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STUDENTS FALL VICTIM TO HAZING EPIDEMIC:
UNITY AT WHAT COST?

Helene Bruckner*

I. INTRODUCTION

As many college students do every year, nineteen year old Timothy Piazza decided to pledge to the Beta Theta Pi fraternity. However, on the night of February 2, 2017, Piazza was not aware that this night of pledging would be his last few hours on earth. The hazing activities revolved around the forced consumption of large amounts of alcohol. As a result, Piazza became very intoxicated, which led to his falling down a staircase where he suffered a traumatic and ultimately fatal brain injury.

The Beta Theta Pi fraternity brothers hazed Piazza when the activities commenced with “The Gauntlet,” which is a sequence of drinking events where the pledges consume various drinks in about

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1 Caitlin Flanagan, A Death at Penn State, ATLANTIC 93, 94 (2017).
2 Id.
3 Id. at 104.
4 Id.
5 Id. at 105.

6 In 2009, eight years prior to Piazza’s death, Penn State suspended the Beta Theta Pi fraternity because of a fight at the fraternity house, a tailgate party, and other drinking violations. Lori Falce, Beta Theta Pi has History of Issues at Penn State, Other Colleges, CTR. DAILY LIVE (Feb. 8, 2017), http://www.centredaily.com/news/local/education/penn-state/article131605324.html#storylink=cpy. During the 1990s, Beta Theta Pi released its “Man of Principle” initiative when it enacted a “100% hazing-free pledge program,” and instituted an “alcohol-free recruitment.” The Men of Principle Initiative, BETA THETA PI: MEN PRINCIPLE, http://beta.org/about/man-of-principle-initiative/ (last visited May 7, 2018).
two minutes to complete the challenge. The hazing began with all the pledges collectively finishing a handle of vodka. Next, the pledges entered the fraternity house, took a shot of vodka, and ran down the hallway to “shotgun” a beer. After shotgunning the beer, the underage pledges were forced to drink wine from a bag as the brothers poured beer all over them. In order to complete “The Gauntlet,” the students directed the pledges to “make a shot in beer pong” and if they missed the cup, “they had to chug a beer.”

After the pledges completed “The Gauntlet,” the Beta Theta Pi fraternity hosted a social gathering with a female sorority. At around 10:30 pm, Piazza was visibly intoxicated and required assistance from one of the Beta Theta Pi brothers to walk. During the party, Piazza stumbled around the house and fell down the basement stairs. After falling down the stairs, Piazza’s brothers then carried him back up the stairs, observed visible bruising on his limp body and put him on a couch. As Piazza’s unresponsive body remained on the couch, one of the brothers poured liquid on him, but Piazza did not respond. Another brother attached a backpack to Piazza to ensure that he did not move.

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9 “Shotgunning” is a way to consume a beer very quickly by poking a hole in the side of the can to drink from, while opening the tab on top to allow the beer to be drunk faster. Id.
10 Id.
11 Id.
12 Id.
15 Id.
16 Id.
17 Id.
18 When a highly intoxicated person passes out, his friends may affix a backpack onto the person to keep him on his side to prevent him from rolling over onto his back and choking on his own vomit. This is commonly referred to as “backpacking,” “JanSporting,” or “the dunk pack.” However, doctors state that this is a misconception and it will not prevent someone from choking on his vomit. For example, McCrae Williams was a freshman lacrosse player at Lafayette College, who died on September 11, 2017, because of a night of heavy drinking.
not roll over and choke on his own vomit.\textsuperscript{19} Fifteen minutes later, that same brother decided to sit on Piazza’s legs and prevent him from moving.\textsuperscript{20} The fraternity’s “Pledge Master” checked on Piazza and slapped him on the face three times.\textsuperscript{21}

On February 3rd at 1:00 am, Piazza vomited and twitched on the couch.\textsuperscript{22} Piazza’s brothers “backpacked” him to prevent him from rolling over onto his back.\textsuperscript{23} Highly intoxicated, Piazza spent the next five hours attempting to stand up only to fall back down onto the floor.\textsuperscript{24} Piazza’s fraternity brothers slapped Piazza again in their quest to help him regain consciousness.\textsuperscript{25} At 5:00 am, Piazza stood up and stumbled into the lobby where he fell again, this time into an iron railing and tumbled head first into the front door.\textsuperscript{26} Piazza’s limp body was lying on the ground where he clutched his abdomen.\textsuperscript{27}

During the next two hours, Piazza’s brothers observed him on the floor and even took videos of him while he suffered in pain, just hours away from his death.\textsuperscript{28} At around 10:00 am, Piazza’s brothers discovered him in the basement since he had fallen down the basement stairs again.\textsuperscript{29} His brothers carried him back upstairs to the couch\textsuperscript{30} and shook his unconscious body in another attempt to wake him.\textsuperscript{31} They then covered Piazza’s cold, lifeless body with a blanket and cleaned the blood from his face.\textsuperscript{32} According to the detective on the case, some of the brothers attempted to dress him while others cleaned

Although Williams’s incident did not involve hazing activities, his friends “backpacked” him to help keep him from rolling over onto his back. Doctors urge students that “if someone is that drunk that you are considering putting a backpack on them, you need to call 911.” Brian X. McCrone, \textit{Why Do College Kids Think a Backpack Can Save a Drunk Friend’s Life?} NBC PHILA. (Sept. 20, 2017), https://www.nbcphiladelphia.com/news/local/Jansporting-College-Kids-Using-Backpacks-to-Prop-Up-Intoxicated-Friends-446166633.html.
up any “evidence of beer and alcohol.”

Finally, at 10:48 am, one of the fraternity brothers called 911, but never informed emergency services that Piazza had fallen down the stairs. On February 4th at 1:23 am, Piazza was pronounced dead at the hospital.

According to the surgeon at the hospital, Piazza suffered a “shattered” spleen, which was likely worsened by the slapping and multiple hits he endured. His abdomen contained “four liters of ‘old, dark blood.’” Piazza had respiratory failure due to a collapsed lung, a skull fracture, and multiple traumatic brain injuries, which all contributed to his death.

This appalling event is one of the most horrific incidents this country has seen in hazing cases. Every year, more than half of college students partake in some form of hazing. While hazing rituals commonly occur in Greek life and athletics, they have played a role in recreational clubs, academic clubs, and even in honor societies. Hazing rituals come in many shapes and sizes and range from forced consumption of alcohol to beatings and humiliation of pledges, to partaking in sexual activities. Although most students do not die in hazing incidents as Timothy Piazza did, according to a

34 Vasile, supra note 14.
35 Vasile, supra note 14.
36 Hilary Hanson, Fraternity and Members Face Hundreds of Charges in Timothy Piazza Hazing Death, HUFFINGTON POST (May 6, 2017), https://www.huffingtonpost.com/entry/beta-theta-pi-penn-state-hazing-timothy-piazza_us_590e3636e4b0e7021e9834e1.
38 Hanson, supra note 36.
41 Elizabeth Allan & Mary Madden, Hazing in View: Students at Risk, NAT’L STUDY STUDENT HAZING, Mar. 11, 2008, at 15.
study by Hank Nuwer, at least one college student has died every year in a hazing-related death since 1970.44

This Note recommends the amendment of the Higher Education Act (“HEA”) of 196545 to incorporate the proposed Report and Educate About Campus Hazing Act (“REACH Act”), which attempts to track hazing incidents.46 The HEA was enacted in 1965 “to strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education.”47 The Clery Act is a part of HEA48 that requires colleges and universities to collect, publish, and distribute campus crime statistics that are not collected anywhere else.49 Currently, the Clery Act does not require the collection of

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48 In 1990, the Clery Act was enacted after Jeanne Clery was raped and murdered in her college dorm room by a classmate. Clery’s parents fought to have colleges and universities publicly disclose the campus crime statistics. Since 1990, the Clery Act has required colleges and universities that participate in federal student aid programs to disclose this information annually. Clery Act, SAFE CAMPUS LLC, http://safecampuses.biz/clery-act/ (last updated Mar. 16, 2018). In 2013, Congress amended the Clery Act to incorporate the Campus Sexual Violence Elimination Act (“Campus SaVE Act” or “SaVE”). SaVE provides victims of campus sexual violence with enhanced rights and provides the college community with sexual violence educational prevention programs. Campus SaVE Act, SAFE CAMPUS LLC, http://safecampuses.biz/clery-act/campus-save-act/ (last updated Mar. 16, 2018).
49 HEA requires the higher education institution to report on:

(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

(i) of the following criminal offenses reported to the campus security authorities or local police agencies:

(I) murder;
(II) sex offenses, forcible or nonforcible;
(III) robbery;
(IV) aggravated assault;
(V) burglary;
(VI) motor vehicle theft;
(VII) manslaughter;
(VIII) arson;
hazing statistics and the enactment of the REACH Act would compel higher education institutions to keep track of and report hazing incidents that may occur on or off campus.\textsuperscript{50}

