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SIX STEPS TO GET YOUR CONCUSSION PROTOCOL READY FOR THE UPCOMING ATHLETIC SEASON

Insights
Aug 10, 2026

Six Steps to Get Your Concussion Protocol Ready for the Upcoming Athletic Season

As fall sports and tryouts approach, every school, athletic program, and youth sports organization should take a hard look at its concussion protocol. From a student safety and legal liability perspective, you need to make sure your written procedure clearly spells out how coaches and trainers identify, remove, and clear students to return to play after a suspected head injury. You also need to ensure that process is up to date with changing laws as state legislatures across the country are actively revising concussion laws. How can you make concussion protocol compliance a priority for the 2026-2027 school year? We'll give you six steps to get there in this Insight.

Concussion Laws Keep Changing

In a nutshell, most concussion protocols require mandatory coach training, immediate removal from play when a concussion is suspected, and written medical clearance before a student can return. But these laws are not static, and with changing medical evidence on the impact of head trauma on growing brains, there have been changes to laws that school leaders and athletic administrators need to track.

While every state now has some form of youth concussion law, generally modeled on Washington's [Zackery Lystedt Law](#), they vary widely in their legal requirements. Some have recently been updated. For example:

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- Nevada's [Senate Bill 80](#) added all students (not just athletes) and formalized academic "return to learn" protocols
- [New York's amended regulations](#) in 2023 now require independent schools to comply in addition to public schools
- A growing number, including Virginia, Illinois, Nebraska, Iowa, and Oregon, now require a **"return-to-learn" plan** alongside the traditional return-to-play protocol. This means schools may need to provide academic accommodations, like reduced workload or extended testing time, while a student recovers. If your written policy only addresses when an athlete can play again and says nothing about when and how they resume schoolwork, it may already be out of step with where the law is heading.

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Special Note About Negligence Per Se

It is critical for school and athletic leaders to know the current state of law because some instances of a coach or a school violating a specific state law on concussion or safety protocols can lead to a finding of **negligence per se**.

This legal doctrine allows a student or family to establish liability simply by showing that the organization violated a legal requirement designed to protect a class of persons that includes them, and that the harm could have been avoided had the law been followed. Simply put, no further evidence of reasonableness is considered if there was a violation of the law. (A note of caution, even if your state's statute does not apply to nonpublic schools or organizations, the law may be cited as evidence of "reasonableness.")

Written Policies Alone Are Not Enough

Schools, athletic associations, and sports organizations should also ensure their employees and volunteers are trained, and that the process is being followed. In 2017's *Swank v. Valley Christian School*, for example, the Washington Supreme Court held that Washington State's concussion law creates an implied right for an injured athlete to sue, and it identified three specific duties every school must meet beyond having a written policy in place:

- distribute annual concussion information sheets

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- remove an athlete immediately when a concussion is suspected
- withhold return to play until written medical clearance is on file

Many other states also have regular training requirements, require schools or other institutions to share information with students, and liaise with a student's treating healthcare provider. In addition to risking students' health, there are real legal implications, from the organization's noncompliance with a law, which may be cited as evidence of reasonable standard of care in your state, even if your institution is not required to follow it.

Six-Step Plan

Here is your six-step plan to assist you in developing a concussion protocol that protects your student-athletes and your school.

1. Audit the written protocol against current state law. Work with your legal counsel to confirm it reflects this year's statutory requirements and any recent amendments, not last year's version.

2. Refresh coach, athletic trainer, and staff training. Most state laws require this annually, and lapsed training undercuts a school's compliance position even if no injury occurs.

3. Confirm return-to-play sign-off procedures are followed in writing, best managed through a checklist, which includes required waiting periods and documented physician clearance.

4. Check background-screening and personnel requirements for coaches, including those affiliated with independent or club sanctioning bodies where state law reaches them.

5. Benchmark your process against [the NCAA's Concussion Safety Protocol Checklist](#), which reflects current best practices reviewed by the NCAA's Concussion Safety Advisory Group and offers a useful reference point even for non-NCAA programs.

6. Bring risk management and insurance carriers into the conversation before the season starts, not after a claim

arrives.

Conclusion

For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on the firm's [Sports Industry Team](#) or [Education Practice Group](#). Fisher Phillips will continue to monitor developments in this area, so make sure that you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox.