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When It Comes to Your Sports Concussion Management Plan— Forget Liability

According to the American College of Sports Medicine, “Sport-related concussions continue to be a serious public health concern, as approximately 1.6 to 3 million concussions occur annually in the United States. Recent studies have shown increases in the prevalence and incidence of concussion in both high school and college athletes.”

With concussions becoming increasingly commonplace, Educational Institutions should have a sports concussion management plan in place to guide education on concussions and outline the institution’s policies. In this article, Tom O’Neill, Director of Educational Risk Solutions, shares that by building a plan focused on safe practices, liability protections for the institution should naturally follow.

Protecting your school against liability or getting sued shouldn’t be the main goal in developing and implementing a sports concussion management plan.

Is Your Plan About Safety or Liability?

Let’s start with a baseline assumption that we all share the goal of providing the safest possible environment in which our students and athletes can participate. What I hope to impress upon you is that liability protections should naturally follow if you:

- focus on safe practices;
- have a sound concussion management policy in place;
- assemble the right team and educate them;
- empower them to make the best decisions; and
- remain vigilant and knowledgeable regarding emerging trends.

When someone reads your sports concussion management plan, is the focal point the inclusion of verbiage to address local law or does it focus on why it is critical that it be implemented? Is it written in a way that it is easily understandable to all or is it filled with legalese to ensure that it passes the muster of your legal counsel, insurance carrier, licensing board and governing body? Is it a resource to guide education or is it intended to act as the training?

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As an insurance representative to educational institutions across the nation, I am often asked to review these policies to see if they are “acceptable,” and I always answer the same way: “It depends.” Then I start asking some questions of my own: “Is it acceptable to your student athletes and their parents? Have you presented it to your medical staff, faculty, coaches and volunteers? What did they think of it? Have you had it reviewed by objective physicians, concussion management specialists, and athletes who suffer from the long-term effects of concussions? Do they think it’s acceptable? Have you educated all involved in implementation of the plan? Are those people implementing the action steps? If so, have they been effective? If not, what are you doing about it?” It is not until after we have addressed all of these questions that I ask my last question: “Has it been reviewed by your legal counsel?”

What Is a Concussion?

According to the CDC, a concussion is “a type of traumatic brain injury, caused by a bump, blow, or jolt to the head that can change the way your brain normally works.” Think about that sentence. A concussion is a **TRAUMATIC BRAIN INJURY**. Concussion has become such a frequent part of our day-to-day conversations and a regularly accepted part of playing sports that we

tend to forget or downplay that it is an injury to the brain. Concussion is a **TRAUMATIC BRAIN INJURY** that can cause permanent damage in our athletes’/students’/children’s thinking, senses, language and emotions. Does everyone who reads and is responsible for your plan truly understand the dire consequences involved and their responsibilities in preventing these tragedies? The CDC provides three critical **action steps** that all concussion management plans should include to minimize risks: education, removal, and return.

- 1. Educate:** Inform and educate everyone responsible for concussion prevention and response, i.e., coaches, athletes, and their parents and guardians, faculty, staff and volunteers.
- 2. Remove athlete from play:** An athlete who is believed to have a concussion is to be removed from play right away.
- 3. Obtain permission to return to play:** An athlete can only return to play or practice after at least 24 hours and with permission from a health care professional.

While catchphrases like “When In Doubt Sit Them Out” and “Rest Is Best” are good reminders of steps two and three, your concussion management plan will not be successful without placing the emphasis on the first step, Education. Luckily for you schools are full of experts in education!

Focus on What You Do Best—Educate

What did the last policy you read say? What about the last waiver? Can you repeat back the last symptom list handout you received? No one knows better about diverse learning styles and the need for multi-model teaching methods than professionally trained educators. So why do so many educational institutions rely on posters, flyers, and “Fact Sheets” as the sole form of education when it comes to parents, athletes, coaches and faculty? These handouts may cover the legal liability factor but they don’t educate in a way that gets the critical information across to all. With the wealth of teaching materials at our disposal today, a simple web search will produce numerous free online courses, textbooks, national reports and handouts that can be used to get the critical information across to the different audiences using various learning styles.

Even with all of these resources at your disposal to present the facts on concussions, few would deny that true internalization comes from seeing the facts in a personal way. So it is important that your educational methods keep in mind the many different audiences, their priorities and their motivation for actively participating in the concussion management plan. No one document, training module, or person can effectively meet all of these needs. Your message must come from a team, a team whose members possess empathy, courage, authority and creativity in addition to knowledge.

To operate effectively, your concussion management team must be:

- **Empathetic** to the pressures felt by the coaching staff that relies on wins to maintain their livelihood, to the desperation of parents who see a sports scholarship as their child’s only chance of going to college, and to the student athlete fearful of disappointing parents, coaches and teammates;
- **Courageous** enough to take the unpopular stance with the legendary coach, to support the first year trainer making the tough decision, and to address the aggressive board member parent;
- **Empowered** to overrule superiors when it comes to safety, to impose penalties on students and adults who ignore safety standards, and to make adjustments to the plan as needed to maintain safety;
- **Creative** in order to convince an invincible teenage athlete that they are not truly invincible, to teach the teacher that doesn’t attend sporting events that they too play a critical role in concussion management, to impress upon a coach or parent that “a little dinged up” often means **TRAUMATIC BRAIN INJURY**, to influence your school leaders that, through focusing on the education of safety, they take care of liability!

The best written policy in the world is useless if it sits on the shelf and is not meaningful to those who are charged with its implementation. The execution and effectiveness of your concussion management plan and procedure should be the measure of an “acceptable” plan, not that it is written well, distributed to all, and covers the school legally and financially. Leave that up to the lawyers and insurance experts.

Helpful Resources:

- [Center for Disease Control](#)
- [The National Federation of State High Schools Association](#)
- [National Athletic Trainer Association](#)
- [The Sports Concussion Institute](#)

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