



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
MARGARET M. O'NEILL BUILDING  
410 FEDERAL STREET, SUITE 1  
DOVER, DE 19901

VOICE: (302) 739-3620  
TTY/TDD: (302) 739-3699  
FAX: (302) 739-6704

October 28, 2015

Ms. Tina Shockley, Education Associate  
Department of Education  
401 Federal Street, Suite 2  
Dover, DE 19901

RE: 19 DE Reg. 234 [DOE Proposed School Health Record Keeping Regulation]

Dear Ms. Shockley:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE's) proposal to adopt revisions to its standards covering school health records. The proposed regulation was published as 19 DE Reg. 234 in the October 1, 2015 issue of the Register of Regulations. SCPD has the following observations.

First, in §1.0, definition of "Delaware School Health Record", the reference to "issued medications" is unclear. Does this refer only to medications administered or provided to the student by a school nurse? Alternatively, does it refer to "prescribed" and "non-prescribed" medications? It would make sense to at least include a list of prescribed medications in the record regardless of whether the nurse is "issuing" the medication. For example, a student may present with side-effects of a drug or the nurse might otherwise consider giving the student a medication (e.g. Advil; Aspirin) which may be "contraindicated" in conjunction with a prescribed drug.

Second, in §1.0, definition of "Delaware School Health Record", the term "mandated testing and screenings" ostensibly covers those encompassed by 14 DE Admin Code 815. However, it is limiting since it would exclude testing and screenings which are not "mandatory". For example, if a nurse conducted an "extra" vision screening in a non-mandated grade [14 DE Admin Code 815.3.1], it would be prudent to include such results in the health record. Consider the following alternative language: "results of mandated and discretionary testing and screenings" OR "results of required and discretionary testing and screenings".

Third, the DIAA concussion regulations include an authorization for "school nurse" screening/clearance of a student to return to play. See 14 DE Admin Code 1008.3.1.6.2 and 14 DE Admin Code 1009.3.1.6.2. School nurses are authorized to perform "sidelines" duties. See 14 DE Admin Code 1008.3.3.1 and 14 DE Admin Code 1009.3.3.1. The DIAA regulations also

contemplate submission of return-to-play authorizations to a school by other health providers. See, e.g., attached DIAA return-to-play form which envisions school nurse supervision of implementation of a Return to Play Plan. Other DIAA regulations require school acquisition of medical records on student athletes. See 14 DE Admin Code 1008.3.1 and 14 DE Admin Code 1009.3.1. It would be prudent to specifically include a reference to such medical documents in the definition of “Delaware School Health Record”. For example, the definition could at least include the following reference: “student athlete health records required by DIAA regulation” or “student athlete health records compiled in implementation of DIAA regulation”.

Fourth, in §1.0, definition of “Emergency/Nursing Treatment Card”, the DOE may wish to consider adding an email address for identified classes of individuals.

Fifth, in §2.1.4, the DOE may wish to refer to “parent, guardian, or Relative Caregiver” for consistency with other regulatory sections (§1.0, definitions of “Emergency/Nursing Treatment Card” and “Student Health History Update”; §2.1.2; §4.1.1).

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulation.

Sincerely,



Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

cc: The Honorable Steven Godowsky, Ed.D, Secretary of Education  
Mr. Chris Kenton, Professional Standards Board  
Dr. Teri Quinn Gray, State Board of Education  
Ms. Mary Ann Mieczkowski, Department of Education  
Ms. Kathleen Geiszler, Esq., Department of Justice  
Ms. Terry Hickey, Esq., Department of Justice  
Ms. Ilona Kirshon, Esq., Department of Justice  
Mr. Brian Hartman, Esq.  
Developmental Disabilities Council  
Governor’s Advisory Council for Exceptional Citizens

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## DIAA ACUTE CONCUSSION EVALUATION (ACE) & RETURN TO PLAY FORM



Athlete Name: \_\_\_\_\_  
Sport: \_\_\_\_\_

Date of Birth: \_\_\_\_\_  
Date of Injury: \_\_\_\_\_

Qualified HealthCare Provider (QHP) at school

Name of QHP initially examining athlete on site: \_\_\_\_\_ (please print)  
Today the following symptoms are present (please circle):

Date Initially examined: \_\_\_\_\_  
No reported symptoms: \_\_\_\_\_

Physical	Thinking	Emotional	Sleep	
Headache	Light sensitivity	Feeling mentally foggy	Irritability	Drowsiness
Nausea	Noise sensitivity	Problems concentrating	Sadness	Sleeping more than usual
Fatigue	Numbness/tingling	Problems remembering	Feeling more emotional	Sleeping less than usual
Vomiting	Visual problems	Feeling slowed down	Nervousness	Trouble falling asleep
Dizziness	Balance problems			
OTHER: _____				

### Gradual Return to Play (RTP) Plan

RTP Plan must occur in gradual steps under the supervision of a QHP (see DIAA regulations for definition of QHP). This QHP, usually the schools ATC or RN, should be on-site supervising the RTP plan. After completion of a stage without any symptoms, athlete may progress to the next level of activity on the next day. If symptoms return, athlete must regress the stage and be seen by a qualified physician (see DIAA regs) if not seen by a MD/DO prior. Continued or worsening signs or symptoms should be reported to the physician immediately. **Before an athlete may initiate Stage 5 'full contact', they must be cleared by a qualified physician.**

