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PUBLIC SECTOR CLIENT ALERT: School Districts Must Meet January 1, 2012 Deadline for Implementing Sports-Related Head Injury and Concussion Policy

The first deadline set by the July 2010 law attempting to curb and effectively treat sports-related head injuries and concussions sustained by student athletes is quickly arriving and all school districts must ensure that they are compliant. That law, entitled "An Act Relative to Safety Regulations for School Athletic Programs," was designed to ensure that school districts have policies in place to deal with concussions and other head injuries. See Ch. 166 of the Acts of 2010.

By January 1, 2012, all school districts in Massachusetts must have at least an interim policy to address sports-related head injuries occurring in extracurricular athletic activities. That policy need not be the final policy, but each school district must affirm in writing on district letterhead that the school committee has approved at least an interim policy and that by March 1, 2012 the district will affirm in writing that it has adopted a final policy. The affirmation must be updated again by September 30, 2013. Thereafter, the policy must be reviewed and revised every two years.

Regulations promulgated pursuant to the new law, found at 105 CMR 201.00, outline the minimum requirements for a new policy. The regulations also require that the policy be developed by "a team consisting, at a minimum, of a school administrator, school nurse, school or team physician if on staff, athletic director, certified athletic trainer if on staff, neuropsychologist if available, guidance counselor, and teacher in consultation with any existing school health/wellness advisory committee." The policy must address sports-related head injuries but may also be applied to students generally.

One foreseeable issue that may arise from the implementation of these

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policies is the potential for school unions to request impact bargaining over the effects of the new policy. Districts should be aware that, while the law requires implementation of these policies, they may need to meet with unions to bargain over the impact of any change to wages, hours or terms and conditions of employment arising from a district's new policy if the union requests such bargaining.

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