At the state level, hazing laws vary from the definition of “hazing” to the fines and jail time associated with hazing violations.\textsuperscript{51} This Note also explores the loopholes in state legislation and advocates for an anti-hazing education component for high school and college students.\textsuperscript{52} New York State’s Dignity for All Students Act (“DASA”), which aims to provide public school students with a discrimination and bully-free environment, should be amended to include anti-hazing training for students and educators.\textsuperscript{53} This revised Act could serve as a model for other states throughout the country to help combat the hazing epidemic that is plaguing our high schools and colleges.\textsuperscript{54}

This Note is divided into six parts. Part II will discuss the history of hazing and the current state statutes on hazing. Part III explores who hazes and who is hazed, and the impacts of hazing on students. Part IV recommends closing a loophole in some states’ hazing definitions and recognizing mental injury that may result from hazing. Part V analyzes the REACH Act and supports its implementation. Part VI advocates the implementation of an anti-hazing education program and amending New York State’s DASA to include hazing and when amended it should be adopted by every state

\begin{itemize}
\item[(IX)] arrests of person referred for campus disciplinary action for liquor law violations, drug-related violations, and weapon possessions; and
\item[(ii)] of the crimes described in subclauses (I) through (VIII) of clause (i), of larceny-theft, simple assault, intimidation, and destruction, damage, or vandalism of property, and of other crimes involving bodily injury to any person, in which the victim is intentionally selected because of the actual or perceived race, gender, religion, national origin, sexual orientation, gender identity, ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice; and
\item[(iii)] of domestic violence, dating violence, and stalking incidents that were reported to campus security authorities or local police agencies.
\end{itemize}


\textsuperscript{50} H.R. 2926.

\textsuperscript{51} HANK NUWER, THE HAZING READER 179 (2004).


\textsuperscript{54} Waiting for College to Talk About Hazing is Much Too Late, TIMES-PICAYUNE (Sept. 26, 2017), http://www.nola.com/opinions/index.ssf/2017/09/fraternity_hazing.html.
to help combat discrimination, bullying, and hazing that may take place in other states’ high school communities.

II. HISTORY OF HAZING AND HAZING TODAY IN THE UNITED STATES

Unfortunately, Timothy Piazza is not the first student to experience hazing that led to a premature death.\(^{55}\) Hazing dates back centuries to its origins in Ancient Greece and Rome.\(^{56}\) Students in the Middle Ages in European universities were hazed.\(^{57}\) Even Martin Luther participated in hazing, as he believed that it made the students stronger by preparing them for the challenges they would endure as adults.\(^{58}\) Legalized in England during the nineteenth century, schools supported and encouraged hazing because they believed that hazing taught obedience.\(^{59}\)

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\(^{55}\) In 2011, Robert Champion, a member of the Florida A&M University band, died in a hazing incident. As a part of the band’s initiation, Champion endured the “hot seat” and “crossed over.” In the “hot seat” the band kicked, punched, and hit Champion with drum mallets and sticks. After this physical violence, Champion “soldiered” his way to the back of the bus to “cross over.” Because of this beating, Champion went into cardiac arrest and died. Mallory Simon, Witnesses: FAMU Drum Major Beaten with Drum Mallets in Hazing Gauntlet, CNN (May 25, 2012), https://www.cnn.com/2012/05/24/justice/famu-hazing-documents/index.html. During another hazing incident in 2005, Matthew Carrington performed calisthenics in raw sewage while he was forced to answer trivia questions and do pushups. While being blasted by fans of cold air, Carrington urinated and vomited all over himself. Carrington was ordered to drink water from a five-gallon jug that was continuously filled multiple times. Eventually, Carrington collapsed and had a seizure. However, the frat did not initially call an ambulance. Carrington died from water intoxication that caused his brain and lungs to swell. Elaine Korry, A Fraternity Hazing Gone Wrong, NPR (Nov. 14, 2005), https://www.npr.org/templates/story/story.php?storyId=5012154. In 2013, Chun “Michael” Deng died in a hazing ritual that took place in Pennsylvania. “Deng was blindfolded, forced to wear a heavy backpack and then repeatedly tackled as part of the fraternity’s Crossing Over initiation ceremony. He was knocked unconscious and later died at a hospital.” Associated Press, 4 Ex-Fraternity Members get Jail in Pledge’s Hazing Death, BOS. HERALD (Jan. 8, 2017), http://www.bostonherald.com/news/national/2018/01/4_ex_fraternity_members_get_jail_in pledges_hazing_death.

\(^{56}\) SUSAN LIPKINS, PREVENTING HAZING: HOW PARENTS, TEACHERS, AND COACHES CAN STOP THE VIOLENCE, HARASSMENT, AND HUMILIATION 3 (2006). Students and their “special mentor” had a relationship that necessitated “servitude, kidnapping, and sexual favors.” Id.

\(^{57}\) Students would drink “concoctions” made of urine and endure skin scrapings from their ears. Id.

\(^{58}\) Id.

\(^{59}\) Id.
A. Hazing in the United States

In the United States, hazing has been practiced for hundreds of years.\textsuperscript{60} Dating back to 1657 at Harvard University, several upperclassmen hazed the freshmen and were fined for their actions.\textsuperscript{61} In 1818, Harvard University students created the secret society of the Medical Faculty Society, which brought chaos to the campus.\textsuperscript{62} The society had initiation rituals that exposed new members to risky activities that would have resulted in their expulsion from the university.\textsuperscript{63} In 1873, New York had its first case of hazing at Cornell University, which resulted in the death of Mortimer Leggett.\textsuperscript{64} Throughout the mid-1800s, hazing traditions were prevalent in the United States Armed Forces.\textsuperscript{65} These traditions led Congress to prohibit all forms of military hazing in the United States’ first anti-hazing statute in 1874.\textsuperscript{66} While hazing was rampant in the military, it was also taking place in other institutions.\textsuperscript{67}

\textsuperscript{60} Id. at 4.
\textsuperscript{61} RONALD W. HOLMES, HOW TO ERADICATE HAZING 18 (2013).
\textsuperscript{62} LIPKINS, supra note 56, at 4.
\textsuperscript{63} LIPKINS, supra note 56, at 4.
\textsuperscript{64} Deborah Gesenway, The Sad Tale of Mortimer Leggett, CORNELL DAILY SUN, Mar. 20, 1981, at 6. As a part of Kappa Alpha’s initiation, the brothers left Mortimer Leggett blindfolded during a “moonlight stroll” in unknown woods and left him to find his way back to the chapter house. While walking through the woods Leggett fell to his death down a 37-foot cliff. Id.
\textsuperscript{65} Acquaviva, supra note 52, at 311. Naval seamen physically humiliated junior midshipmen to demonstrate their superiority over them. Acquaviva, supra note 52, at 311.
In 1894, New York was the first state to enact a hazing statute\(^68\) followed by Illinois in 1901.\(^69\) From the 1900s to the 1920s, Greek organizations grew on college campuses throughout the country.\(^70\) In the 1930s, when the Great Depression hit, Greek memberships dropped due to the unaffordability of fees associated with the organizations.\(^71\) After World War II, hazing picked up in the Greek organizations with the veterans who returned from war bringing their “boot camp mentality.”\(^72\) During a liberation movement in the 1960s and 1970s, Greek organizations diminished because they were considered pro-establishment.\(^73\)

According to Hank Nuwer’s study, from 1969 to 2017, there has been at least one hazing-related death each year.\(^74\) These deaths stemmed from hazing activities in fraternities and athletics, with a

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\(^{68}\) New York’s first anti-hazing statute was enacted in 1894 and stated:

It shall be unlawful for any person to engage in or aid or abet what is commonly called hazing, in or while attending any of the colleges, public schools or other institutions of learning in this state, and whoever participates in the same shall be deemed guilt of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than one hundred dollars, or imprisonment not less than thirty days nor more than one year, or both, at the discretion of the court.

Whenever any tattooing or permanent disfigurement of the body limbs or features of any person may result from such hazing, by the use of nitrate of silver or any like substance, it shall be held to be a crime of the degree of mayhem, and any person guilty of the same shall, upon conviction, be punished by imprisonment for not less than three nor more than fifteen years.

HAZING, ANNOTATED CONSOLIDATED LAWS OF THE STATE OF NEW YORK 3925 (Matthew Bender & Co., 1909).

\(^{69}\) Lewis, supra note 67, at 119. The Illinois statute defined hazing as:

[A]ny pastime or amusement, engaged in by students or other people in schools, academies, colleges, universities, or other educational institutions of this state, or by people connected with any of the public institutions of this state, whereby such pastime or amusement is . . . for the purpose of holding up any student, scholar or individual to ridicule for the pastime of others.