School QHP Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- Stage 1: No physical activity. If athlete has no signs or symptoms consistent with a concussion they may progress, after 24 hours, to Stage 2, etc.
- Stage 2: Low levels of physical activity (ie symptoms do not come back during or after the activity). This includes walking, light jogging, light stationary bike, light weight lifting ( low weight, higher reps, no bench, no squat)
- Stage 3: Moderate levels of physical activity with body/head movement. Includes moderate jogging, brief running, moderate-intensity stationary biking, moderate-intensity weightlifting (reduce time and/or weight from typical routine)
- Stage 4: Heavy non-contact physical activity. This includes sprinting/running, high intensity stationary bike, regular weightlifting routine, non-contact sport specific drills (3 planes of movement)
- Stage 5: \*\*\* Must have physician clearance before beginning this stage\*\*\* Full contact in controlled practice.
- Stage 6: Full contact in game play. If signs or symptoms return after Stage 5, must see physician again for Stage 6 clearance.

- ❖ ATHLETES MAY NOT RETURN TO ACTIVITY ON THE SAME DAY THAT A HEAD INJURY OCCURRED
- ❖ ATHLETES MAY NOT RETURN TO ACTIVITY IF THEY EXHIBIT ANY SIGNS OR SYMPTOMS CONSISTENT WITH A CONCUSSION
- ❖ ATHLETES MUST SUCCESSFULLY PROGRESS THROUGH THE RTP PLAN, WITH MD/DO CLEARANCE, BEFORE CONTACT/RTP

### PHYSICIAN CLEARANCE

I declare that I am a qualified physician (MD or DO only) who, in accordance with DIAA regulations as well as standards of medical care in concussion management, recommend the following:

May  
check  
more  
than  
one  
box

- May not progress within the RTP Plan above; requires further medical intervention at this time. Contact my office
- May resume gradual progression of the RTP Plan with the following exceptions/modifications: \_\_\_\_\_
- May progress, per protocol, through Stage 5, and if symptom free, may advance to Stage 6.
- Other: \_\_\_\_\_

This RTP Plan was based upon today's evaluation:

This form is adopted from the Acute Concussion Evaluation care plan developed by the CDC ([www.cdc.gov/Injury](http://www.cdc.gov/Injury)). All medical providers are strongly encouraged to use this form for concussed athletes participating in DIAA sports. While other forms may be used, all medical providers must abide by DIAA protocol ([http://www.doe.k12.de.us/Infosultes/students\\_family/diaa/](http://www.doe.k12.de.us/Infosultes/students_family/diaa/)) including the return to play plan noted above, before an athlete may return to athletics.

Physician's Name: \_\_\_\_\_ (please print) Physician's Office Phone: \_\_\_\_\_  
Physician's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### INSTRUCTIONS FOR ACE FORM

1. If an athlete exhibits signs or symptoms consistent with a concussion, they shall be removed from play immediately. A qualified health care professional (QHP) must then determine whether or not an apparent concussion has occurred. If a qualified healthcare professional is not present, the injury must be treated as a concussion and the student not be allowed to return to practice/game until determined otherwise by a qualified healthcare professional. If the qualified healthcare professional is unable to rule out a concussion, the athlete must be treated as though he/she has sustained a concussion. The top (blue) section of the ACE form should be completed by the QHP, and the gradual RTP plan should be initiated. Note: in all situations where an athlete is determined to have a possible concussion, the athlete's parent or guardian should be contacted as soon as possible, and explained progressive warning signs as well as the RTP plan. If the symptoms become progressive, they should seek out physician services immediately.

2. The school's QHP may progress the athlete through the RTP plan (gold section) through stage four, so long as no symptoms return. Each stage of the RTP plan should be no less than one day long. If symptoms return, the athlete must be referred to a qualified physician (MD or DO only) before any further activity can occur. Before progressing to stage 5, the QHP must sign off on the RTP plan section of the form, and refer the athlete to a qualified physician (MD/DO only) if the athlete has not already seen a physician or if the physician requires such follow-up after an earlier physician visit.

3. Before progressing to stage 5, the school must obtain written clearance from a qualified physician (MD/DO only). This clearance can be found at the bottom (grey section) of the ACE form. Any athlete that progresses into stage 5 and beyond without written clearance shall be considered ineligible, and all games subsequent to such entry shall be a forfeit for the school.

A qualified healthcare professional (QHP) shall be defined as a MD or DO; or school nurse, nurse practitioner, physician assistant, or athletic trainer, with collaboration and/or supervision by a MD or DO as required by their professional state laws and regulations. The qualified healthcare professional must be licensed by their state, be in good standing with the State of Delaware, and if the evaluation is provided on site must also be approved or appointed by the administrative head of school or designee, or the DIAA Executive Director. "Written Clearance from a qualified physician" for progression into stage 5 and return to play after a potential concussion, shall be a MD/DO only, who is licensed by their state and in good standing with the State of Delaware.