

**WRITTEN TESTIMONY**  
**IN SUPPORT OF HOUSE BILL 961 (2026)**

**Public Schools and Youth Sports Programs – Concussion Protocol – Alterations**  
*(Md. Educ. Code § 7-433)*

**Before the**  
**House Ways and Means Committee**  
**K–12 Education Subcommittee**  
**Maryland General Assembly**

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**Submitted by:**

**Duncan Morgen-Westrick**

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My name is Duncan Morgen-Westrick. I was born and raised in Cockeysville, and I am a graduate of Gilman, Class of 2011. Since 2017, I have served as a high school volleyball referee, officiating matches after work. I submit this written testimony in support of House Bill 961 based on my experience officiating interscholastic athletics and my background as a former high school and college volleyball player.

Throughout my time as a referee, I typically encounter one or two concussion related situations each season. In most cases, these situations are handled appropriately and without incident. However, there were a few occasions early in my officiating career where removing a player due to a suspected concussion did not go smoothly. I have had a coach argue with me when I removed a player from a game, and on another occasion, someone in the crowd screamed, “*She said she’s fine!*” This isn’t hypothetical, they are real situations involving children who may have sustained a concussion.

I am submitting this testimony in support of House Bill 961 because, **beginning in 2022**, the Maryland Public Secondary Schools Athletic Association (MPSSAA) began instructing referees that removing a player from a contest due to a suspected concussion is considered a “*coaching decision.*” As someone whose role is to promote safety, fairness, and the orderly conduct of play, this struck me as fundamentally wrong.

Under the Centers for Disease Control and Prevention’s “*Heads Up*” concussion guidance, the standard could not be clearer. In its *Heads Up: A Fact Sheet for Youth Sports*

*Officials*, the CDC speaks directly to officials and makes it explicit that, when a concussion is suspected, the official should remove the athlete from play immediately and should not allow the athlete to return until they are cleared by a qualified health care professional. This guidance is written specifically for sports officials and identifies removal from play as a core responsibility when an athlete's health is at risk.

The CDC's message to sports officials is direct and unequivocal: **“When in doubt, get them out.”** The fact sheet instructs referees to stop play and remove the athlete from competition even when symptoms are subtle or the athlete insists they are *“fine.”* This reflects modern medical understanding that delaying removal – even briefly – can significantly increase the risk of further injury.

Maryland's concussion statute, Md. Educ. Code § 7-433, was enacted in 2011 to protect students participating in interscholastic athletics and youth sports programs. The statute directs the State Department of Education to *“develop policies and implement a program to provide awareness”* regarding concussions, including education on *“the criteria for removal from and return to play.”* **Most importantly**, the statute mandates that *“[a] student who is suspected of sustaining a concussion or other head injury in a practice or game shall be removed from play at that time.”* A student who has been removed *“may not return to play until the student has obtained written clearance from a licensed health care provider trained in the evaluation and management of concussions.”*

While § 7-433 clearly requires immediate removal from play and establishes a strict return to play protocol, it does not explicitly identify which on field authority is empowered to carry out that removal during a contest. Instead, the statute directs the Maryland Department of Education to develop concussion awareness and training for coaches, school personnel, students, and parents, but does not mention athletic officials. Relying on that statutory structure, the MPSSAA has taken the position that referees lack authority under § 7-433 to remove a player for a suspected concussion.

### **Judicial Interpretation of § 7-433 Under Current Law**

In 2025, the Appellate Court of Maryland affirmed this interpretation of § 7-433 when I sued the MPSSAA for declaratory judgment. In an unreported opinion, *Morgen-Westrick v. Maryland Public Secondary Schools Athletic Association*, the Court concluded that, under current law, referees do not possess authority to remove a student from play due to a suspected concussion.

The Court acknowledged that § 7-433 mandates removal from play when a concussion is suspected but emphasized that the statute assigns responsibility for implementing that mandate to coaches. The Court noted that the General Assembly

required concussion awareness and verification of training for “coaches,” and observed that “[n]oteworthy, nowhere does the statute mention referees or sports officials.”

Reviewing the State Department of Education’s implementing regulation and PowerPoint presentations, the Court explained that those materials consistently assign removal responsibility to coaches and concluded:

*“Therefore, in Maryland, only coaches have the express responsibility for concussion removal during practice or games.”*

With respect to referees, the Court was explicit. After examining the statutory and regulatory framework, it held:

*“Sports officials are not part of the statutory or regulatory framework.”*

The Court also rejected the argument that referees have a First Amendment right, while acting in their *official capacity*, to disregard or contradict this framework. It concluded that when referees are performing their assigned duties during interscholastic athletic contests, their speech and conduct are subject to organizational control, and that the MPSSAA’s guidance at issue did not violate referees’ constitutional rights. This conclusion was reached even though I argued that referees are not employees or contractors of the State Department of Education or the MPSSAA and instead operate under contracts between referee associations and schools, school boards, and athletic associations. The Court nonetheless concluded that, when referees are acting in their official capacity during interscholastic athletic contests, their speech and conduct are subject to organizational control. The Court made clear that litigation cannot resolve the question of who may carry out the statute’s mandatory removal from play requirement, and that clarifying this authority is a policy decision for the General Assembly under § 7-433 as currently written.

