

Frequently Asked Questions And Resources Document

Regarding Implementation of House Bill 2038 ~ Natasha's Law, Texas Education Code, Chapter 38, Subchapter D

**Prevention, Treatment, and Oversight of
Concussions
Affecting Student Athletes**

Acknowledgement

State Representative Four Price, author of the H.B. 2038, and Senator Bob Deuell, the sponsor of H.B. 2038, express their gratitude to the following organizations for the tremendous collaborative spirit and amount of time collectively devoted to this document – crafting the Frequently Asked Questions through a number of stakeholder meetings and for providing the list of Resources: The University Interscholastic League, the Texas High School Coaches Association, the Texas Girls Coaches Association, the Texas Charter Schools Association, Texas Association of School Administrators, the Texas Association of School Boards, the Texas Medical Association, and the Texas State Athletic Trainers Association.

Frequently Asked Questions And Resources Document

Regarding Implementation of H.B. 2038, Natasha's Law, Texas Education Code, Chapter 38, Subchapter D, Prevention, Treatment, and Oversight of Concussions Affecting Student Athletes

1. What schools are required to comply with the new law?

The new law applies to an interscholastic athletic activity, including practice and competition, sponsored or sanctioned by: (1) a school district, including a home-rule district, or a public school, including any school for which a charter has been granted under Chapter 12; or (2) the University Interscholastic League (hereinafter referenced as UIL).

2. Does the law require each school district and each charter school, mentioned above, to have a Concussion Oversight Team (COT)?

Yes. Each school district and each charter school must establish its own Concussion Oversight Team (COT).

Note: Neither the UIL's Medical Advisory Committee nor any association's committee involved with subject matter of concussions may fulfill the function of a school district's COT or charter school's COT.

3. When is the Concussion Oversight Team (COT) required to be in place?

The law became effective in May when it passed both houses of the Texas Legislature by at least two-thirds vote in the House (127 to 7) and in the Senate (31-0). Governor Perry signed the law on June 17, 2011.

The new law provides that it applies beginning with the 2011-2012 school year.

Note: Persons required under Education Code, Section 38.158(c), to take a training course in the subject of concussions must initially complete the training course not later than September 1, 2012.

4. What is the role of the Texas Education Agency (TEA) regarding the new law?

The Commissioner of Education may adopt rules as necessary to administer this new law. It is not known whether rules will be proposed regarding this new law. If you have any questions related to the rules at TEA, please contact the legal services division within the Texas Education Agency (TEA). Email: legalsrv@tea.state.tx.us
Telephone: 512-463-9720.

5. Who must serve on the Concussion Oversight Team (COT)?

The COT must at least have one member, a Texas licensed physician. There can be multiple Texas licensed physicians on the same COT.

Additionally, to the greatest extent practicable, school districts and charter schools must also include one or more of the following on the COT: a Texas licensed athletic trainer, a Texas licensed advanced practice nurse, a Texas licensed neuropsychologist, or a Texas licensed physician assistant. The factors to be considered include: 1) the population of the metropolitan statistical area in which the school district or charter school is located, 2) the district or charter school student enrollment, and 3) the availability of and access to licensed health care professionals in the district or charter school area. "Licensed health care professional" means an advanced practice nurse, athletic trainer, neuropsychologist, or physician assistant, as those terms are defined under the new law (H.B. 2038).

Note: Irrespective of any of the above factors, if a school district or charter school employs one or more Texas licensed athletic trainers, then the school district's COT or the charter school's COT must include at least one of the athletic trainers as a member of the COT, in addition to the Texas licensed physician member(s) of the COT.

Examples (not exhaustive as to every scenario that may be possible):

Example A: ABC School District, irrespective of ABC School District's location, must have on its COT at least one member and that member must be a Texas licensed physician.

Example B: ABC School District employs one or more Texas licensed athletic trainers then at least one of the employed Texas licensed athletic trainers must also be on the COT in addition to the Texas licensed physician.

ABC School District may also name to its COT one or more licensed athletic trainers not employed by the district, one or more licensed advanced practice nurses, one or more licensed neuropsychologists, and/or one or more licensed physician assistants.

Example C: ABC School District does not employ a Texas licensed athletic trainer; however, ABC School District is located in an urban area with access to Texas licensed health care professionals (an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant). ABC School District must include, to the greatest extent practicable, at least one of those licensed health professionals, in addition to the Texas licensed physician, on its COT.

6. Must the members of the COT reside and/or have their place of business or place of employment within the geographic boundaries of the school district or charter school?

No. School districts and charter schools are allowed, but not required, to utilize the licensed Texas physicians, licensed Texas athletic trainers, licensed Texas advanced practice nurses, licensed Texas neuropsychologists, and licensed Texas physician assistants within their communities. The members of a COT may be from any location or combination of locations provided they have Texas licensure.

Exception: A school district or charter school that employs a Texas licensed athletic trainer must appoint the athletic trainer to the COT.

Note: While neither the UIL's Medical Advisory Committee nor any association's committee involved with the subject matter of concussions may fulfill the function of a school district's COT or charter school's COT, individuals serving on such non-school committees may serve on a school district's COT or charter school's COT provided the individuals meet the statutory requirements of the new law. In that event, the individuals serve two separate roles.

7. How is a Concussion Oversight Team (COT) established/formed?

The governing body of each school district and open-enrollment charter school with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a COT. Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team. The new law does not prohibit a member of a COT from serving on more than one COT.

Note: Neither the UIL's Medical Advisory Committee nor any association's committee involved with subject matter of concussions may fulfill the function of a school district's COT or charter school's COT.

Examples (not exhaustive as to every scenario that may be possible):

Example A: The Board of Trustees of ABC School District appoints members to the Concussion Oversight Team in an open meeting. The COT develops the written concussion protocol for the district. The COT may decide to share its concussion protocol with the ABC's Board of Trustees in an open meeting. This provides trustees with an opportunity to learn more about the COT's protocol in an open meeting. (There are board minutes, and the meeting is a vehicle to raise awareness with parents and the community). At that time, the Board of Trustees could ask questions or provide non-medical input, including appointing additional Texas licensed health care professionals to the COT. The Board of Trustees is free to choose to formally adopt the COT's protocol as ABC School District's policy even though the law does not require it to adopt a policy. Keep in mind that the COT can change the overall protocol as medical science progresses.

Example B: ABC School District has a COT in place that meets all legal requirements. ABC School District's COT has established a concussion protocol. 123 School District has also appointed a COT. 123 School District's COT wishes to adopt all or part of ABC COT's protocol. May it do so? Yes, 123 School District's COT may use all or part of ABC COT's protocol.

Note: A number of school district COTs and charter school COTs have adopted the concussion protocols established by another school district's COT.

Example C: ABC School District has a COT in place that meets all legal requirements. 123 School District wishes to appoint to its COT all or some of the member's of ABC School District's COT. May it do so? Yes, 123 School District may do so, provided the membership of 123 School District meets all legal requirements, and provided the members of the ABC School District's COT are able and willing to do so. 123 School District's COT may adopt the same protocol or develop another protocol.

Exception: A school district or charter school that employs a Texas licensed athletic trainer must appoint the athletic trainer to the COT.

8. Who must take a required training course pursuant to Section 38.158?

Concussion Oversight Team Members: All licensed health care professionals who serve on a Concussion Oversight Team (COT), whether on a volunteer basis, or as an employee, representative, or agent of a school district or charter school, are required to satisfactorily complete the required training. Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team.

Coaches: The UIL shall approve for coaches of interscholastic activities training courses that provide for not less than two hours of training in the subject matter of concussions, including evaluation, prevention, symptoms, risks, and long-term effects. Coaches of an interscholastic activity must take such a training course from an authorized training provider at least once every two years. The UIL shall maintain an updated list of individuals and organizations authorized by the UIL to provide the training.

9. Can administrators, coaches, and other school officials serve as a member of the concussion oversight team?

No. Only Texas licensed physician(s) and the Texas licensed health care professionals as listed in the law can serve on the team.

10. Are student athletes suspected of suffering a concussion required to see the Concussion Oversight Team's physician?

No. The law specifies the student athlete must be evaluated by a treating physician of the student athlete and parents/guardians choosing. The law does not prohibit a COT's physician from serving as the treating physician. In that case the physician has two different roles.

11. Is the Concussion Oversight Team's physician required to approve or certify the athlete's return to play from a concussion?

