

Updated NCAA Concussion Protocol Requirements and Compliance with the Arrington Settlement Agreement

The NCAA recently published their 2020 updates to the Concussion Safety Protocol Template and the Concussion Safety Protocol Checklist. These documents can be accessed [here](#). The updates are intended to be utilized by NCAA member institutions to ensure their concussion protocols and emergency action plans are up to date. The updates do not, however, include any further guidance with regards to the *Arrington* Class Action Settlement Agreement. With the May 18, 2020 deadline quickly approaching for institutions to certify their compliance with the Settlement Agreement, now is the time to act.

Unfortunately, the requirements incorporate terms that are not defined in the Settlement Agreement, and the NCAA has advised its member institutions through a series of FAQs that “Because the Settlement Agreement is a legal document, we encourage you to work with institutional general counsel and/or other risk management staff to identify a reasonable and defensible interpretation of what ‘____’ means and the other requirements of this provision, after taking into consideration all relevant factors and variables that may impact the individual risks and compliance needs of your institution.”

As was published on April 3, 2020, below is a background on the Settlement Agreement and the issues facing institutions as they update their concussion protocols to comply with both *Arrington* and the updated NCAA requirements:

- Every student-athlete at every NCAA member institution will undergo pre-season baseline testing for each sport in which they participate prior to participating in practice or competition.
- Any NCAA student-athlete diagnosed with a concussion by medical personnel must be cleared by a physician before being permitted to return to play in practice or competition.
- NCAA member institutions shall ensure that medical personnel with training in the diagnosis, treatment and management of concussions are present at all Contact Sports games for Divisions I, II and III.
- NCAA member institutions shall ensure that medical personnel with training in the diagnosis, treatment and management of concussions are available at all Contact Sports practices for Divisions I, II and III.

We understand that each institution is unique, and that what is “reasonable and defensible” takes into account medical standards of care, resources available to an institution and numerous other individualized factors. If your institution has questions regarding the requirements of the *Arrington* settlement or updated NCAA Concussion Safety Protocol Template and Checklist, we would be happy to assist. Please feel free to contact Kyle Ritchie at kritchie@bsk.com or any other member of our [Collegiate Sports Practice Group](#) if you have any questions or would like to discuss further.



Bond has prepared this communication to present only general information. This is not intended as legal advice, nor should you consider it as such. You should not act, or decline to act, based upon the contents. While we try to make sure that the information is complete and accurate, laws can change quickly. You should always formally engage a lawyer of your choosing before taking actions which have legal consequences. For information about our firm, practice areas and attorneys, visit our website, www.bsk.com. • Attorney Advertising • © 2020 Bond, Schoenck & King PLLC

CONNECT WITH US ON LINKEDIN: SEARCH FOR BOND, SCHOENECK & KING, PLLC

FOLLOW US ON TWITTER: SEARCH FOR BONDLAWFIRM