### **Support from Statutory Partner Organizations**

I am joined in supporting House Bill 961 by the **Brain Injury Association of Maryland** and the **Maryland Athletic Trainers’ Association**. Their support is particularly significant because Md. Educ. Code § 7-433 expressly requires the Maryland Department of Education to develop concussion policies in coordination with those organizations:

***“The Department shall develop policies and implement a program** to provide awareness to coaches, school personnel, students, and the parents or guardians of students, **in collaboration with** the Maryland Department of Health, each county board, the Maryland Public Secondary Schools Athletic Association, **the Maryland Athletic Trainers’ Association, the Brain Injury***

**Association of Maryland**, and representatives of licensed health care providers who treat concussions, on:

(i) the nature and risk of a concussion or head injury;

**(ii) the criteria for removal from and return to play;**

(iii) the risks of not reporting injury and continuing to play; and

(iv) appropriate academic accommodations for students diagnosed as having sustained a concussion or head injury.”

— *Md. Educ. Code § 7-433(b)(1)*

The same organizations the statute identifies as partners in developing concussion policy are now urging the General Assembly to clarify the law to better protect student athletes.

### **The Need for Legislative Clarification**

**This interpretation of § 7-433 by the MPSSAA and the Court has real consequences.** Referees are among the few consistently neutral parties on the court or field. We have no stake in the outcome of the game, no allegiance to either team, and no incentive to keep an injured player in competition. We are often the first adults to observe a potentially concussive event, yet we are told we lack authority to act. Although some school systems – such as Howard County – have invested in athletic trainer coverage at every public high school, even in those systems athletic trainers frequently cover simultaneous contests in a single afternoon and may not be present at every event. In many other jurisdictions, athletic trainer coverage is limited or unavailable altogether. As a result, uncertainty, delay, and competitive pressure can take precedence over student safety—even though the law requires that a student be removed from play when a concussion is suspected.

This problem is compounded by the way current National Federation of State High School Associations (NFHS) rulebooks and casebooks are written. Those materials are written as if an athletic trainer or other qualified health care professional will be immediately available to evaluate a suspected concussion. In practice, that is rarely the case. Based on my experience, I would estimate that an athletic trainer is present at only about **ten percent** of the matches I officiate, and even when a school has an athletic trainer, it is not uncommon for that trainer to be moving between multiple contests taking place at the same time. As a result, the *real time judgment* envisioned by NFHS materials can depend on what a referee observes in the moment, including situations where a referee sees a potentially concussive event that is not immediately apparent to a coach. That circumstance is not hypothetical; it reflects the same situation I described earlier, prior to 2022, when I observed signs of a potential concussion, removed the player from the game, and was challenged by the coach for doing so.

Since 2022, when referees have been instructed that removal is a ‘*coaching decision*,’ I have experienced the consequences of this ambiguity firsthand. In a 2025 playoff match I officiated, a player was hit hard in the face by a volleyball. I observed signs consistent with a possible concussion, but the coach did not remove the player from competition. Under the current interpretation of § 7-433, I lacked clear authority to remove the player and could only just raise concern. That experience underscored that, even when a referee directly observes signs of a potential concussion, the student’s safety can hinge on whether the referee has clear authority to intervene.

**House Bill 961 addresses this problem directly.** It is a narrow, common-sense clarification of existing law. The bill does not change the medical standard, expand the definition of concussion, or alter the return to play requirements already established in § 7-433. Nor does it interfere with coaching decisions regarding strategy or routine substitution, except to the extent necessary to protect a student’s health. Instead, it resolves the ambiguity identified by the Appellate Court by making explicit that referees – neutral officials whose role is to promote safety, fairness, and the orderly conduct of play – may carry out the statute’s existing requirement that a student suspected of sustaining a concussion “**shall be removed from play at that time.**”

This clarification matters. It empowers referees to act decisively in moments when seconds matter. It reduces conflict by removing uncertainty about authority. Most importantly, it restores the *student first* purpose that motivated § 7-433 when it was enacted and realigns Maryland law with the CDC’s Heads Up guidance.

I respectfully urge this committee to advance **House Bill 961** and help ensure that Maryland’s concussion laws clearly prioritize the health and safety of student athletes. **No child should remain in play simply because the adults around them were unsure who had the authority to act.**

Thank you for your time, your consideration, and your commitment to the health and safety of Maryland’s students.

Respectfully submitted,

A handwritten signature in black ink that reads "Duncan Morgen-Westrick". The signature is written in a cursive, flowing style.

**Duncan Morgen-Westrick**