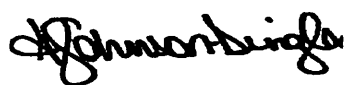





THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** P-12 Education Committee

**FROM:** Angelique Johnson-Dingle 

**SUBJECT:** Proposed Amendment of Section 135.5 and Addition of Section 136.9 to the Regulations of the Commissioner of Education Relating to Implementing the Dominic Murray Sudden Cardiac Arrest Prevention Act

**DATE:** May 5, 2022

**AUTHORIZATION(S):** 

#### **SUMMARY**

#### **Issue for Decision**

Should the Board of Regents adopt the proposed amendment of section 135.5 and addition of section 136.9 to the Regulations of the Commissioner of Education relating to implementing the Dominic Murray Sudden Cardiac Arrest Prevention Act?

#### **Reason(s) for Consideration**

Required by State statute.

#### **Proposed Handling**

The proposed amendment is presented to the P-12 Education Committee for discussion and to the Full Board for adoption at the May 2022 Regents meeting. A copy of the proposed rule is included as Attachment A and a statement of facts and circumstances justifying emergency action is included as Attachment B.

#### **Procedural History**

A Notice of Proposed Rule Making will be published in the State Register on June 1, 2022, and a Notice of Emergency Adoption will be published in the State Register on July 20, 2022.

## **Background Information**

Chapter 500 of the Laws of 2021, effective July 1, 2022, establishes the Dominic Murray Sudden Cardiac Arrest Prevention Act ("the Act") which:

- requires the Commissioner of Health to develop information, in conjunction with the Commissioner of Education, relating to pupils exhibiting signs or symptoms of pending or increased risk of sudden cardiac arrest;
- directs the Commissioner of Education to review such information created by the Department of Health and post such information on the Department's website;
- requires all schools to include such information in any permission form, consent form, or similar document that may be required for a student's participation in interscholastic athletics and include such information, or reference how to obtain such information from the Department and Department of Health's websites, on the school's website, if one exists;
- requires the Commissioner of Education to promulgate regulations requiring that any student displaying signs or symptoms of pending or increased risk of sudden cardiac arrest shall be immediately removed from athletic activities and shall not resume athletic activity until he or she has been evaluated by and received written and signed authorization from a licensed physician; such authorization must be kept on file in the pupil's permanent health record; and
- removes the reference to "the American National Red Cross" and replaces such term with "a nationally recognized organization" as defined in Public Health Law §3000-b(1)(d), regarding completion of a course of study in first aid knowledge and skills by public and nonpublic school coaches of extra-class activities.

Therefore, the Department proposes to add a new section 136.9 and amend section 135.5 of the Commissioner's regulations to implement the above provisions of the Dominic Murray Sudden Cardiac Arrest Prevention Act.

## **Related Regents Items**

Not applicable.

## **Recommendation**

It is recommended that the Board of Regents take the following action:

VOTED: That section 135.5 of the Commissioner's regulations be amended, and section 136.9 of the Commissioner's regulations be added, as submitted, effective July 1, 2022, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare and public health to timely implement the provisions of the Dominic Murray Sudden Cardiac Arrest Prevention Act (Chapter 500 of the Laws of 2021) on its effective date.

### **Timetable for Implementation**

If adopted as an emergency rule at the May 2022 Regents meeting, the emergency rule will become effective on July 1, 2022. It is anticipated that the proposed amendment will be presented for permanent adoption at the September 2022 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the September 2022 meeting, the proposed amendment will become effective as a permanent rule on September 28, 2022.

## Attachment A

### AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 305, 923, 3001-b, 3001-c of the Education Law and Chapter 500 of the Laws of 2021.

1. Part 136 of the Regulations of the Commissioner of Education is amended by adding a new section 136.9 to read as follows.

#### Section 136.9. Sudden Cardiac Arrest

##### (a) Applicability.

(1) The provisions of this section relate to pupils who display signs or symptoms of pending or increased risk of sudden cardiac arrest while engaging in athletic activities

(2) The provisions of this section shall apply to all school districts, charter schools, and nonpublic schools.

##### (b) Definitions. As used in this section:

(1) Athletic activities mean participation in physical education class or extra class athletic activities that involve physical activities that result in participants' increased heart and respiratory rates.

(b) Extra-class athletic activities means those sessions organized for instruction and practice in skills, attitudes, and knowledge through participation in individual, group, and team activities organized on an intramural, extramural, or interschool athletic basis to supplement regular physical education class instruction.

##### (c) Requirements.

(1) The Department shall post on its website information developed by the Commissioner of Health, in conjunction with the Commissioner, relating to students who

exhibit signs or symptoms of pending or increased risk of sudden cardiac arrest. Such information shall include, but not be limited to:

(i) The definition of sudden cardiac arrest; and

(ii) signs and symptoms of pending or increased risk of sudden cardiac arrest.

(2) A school shall include the information required under paragraph (1) of this subdivision in any document that may be required from a parent or person in parental relation for a pupil's participation in interscholastic sports, including a permission or consent form.

