

A 50-State Summary of Hazing Laws
Angela Tylock, Senior Legal Intern, SUNY Student Conduct Institute
April 21, 2021

Hazing continues to be a wide-spread issue at colleges and universities across the United States. Institutions across the country face hazing related injuries and deaths. States have passed hazing laws in either the criminal code or education code to prevent them from happening again. Over the course of the first few months of 2021, at least two young men are known to have died from hazing related incidents, and other deaths are under investigation.¹ Some experts are concerned that the Covid-19 pandemic has brought about an increase in small house parties where there are significantly fewer watchful eyes to keep young people safe from hazing activities.² As institutions review policies and procedures to address hazing incidents, it is important to ensure they comply with specific state law.

In the United States, 46 states have at least some type of hazing law on the books. These laws range from criminal laws with sanctions for individuals and universities, to educational codes that threaten to withdraw funding from institutions for failure to investigate fully.

A summary of the state laws follows. For our members' reference, we have created two resources that provide an overview of all 50 states' hazing laws discussed in this summary, which are accessible within the SCI Casebook: The *50 State Hazing Law Chart*, with the full statutory text for each state, and the *Hazing Law Guide*, which is a color-coded breakdown of the similarities and differences among the 50 states' hazing laws.

I. Overview of State Hazing Laws

There are three main “types of hazing laws, which almost all states tend to fit into.

- 1) Law is in the criminal code, but not in the education code and does not require institutions to have a policy or enforce the legal requirements;
- 2) Law is in the criminal code and requires institutional enforcement; and
- 3) Law is in the education code and requires institutional enforcement, each institution to have their own policy, or both.

Alabama, Montana, and West Virginia have laws that do not fit into these buckets.³ And New Mexico, South Dakota, Wyoming, and Washington D.C. have no laws about hazing, either in the criminal or education code.

The criminal code, or penal code, contains all of a jurisdiction's criminal law offences, as well as any penalty – fines or incarceration – that may be associated with the offence. States typically classify crimes by seriousness. Of the states that have criminal sanctions for hazing, the majority classify hazing as a misdemeanor of varying levels, unless the incident results in serious bodily harm or death. If serious bodily harm or death occur, then states typically increase the classification to a felony. A person accused of hazing under a criminal hazing law would be subject to prosecution under these laws, although it is not common given the challenges associated with applying hazing laws.⁴ Additionally, a prosecutor has discretion to charge an

individual accused of hazing with another applicable law and therefore may choose not to charge the accused with hazing.

The education code encompasses the laws directly related to educational institutions. In some states, the education code refers to laws that only regulate the conduct of public schools. In other states, the education code applies to all educational institutions. In most states, the education code is permissive. This means that so long as an action is not specifically prohibited, schools are free to take that action. In states with hazing laws in the education code, the laws generally require institutions to have a hazing policy, or to have a system in place to enforce the state's policy. Both the education and criminal codes are written and established by the legislature or law-making body of each individual state.

Laws requiring institutional enforcement require educational institutions to adopt appropriate penalties for students and/or organizations violating either the institution's hazing policy or the education code's policy, depending on the state. Different sanctions that institutions may be required to impose for violations of hazing policies in these laws range from fines, withholding of diplomas, eliminating funding to an organization, rescission of institutionally sanctioned organization status for an organization, and probation, to suspension or dismissal for students.

II. Scope and Definition of "Hazing"

Whether in the criminal or education codes, most state laws define hazing using some variation of the following:

*intentionally, knowingly, or recklessly engaging in or participating in acts, which endanger another for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event.*⁵

Conduct that would likely be covered under this general definition would include a member of an organization requiring all new members to consume alcohol in excess so as to be considered for membership within the organization. This definition would likely also include conduct such as physical violence to a prospective teammate or club member, for instance, requiring all new teammates to be subjected to beating in order to be welcomed members of the team.⁶ Additionally, this general definition of hazing may encompass any activity which causes a mental health injury, such as severe threats or insults which lead to a person having severe anxiety or depression. However, mental health injuries may not be covered under individual states' definitions.

Many states include activities occurring on or off campus, or extend the policy to off campus housing used by organizations sanctioned by the institution. Most states exclude any physical violence or injury to physical or mental health as a result of any customary athletic events or similar contests or competitions. Several states also include language in their statute indicating that consent will not be a defense to sanctions for hazing. This means that if someone

has been charged with hazing, it will not be a defense to claim that the victim was willing to perform the activity, or consented to it being performed.

While many states have similar definitions for hazing, there are minor differences in the language used in the statutes: One common difference among states is the specific conduct that may be considered hazing. Each state lists slightly different examples of actions that may be considered hazing. Some states use broad language such as “forced activity” or “conduct” to mean any activities that are used for purposes of an initiation or pledging process.⁷ Other states use lists to indicate examples of behavior that may be considered hazing, such as this:

- (i) Physical brutality, such as whipping, beating, paddling, striking, branding, electric shocking, placing of a harmful substance on the body, or similar activity.
- (ii) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.
- (iii) Activity involving consumption of food, liquid, or any other substance, including but not limited to an alcoholic beverage or drug, that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.
- (iv) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.⁸

We encourage SCI members to check out our full references guides on Hazing laws in the U.S., which are accessible within the SCI Casebook: *The 50 State Hazing Law Chart*, with the full statutory text for each state, and the *Hazing Law Guide*, a color-coded breakdown of the similarities and differences among the 50 states’ hazing laws. Our members can find these resources within the Foundational Principles section, under the chapter on Regulation of Campus Organizations.

