S3953-2011: Directs commissioners of education and health to adopt rules and regulations for the treatment and monitoring of students with mild traumatic brain injuries

TITLE OF BILL:
An act

to amend the public health law and
the education law,
in relation to directing the commissioners of
education and health
to establish rules and regulations for the treatment and
monitoring of students of school districts,
boards of cooperative
educational services and nonpublic schools who suffer mild
traumatic brain
injuries; and to amend the general obligations law, in relation to the
liability of school districts, nonpublic schools and boards of
cooperative educational services

PURPOSE:
Directs commissioners of education and
health to adopt rules
and regulations for the treatment and monitoring of students with
mild traumatic brain injuries

SUMMARY OF PROVISIONS:
Section 1. Creates the short title, "Concussion Management and
Awareness Act."

Section 2. Amends section 206 of the public health law to add a new
subdivision 28 that would require the Commissioner of Health to work
in conjunction with the Commissioner of Education to promulgate rules
and regulations relating to pupils who suffer mild traumatic brain
injuries and provide for the posting of the information on the
Department of Health (DOH) website.

Section 3. Amends section 305 of the education law to add a new
subdivision 42 which will require the Commissioner of Education, the
Commissioner of Health, and other articulated entities to:

o Promulgate, implement, and update rules and regulations establishing
a course of instruction relating to concussions that will be required
to be completed on a biennial basis by certain school personnel.

o Promulgate, implement, and update rules and regulations establishing
an informational pamphlet relating to concussions that must be
provided to specified persons and posted on the websites of the
Department of Education and Department of Health. Require a signed
statement by those in parental relation to a pupil attesting that
they have received and understand the pamphlet prior to any practice
or participation in any interscholastic sport on behalf of the school
district.

o Promulgate, implement, and regularly update rules and regulations
requiring every school district to establish a concussion management
team that includes specified school personnel. The concussion
The management team will have the primary responsibility of implementing rules and regulations relative to concussions and will ensure that appropriate faculty are provided with training relating to concussions.

- Promulgate, implement and regularly update rules and regulations to be carried out by each concussion management team including the immediate removal from athletic activities of a pupil believed to have sustained or who has sustained a concussion, the reporting of such injury to the Education Department, and the evaluation of the pupil pursuant to guidelines established by the Education Department.

In the event that there is any doubt as to whether a pupil has sustained a concussion, it shall be presumed that he/she has sustained a concussion until proven otherwise. No pupil shall resume athletic activity until they are symptom free for 24 hours and have been evaluated and received written and signed authorization from a physician trained in the evaluation and treatment of concussions. Such guidelines are considered to be the minimum guidelines that must be complied with by a school district.

Section 4. Amends Article 9 of the general obligations law to add a new title 3 to read "Liability of Schools."

- Includes sections 9-301 and 9-303 which will limit liability for school districts and not-for-profit youth sports programs for any personal injury or death given certain conditions.

JUSTIFICATION:
A concussion is a type of traumatic brain injury (TBI) that can significantly impact the way a healthy brain functions. If left untreated, concussions can lead to permanent brain damage or even death. According to the Centers for Disease Control and Prevention, an estimated 1.7 million people sustain a TBI injury nationally. Of these, 52,000 die and 275,000 are hospitalized.

TBI is a contributing factor to a third of all injury-related deaths in the United States. The number of concussions sustained by youth is significant. The CDC reports that each year, U.S. emergency departments treat an estimated 135,000 sports and recreation-related TBIs, including concussions, among children ages 5 to 18. Furthermore, according to the National Center for Injury Prevention, forty-seven percent of high school football players receive a concussion each season. To that end, statistically, the risk of future concussions increases significantly once an athlete suffers from a concussion. While athletes highlight the significant concerns of concussions, children and teens, in general, are more likely to get a concussion, and have a longer recovery time than adults.

The Centers for Disease Control and Prevention recommend that as part of concussion prevention, each school district have a concussion management policy in order to treat and manage concussions among their students, and educate parents, coaches, and students about the dangers of concussions. Often, athletes and pupils, as well as parents and coaches, cannot identify the symptoms of a concussion. This legislation would require that each school district have a concussion management team composed of health and sports staff with
the charge to collaborate and implement guidelines set forth by the Department of Health and Department of Education. The term will be responsible for overseeing staff training, educating parents and students about concussions, and helping to transition students who have sustained a concussion back into school as well as back into play consistent with specified guidelines.

By instituting these policies, school districts will facilitate early identification of concussions and thereby reduce the risk of long-term complications. In the future, this legislation will encourage parents, students, and coaches to take preventative steps to avoid such significant injuries.

LEGISLATIVE HISTORY:
S.7161 of 2009-2010

FISCAL IMPLICATIONS:
The fiscal implications on school districts will be mitigated through the use training courses facilitated through online and conference call means. Such courses will be approved through the Department of Education and are projected to have minimal costs.

LOCAL FISCAL IMPLICATIONS:
To be determined.

EFFECTIVE DATE:
This act shall take effect on the first of July next succeeding the date on which it shall have become a law; provided that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.