

section 136.9 of the Regulations of the Commissioner of Education, relating to implementing the Dominic Murray Sudden Cardiac Arrest Prevention Act.

A Notice of Proposed Rule Making was published in the State Register on June 1, 2022 for a 60-day public comment period in accordance with the State Administrative Procedure Act (SAPA). The Department has revised the rule as follows:

- The definition for the term “athletic activities” is revised to mean “participation in sessions for instruction and practice in skills, attitudes and knowledge through participation in individual, group and team activities organized on an intramural, extramural, interschool athletic or inclusive athletic activities basis to supplement regular physical education class instruction, otherwise known as extra-class periods in physical education or extra-class activities.”
- A new definition for “physical activities” is added, which is defined as “participation in physical education classes and recess or similar activities during the school day.”
- The proposed rule has been revised to clarify that, regarding athletic activities, any student who displays signs or symptoms of pending or increased risk of sudden cardiac arrest must be immediately removed from such activities and cannot return until they receive clearance from a physician. Regarding physical activities, any person who displays signs or symptoms of pending sudden cardiac arrest must be immediately removed from such activities and cannot return until they receive clearance from a health care provider, which may be either a physician, nurse practitioner (NP), or physician assistant (PA).
- Non-substantial revisions to the proposed rule have been made to replace the term “he or she” with “the student” to use non-gendered language, and the term “pupil” has been replaced with the term “student” as such term is generally used in more recent amendments to the Commissioner’s regulations.

The Board of Regents voted to adopt the revised proposed amendment as an emergency measure, effective September 13, 2022, upon a finding that such action is necessary for preservation of the public health and the general welfare 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 and to ensure the emergency action taken at the May 2022 meeting remains continuously in effect. A Notice of Emergency Adoption and Revised Rule Making will be published in the State Register on September 28, 2022 for a 45-day public comment period in accordance with SAPA.

It is anticipated that the proposed amendment will be presented for permanent adoption at the December 2022 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 45-day public comment period required under the State Administrative Procedure Act for revised rule makings. Because the emergency action will expire before the December 2022 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the October 2022 meeting. If adopted at the December 2022 meeting, the proposed amendment will become effective as a permanent rule on December 28, 2022.

Communications regarding the proposed action may be submitted to Kathleen DeCataldo, Assistant Commissioner, Office of Student Support Services, Room 318-M, Education Building, 89 Washington Avenue, Albany, NY 12234 (REGCOMMENTS@nysed.gov). Comments must be received by the State Education Department on or before November 12, 2022.

The text of the proposed rule follows:

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 students 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 sessions for instruction and practice in skills, attitudes and knowledge through participation in individual, group and team activities organized on an intramural, extramural, interschool athletic or inclusive athletic basis to supplement regular physical education class instruction, otherwise known as extraclass periods in physical education or extraclass activities.

(b) Physical activities mean participation in physical education classes and recess or similar activities during the school day.

(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 student'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 and physical activities.

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

(2) No student removed from athletic activities shall resume such activities until such student has been evaluated by and received written and signed authorization from, a licensed physician. No student removed from physical activities shall resume such activities until such student has been evaluated and received written and signed authorization from a healthcare provider. With respect to athletic activities for students attending a public school, no such student shall resume such activities until the student has also received clearance from the director of school health services to participate in such activity.

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

(ii) The school must abide by any limitations or restrictions concerning school attendance and athletic or physical activities issued by the student's treating physician or a health care provider.

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.