(3) A school shall include the information required under paragraph (1) of this subdivision on its website, if in existence, or reference how to obtain such information from the webpages where such information is available from the Department and the Department of Health.

(d) Removal from athletic activities.

(1) Any pupil who displays signs or symptoms of pending or increased risk of sudden cardiac arrest must be immediately removed from athletic activities.

(2) No such pupil shall resume athletic activity until he or she has been evaluated by and received written and signed authorization from, a licensed physician. With respect to extra class athletic activities for pupils attending a public school, no such pupil shall resume such activities until he or she has received clearance from the director of school health services to participate in such activity.

(i) Such authorization shall be kept on file in the pupil's permanent health record.

(ii) The school must abide by any limitations or restrictions concerning school attendance and activities issued by the pupil's treating physician.

2. Section 135.3 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 135.5. First aid knowledge and skills requirements for coaches

(a) Coaches of extra class periods in physical education, as defined in section 135.1(h) of this Part, shall meet the requirements of this section.

(b) Except as provided in subdivision (c) of this section, all coaches must hold valid certification in first aid knowledge and skills, including instruction in the administration of adult cardiopulmonary resuscitation, as issued by [the American National Red Cross] a nationally recognized organization, as defined in Public Health Law §3000-b(1)(d), or meet equivalent requirements as set forth in this section.

(c) By January 15, 1993, all coaches employed on or after January 15, 1992, must hold valid certification in first aid knowledge and skills, including instruction in administration of adult cardiopulmonary resuscitation, as issued by [the American National Red Cross] a nationally recognized organization, as defined in Public Health Law §3000-b(1)(d), or meet equivalent requirements as set forth in this section.

(d) For the purpose of this section, the following shall be deemed as equivalent to certification in first aid knowledge and skills, including instruction in administration of adult cardiopulmonary resuscitation as issued by [the American National Red Cross] a nationally recognized organization, as defined in Public Health Law §3000-b(1)(d):

(1) completion of an approved course for coaches in first aid knowledge and skills, including instruction in administration of adult cardiopulmonary resuscitation and instruction in recognizing signs and symptoms of cardiac arrest and sudden cardiac arrest;

(2) completion of an approved college or university first aid knowledge and skills course, including instruction in administration of adult cardiopulmonary resuscitation and instruction in recognizing signs and symptoms of cardiac arrest and sudden cardiac arrest;

(3) completion of approved college or university courses in athletic training and sports medicine, which include first aid knowledge and skills, including instruction in administration of adult cardiopulmonary resuscitation and instruction in recognizing signs and symptoms of cardiac arrest and sudden cardiac arrest; or

(4) equivalent experience which is approved by the Commissioner of Education.

(e) Except as provided in subdivision (c) of this section, prior to the start of each sports season, coaches must provide valid evidence to their chief school officer that their first aid and adult cardiopulmonary resuscitation knowledge and skills are current pursuant to the requirements established by [the American National Red Cross] a nationally recognized organization, as defined in Public Health Law §3000-b(1)(d), or that they meet equivalent requirements as set forth in subdivision (d) of this section.

**STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION**

Chapter 500 of the Laws of 2021, effective July 1, 2022, establishes the Dominic Murray Sudden Cardiac Arrest Prevention Act ("the Act") which:

- Requires the Commissioner of Health to develop information, in conjunction with the Commissioner of Education, relating to pupils exhibiting signs or symptoms of pending or increased risk of sudden cardiac arrest.
- Directs the Commissioner of Education to review such information created by the Department of Health and post such information on the Department's website.
- Requires all schools to include such information in any permission form, consent form, or similar document that may be required for a student's participation in interscholastic athletics and include such information, or reference how to obtain such information from the Department and Department of Health's websites, on the school's website, if one exists.
- Requires the Commissioner of Education to promulgate regulations requiring that any student displaying signs or symptoms of pending or increased risk of sudden cardiac arrest shall be immediately removed from athletic activities and shall not resume athletic activity until he or she has been evaluated by and received written and signed authorization from a licensed physician. Such authorization must be kept on file in the pupil's permanent health record.
- Removes the reference to "the American National Red Cross" and replaces such term with "a nationally recognized organization" as defined in Public Health Law



§3000-b(1)(d), regarding completion of a course of study in first aid knowledge and skills by public and nonpublic school coaches of extra-class activities.

Therefore, the Department proposes to add a new section 136.9 and amend section 135.5 of the Commissioner's regulations to implement the above provisions of the Dominic Murray Sudden Cardiac Arrest Prevention Act.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (non-emergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the September 2022 Regents meeting.

Furthermore, pursuant to SAPA 203(1), the earlier effective date of the proposed rule, if adopted at the September meeting, would be September 28, 2022, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the May 2022 meeting for the preservation of the general welfare and public health to timely implement the provisions of the Dominic Murray Sudden Cardiac Arrest Prevention Act (Chapter 500 of the Laws of 2021) on its effective date.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the September 2022 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rulemaking. However, since the emergency action will expire before the September 2022 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the September 2022 Regents meeting.