HAZING, LAWS OF THE STATE OF ILLINOIS 145 (1901).


\(^{71}\) Id.

\(^{72}\) Id. at 686.

\(^{73}\) Id.

\(^{74}\) HANK NUWER’S HAZING CLEARINGHOUSE, supra note 44. As of May 8, 2018, there have been no reported deaths from hazing for 2018.
majority of them involving alcohol.\textsuperscript{75} In 1978, Chuck Stenzel died in a hazing accident involving alcohol.\textsuperscript{76} Stenzel’s death led to the creation of the “Committee to Halt Useless College Killings” (‘CHUCK’).\textsuperscript{77} CHUCK’s mission was to raise awareness about the dangers of hazing and the unnecessary risks that occur, which led to an increasing number of states that enacted anti-hazing legislation.\textsuperscript{78} Following CHUCK, twelve states enacted hazing statutes during the 1980s,\textsuperscript{79} and by 1990 twenty-five states had laws to regulate hazing.\textsuperscript{80}

B. Current Hazing Laws

Currently, forty-four states have anti-hazing laws.\textsuperscript{81} Seven of these states impose a duty to report on a person who has knowledge of

\textsuperscript{75} Id.

\textsuperscript{76} In 1978, Chuck Stenzel, a student at Alfred University, was joining a fraternity. The fraternity brothers took Stenzel from his bed and locked him in the trunk of a car. In order to be let out of the trunk, the brothers forced him to “consume a pint of whisky, a six-pack of beer and a bottle of wine.” Stenzel passed out on “a bed in the frat house” where he eventually died alone. Dean Schabner, \textit{Hazing Claiming Younger Victims}, ABC NEWS (Oct. 17, 2003), http://abcnews.go.com/US/story?id=96824&page=1.


\textsuperscript{78} Eileen Stevens, the founder and president of CHUCK, stated that she is directing her efforts toward “life-threatening, dangerous hazing, where there is a total disregard for human life, and dangerous, unnecessary risks are taken.” She emphasizes that “[s]he is not anti-fraternity . . . simply anti-abuse.” Lewis, \textit{supra} note 67, at 119 n.36 citing Webbe, \textit{Hazing: Sometimes a Lethal Game}, CHRISTIAN SCIENCE MONITOR, 1980 at 33.


\textsuperscript{80} Lewis, \textit{supra} note 67, at 119-20 n.37.

a hazing incident. For example, Massachusetts’ anti-hazing statute provides a fine up to one thousand dollars for a failure to report a hazing violation. Nineteen states have barred consent as a defense.
and eighteen states prohibit “mental or emotional” harm under their statutes.  

Of the forty-four state anti-hazing statutes, all have varying fees and jail time for a hazing violation. The Michigan statute provides that if the hazing acts result in a death, a person found guilty could face up to fifteen years imprisonment or a $10,000 fine, or both. A violation of the Florida anti-hazing statute may result in a first-degree misdemeanor with up to one-year imprisonment or a felony of the third-degree with imprisonment of up to five years. Meanwhile, Colorado classifies a hazing violation as a class three misdemeanor, which has a minimum fine of $50 to a maximum fine of $750, six months in jail, or both. Other states, such as Arizona, adopted an anti-hazing statute that requires public educational institutions to “adopt, post and enforce a hazing prevention policy,”

Seventy-Ninth Regular Session (2017)); N.H. REV. STAT. ANN. § 631:7 (Lexis through Act 15 of the 2018 Regular Session); N.J. STAT. § 2C:40-4 (Lexis through New Jersey 218th First Annual Session, L. 2018, c. 7 and J.R. 4); OR. REV. STAT. ANN. § 163.197 (Lexis through Chapter 49 of the 2018 Legislative Session); S.C. CODE ANN. § 16-3-540 (Lexis through all legislation signed and in effect through chs. 127-34, 136-37, 142, 150 of session 122-2); TEX. EDUC. CODE § 37.154 (Lexis through the 2017 Regular Session and 1st C.S., 85th Legislature); UTAH CODE ANN. § 76-5-107.5 (Lexis through the 2017 First Special Session); VT. STAT. ANN. tit. 16, § 570j (Lexis through Chapter 89 and Municipal Act 15 of the 2017 adjourned session (2018)); W. VA. CODE § 18-16-2 (Lexis through all legislation effective as of March 10, 2018).

“Many states have passed hazing statutes that say a victim’s consent for some or all of the proceedings has no bearing in the prosecution of a case.” HANK NUWER, HIGH SCHOOL HAZING: WHEN RITES BECOME WRONGS 27 (2000).


86 NUWER, supra note 51, at 179.

87 MICH. COMP. LAWS SERV. § 750.4111 (Lexis through 2018 Public Act 119, with a gap of Public Act 116). Stating that a person found guilty of hazing is punishable as follows:

(a) If the violation results in physical injury, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(b) If the violation results in serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $2,500.00, or both.

(c) If the violation results in death, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

88 FLA. STAT. ANN. § 1006.63 (Lexis through all legislation signed and in effect as of the 2018 Regular Session chs. 1-2, 4-9, 11-23, 25-68, 70-109, 112-15, 117-25, 127-93).

89 COLO. REV. STAT. § 18-9-124 (Lexis through all Laws passed and signed in the First Regular and First Extraordinary Sessions of the 71st General Assembly (2017)).
yet there are no fines or imprisonments associated with the violation of the hazing policies.⁹⁰ The forty-four states with hazing legislature have varying fines, different sentences, and various definitions of hazing and what they cover, which has led some people to call for a more comprehensive federal anti-hazing statute.⁹¹

C. Should Hazing Be Covered Under State Law or Federal Law?

Advocates of anti-hazing legislation argue that Congress should enact a federal anti-hazing statute⁹² that would impose stricter penalties for hazing violations.⁹³ The proposed statute would combat hazing by “defin[ing] hazing and provid[ing] for a consistent method to investigate acts of hazing,”⁹⁴ and would provide “clear consequences for hazardous hazing.”⁹⁵ However, others believe that a “federal law would duplicate state law”⁹⁶ causing more problems and therefore their efforts should focus on the enactment of anti-hazing laws in the remaining six states.⁹⁷

There are two sides to imposing tougher punishments for hazing violations, which create many challenges in hazing prevention.⁹⁸ Proponents of stricter laws demand more stringent legal

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⁹⁰ ARIZ. REV. STAT. § 15-2301 (Lexis through First Regular Session of the Fifty-Third Legislature (2017), all legislation, the First Special Session of the Fifty-Third Legislature (2018), and emergency legislation from the 2018 2nd Regular Session, effective as of April 12, 2018).


⁹² LIPKINS, supra note 56, at 150. Susan Lipkins and Karen Savoy have proposed the National Hazing Prevention Act (NHPA). This Act would “provide funding for a toll-free anonymous number to report hazing, as well as establish university-based centers to create prevention and intervention programs and to train professional to implement them.” LIPKINS, supra note 56, at 150.


⁹⁴ Hosansky, supra note 91.

⁹⁵ Hosansky, supra note 91.

⁹⁶ Hosansky, supra note 91.

⁹⁷ Hosansky, supra note 91.

⁹⁸ Hosansky, supra note 91.
consequences to deter hazing. 99 The other side believes stricter laws may drive hazing underground. 100 A “code of silence“ 101 already surrounds hazing, and the enactment of more stringent legislation may drive hazing farther underground and surround it with even greater secrecy. 102

Some oppose anti-hazing laws because they believe hazing makes people better and stronger and that it is a tradition and a rite of passage. 103 In the Alfred University Study, some athletes responded that hazing is a valuable part of growing up and creates team chemistry, and others claimed that it makes you mentally stronger and tougher. 104 In Hank Nuwer’s book, The Hazing Reader, the author shared various emails he received from people “who want hazing to continue.” 105 In a Sports Illustrated opinion piece, Richard Hoffer stated “[w]e’re all for college and pro hazing” because it “builds camaraderie and teaches humility.” 106

99 LIPKINS, supra note 56, at 150. “I don’t think the laws have made a big difference,” says Maxwell of hazingprevention.org. “They send a message, but, in terms of their effectiveness, I don’t think they’re a good deterrent.” Hosansky, supra note 91.

100 HANK NUWER, HIGH SCHOOL HAZING: WHEN RITES BECOME WRONGS 113 (2000). “[A] major challenge for Greek-letter leaders is dealing with secret or ‘underground’ hazing.” Id.

101 LIPKINS, supra note 56, at 87. “The code of silence is an unwritten understanding among any group of people not to tell if something happens that may be illegal, immoral, or unethical.” “The power behind the code of silence is based on fear, and this fear makes us not want to break the silence.” “Sometimes the fear is real and intimidation and threats are used. Sometimes the fear is implied, such as the fear of retribution or social isolation.” LIPKINS, supra note 56, at 87. “Fears of getting caught by authorities sometimes makes hazers conduct initiations secretly in remote places, a condition that can lead to deaths or serious injuries with no hospitals close by for help.” NUWER, supra note 100, at 50.

