

HAZING AND BULLYING: DO YOU KNOW YOUR RIGHTS?

A pledge at a fraternity at University of West Virginia was injured in a hazing incident. He suffered a concussion and needed stitches. A fraternity member was arrested and charged with battery. The fraternity was placed on a two and a half year suspension and it could be five years before it is allowed back on campus.

A high school girl in Florida is the victim of cyber bullying. She endures it for as long as she can. Finally, she commits suicide.

Hazing and bullying are prevalent. Hazing and bullying can serve as a trauma that can have long-lasting effects, and even end in death.

Hazing

Hazing statistics are staggering. Just a few include:

- 1.5 million high school students are hazed each year.
- 55% of college students involved in teams or other organizations experience hazing, including 73% of social fraternity/sorority members.
- Since 2004, more than 30 college students died after hazing, pledging, or initiation activities (several in recent weeks alone).
- Fewer than 10% of high school students and 5% of college students report hazing.

Texas has an anti-hazing chapter in the Texas Education Code, Subchapter F, Section 37.151 through 37.157.

Hazing is defined as any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization. The term includes:

- (A) Any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;
- (B) Any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

- (C) Any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
- (D) Any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described in this subdivision; and
- (E) Any activity that induces, causes, or requires a student to perform a duty or task that involves a violation of the Penal Code.

Quite a broad definition. It is not just what we used to think it to be—padding a fraternity pledge, requiring someone to drink to excess, or making sorority pledges dress funny and run through the local mall. It goes much further than that.

The Texas Anti-Hazing Statute defines these various activities as crimes. See, Texas Education Code Section 37.152. The crimes range from a Class B Misdemeanor to a State Jail Felony if an offense of hazing causes the death of another.

Not only can the individuals involved in the organization be guilty of hazing, but the organization itself can commit a hazing offense. See, Texas Education Code Section 37.153. The organization can be fined several thousand dollars if found to condone or encourage hazing.

If the person against whom the hazing was directed consented to the activity, that is not a defense. See, Texas Education Code Section 37.154.

Finally, anyone who testifies for the prosecution of a hazing offense, or reports a hazing incident to the Dean of Students or other appropriate official of an educational institution, is immune from prosecution. See, Texas Education Code Section 37.155. Even a doctor or other medical practitioner who treats a student who may have been subjected to hazing activities is immune from Civil or other liability. See, Texas Education Code Section 37.157.

This anti-hazing statute can be very useful as a standard of care on which to base claims of negligence or negligence per se. A case can be brought against the individuals involved, the local organization involved, and the national organization who oversees the local organization's operations. In addition, if the individual officers of the local organization were aware of what

was transpiring and did not report it as required by the Anti-Hazing Statute they can also potentially be responsible. Finally, any faculty advisors, and district and regional advisors of the organization can be included.

Hazing is prevalent. It can be devastating to the young person directly involved, as well as his immediate family. There are ways to seek redress.

Bullying

Bullying is in the media almost every day. Unlike hazing, bullying is a malicious activity done without potential benefit to the victim, like acceptance into a fraternity or sorority. Incidents of bullying have become more violent. Some bullying sadly ends in death, either from the bullying itself or as a reaction to being bullied. It is a serious issue facing all of us. Most states have anti-bullying laws.

In Part II of this article we will discuss more about bullying and your rights.

For more information about hazing and bullying or if you need help navigating through the issues related to this matter, please contact Mark Burck at 713-522-9444 or mburck@hanszenlaporte.com.

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