symptoms and not allow a player to return until the athlete receives clearance from a licensed health care provider trained in the evaluation and management of brain injuries.

Parents must review the information regarding concussions and brain injuries and sign and return an acknowledgment to the school prior to the athlete initiating practice or competition.

Student athletes must review information regarding concussion and brain injuries and sign and return an acknowledgment prior to practice or competition. Potentially, many competitive sport athletes may attend middle or elementary school and the requirement for their signatures should serve as an opportunity for age-appropriate awareness training regarding head injuries and concussions. All athletes, regardless of age, should learn to notify a coach if they or a teammate exhibits signs or symptoms of a concussion/brain injury.

The WIAA will also provide assistance and resources for districts in complying with the new law. Particularly helpful is the WIAA's commitment to continually update and post new information on their Web site as it becomes available.

Legal Considerations

The ultimate goal of the legislation is to protect student athletes from injury. Compliance with the law by all parties is a major first step in the prevention of concussions and brain injuries.

Prohibition Against Sexual Discrimination

Existing law prohibits inequality in the educational opportunities afforded women and girls at all levels of public schools in Washington state. Specifically, the law provides:

“Inequality in the educational opportunities afforded women and girls at all levels of the public schools in Washington state is a breach of Article XXXI, section 1, Amendment 61, of the Washington state Constitution, requiring equal treatment of all citizens regardless of sex. This violation of rights has had a deleterious effect on the individuals affected and on society. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of sex for any student in grades K-12 of the Washington public schools is prohibited.” RCW 28A.640.010.

However, prior to this legislative session those provisions did not apply to community athletic programs.

During the 2009 session, a new law passed prohibiting any city, town, county or district from discriminating against any person in a community athletics program on the basis of sex. “Community athletics program” means any athletic program that is organized for the purpose of training for and engaging in athletic activity and competition that is in any way operated, conducted, administered or supported by local governments and districts, other than those created solely for the students of a school.

Further, the law mandates that community athletics programs receiving a lease or permit from a school district may not discriminate against any person on the basis of sex in the operation, conduct or administration of the program. To ensure compliance, the law allows districts to amend existing policies.

We chose to amend model policy and procedure 4260, *Use of School Facilities*. Amendatory language is incorporated stating the prohibition

against discrimination for community athletics programs using school facilities. The law does not require districts to monitor compliance, investigate complaints or otherwise enforce school district policies as to third parties using school facilities. However, modification of the district’s use of facilities policy is necessary to inform lessees, to clearly state the current law and to convey the district’s expectations. Typically, users of a district’s facilities sign a compliance form. Enforcement of the new nondiscrimination provisions may occur by having a community athletic program leasing the district’s facility sign a statement of compliance with the district’s nondiscrimination policy.

A statement added to the district’s existing facilities use form, could state:

(name of program), a community athletic program, verifies that it does not discriminate against any person on the basis of sex in the operation, conduct or administration of its program.

School Board Legislative Program

In addition to their governance role, school directors also serve as community advocates for public education. School directors are in an excellent position to inform and influence state and federal decision makers on public education issues. To assist school directors in their advocacy efforts, the WSSDA recently released an *Effective Advocacy for School Directors in Washington State* manual. The manual is designed to encourage and assist board members in influencing state and federal education policy. The manual includes a new model Policy 1225, *School Director Legislative Program*. This policy will guide the board in making year-round advocacy a part of school board service.

The policy guides a board in developing its operating parameters for supporting and opposing legislation af-

fecting public education. It also encourages the board to periodically study, discuss and weigh the merits of legislation prior to establishing its official position through board action.

The policy is divided into board legislative activities and the WSSDA legislative representatives’ activities. The board is responsible for developing the annual legislative program, staying informed of pending legislation, actively communicating concerns, responding to requests for legislative proposals and designating one of its members as a legislative representative.

The designated WSSDA legislative representative has a key role in the effective operation of the district’s legislative program. The legislative repre-

sentative is the contact person for the board when questions arise or additional information is needed on legislative issues. The legislative representative also attends the legislative assembly and serves as a spokesperson for the board on whether or not a particular proposal should be adopted, amended or defeated.

Most districts already have a designated legislative representative and take a very active role in supporting or opposing legislation. Adoption of the new policy will help the board clearly outline its legislative objectives, for itself and for the public it serves.