102 Brandon W. Chamberlin, Am I My Brother’s Keeper?: Reforming Criminal Hazing Laws Based on Assumption of Care, 63 EMBRY L.J. 925, 936-37 (2014).

103 Allan, supra note 41, at 29.


105 NUWER, supra note 51, at xxi-xxii. Nuwer has received emails that defend hazing, stating “America is the land of the free [with] the freedom to join whatever group you want. . . . If I want to join a group that beats the crap out of me every day, I can.” Another email stated, “No wonder there are so many wimps in society today. EVERYBODY WANTS TO BE A VICTIM! Unless there is extreme physical harm being done then hazing amongst teams, social clubs/groups, etc. is good and a bonding experience. Once you’ve ‘been there, done that’ you’re proud of yourself and it is a brotherhood-bonding thing.” NUWER, supra note 51, at xxi-xxii.

106 NUWER, supra note 51, at xxii (quoting Sports Illustrated’s Richard Hoffer from an opinion piece in September 13, 1999).
D. Hazing Laws in Pennsylvania

Timothy Piazza’s tragic death was a direct result of a hazing incident.107 On February 2, 2017, Piazza was forced to partake in pledging rituals for the Beta Theta Pi fraternity at Penn State University.108 The main event for the pledges was “The Gauntlet,” which involved the consumption of a tremendous amount of alcohol in a relatively short period.109 It is estimated that as a result of the heavy drinking that led to Piazza’s death at nineteen years old, his BAC was between .28 and .36 percent.110

Initially, the prosecution charged eighteen Beta Theta Pi fraternity brothers and the national fraternity in connection with Piazza’s death.111 Under Pennsylvania law, the charges included involuntary manslaughter, aggravated assault, providing alcohol to minors, tampering with evidence,112 and hazing.113 On September 1, 2017, Magisterial District Judge Allen Sinclair dismissed the most serious charges of involuntary manslaughter and aggravated assault in the case.114 The charges that remained included hazing,115 as well as recklessly endangering another person116 and furnishing alcohol to

107 Alexandersen, supra note 7.
108 Alexandersen, supra note 7.
109 The recovered video footage revealed that Piazza consumed 18 alcoholic drinks in one hour and 22 minutes. Shawn Annarelli & Jeremy Hartley, New Evidence Shows Timothy Piazza was Given at least 18 Drinks in 1 Hour and 22 Minutes, DA Says, CTR. DAILY TIMES (Nov. 13, 2017), http://www.centredaily.com/news/local/crime/article184354873.html#storylink=cpy.
111 Id.
112 Inside the Beta Theta Pi house there were surveillance cameras that had footage from February 2, 2017, the night Piazza died. However, this footage was deleted. Sara Ganim, Recovered Video Leads to New Charges in Penn State Fraternity Death, CNN (Nov. 13, 2017), http://www.cnn.com/2017/11/13/us/penn-state-fraternity-hazing-death/index.html.
113 Id.
115 24 PA. STAT. ANN. § 5353.
116 18 PA. CONS. STAT. ANN. § 6310.1: “Selling or furnishing liquor or malt or brewed beverages to minors.” “[A] person commits a misdemeanor of the third-degree if he intentionally and knowingly sells or intentionally and knowingly furnishes, or purchases with the intent to sell or furnish, any liquor or malt or brewed beverages to a person who is less than 21 years of age.” If convicted, a person “shall be sentenced to pay a fine of not less than $1,000 for the first violation and a fine of $2,500 for each subsequent violation.”
minors. Under Pennsylvania law, all of these crimes are misdemeanors.

Inside the Beta Theta Pi house there were surveillance cameras that had footage from the night Piazza died that the fraternity brothers deleted; however, the FBI recovered the previously deleted surveillance footage, which led to eight students charged in relation to Piazza’s death. In November 2017, the charges were filed again against the twenty-six students facing various charges, with a request for a new judge to hear the case. Currently, the Pennsylvania Attorney General Josh Shapiro is handling the case and on March 15, 2018, his office declared it will not pursue eight counts of felony aggravated assault in the case. On May 7, 2018, after three days of preliminary hearings with Judge Steven Lachman, the new judge announced eleven defendants will go to trial on charges of hazing and unlawful acts related to alcohol while dropping all charges of reckless endangerment and furnishing alcohol to a minor.

117 18 PA. CONS. STAT. ANN. § 2705 “Recklessly endangering another person. A person commits a misdemeanor of the second-degree if he recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury.”

118 Under Pennsylvania law, a second-degree misdemeanor may result in the maximum sentence of no more than two years’ imprisonment. 101 PA. CODE § 15.66(6). A third-degree misdemeanor may result in no more than a year of imprisonment. 101 PA. CODE § 15.66(7).

119 Ganim, supra note 112.


123 The following is a list of the defendants in the case and the related charges. Ryan Burke: Hazing (four counts), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (four counts), and Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages (one count). Joseph Gerard Ems: Hazing (one count), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (one count). Michael D. Fernandez: Hazing (two counts), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (two counts). Brian A. Gelb: Hazing (six counts), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (five counts). Reginald R.
Pennsylvania defines hazing as:

Any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a person . . . for the purpose of initiation or admission into or affiliation with, or as a condition for continued membership in, any organization. The term shall include, but not be limited to, any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug or other substance, or any other forced physical activity which could adversely affect the physical health and safety of the individual. . . . For purposes of this definition, any activity as described in this definition upon which the initiation or admission into or affiliation with or continued membership in an organization is directly or indirectly conditioned shall be presumed to be “forced” activity, the willingness of an individual to participate in such activity notwithstanding.124

Anyone “who causes or participates in hazing”125 commits a misdemeanor of the third-degree.126 In Pennsylvania, a third-degree misdemeanor may result in the maximum sentence of not more than

Goek: Hazing (one count), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (one count). Patrick E. Jackson: Hazing (two counts), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (two counts). Jonathan P. Kanzler: Hazing (two counts), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (two counts), and Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages (one count). Joshua R. Kurczewski: Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (seven counts), and Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages (one count). Aidan M. O’Brien: Hazing (one count), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (two counts), and Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages (one count). Donald M. Prior: Hazing (four counts), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (three counts). Bo Han Song: Hazing (three counts), Unlawful Acts Relative to Liquor, Malt, and Brewed Beverages and Licensees (three counts), and Purchase, Consumption, Possession or Transportation of Liquor or Malt or Brewed Beverages (one count). Bret Pallotto, Judge Announces Which Charges Head to Trial for 12 Former Beta Theta Pi Brothers, CENTRE DAILY TIMES (May, 7, 2018), http://www.centredaily.com/news/local/crime/article210484114.html.

124 24 PA. STAT. ANN. § 5352.
125 24 PA. STAT. ANN. § 5353.
126 Id.
one-year imprisonment\textsuperscript{127} or $2,500 fine.\textsuperscript{128} If found guilty of hazing as a third-degree misdemeanor, under Pennsylvania law, the Beta Theta Pi fraternity members could serve less than a year in jail or pay a $2,500 penalty.\textsuperscript{129} According to the grand jury report, in this case, there was a call for a stronger state hazing law\textsuperscript{130} and for the crime to “reflect the seriousness of the offense and not the lowest grade misdemeanor Pennsylvania has in its crime code.”\textsuperscript{131} Although the Pennsylvania hazing law language recognizes mental and physical injuries and closes the gap for athletic teams, some believe that the punishment does not fit the crime in cases of hazing deaths such as Timothy Piazza’s.\textsuperscript{132}

\section{III. The Who, What, When, Where, and Why of Hazing}

Every year since the 1970s, at least one college student across the country has died in a hazing incident.\textsuperscript{133} Although hazing has been occurring in this country for hundreds of years,\textsuperscript{134} and we now have forty-four states with anti-hazing legislation,\textsuperscript{135} students are still dying, becoming seriously injured, or suffering mental pain as a result of hazing.\textsuperscript{136} To get to the root of the hazing epidemic it is helpful to understand hazing: who is hazed, who the hazer is, what is hazing,
when and where does hazing take place, and why do students haze each other.\textsuperscript{137}

\textbf{A. Who Hazes and Who is Hazed?}

There is no one profile of a person who hazes others.\textsuperscript{138} Typically, the hazers are the leaders of the group and are often senior members.\textsuperscript{139} Usually, the hazers have very high standing in the group because of their “size, status, abilities, or personality.”\textsuperscript{140} The hazer may be the troublemaker or the bully, but the star athlete or team captain may also be the hazer.\textsuperscript{141} Most likely, these hazers were once victims of hazing themselves, and now they believe it is their turn to haze the newcomers.\textsuperscript{142} Often, the victims of hazing are the newcomers with low social status in the group.\textsuperscript{143} Frequently, the newcomers assume and accept the idea that they will endure hazing through the pledging rituals.\textsuperscript{144}

\textbf{B. What are Hazing Activities?}

Hazing has been broken down into two categories: subtle hazing and harassment hazing.\textsuperscript{145} Subtle hazing is when the hazing actions go against the “sorority or fraternity standards of conduct, behavior, and good taste.”\textsuperscript{146} Moreover, subtle hazing is an activity.\textsuperscript{147}

\begin{footnotesize}
\begin{enumerate}
\item LIPKINS, supra note 56, at 26.
\item LIPKINS, supra note 56, at 26.
\item LIPKINS, supra note 56, at 28.
\item LIPKINS, supra note 56, at 26-27.
\item LIPKINS, supra note 56, at 26-27.
\item LIPKINS, supra note 56, at 29.
\item LIPKINS, supra note 56, at 26.
\item Helen Oliff, \textit{Lifting the Haze Around Hazing}, EDUC. DIGEST 23 (2002).
\item Id.
\item Id.
\end{enumerate}
\end{footnotesize}
that “ridicules, humiliates, or embarrasses” a newcomer.\textsuperscript{148} Harassment hazing is defined as “[a]nything that causes mental anguish or physical discomfort” or “confuses, frustrates, or causes undue stress” to a newcomer.\textsuperscript{149}

The most common hazing practice among all types of student groups\textsuperscript{150} is excessive alcohol consumption, followed by humiliation, isolation, and sleep deprivation.\textsuperscript{151} Students will participate in high-risk, humiliating, physically and mentally painful, even illegal, activities just to fit in with a student group.\textsuperscript{152} Some of the physical activities include paddling,\textsuperscript{153} beating,\textsuperscript{154} punching,\textsuperscript{155} branding,\textsuperscript{156}

\textsuperscript{148} Id.

\textsuperscript{149} Id.

\textsuperscript{150} “Student groups” include fraternities, sororities, athletic teams, intramurals sports, club sports, performing art groups, recreation clubs, academic clubs, honor societies, religious groups, cultural-based groups, and student government. Allan, supra note 41, at 15.

\textsuperscript{151} Allan, supra note 41, at 16.

\textsuperscript{152} The National Study of Student Hazing responses indicated that at least some percentage of students have experienced hazing that requires the student to:

- Participate in a drinking game,
- [s]ing or chant by self or with select others of groups in public in a situation that is not a related event, game, or practice,
- [a]ssociate with specific people and not others,
- [d]rink large amounts of alcohol to the point of getting sick or passing out,
- [d]eprive [them]self[ves] of sleep,
- [b]e screamed, yelled, or cursed at by other members,
- [d]rink large amounts of a non-alcoholic beverage,
- [b]e awakened during the night by other members,
- [a]ttend a skit or roast where other members of the group are humiliated,
- [e]ndure harsh weather conditions without appropriate clothing,
- [p]erform sex acts with the opposite gender,
- [w]atch live sex acts,
- [w]ear clothing that is embarrassing and not part of a uniform,
- [g]et a tattoo or pierce a body part,
- [s]have head or other body parts,
- [or] [b]e transported and dropped off in an unfamiliar location.

Allan, supra note 41, at 16-23.

\textsuperscript{153} In 2016, Terrance Bennett pledged to Tau Kappa Epsilon at Johnson and Wales University in Rhode Island. According to Terrance, the fraternity’s brothers blindfolded him on the floor in a “hostage position” with his hands behind his head and beat him with boat paddles. Terrance was hospitalized because of the beating because his skin was split open causing the blood pool and infection, which resulted in his liver shutting down. Lucy Waterlow & Erica Tempesta, College Student Recalls How He Was Brutally Beaten with Boat Paddles, Urinated on and Branded During Horrific Hazing Ritual in New Documentary Exposing a Very Dark Side of Fraternities, DAILY MAIL (June 22, 2016), http://www.dailymail.co.uk/femail/article-3654776/College-student-recalls-brutally-beaten-boat-paddles-urinated-branded-horrific-hazing-ritual-new-documentary-exposing-dark-fraternities.html.

\textsuperscript{154} Simon, supra note 55. Robert Champion’s band members punched, kicked, and hit him in a hazing incident that caused him to go into cardiac arrest and die. Simon, supra note 55.

\textsuperscript{155} Lipkins, supra note 56, at 20-21.

\textsuperscript{156} Amon Carter was branded by his fraternity brothers while he was passed out during a night of drinking. His brothers used a hot coat hanger to stamp the fraternity letters on his
restraining, confinement, physical degradation, and physical exhaustion.

Most hazing incidents involve the consumption of alcohol. Alcohol plays a big part in Greek life hazing, athletic hazing, and even high school hazing. The new members are hazed through peer pressure or even coerced into consuming copious amounts of alcohol, which can be extremely dangerous or even deadly, as it

157 Five football players from Wheaton College in Illinois were charged in a hazing incident for unlawful restraint of one of their freshman teammates. The hazers restrained the freshman victim with duct tape wrapped around his wrists and legs. The hazers carried him to their car and bound him with more duct tape as they removed his underwear and tried to insert an object into his rectum. The victim cried for them to stop, and the hazers beat him instead. The hazers left the victim half-naked and restrained in the middle of a baseball field without his cell phone to call for help. The victim suffered two torn shoulder labrums that required surgery. Stacy St. Clair & Christy Gutowski, In Hazing Case, Wheaton College Players Suspended from Team, and Another Turns Himself In, CHI. TRIB. (Sept. 20, 2017), http://www.chicagotribune.com/news/local/breaking/ct-wheaton-college-hazing-met-20170919-story.html.

158 William Flowers was pledging to Zeta Beta Tau at the Monmouth College chapter. During the initiation activities, he was “to dig his grave in the sand and lie in it.” Unfortunately, the sand caved in, and Flowers suffocated and died. Acquaviva, supra note 52, at 318-19.

159 The amount of physical degradation and humiliation that occurs is endless. Sorority pledges have had to stand naked on running washing machines to have their “jiggly” areas marked and have been ranked according to their breast size. Hollie McKay, Mean Girls: Humiliating Hazing Still a Problem at College Sororities, FOX NEWS (Sept. 25, 2014), http://www.foxnews.com/entertainment/2014/09/25/mean-girls-dangerous-hazing-growing-problem-at-college-sororities.html.

160 Kristin High, 22, and Kenitha Saafir, 24, were both pledging to the Alpha Kappa Alpha Sorority at California State University, Los Angeles. As a part of the hazing ritual, High and Saafir did calisthenics on the beach after engaging in other physical activities. The hazers directed the girls to walk backwards into the ocean. Due to their physical exhaustion and the height of the waves, the girls were knocked over by a wave and drowned. Sorority Accused of Hazing in $100 Million Suit, CNN (Sept. 24, 2002), http://www.cnn.com/2002/LAW/09/23/sorority.death/index.html.

161 NUWER, supra note 51, at 139. “Alcohol and hazing. The two . . . go together. Rarely do we have a problem that does not also include alcohol.” NUWER, supra note 51, at 139.

162 NUWER, supra note 51, at 139. LIPKINS, supra note 56, at 24.

163 Student-athletes “tend to drink about twice as much as the general student population.” NUWER, supra note 100, at 81.

164 NUWER, supra note 100, at 23.

165 LIPKINS, supra note 56, at 24.

166 LIPKINS, supra note 56, at 24. Some students may endure severe hangovers or require medical attention such as having their stomachs pumped, or broken or fractured bones. LIPKINS, supra note 56, at 24.
was for Timothy Piazza. The hazers pressure the newcomers into consuming alcohol either indirectly or directly. The indirect type involves “the easy accessibility of alcohol and reinforcement to drink by observing others.” The direct type is when the hazers urge the newcomers to drink or suffer punishment. Alcohol consumption during hazing events leads to fights, sexual abuse, car accidents, injuries, and death. Half of the respondents in the Alfred University Study stated they “were required to participate in drinking contests or alcohol-related hazing.” When alcohol is involved, especially in high volumes, hazing becomes more dangerous with inebriation and the inability to make decisions. Although drug abuse may be prevalent in Greek life, drugs do not play as large of a role in hazing incidents as alcohol does.

While hazing can affect students physically, it may also affect them mentally. Mental pain affects many students, sometimes even longer than physical pain as they carry it with them. The psychological and emotional harm from hazing includes “anger, fear, nightmares, and suicidal tendencies.” Moreover, some victims have poor academic performance after a hazing incident, and some have “difficulty eating, sleeping, and concentrating.”

