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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.STATE.AL.US

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Honorable Ronald G. Johnson
Member, House of Representatives
3770 Sylacauga-Fayette Highway
Sylacauga, Alabama 35150

Education, Boards of – Sporting Events –
Athletics and Sports – Schools – Talladega
County

The term “governing body of each sport or recreational organization” includes all athletic organizations, both recreational and interscholastic. It does not include individual schools or school systems unless those entities act independently to sponsor athletic programs or hold school-sponsored athletic or recreational events.

Dear Representative Johnson:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Does the term “governing body of each sport or recreational organization” include schools and athletic organizations (i.e., the Alabama High School Athletic Association) that sponsor athletic programs and/or hold school-sponsored athletic events?

FACTS AND ANALYSIS

The Attorney General is authorized to issue opinions to the public officials and public bodies set forth in section 36-15-1 of the Code of Alabama. ALA. CODE § 36-15-1 (Supp. 2010). Legislators are not included among the

public officials that are entitled to receive opinions, with the exception of the Chairman of the Judiciary Committee ("Committee") of either House upon a matter under consideration by the Committee.

We are further limited by the statute to fact situations where "advice sought [is] necessary to [the] present performance of some official act that the officer must immediately perform." *Id.* The Attorney General is not authorized to issue opinions for moot, private, or personal questions. *Id.*

As a courtesy to Legislators, this Office has given opinions to Legislators if there is some nexus between the question posed and a perceived legislative duty. Your present question appears to be one in which we can give a formal opinion.

During the 2011 Regular Session, the Legislature passed Act 2011-541 (House Bill 108) regarding concussions, defined in the legislation as "a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works." 2011 Ala. Acts No. 2011-541, sect. 1(a)(2). The Legislature found that "[c]oncussions are one of the most commonly-reported injuries in children and adolescents who participate in sports and recreational activities," and that it is estimated that 3,900,000 sports-related and recreation-related concussions occur annually in the United States. *Id.* at sect. 1(a)(1). Moreover, the Legislature found that "[t]he risk of catastrophic injuries or death is significant when a concussion or head injury is not properly evaluated and managed." *Id.* Finally, the Legislature found that "[c]ontinuing to play with a concussion or symptoms of head injury leaves the young athlete especially vulnerable to greater injury and even death." *Id.* at sect. 1(a)(3).

As a result, the Legislature determined that there exists a need to inform and educate "health care providers, school systems, coaches, youth athletes, and their parents or guardians of the nature and risk of concussion and brain injury, including continuing to play after a suspected concussion or brain injury." *Id.* at sect. 1(b). Substantively, the act requires that a "youth athlete who is suspected of sustaining a concussion or brain injury in practice or game shall be immediately removed from participation and may not return to play until the athlete is evaluated by a licensed physician and receives written clearance to return to play from a licensed physician." *Id.* at sect. 2(d).

Additionally, section 2 of the act requires the following:

(a) The governing body of each sport or recreational organization shall develop guidelines and other pertinent information and forms to inform and educate youth athletes and their parents or guardians in their program of the nature and risk of concussion and brain injury, including continuing to play after a suspected concussion or brain injury. On a yearly basis, a

concussion and head injury information sheet shall be signed and returned by the youth athlete and the athlete's parent or guardian prior to the youth athlete's initiating practice or competition.

(b) Each sports or recreational organization governing body shall ensure that coaches receive annual training to learn how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person suspected of having a concussion.

(c) Each sports or recreational organization shall establish by rule the requirements of the training which shall be provided by using designated resources to the extent practicable and timelines to ensure that, to the extent practicable, every coach receives the training before the beginning of practice for the school athletic team.

(d) A youth athlete who is suspected of sustaining a concussion or brain injury in practice or game shall be immediately removed from participation and may not return to play until the athlete is evaluated by a licensed physician and receives written clearance to return to play from a licensed physician.

Id.

Given its stated legislative purpose and intent, the term "governing body of each sport or recreational organization" should be broadly construed to include all athletic organizations, both recreational and interscholastic. As it pertains to your particular question, the term would encompass the Alabama High School Athletic Association ("AHSAA") or any other organization that acts as the governing body of any sport or activity in which youth athletes are involved.

In the specific case of the AHSAA, a private organization whose membership adopts its own rules and regulations that govern its members, this Office has previously opined that schools and coaches who have chosen to be members of AHSAA should abide by the rules of the AHSAA at all times. *See* opinion to Honorable Gary Adcock, Board President, Attalla City Schools, dated June 25, 1998, A.G. No. 98-00171. This Office has been informed that the mandatory concussion policies and rules promulgated by AHSAA for its membership meet, if not exceed, the requirements set forth in the act. Those policies and rules are binding on the membership of the AHSAA.

The remaining question is whether the act applies to an individual school or school system. Generally speaking, an individual school or a school system is not the governing body of a sport or recreational organization. To the extent, however, a school or a school system "sponsors athletic programs," "holds

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school sponsored athletic events,” or otherwise assumes a governing capacity over some type of sport or activity (for example, if a school sponsors an intramural basketball tournament) the requirements of the act apply. Under those circumstances, the school or school system is acting in the capacity of a governing body of a sport or recreational organization, and it would be subject to the mandates of Act 2011-541.

CONCLUSION

The term “governing body of each sport or recreational organization” includes all athletic organizations, both recreational and interscholastic. It does not include individual schools or school systems unless those entities act independently to sponsor athletic programs or hold school-sponsored athletic or recreational events.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

LUTHER STRANGE
Attorney General

By:



BRENDA F. SMITH
Chief, Opinions Division

LS/JD/BFS

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