## The Lawyer's Desk: A Look at TBI Legal

## Representation •

By David Kracke, Attorney at Law Nichols & Associates, Portland, Oregon

We have done a good job creating *Return to Play* protocols for student athletes who have suffered concussions. What we have yet to address sufficiently, however, are *Return to Class* protocols.

Last week I spoke to ninety administrators, educators and athletic trainers from the Lane County school district regarding their obligations and best practices under Max's law, the mandatory concussion education and protocol law regarding high school athletic coaches. What impressed me most is how thoroughly our message has been internalized by the various school districts and how seriously the concussion issue is being taken with regard to high school athletes and their return to play.

Everyone at the school district seems to know that if a concussion is suspected then the mandatory response is to take the player out of the game until that player can be evaluated by a health care professional and then returned to play only when a health care professional says it's okay to do so. In other words, our Return To Play protocols are becoming solidified within the best practices of Oregon's school districts, and those districts that do not have any such protocols in place are risking not only the health and wellbeing of their student athletes, but also serious financial damages if they don't follow the protocols codified by Max's Law if and when lawsuits are filed on behalf of a concussed athlete.

But this success on the field has only emphasized an area where we can, and must, do better: *Return To Class*.

When a student athlete, or any student, suffers a concussion, our first line of defense is to ensure that the student is not at risk for second impact syndrome. But once that risk subsides we owe it to the student to understand that he or she is still going to struggle when it comes to returning to the academic rigors of general school work. What we don't have, and what we absolutely

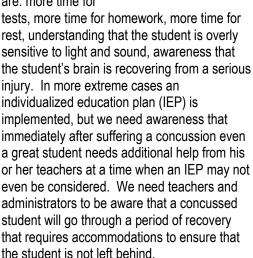
need to establish, are protocols that create an understanding among teachers, administrators, parents and students that a concussed student, during his or her recovery, needs certain accommodations in order to keep up with the general class work that he or she is expected to complete.

We need *Return to Class* protocols because we know certain things about kids and their behavior. We know that kids will not always tell us when they are struggling with school work after suffering a concussion. We know that they tend to be extremely concerned with how their peers see them. We know that the last thing a kid wants to be is a social outcast perceived as weak, slow or affected with a brain injury. As a result, the students are hesitant to admit to any ongoing concussion problems. This can lead teachers and administrators to assume everything is fine with the recovering student. But, typically, it is not.

It's up to the adults to make sure that proper accommodations are made so that during the student's recovery from a concussion the student does not get left behind the rest of the class. It's up to the teachers and the administrators to understand that even if a student says he is doing fine, he might not be. In other words, we need to expect teachers and administrators to understand what happens to a concussed brain and what accommodations can help a student during his or her recovery.

If a student behaves differently in class after suffering a concussion it is likely because the student is struggling to do what he or she had no trouble doing before the concussion. If the student can't finish a test in the allotted time it's likely because his or her brain is not working as fast as it did before the concussion. If the student is distracted by bright lights, loud noises and other stimuli it's not because that student has suddenly become a behavior problem, it's because his or her brain is struggling. The student doesn't need detention; the student needs

accommodations! Concussion experts know what these accommodations are: more time for



Once a student is left behind, even for only a few weeks, it can have profound effects on that student's future. I have heard too many stories about straight A students failing classes after suffering a concussion. To me it's clear that they are failing because the teachers are not aware that the previously great student needs additional help that he or she didn't need before the concussion. It's not a sudden behavior problem; it's a sudden brain injury. The sooner all of our educators understand this and make appropriate accommodations for that student, the better the chance that the student will make a full recovery without longlasting problems. And if we in the tbi community have to mandate these protocols. then so be it. It is better that rules exist for teachers to follow than for students to be left to suffer in silence as their world seems to disintegrate around them.

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