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167 Vasile, supra note 14.
168 NUWER, supra note 51, at 177.
169 NUWER, supra note 51, at 177.
170 NUWER, supra note 51, at 177.
171 NUWER, supra note 51, at 177. “According to the National Interfraternity Conference, which in 1998 studied traumatic incidents among its members, alcohol was present in ninety-five percent of falls from high places, ninety-four percent of fights, ninety-three percent of sexual-abuse incidents, eight-seven percent of automobile accidents, sixty-seven percent of all falls on fraternity property, and forty-nine percent of hazing incidents. Alcohol use was a factor in eighty percent of injuries resulting in paralysis and in just under ninety percent of deaths.” NUWER, supra note 51, at 177.
172 ALFRED UNIV., supra note 104.
173 NUWER, supra note 100, at 44-45.
175 Acquaviva, supra note 52, at 316.
176 The physical activities may include a symbolic activity or a physical challenge. The psychological activities are often humiliating acts, which usually cause more pain to the newcomer. LIPKINS, supra note 56, at 14-15.
177 Acquaviva, supra note 52, at 316.
178 Acquaviva, supra note 52, at 317.
179 Acquaviva, supra note 52, at 317.
troublesome is that fifteen percent of victims later considered suicide.180

C. When Does Hazing Begin?

About half of college students have already experienced hazing in high school.181  According to the Alfred University Study published in 1999,182 over 1.5 million high school students were “subjected to some form of hazing each year,”183 mostly humiliating acts,184 and a majority of these students “did not perceive even the most dangerous initiation activities as hazing.”185

The National Study of Student Hazing found that forty-seven percent of respondents reported that they experienced hazing at least once while they were in high school,186 and five percent said they first encountered hazing in middle school.187  High school hazing is not nearly as severe or deadly as it is in college,188 but the hazing still involves “alcohol consumption, paddlings, or savage beatings—which could easily cause permanent injury or death.”189  Generally, hazing does not occur before twelve years old;190 however, some educators have made efforts to inform middle and high school students of the dangers of hazing.191  Often, school districts do not implement a formal policy until after a hazing tragedy occurs.192  At that point it is too late

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180 What are the Consequences of being Hazed?, ALFRED UNIV., https://www.alfred.edu/hs_hazing/consequences.cfm (last visited May 8, 2018).
181 Allan, supra note 41, at 32.
182 ALFRED UNIV., supra note 104.
183 LIPKINS, supra note 56, at 29.
184 LIPKINS, supra note 56, at 29.
185 LIPKINS, supra note 56, at 29.
186 Allan, supra note 41, at 32. “Forty-seven percent of respondent’s report experiencing at least one hazing behavior while in high school, including 51% of the male and 45% of the female respondents. However, 84% of those who reported experiencing a hazing behavior do not consider themselves to have been hazed.” Allan, supra note 41, at 32.
187 NUWER, supra note 100, at 78.
188 NUWER, supra note 100, at 23.
189 NUWER, supra note 100, at 23.
191 NUWER, supra note 100, at 23.
192 NUWER, supra note 100, at 23.
for the hazing victim because the damage was already done. Middle and high schools need to be proactive and educate students on hazing to prevent it from happening in schools and later in college.

D. Where Does Hazing Take Place?

Hazing may take place on campus or off campus, but a majority of it takes place off campus in private. Surprisingly, about one-half of students indicated the hazing occurred during the day. Students also reported that friends, coaches, family, and advisors have some knowledge of hazing in some cases. Some students claimed that they believed that coaches or advisors were aware of the hazing behavior; other students indicated that alumni were present during the hazing activity. In states like Massachusetts, there is a penalty for “whoever knows that another person is the victim of hazing” and fails to report this knowledge. The penalty in Massachusetts for a failure to report is a fine of one thousand dollars or less. While there have been efforts by most of the states to implement anti-hazing legislation, hazing is still occurring in colleges and high schools across the country.

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193 TIMES-PICAYUNE, supra note 54. In hazing expert Walter M. Kimbrough’s opinion, we as a society have “waited to treat hazing instead of trying to vaccinate against it.” He says we need a “hazing vaccine” to combat the hazing “before the disease has taken root.” Kimbrough states that all the studies, policy reviews, shorter pledge periods are not going “to treat a 600-year-old problem after it has taken root in the host.” Instead, he advocates a proactive education of middle and high school students about hazing to prevent it from occurring. Id.

194 TIMES-PICAYUNE, supra note 54.

195 Allan, supra note 41, at 24. On campus, hazing may take place in the locker rooms or on the school bus. It is typically when the hazing "participants perceive a lack of adult supervision [and] [t]hey do not believe that outsiders or authorities will intervene to stop the activities." Definitions, INSIDE HAZING, https://www.insidehazing.com/definitions/ (last visited May 7, 2018).

196 Allan, supra note 41, at 24.

197 Allan, supra note 41, at 24. Around forty-six percent of off campus hazing takes place in private in comparison to the eleven percent that occurs off campus in public. Allan, supra note 41, at 24.

198 Allan, supra note 41, at 24.

199 Allan, supra note 41, at 25.

200 Allan, supra note 41, at 25.

201 Allan, supra note 41, at 25.

202 MASS. ANN. LAWS ch. 269, § 18 (Lexis through Act 109 of the 2017 Legislative Session).

203 Id.

204 HANK NUWER’S HAZING CLEARINGHOUSE, supra note 44.
E. Why do Students Haze?

Hazing occurs because, for some students, it brings a “sense of belonging.” Many of these students would rather go through humiliating, painful, and degrading acts of hazing for initiation into a group than not fit in. While some may think that hazing is similar to bullying on campus, Dr. Susan Lipkins states that the characteristics of hazing are “very different from other kinds of violence that occur[s] among teens and adults.” Lipkins believes that groups haze to “maintain a hierarchy” for the group with a “specific social structure.”

The senior members want the newcomers to understand the hierarchy of the group, and that as newcomers they have a lower status than the senior members. The senior members enforce the hierarchy by having the newcomers “respect” their ‘elders”’ through the hazing process. The newcomers are deemed to have less power than those who have already been “established” and accepted as a member of the group. When the newcomer completes the initiation process, the

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205 Oliff, supra note 145, at 22.
206 Oliff, supra note 145, at 22.
207 Susan Lipkins is a psychologist who has researched and interviewed many hazers and hazing victims. Her research focuses on the psychology of hazing. Lipkins, supra note 56, at 171. Hazing and bullying have some similar characteristics in that they both utilize physical, verbal, or social violence and involve a power imbalance between the bully and the victim or the hazer and the hazed. However, bullying is not used to gain membership into a group, whereas hazing ends when the newcomer gains admission into the group. Hazing typically takes place over a few weeks or months, while bullying is a repeated unwanted aggressive behavior by a bully to the victim that may take place for a long time. Hazing vs. Bullying, STOP HAZING, https://www.stophazing.org/hazing-vs-bullying/ (last visited May 7, 2018).
208 Lipkins, supra note 56, at 13.
209 Lipkins, supra note 56, at 13.
210 Lipkins, supra note 56, at 15.
211 Lipkins, supra note 56, at 15.
212 Lipkins, supra note 56, at 15. Lipkins stated the idea of “respect” is prevalent in the Greek organizations, while in athletics the “respect” concept is more of a “dominance” idea that the seniors believe they have over the underclassmen. Lipkins, supra note 56, at 15.
213 Lipkins, supra note 56, at 15.
214 Lipkins, supra note 56, at 15.
newcomer is a member of the group with higher status, and the cycle begins again with the next group of new members.\textsuperscript{215}

While hazing and bullying are similar in that both involve a “ringleader” and bystanders,\textsuperscript{216} hazing is more institutionalized and focuses on initiation rites into a club, organization, or athletic team.\textsuperscript{217} The significant difference between the two is that bullying is an attempt to exclude another person from the activities, while hazing is a condition for acceptance into the group.\textsuperscript{218}

The hazing cycle becomes a tradition that repeats\textsuperscript{219} and has some significance to the group.\textsuperscript{220} These traditions often involve a physical activity or a psychological piece.\textsuperscript{221} Typically, the senior members take weeks or months to prepare and plan their group’s initiation activities.\textsuperscript{222} The newcomers will be required to show that they are “worthy” of becoming a member through a long process of pledging events,\textsuperscript{223} all culminating at the initiation ceremony where the pledges are deemed members of the group.\textsuperscript{224} Most humans desire membership in a group which provides a feeling of safety and belonging.\textsuperscript{225} The students believe that going through the initiation process will bring the group closer because they all shared the experience.\textsuperscript{226}

\begin{itemize}
\item \textsuperscript{215} Lipkins, \textit{supra} note 56, at 15.
\item \textsuperscript{216} Caudill, \textit{supra} note 190.
\item \textsuperscript{217} Caudill, \textit{supra} note 190.
\item \textsuperscript{218} Caudill, \textit{supra} note 190.
\item \textsuperscript{219} Lipkins, \textit{supra} note 56, at 91. “Every time a hazing occurs, everyone involved is likely to repeat the behavior, increasing the number and severity of hazing. Conversely, every time a hazing is stopped, the chain is broken; decreasing the likelihood that hazing will be done by those students again.” Lipkins, \textit{supra} note 56, at 91.
\item \textsuperscript{220} Lipkins, \textit{supra} note 56, at 14-15.
\item \textsuperscript{221} Lipkins, \textit{supra} note 56, at 14-15. The physical activities may include a symbolic activity or a physical challenge. The psychological activities are often humiliating acts, which usually cause more pain to the newcomer. Lipkins, \textit{supra} note 56, at 14-15.
\item \textsuperscript{222} Lipkins, \textit{supra} note 56, at 14-15.
\item \textsuperscript{223} Lipkins, \textit{supra} note 56, at 14-15. The initiation process may span from four weeks to an entire semester. Lipkins, \textit{supra} note 56, at 14-15.
\item \textsuperscript{224} Lipkins, \textit{supra} note 56, at 14-15.
\item \textsuperscript{225} Lipkins, \textit{supra} note 56, at 36.
\item \textsuperscript{226} Lipkins, \textit{supra} note 56, at 15.
\end{itemize}
F. Why is it so Hard to Combat Hazing?

