

112TH CONGRESS  
1ST SESSION

# H. R. 469

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

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2011

Mr. BISHOP of New York (for himself, Mr. GEORGE MILLER of California, Mr. KUCINICH, Mr. ANDREWS, Mr. HOLT, Mr. LOEBACK, Mrs. MCCARTHY of New York, Ms. WOOLSEY, Mr. POLIS, Ms. HIRONO, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## 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 2011”.

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 extracurricular sports team, club,  
2                   or league organized by a school on or off school  
3                   grounds.

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