No. The student athlete's treating physician must provide a written statement that in his or her professional judgment it is safe for the student to return-to-play. The law does not prohibit a COT's physician from serving as the treating physician. In that case the physician has two different roles.

12. Before a student athlete is allowed to participate in an interscholastic activity for a school year, will each student athlete and their parent/guardian be required to sign, for that school year, a form acknowledging that both the student athlete and parent/guardian have received and read written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion?

Yes. The form mentioned above must be approved by the UIL.

13. When is the student athlete removed from activity if a concussion is suspected?

A student athlete shall be removed from a practice or competition **immediately** if a coach, a physician, a licensed health care professional, or the student's parent or guardian or another person who has authority to make legal decision for the student believes the student athlete might have sustained a concussion. Coach means the coach of the student's team.

Coaches are encouraged to use the utmost caution regarding a suspected concussion, including calling the student athlete over to the sideline so that the coach can form a belief that the student may have suffered a concussion. The act of calling a player over to the sideline does not by itself constitute a belief that the student athlete might have sustained a concussion. (See attached legislative intent letter from the author and the sponsor of the new law). **This letter will be added when received.**

14. When is the student athlete allowed to return to activity?

A student athlete shall not return to practice or competition until the student athlete has been evaluated and cleared in writing by his or her treating physician and all other notice and consent requirements have been met. The student athlete must satisfactorily complete the protocol established by the school district's COT or charter school's COT.

15. How many times does the student athlete have to be evaluated by the treating physician?

Treatment decisions are solely within the physician/patient relationship.

16. May a licensed health care professional sign the treating physician's written release?

No, the law requires that written release must be signed by the treating physician. Treatment decisions are solely within the physician/patient relationship.

17. When a student athlete has been removed from practice or competition because of a suspected concussion, what information must the student athlete and his parent/guardian provide prior to the student athlete being allowed to return to play?

The student athlete and the parent/guardian must:

- ✓ Provide the student athlete's treating physician written statement

indicating that in the treating physician's professional judgment, it is safe for the student to return to play.

- ✓ Provide their written acknowledgement that the student athlete has completed the requirements of the return-to-play protocol.
- ✓ Sign a consent form in which the student athlete and parent/guardian indicate:
 - consent to return to play in accordance with the COT's protocol;
 - understand the risks associated with returning to play;
 - consent to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician;
 - understanding of the immunity provisions under Section 38.159 of the Education Code.

18. Is the school's athletic trainer required to sign a return to play statement?

No.

19. Can a coach monitor a student athlete's compliance with the return-to-play protocol if the school district does not employ an athletic trainer?

Yes.

The superintendent or his/her designee has supervisory responsibilities of the athletic trainer, coach (as outlined above), or other person responsible for the compliance with the return-to-play protocol. This provides a second person for checks and balances purposes. The superintendent or his/her designee is also responsible for distributing and collecting the required forms, including the physician's written authorization for return to play.

Note: A superintendent is not able to appoint a coach as the supervisory designee because Education Code, Section 38.158(c) specifically, in part, states: "The person who has supervisory responsibilities of under this subsection may not be a coach of an interscholastic athletics team."

20. Can a coach authorize the return to play of the student athlete?

No, under no circumstance can a coach authorize a student athlete's return to play. Education Code, Section 38.158(b).

21. May an athlete, who is believed to have sustained a concussion, start the return-to-play protocol without seeing a treating physician?

No.

An athlete suspected of having a concussion must be evaluated by his or her treating physician. The student athlete's treating physician must provide a written statement that in his or her professional judgment it is safe for the student to return-to-play before the student athlete may begin the school district's COT return-to-play protocol.

22. Will coaches be required to document completion of two hours concussion education every two years?

Yes.

The UIL shall approve for coaches training courses that provide not less than two hours of training in the subject matter of concussions, including evaluation, prevention, symptoms, risks, and long-term effects. The UIL is required to maintain an updated list of individuals and organizations authorized by the UIL to provide the training.

Coaches will provide proof of attendance every two years to their respective superintendent or the superintendent's designee.

Note: Persons required under Education Code, Section 38.158(c), to take a training course in the subject of concussions must initially complete the training course not later than September 1, 2012.

