

- student organization, body, or athletic team or club,
 - regardless of whether the student organization, body or athletic team or club is officially recognized, sanctioned or authorized by an educational entity, and
- when the act creates a substantial risk of physical or mental injury to the student or prospective student.

Hazing includes any act committed as a part of a student's recruitment, initiation, pledging, admission into or affiliation with any student organization, athletic team or club, or living group; it also includes any pastime or amusement individuals are engaged in with respect to such organizations, athletic teams or clubs, or living group that is likely to cause bodily danger, physical harm, or serious psychological or emotional harm.

HB225 specifically calls out within the definition of hazing the consumption of food, liquid, alcohol, drugs or other substances that subject the person to a risk of harm, regardless of the student's willingness to participate.

A person who *commits hazing is guilty of a misdemeanor*. A teacher, professor, coach or other staff member of an educational entity who knew or reasonably should have known of the hazing and did not report the incident is guilty of a misdemeanor. Failure to report hazing is cause for suspension or revocation of educational licensure.

An individual may be found guilty of *aggravated hazing* when the act causes painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body or causes substantial mental harm to the student or prospective student. A person who commits aggravated hazing is guilty of a *fourth degree felony*.

If the perpetrator of hazing or aggravated hazing is under the age of 18, the perpetrator shall be considered for services under the Delinquency Act.

Hazing does not include any conduct that is officially sanctioned by an educational entity that furthers the legitimate curricular or extracurricular or military training program at the entity.

Consent to being hazed is not a defense.

Section 2 of HB 225 creates a new section of the Criminal Code which requires the higher education department create and maintain an online reporting portal for reporting of hazing and aggravated hazing incidents at educational entities. The reporting portal is to be maintained and staffed by a full-time director and a part-time staff member.

The higher education department shall provide referrals and resources for individuals reporting hazing or aggravated hazing. Reports of hazing or aggravated hazing shall be reported to the office of civil rights of the U.S. department of education.

Hazing complaints made through the portal are exempt from the Inspection of Public Records Act.

If the higher education department has sufficient funding, the department shall advertise the reporting portal statewide and prominently post information on the department's website.

HB225 requires annual reporting. Public or private schools serving kindergarten through twelfth

grade must report to the public education department. Public or private post-secondary education institutions must report to the higher education department.

Section 3 of HB 225 requires public or private post-secondary education institutions to provide hazing prevention education, including the dangers of hazing as well as the prohibition on hazing. This can be provided to employee either in person or electronically. Hazing prevention education shall be provided to employees at the beginning of each academic year and for new employees at the beginning of each academic term.

Section 4 of HB 255 provides complaints and the information gathered regarding the complaint are exempt from the right to inspect public records.

Section 5 appropriated \$500 thousand to the higher education department.

FISCAL IMPLICATIONS

HB 225 appropriates \$500 thousand from the general fund to the higher education department for the implementation of a statewide hazing reporting portal and hiring of staff to operate the portal.

Any unexpended or unencumbered balances shall revert.

HB225 does not appropriate funds to post-secondary institutions. There will be institutional costs associated with developing training materials and the required outreach. For some institutions these costs will be minimal, for other post-secondary institutions these costs may be more significant.

SIGNIFICANT ISSUES

Hazing – activities that humiliate, degrade, abuses or endangers a person – regardless of the person’s willingness to participate – has no place in post-secondary education. New Mexico is one of 6 states that does not have an anti-hazing law.

HB 225 is clearly states the higher education department must notify the office of civil rights of the U.S. department of education of a report hazing or aggravated hazing. HB 225 is silent on when or if the higher education department will notify a post-secondary institution about a report of hazing or aggravated hazing on its campus. In this instance, it is unclear in HB 225 how an institution is expected to address the hazing report. Lack of notification inhibits the post-secondary institution in its ability to prevent, stop, and remedy hazing and aggravated hazing.

HB 225 requires post-secondary institutions to report annually on hazing, as reports on hazing will be submitted through the higher education department portal, it is unclear what the focus of the report will be.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Both HB 225 and SB 55 are in conflict -- both make hazing illegal in New Mexico. The definitions, penalties and requirement are different.