Hazing is hard to combat because students are not likely to report the hazing activity. A majority of students who have experienced hazing did not report it to a campus official. Half of those students indicated that they would not report the hazing incident because they would not want to get their group or team in trouble. Sometimes students that are hazed will try to minimize hazing and characterize it as “no big deal,” “no one was harmed,” or they did not “consider the hazing to be extreme or troubling.” Others believe that it was their choice to participate in the hazing, so they did not think they should report it. Some do not realize they were hazed until a later point in time. Frequently, the students who claimed they were happy and willing to undergo hazing do not report it.

Every time hazing is not reported the cycle continues. Moreover, when a university does not hold the hazer responsible for his or her actions, the hazing is reinforced because it is as if the university is condoning the hazing behaviors. Furthermore, students are not likely to discuss their hazing experiences with coaches, advisors, college staff, or faculty, but are more likely to talk about it.

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227 Allan, supra note 41, at 28.
228 Allan, supra note 41, at 28.
229 Allan, supra note 41, at 28-30. Fifty-four percent of the students indicated “other” as to the reason why they did not report the hazing activity. Twenty percent of the responses for not reporting the hazing activity was because the student was “afraid of negative consequences . . . from the other team or group member.” Fourteen percent indicated in their responses that they were “afraid other members of the team or group would find out I reported it and I would be an outsider.” Nine percent indicated they did not know where to report it to, and eight percent responded they were afraid they “might be hurt by the team or group members if they learned I had reported it.” Allan, supra note 41, at 28-30.
230 Allan, supra note 41, at 29.
231 Allan, supra note 41, at 29.
232 Allan, supra note 41, at 30.
233 Allan, supra note 41, at 29.
234 LIPKINS, supra note 56, at 109.
235 LIPKINS, supra note 56, at 109.
236 Allan, supra note 41, at 25-26. A reported seven percent of students indicated they would discuss the hazing activity with a coach or advisor and five percent would discuss it with a college staff or faculty member. Allan, supra note 41, at 25-26.
with a friend\textsuperscript{237} or family member.\textsuperscript{238} Students may post a picture of the hazing activity online,\textsuperscript{239} where other students, staff, and administrators learn of the incident through the circulation of these photos on social media.\textsuperscript{240} With a deeper understanding of hazing, and forty-four states that have enacted anti-hazing statutes, why does hazing still occur every year to high school and college students across the country?

\section*{IV. Problems with States’ Hazing Statutes}

Hazing is very difficult to define and many states define it differently.\textsuperscript{241} A New York court stated, “it would have been an impossible task if the legislature had attempted to define hazing specifically.”\textsuperscript{242} What some states consider hazing, others may not.\textsuperscript{243} Some of the current state statutes create challenges in the fight against hazing because they do not specify “athletic teams” in the statute’s language\textsuperscript{244} and others do not recognize mental harm.\textsuperscript{245} States need to amend their statutes to eliminate the loopholes for athletic teams to hold athletes responsible for hazing activities that occur on the team and recognize the mental pain that may result from hazing.\textsuperscript{246}

The problem with some statutory definitions of hazing is that they create a loophole for athletic teams through the state’s definition of hazing.\textsuperscript{247} Hazing is sometimes defined as “any humiliating or dangerous activity expected of you to join a group”\textsuperscript{248} or for “initiation.”\textsuperscript{249} For example, the Maryland statute defines hazing as

\begin{itemize}
  \item \textsuperscript{237} Allan, \textit{supra} note 41, at 26. Forty-eight percent of students stated they would talk to a friend about the hazing activity and forty-one percent would talk to another group member about it. Allan, \textit{supra} note 41, at 26.
  \item \textsuperscript{238} Allan, \textit{supra} note 41, at 26. A reported twenty-six percent of students indicated they would discuss it with a family member. Allan, \textit{supra} note 41, at 26.
  \item \textsuperscript{239} Allan, \textit{supra} note 41, at 26. Forty-two percent of students reported posting the hazing photos themselves. Allan, \textit{supra} note 41, at 26.
  \item \textsuperscript{240} Allan, \textit{supra} note 41, at 26.
  \item \textsuperscript{241} Acquaviva, \textit{supra} note 52, at 308.
  \item \textsuperscript{242} People v. Lenti, 253 N.Y.S.2d 9, 13 (Cnty. Ct. 1964).
  \item \textsuperscript{243} Chamberlin, \textit{supra} note 102, at 974-77.
  \item \textsuperscript{244} Acquaviva, \textit{supra} note 52, at 327.
  \item \textsuperscript{245} Acquaviva, \textit{supra} note 52, at 306-08.
  \item \textsuperscript{246} Acquaviva, \textit{supra} note 52, at 306-08.
  \item \textsuperscript{247} Acquaviva, \textit{supra} note 52, at 313-15.
  \item \textsuperscript{248} ALFRED UNIV., \textit{supra} note 104.
  \item \textsuperscript{249} Acquaviva, \textit{supra} note 52, at 306.
\end{itemize}
subjecting a student to risk of bodily injury “for the purpose of an initiation into a student organization of a school, college, or university.”

The problem with this definition is it creates a loophole for athletic teams because athletes are already part of the group when they make the team. Definitions such as these limit the hazing to “initiation” into student organizations or joining a group and this may limit the application of the hazing statute to student organizations that have an initiation. The New Hampshire Hazing Statute expanded the definition to include an “act [that] is a condition of initiation into, admission into, continued membership in or association with any organization.” This statute could serve as a model because it expands the hazing definition to include language such as “continued membership” or “association with” which will close up the loophole for athletic teams and any other organizations that may have slipped through this crack.

Many state statutes fail to recognize the mental harm that results from a hazing incident. The New York statute only recognizes the physical harm caused by a hazing act. In New York, a person is guilty of hazing “when, in the course of another person’s initiation into or affiliation with any organization, he intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person and thereby causes such injury.” As hazing incidents result in mental harm for many students, states need to acknowledge this and incorporate psychological damage into their statutes. Moreover, the mental harm can affect victims just as much as physical harm, if not more, because in some cases the victim’s psychological injury may lead to

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251 Acquaviva, supra note 52, at 313-15.
252 Acquaviva, supra note 52, at 323 n.118.
254 Acquaviva, supra note 52, at 306.
255 Hazing Prevention, supra note 81. Only eighteen states’ statutes recognize mental harm. Hazing Prevention, supra note 81.
256 N.Y. Penal Law § 120.16 (Consol., Lexis Advance through 2017 released chapters 1-402).
257 Id.
suicidal thoughts. 259 In less extreme cases, the mental harm that results from hazing may lead to poor academic performance, 260 to the student’s transferring out of the school, 261 physical or emotional pain, 262 fear, 263 or nightmares. 264 While there are problems with some of the state anti-hazing statutes, there is also a need to collect more data on hazing statistics to have a greater understanding of the hazing incidents across the country. 265

V. THE REACH ACT

In 1965, during President Lyndon Johnson’s Great Society campaign, he approved the HEA to strengthen educational resources and provide financial assistance for higher education. 266 In 2008, the enactment of the Higher Education Opportunity Act reauthorized HEA. 267 Under HEA, higher education institutions are required to collect and publish campus crime statistics because of the adoption of the Clery Act in 1990. 268 The Clery Act modified HEA in 1990 as a result of Jeanne Clery’s death. 269 Jeanne Clery was a college student who was raped and murdered in her college dorm room by a classmate. 270 After Clery’s death, her parents fought to have colleges and universities publicly disclose the crime statistics. 271 Under the current legislation, colleges and universities are not required to collect hazing statistics. 272