23. Will athletic trainers be required to document completion of two hours of concussion education every two years?

Yes, if they: (1) serve as on a COT as either an employee of a school district or charter school or act as a representative or as an agent of the district or charter school, or (2) serve as a volunteer member on the COT and are not an employee.

Athletic trainers can fulfill the two hour requirement by either completing a course approved by the Department of State Health Services Advisory Board of Athletic Trainers or completing a course concerning the subject matter of concussions that has been approved for continuing education credit by the appropriate licensing authority for athletic trainers.

Athletic trainers will provide proof of attendance every two years to their respective superintendent or the superintendent's designee.

Note: Persons required under Education Code, Section 38.158(c), to take a training course in the subject of concussions must initially complete the training course not later than September 1, 2012.

24. Will the neuropsychologists, advanced nurse practitioners and physician assistants be required to document completion of concussion continuing education?

Yes, if they serve on a COT.

These licensed health care professionals, as that term is defined in Education Code Section 38.151(5), may take courses approved for coaches, athletic trainers, or their respective licensing authority's approved continuing education course(s).

Texas licensed advanced practice nurses, Texas licensed neuropsychologists, and Texas licensed physician assistants who serve on COT's must provide proof of attendance every two years to their respective school district's superintendent or the superintendent's designee.

Note: Persons required under Education Code, Section 38.158(c), to take a training course in the subject of concussions must initially complete the training course not later than September 1, 2012.

25. Will the concussion oversight team physician be required to acquire concussion management continuing education?

No. Physicians are not required to take specific training or submit proof of completion; however, Education Code, Section 158(d), provides that a physician, who serves as a member of a COT shall, to the greatest extent practicable, periodically take an appropriate continuing education course in the subject matter of concussions.

Resources

Protocol Resources (not a complete listing of all potential resources):

American Academy of Neurology Position Statement

http://journals.lww.com/neurologynow/Fulltext/2011/07010/A_New_Game_Plan_for_Concussion_As_new_research_on.11.aspx

American Academy of Pediatrics Clinical Report – Sport Related Concussions in Children and Adolescents

<http://aappolicy.aappublications.org/cgi/reprint/pediatrics;126/3/597.pdf>

American College of Sports Medicine Team Physician Consensus Statement – Sport Related Concussions

<http://www.acsm.org/AM/Template.cfm?Section=Clinicians1&Template=/CM/ContentDisplay.cfm&ContentID=4362>

Brainline.org

<http://www.brainline.org/>

Center for Disease Control

<http://www.cdc.gov/concussion/sports/>

Clinics in Sports Medicine – University of Pittsburg Concussion Statement

<http://www.whsaa.org/forms/concussion/clinicsinsportsmedicinepublished2004.pdf>

Current Sport Related Concussion Teaching and Clinical Practices in Sports Medicine

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2707074/>

National Athletic Trainer's Association Position Statement on Sport Related Concussion

<http://www.nata.org/sites/default/files/MgmtOfSportRelatedConcussion.pdf>

Prague Conference Position Statement

<http://www.athletictherapy.org/docs/PragueConcussionArticle.pdf>

Zurich Conference Position Statement

<http://sportconcussions.com/html/Zurich%20Statement.pdf>

Organizations (not a complete listing of all organizations):

Texas Education Agency www.tea.state.tx.us

Texas Medical Association <http://www.texmed.org/>

Texas Pediatric Society <http://txpeds.org>

Brain Injury Association of Texas <http://www.biatx.org/>

Brain Injury Association of America <http://www.biausa.org/>

Centers for Disease Control <http://www.cdc.gov/concussion/sports/>

National Institutes of Health <http://www.nih.gov/>

National Federation of State High School Associations <http://www.nfhs.org/>

Texas High School Coaches Association <http://www.thsca.com/>

Texas Girls Coaches Association <http://www.austintgca.com/>

Texas Association of School Boards <http://www.tasb.org/>

Texas Association of school Administrators <http://www.tasanet.org/>

Texas Charter Schools Association www.txcharterschools.org

National Collegiate Athletic Association (NCAA)
<http://www.ncaa.org/wps/wcm/connect/public/NCAA/Student-Athlete+Experience/Student-Athlete+Well+Being/Concussions>

University Interscholastic League <http://www.uil texas.org/>

Texas State Athletic Trainers Association <http://www.tsata.com/>