¹ Gentry McCreary, *What Can Campus Leaders Do About a Surge in Fraternity Hazing?*, The Chronicle of Higher Education (Mar. 15, 2021) https://www.chronicle.com/article/what-can-campus-leaders-do-about-a-surge-in-fraternity-hazing?bc_nonce=fpya60bsl85xjhzhjh3vo&cid=reg_wall_signup.

² *Id.*

³ Alabama has hazing regulations in their education code, which states that the penalty is a class C misdemeanor. Montana has hazing regulations in their education code, but there is no reference as to how it will be enforced or who should enforce it. Additionally, it is also unclear whether Montana’s code applies only to K-12 institutions or to all educational institutions. West Virginia has hazing laws in both the education code and the criminal code as well as requires institutions to have their own policy and to enforce the codified laws.

⁴ “The recipe for success in prosecuting those who haze requires only a few ingredients: a victim who is willing to come forward and discuss the incident, a defendant who is able to be charged under the state’s anti-hazing laws, and an effective state anti-hazing statute. As demonstrated by case law and newsworthy hazing incidents, achieving this balance is rare and nearly unprecedented.” Christopher Keith Ellis, *The Examination of Hazing Case Law as Applied Between 1980-2013*, Thesis and Dissertations – Educational Policy Studies and Evaluation 59, at 45 (2018) https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1064&context=epe_etds.

⁵ See ALA. CODE 1975 § 16-1-23; see also ARIZ. REV. STAT. ANN. § 15-2301; see also CONN. GEN. STAT. ANN. § 53-23a; see also DEL. CODE ANN. tit. 14, § 9302; see also FLA. STAT. ANN. § 1006.63; see also IDAHO CODE ANN. § 18-917; 720 ILL. COMP. STAT. ANN. 5 § 12C-50; IND. CODE ANN. § 35-42-2-2.5; IOWA CODE ANN. § 708.10; see also KAN. STAT. ANN. § 21-5418; see also KY. REV. STAT. ANN. § 164.375; see also LA. STAT. ANN. § 17:1801; see also ME. REV. STAT. tit. 20-A, § 10004; see also MD. CODE ANN., CRIM. LAW § 3-607; see also MASS. GEN. LAWS

ANN. ch. 269, § 17; *see also* MICH. COMP. LAWS ANN. § 750.411t; *see also* MISS. CODE ANN. § 97-3-105; *see also* MO. ANN. STAT. § 578.365; *see also* NEB. REV. STAT. ANN. § 28-311.06; *see also* NEV. REV. STAT. ANN. § 200.605; *see also* N.H. REV. STAT. ANN. § 631:7; *see also* N.J. STAT. ANN. § 2C:40-3; *see also* N.Y. PENAL LAW § 120.16; *see also* OKLA. STAT. ANN. tit. 21, § 1190; *see also* OR. REV. STAT. ANN. § 163.197; *see also* 18 PA. STAT. AND CONS. STAT. ANN. § 2802; *see also* 11 R.I. GEN. LAWS ANN. § 11-21-1; *see also* TENN. CODE ANN. § 49-7-123; *see also* TEX. EDUC. CODE ANN. § 37.151; *see also* UTAH CODE ANN. §§ 53G-9-601, 602; *see also* VT. STAT. ANN. tit. 16, § 570j; *see also* W. VA. CODE ANN. § 18-16-2; *see also* WIS. STAT. ANN. § 948.51.

⁶ *See Martin v. State*, 259 So. 3d 733 (Fla. 2018) (The Defendant was convicted of manslaughter, felony hazing resulting in death, and misdemeanor hazing after a student died from injuries resulting from a “traditional ritual.” Defendant appealed and the district court affirmed, and Defendant petitioned the Florida Supreme Court for review. The Florida Supreme Court held that the states hazing statutes are not overbroad as to violate the 1st Amendment and that the hazing ritual occurring on the bus at a marching band’s event did not constitute a “competition” under the statute and therefore was not an exemption. The decision of the appeals court was affirmed.).

⁷ NEV. REV. STAT. ANN. §200.605; OKLA. STAT. ANN. tit. 21, § 1190; WIS. STAT. ANN. § 948.51; N.D. CENT. CODE ANN. § 12.1-17-10; OHIO REV. CODE ANN. § 2903.31.

⁸ DEL. CODE ANN. tit. 14, § 9302; FLA. STAT. ANN. § 1006.63; HAW. CODE R. § 8-19-2; IOWA CODE ANN. § 708.10; MASS. GEN. LAWS ANN. ch. 269, § 17; MICH. COMP. LAWS ANN. § 750.411t; MO. ANN. STAT. § 578.365; NEB. REV. STAT. ANN. § 28-311.06; NEV. REV. STAT. ANN. § 200.605; N.D. CENT. CODE ANN. § 12.1-17-10; OKLA. STAT. ANN. tit. 21, § 1190; OR. REV. STAT. ANN. § 163.197; 18 PA. STAT. AND CONS. STAT. ANN. § 2802; 11 R.I. GEN. LAWS ANN. § 11-21-1; TEX. EDUC. CODE ANN. § 37.151; UTAH CODE ANN. §§ 53G-9-601, 602; W. VA. CODE ANN. § 18-16-2.