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NEW ANTI-HAZING LAW REQUIRES PENNSYLVANIA COLLEGES AND UNIVERSITIES TO POST SEMI-ANNUAL REPORTS, WITH INITIAL REPORTS DUE JANUARY 15, 2019

By *Samantha Banks*

This fall, Pennsylvania adopted legislation in an effort to prevent, deter, and criminalize hazing at colleges, universities, and secondary schools. Pennsylvania's *Timothy J. Piazza Anti-Hazing Law* (Senate Bill 1090) (the "Law") was adopted in response to the death of Timothy Piazza, a student at Penn State University who died as a result of traumatic brain injuries he sustained during a fraternity pledging event.

The new Law expands the scope of activities that constitute hazing and imposes criminal liability on individuals, colleges, universities, secondary schools, and associated organizations, such as sports teams, fraternities and sororities, on a local and national level. Although colleges, universities and secondary schools were already required to adopt, distribute, and make publicly available their written anti-hazing policies, the new Law creates additional bi-annual reporting requirements for those institutions.

This article discusses some of the important provisions of the new [Anti-Hazing Law](#):

Expanded Definition of "Hazing"

The Law expands the definition of hazing. The scope of actions that constitute hazing is broader than what is commonly understood, and now

includes activities that create a reasonable likelihood of bodily injury. The revised definition of hazing can be broken down as follows, paraphrasing from the new Law:

For purposes of initiating, admitting, affiliating or continuing membership into an organization,

it is illegal to

intentionally, knowingly, or recklessly, force or coerce a minor or student to:

- a) violate criminal laws,
- b) consume food, liquids, alcohol, or drugs that would subject the person to risk of emotional or physical harm,
- c) endure brutality of a physical, mental, or sexual nature, or
- d) endure an activity that creates a reasonable likelihood of bodily injury.

Increased Scope of Criminal Liability for Individuals, Organizations, and Institutions

If a person is criminally charged for hazing, it is generally a summary offense. The new Law creates different grades of criminal penalties that can be imposed for hazing, depending on the severity of

the hazing activity. For example, if the hazing results in or creates a reasonable likelihood of bodily injury to a minor or student, the person can be charged with a third degree misdemeanor. Additionally, a person can be charged with a third degree felony for “aggravated hazing” if the hazing results in a serious bodily injury or death to a minor or student. Circumstances for elevating charges to “aggravated hazing” include a reckless indifference to the minor or student’s health and safety, or the forced consumption of alcohol or drugs.

The Law now includes a safe harbor provision, under limited circumstances, to protect individuals from criminal liability who seek medical attention for themselves or others.

One of the biggest reforms under the new Law is the imposition of criminal liability on colleges, universities, and organizations such as fraternities, sororities, and clubs, for hazing. Under the new Law, colleges, universities, and organizations can be fined up to \$5,000 for each hazing violation and up to \$15,000 for each aggravated hazing violation. Courts can impose additional equitable relief as a penalty against organizations for hazing, such as forfeiture of the property (fraternity or sorority house) involved in the hazing.

Consent is not a defense to a hazing charge. The new Law explicitly states that a person, college, university, or organization cannot avoid criminal liability for a hazing charge by claiming that the minor or student consented to the conduct deemed to be hazing. Additionally, a person, college, university, or organization can be charged with hazing or subjected to school-imposed penalties whether the conduct occurs on or off campus.

More Stringent Policy Requirements for Colleges, Universities, and Secondary Schools

Colleges, universities, and secondary schools were already required to adopt written anti-hazing policies under Pennsylvania’s former anti-hazing law. The policies should include a description of

the penalties for engaging in hazing and the methods of enforcing the anti-hazing requirements.

Under the prior law, only secondary schools were required to distribute the anti-hazing policies to athletic coaches and make the policies publicly available. Under the new Law, colleges and universities must provide the policies to each organization within the institution, and secondary schools must ensure that the students are informed of the policy. Additionally, under the new Law, colleges, universities, and secondary schools are all required to make their anti-hazing policies available not just on student portals, but on publicly accessible webpages.

Colleges, universities, and secondary schools also must now create programs for enforcing their anti-hazing policies and impose penalties for hazing including fines, withholding of diplomas, rescission for the organization to operate on campus, and probation, suspension, or expulsion of the person who committed the hazing.

New Reporting Requirements for Colleges and Universities Starting in January 2019

One of the most fundamental changes under the new Law is that colleges and universities are required, for the first time, to issue and publicly post a report of all reported hazing violations for the past five years. For each violation the report should identify the organization(s) involved, the date of the violation, a description of the violation, and the institution’s investigation of the violation.

The Law requires that colleges and universities each post the initial hazing report by January 15, 2019, update the report every six months thereafter, on January 1st and August 1st, and keep the report publicly available on the internet.

Conclusion

In general, institutions and affiliated organizations should document and investigate all hazing claims. Although colleges, universities, and secondary

schools were already required under Pennsylvania law to adopt and enforce anti-hazing policies, under the new Law's reporting requirements, colleges and universities must now document and publish information about hazing incidents from the past five years. Going forward, institutional hazing reports should include conduct that constitutes hazing according to the expanded definition as set forth in the new Law. The Law requires that colleges and universities issue reports of hazing violations, starting in January 2019. Additionally, under the new Law, colleges and universities can be held liable for criminal hazing charges.

Institutions should also be aware that federal anti-hazing legislation has been introduced. In 2017, federal legislators introduced the Report and Educate About Campus Hazing (REACH) Act, which would create federal hazing reporting requirements and require hazing education programs. With a nationwide call to curb hazing, educational institutions should proactively educate students about what conduct constitutes hazing and work to prevent such activities. ◆

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