

111TH CONGRESS
2^D SESSION

H. R. 6172

To promote minimum State requirements for the prevention and treatment of concussions caused by participation in school sports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2010

Mr. BISHOP of New York (for himself, Mr. GEORGE MILLER of California, Mr. HOLT, Mr. COURTNEY, Mr. LOEBSACK, Mr. HARE, Ms. WOOLSEY, Mr. POLIS of Colorado, Mr. ANDREWS, Mrs. MCCARTHY of New York, Mr. GRJALVA, and Ms. FUDGE) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To promote minimum State requirements for the prevention and treatment of concussions caused by participation in school sports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Student
5 Athletes from Concussions Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Involvement in sports can have tremendous
2 benefits for the physical, social, emotional, and cog-
3 nitive development of students.

4 (2) All students have the right to know the
5 risks of concussions because concussions, though a
6 mild traumatic brain injury, present such a signifi-
7 cant risk to not only the physical well-being of a de-
8 veloping student, but also the academic performance
9 of the student.

10 (3) Mild traumatic brain injuries, including
11 concussions, represent 80 to 90 percent of all trau-
12 matic brain injuries.

13 (4) Children and adolescents are more vulner-
14 able to brain injury than adults because their brains
15 are still developing.

16 (5) Surveys suggest that the prevalence of
17 sport-related concussions is much higher than re-
18 ported and the occurrence of concussions is higher
19 at the high school level than at the collegiate level.
20 According to recent research, 400,000 students sus-
21 tained a concussion while participating in five dif-
22 ferent sports in a high school athletics program dur-
23 ing the 2005–2008 school years. Few statistics are
24 available for the 41 million children participating in
25 non-scholastic youth sports, but schools report that

1 concussions are occurring on the playground and
2 during physical education classes.

3 (6) A recent study estimated that more than 40
4 percent of high school athletes return to participate
5 in school athletics before they have fully recovered
6 from concussions, which increases the susceptibility
7 of the student athlete to greater injury or death.

8 (7) The failure to recognize brain injuries and
9 the mismanagement of such injuries increases the
10 vulnerability of a student athlete to successive in-
11 jury, cumulative negative health consequences, or
12 chronic impairment.

13 (8) Timely recognition and response to concus-
14 sions aids recovery and helps prevent successive in-
15 jury, chronic impairment, or death. Only 42 percent
16 of schools have access to an athletic trainer and only
17 53 percent of schools meet the nurse-to-student ratio
18 recommended by the Federal Government.

19 (9) Concussion treatment and management is
20 sporadic in schools and often neglects the athlete's
21 role as a student.

22 (10) Medical care from hospitalization and
23 emergency room visits due to a concussion is costly,
24 and treatment is often arbitrary.

1 (11) Students should gradually return to phys-
2 ical activity and academic activities only as the
3 symptoms of a concussion permit because research
4 suggests that overexertion from physical activity and
5 academic activities exacerbates symptoms and pro-
6 tracts recovery time for student athletes.

7 (12) Instituting best practices offers a reason-
8 able means for protecting student athletes from the
9 risks and consequences of concussions.

10 **SEC. 3. MINIMUM STATE REQUIREMENTS.**

11 Beginning with fiscal year 2013, in order to be eligi-
12 ble to receive funds for such year or a subsequent fiscal
13 year under the Elementary and Secondary Education Act
14 of 1965 (20 U.S.C. 6301 et seq.) each State educational
15 agency shall issue regulations establishing the following
16 minimum requirements:

17 (1) LOCAL EDUCATIONAL AGENCY CONCUSSION
18 SAFETY AND MANAGEMENT PLAN.—Each local edu-
19 cational agency in the State, in consultation with
20 members of the community in which such agency is
21 located, shall develop and implement a standard plan
22 for concussion safety and management that in-
23 cludes—

24 (A) the education of students, parents, and
25 school personnel about concussions, such as—

1 (i) the training and certification of
2 school personnel, including coaches, ath-
3 letic trainers, and school nurses, on con-
4 cussion safety and management; and

5 (ii) using and maintaining standard-
6 ized release forms, treatment plans, obser-
7 vation, monitoring and reporting forms,
8 recordkeeping forms, and post-injury fact
9 sheets;

10 (B) supports for students recovering from
11 a concussion, such as—

12 (i) guiding such student in resuming
13 participation in athletic activity and aca-
14 demic activities with the help of a multi-
15 disciplinary team, which may include—

16 (I) a health care professional, the
17 parents of such student, a school
18 nurse, or other relevant school per-
19 sonnel; and

20 (II) an individual who is assigned
21 by a public school to oversee and
22 manage the recovery of such student;

23 (ii) providing appropriate academic
24 accommodations; and

1 (iii) referring students whose symp-
2 toms of concussion reemerge or persist
3 upon the reintroduction of cognitive and
4 physical demands for evaluation of the eli-
5 gibility of such students for services under
6 the Individual with Disabilities Education
7 Act (20 U.S.C. 1400 et seq.) and the Re-
8 habilitation Act of 1973 (29 U.S.C. 701
9 note et seq.); and

10 (C) best practices designed to ensure, with
11 respect to concussions, the uniformity of safety
12 standards, treatment, and management, such
13 as—

14 (i) disseminating information on con-
15 cussion management safety and manage-
16 ment to the public; and

17 (ii) applying uniform standards for
18 concussion safety and management to all
19 students enrolled in public schools.

20 (2) POSTING OF INFORMATION ON CONCUS-
21 SIONS.—Each public elementary school and each
22 secondary school shall post on school grounds, in a
23 manner that is visible to students and school per-
24 sonnel, and make publicly available on the school
25 website, information on concussions that—

1 (A) is based on peer-reviewed scientific evi-
2 dence (such as information made available by
3 the Centers for Disease Control and Preven-
4 tion);

5 (B) shall include—

6 (i) the risks posed by sustaining a
7 concussion;

8 (ii) the actions a student should take
9 in response to sustaining a concussion, in-
10 cluding the notification of school personnel;
11 and

12 (iii) the signs and symptoms of a con-
13 cussion; and

14 (C) may include—

15 (i) the definition of a concussion;

16 (ii) the means available to the student
17 to reduce the incidence or recurrence of a
18 concussion; and

19 (iii) the effects of a concussion on
20 academic learning and performance.

21 (3) RESPONSE TO CONCUSSION.—If any school
22 personnel, including coaches and athletic trainers, of
23 a public school suspects that a student has sustained
24 a concussion during a school-sponsored athletic ac-
25 tivity—

1 (A) the student shall be—

2 (i) immediately removed from partici-
3 pation in such activity; and

4 (ii) prohibited from returning to par-
5 ticipate in school-sponsored athletic activi-
6 ties—

7 (I) on the day such student sus-
8 tained a concussion; and

9 (II) until such student submits a
10 written release from a health care
11 professional stating that the student
12 is capable of resuming participation in
13 school-sponsored athletic activities;
14 and

15 (B) such personnel shall report to the par-
16 ent or guardian of such student—

17 (i) the date, time, and extent of the
18 injury suffered by such student; and

19 (ii) any actions taken to treat such
20 student.

21 (4) RETURN TO ATHLETICS AND ACADEMICS.—

22 Before a student who has sustained a concussion in
23 a school-sponsored athletic activity resumes partici-
24 pation in school-sponsored athletic activities or aca-

1 demic activities, the school shall receive a written re-
2 lease from a health care professional, that—

3 (A) states that the student is capable of
4 resuming participation in such activities; and

5 (B) may require the student to follow a
6 plan designed to aid the student in recovering
7 and resuming participation in such activities in
8 a manner that—

9 (i) is coordinated, as appropriate, with
10 periods of cognitive and physical rest while
11 symptoms of a concussion persist; and

12 (ii) reintroduces cognitive and phys-
13 ical demands on such student on a pro-
14 gressive basis only as such increases in ex-
15 ertion do not cause the reemergence or
16 worsening of symptoms of a concussion.

17 **SEC. 4. REPORT TO SECRETARY OF EDUCATION.**

18 Not later than 6 months after promulgating regula-
19 tions pursuant to section 3 in order to be eligible to receive
20 funds under the Elementary and Secondary Education Act
21 of 1965 (20 U.S.C. 6301 et seq.), each State educational
22 agency shall submit to the Secretary of Education a report
23 that contains—

24 (1) a description of the State regulations pro-
25 mulgated pursuant to section 3; and

1 (2) an assurance that the State has imple-
2 mented such regulations.

3 **SEC. 5. RULE OF CONSTRUCTION.**

4 Nothing in this Act shall be construed to alter or su-
5 persede State law with respect to education standards or
6 procedures or civil liability.

7 **SEC. 6. DEFINITIONS.**

8 In this Act:

9 (1) **CONCUSSION.**—The term “concussion”
10 means a type of traumatic brain injury that—

11 (A) is caused by a blow, jolt, or motion to
12 the head or body that causes the brain to move
13 rapidly in the skull;

14 (B) disrupts normal brain functioning and
15 alters the mental state of the individual, caus-
16 ing the individual to experience—

17 (i) any period of observed or self-re-
18 ported —

19 (I) transient confusion, dis-
20 orientation, or impaired consciousness;

21 (II) dysfunction of memory
22 around the time of injury; and

23 (III) loss of consciousness lasting
24 less than 30 minutes;

1 (ii) any one of four types of symptoms
2 of a headache, including—

3 (I) physical symptoms, such as
4 headache, fatigue, or dizziness;

5 (II) cognitive symptoms, such as
6 memory disturbance or slowed think-
7 ing;

8 (III) emotional symptoms, such
9 as irritability or sadness; and

10 (IV) difficulty sleeping; and

11 (C) can occur—

12 (i) with or without the loss of con-
13 sciousness; and

14 (ii) during participation in any orga-
15 nized sport or recreational activity.

16 (2) HEALTH CARE PROFESSIONAL.—The term
17 “health care professional” means a physician, nurse,
18 certified athletic trainer, physical therapist,
19 neuropsychologist or other qualified individual
20 who—

21 (A) is a registered, licensed, certified, or
22 otherwise statutorily recognized by the State to
23 provide medical treatment;

1 (B) is experienced in the diagnosis and
2 management of traumatic brain injury among a
3 pediatric population; and

4 (C) may be a volunteer.

5 (3) LOCAL EDUCATIONAL AGENCY; STATE EDU-
6 CATIONAL AGENCY.—The terms “local educational
7 agency” and “State educational agency” have the
8 meanings given such terms in section 9101 of the
9 Elementary and Secondary Education Act of 1965
10 (20 U.S.C. 7801).

11 (4) SCHOOL PERSONNEL.—The term “school
12 personnel” has the meaning given such term in sec-
13 tion 4151 of the Elementary and Secondary Edu-
14 cation Act of 1965 (20 U.S.C. 7161).

15 (5) SCHOOL-SPONSORED ATHLETIC ACTIVITY.—
16 The term “school-sponsored athletic activity”
17 means—

18 (A) any physical education class or pro-
19 gram of a school;

20 (B) any athletic activity authorized during
21 the school day on school grounds that is not an
22 instructional activity; and

1 (C) any extra curricular sports team, club,
2 or league organized by a school on or off school
3 grounds.

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