259 Supra notes 156-61. Acquaviva, supra note 52, at 316.
261 Lipkins, supra note 56, at 26.
262 Edelman, supra note 260, at 310.
263 Edelman, supra note 260, at 310.
264 Edelman, supra note 260, at 310.
265 Carter, supra note 137.
269 Safe Campus LLC, supra note 48.
270 Safe Campus LLC, supra note 48.
The two major studies conducted on hazing were in 1999 and 2008.273 Moreover, there are no federal governmental agencies for students to report hazing to, nor is there an official program that tracks hazing incidents.274 The REACH Act275 is proposed federal legislation to amend HEA and more specifically the Clery Act to require higher education institutions to disclose hazing incidents in their published campus crime statistics to have a better understanding of hazing.276

The proposed REACH Act defines hazing as:

[A]ny intentional, knowing, or reckless act committed by a student, or a former student, of an institution of higher education, whether individually or in concert with other persons, against another student that- (I) was committed in connection with an initiation into, an affiliation with, or the maintenance of membership in, any organization that is affiliated with such institution of higher education; and (II) contributes to a substantial risk of physical injury, mental harm, or degradation or causes physical injury, mental harm or personal degradation.277

Moreover, the proposed REACH Act would require higher education institutions to provide students with an educational program on “hazing awareness, hazing prevention, and [the] institution’s policies on hazing.”278

Congress should adopt the proposed REACH Act under the Clery Act because since 1970, at least one college student has died each year in a hazing-related incident.279 The first step in combating

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273 In 1999, Alfred University conducted the National Survey: Initiation Rites and Athletics for NCAA Sports Teams Study. The study worked to establish a baseline of information on hazing in intercollegiate athletics and is comprised of 61,258 student-athletes responses from 224 colleges. ALFRED UNIV., supra note 104. Dr. Elizabeth J. Allan and Dr. Mary Madden, conducted a second student in 2008 titled Hazing in View: College Students at Risk. Their research documented problems that students face when hazed, such as a physical injury, psychological harm, and even death. The study is based on 11,482 survey responses from undergraduate students from 53 college and universities. Allan, supra note 41.

274 LIKINS, supra note 56, at 7.

275 This bill was introduced and sponsored by Congressman Patrick Meehan (R-PA) and Congresswoman Marcia L. Fudge (D-OH) on June 15, 2017. H.R. 2926.

276 Id.

277 Id.

278 Id.

279 HANK NUWER’S HAZING CLEARINGHOUSE, supra note 44.
hazing is to have an understanding of the extent of the problem.\textsuperscript{280} The proposed REACH Act would require colleges and universities to report their hazing statistics and would provide greater insight into the number of hazing acts that are occurring in colleges and universities.\textsuperscript{281} Moreover, the proposed Act would also require institutions to educate students on hazing.\textsuperscript{282} REACH goes beyond the requirements of state statutes because the states do not require colleges and universities to track hazing incidents.\textsuperscript{283} Furthermore, REACH imposes the education component, which is key to combating hazing.\textsuperscript{284}

VI. **ANTI-HAZING EDUCATION PROGRAM AND THE AMENDMENT OF NEW YORK STATE’S DIGNITY FOR ALL STUDENTS ACT**

Our middle and high schools need anti-hazing education programs to combat hazing.\textsuperscript{285} Before students graduate from high school, secondary schools need to implement an anti-hazing policy\textsuperscript{286} in addition to a hazing education program to prevent hazing from occurring.\textsuperscript{287} Currently, high school health courses cover subjects such as substance abuse, bullying, and sexual violence.\textsuperscript{288} Due to the close connection between these topics and hazing, high schools should require an anti-hazing component to be taught to its students as well.\textsuperscript{289} especially because about half of the incoming college freshmen have already experienced hazing in high school.\textsuperscript{290} Furthermore, as the newcomers on campus, these freshmen will want to join collegiate athletic programs, Greek life, or other various organizations where

\begin{footnotesize}
\begin{enumerate}
\item[280] Carter, supra note 137.
\item[281] H.R. 2926.
\item[282] Id.
\item[283] Id.
\item[284] TIMES-PICAYUNE, supra note 54. Hazing expert Walter M. Kimbrough advocates a proactive education of middle and high school students about hazing to prevent it from occurring. TIMES-PICAYUNE, supra note 54.
\item[285] TIMES-PICAYUNE, supra note 54.
\item[286] NUWER, supra note 100, at 122-25.
\item[287] LIPKINS, supra note 56, at 150.
\item[289] “Alcohol and hazing. The two . . . go together. Rarely do we have a problem that does not also include alcohol.” NUWER, supra note 51, at 139.
\item[290] Hazing Education Initiative, DREXEL UNIV. STUDENT LIFE, \url{http://drexel.edu/studentlife/get_involved/programs_events/Hazing/Initiative/} (last visited May 7, 2018).
\end{enumerate}
\end{footnotesize}
they will be at risk of hazing. These students need to be educated on the dangers of hazing and learn how to prevent them.

New York State enacted the Dignity for All Students Act (“DASA”), which took effect July 1, 2012. DASA seeks to provide public school students with a “safe and supportive environment free from discrimination, intimidation, taunting, harassment, and bullying on school property, a school bus and/or at a school function.” Under DASA, School Boards of Education are required to address the DASA Act in their school’s code of conduct. Moreover, under DASA, all applicants applying for a teaching certification after December 31, 2013, must complete a DASA training workshop. The amendment of DASA to include hazing prevention would go beyond the scope of the REACH Act because it would require middle schools and high schools to provide students with hazing free environments. Moreover, DASA would provide teachers with the tools to combat hazing in secondary schools. This would supplement the hazing awareness and prevention programs that would be required in higher education institutions under the REACH Act if Congress enacted it.

The DASA Act should be expanded to include hazing because hazing, like bullying and discrimination, leads to an unsafe, unsupportive, and hazardous environment for students. As DASA requires all New York State certified teachers to receive training on preventing discrimination, bullying, and harassment, teachers

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291 Id.
292 Id.
293 “The Dignity Act was signed into law on September 13, 2010 and took effect on July 1, 2012. Amendments to the act are effective as of July 1, 2013.” N.Y. St. Educ. Dep’t., supra note 53. “The original legislation amended State Education Law by creating a new Article 2 – Dignity for All Students.” N.Y. St. Educ. Dep’t., supra note 53.
294 N.Y. St. Educ. Dep’t., supra note 53.
295 N.Y. St. Educ. Dep’t., supra note 53.
296 N.Y. St. Educ. Dep’t., supra note 53.
298 N.Y. St. Educ. Dep’t, supra note 53.
299 H.R. 2926.
300 Id.
301 N.Y. St. Educ. Dep’t, supra note 53.
302 N.Y. St. Educ. Dep’t, supra note 297.
seldom receive hazing prevention training.\textsuperscript{303} DASA should be amended to incorporate hazing and provide teachers with hazing prevention education for implementation in their schools. Modifying DASA to include hazing and providing educators with tools to fight hazing would be an enormous step in the battle against hazing.

\section*{VII. Conclusion}

Timothy Piazza, Chuck Stenzel, Mortimer Leggett, and countless others are victims of avoidable deaths that our country has seen because of hazing. Every year, hazing results in physical injuries, mental harm, and even death to students across the nation.\textsuperscript{304} The United States needs to combat hazing to prevent these unnecessary deaths from occurring every year. Although there has been a hazing-related death annually since the 1970s, we need more data on the number of hazing incidents that occur throughout our country to understand the full extent of the problem.\textsuperscript{305}

States need to amend their current anti-hazing statutes to close the loopholes for athletics and recognize the mental harm that results from hazing.\textsuperscript{306} Congress should amend the Clery Act and enact the proposed REACH Act to require colleges to collect data and provide statistics on hazing acts.\textsuperscript{307} Additionally, the education component of the REACH Act will be the “vaccine” to fight the hazing “disease” before it takes root in future generations.\textsuperscript{308} DASA needs to be amended to include hazing prevention and serve as a model for other state laws to provide students with a safe environment free from discrimination, bullying, and hazing.\textsuperscript{309} As the amended DASA would provide educators with training on hazing prevention, teachers can begin to eliminate hazing through education on hazing prevention.\textsuperscript{310} Implementing these changes could cure the country of the hazing

\begin{thebibliography}{99}
\bibitem{304} Flanagan, \textit{supra} note 1, at 94.
\bibitem{305} Carter, \textit{supra} note 137.
\bibitem{306} Acquaviva, \textit{supra} note 52, at 327.
\bibitem{307} H.R. 2926.
\bibitem{308} TIMES-PICAYUNE, \textit{supra} note 54.
\bibitem{309} N.Y. St. Educ. Dep’t, \textit{supra} note 53.
\bibitem{310} N.Y. St. Educ. Dep’t, \textit{supra} note 297.
\end{thebibliography}
epidemic and save the lives of college students, so they do not fall victim as Timothy Piazza did.