

HAZING AND THE LAW

Texas Education Code SUBCHAPTER F. HAZING 37.151 & Ysleta ISD Policy FNCC

(1) Educational institution” includes a public or private high school.

(6) “Hazing” means any intentional knowing, or reckless act, occurring on or off campus of an educational institution, by one person alone or acting with others, directed against a student that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization whose members are students at an educational institution. The term includes but is not limited to:

- (A) any type of physical brutality, such as whipping, beating, striking, branding electronic shocking, placing of a harmful substance on the body, or similar activity;
- (B) any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk or harm or that adversely affects the mental or physical health or safety of the student;
- (C) any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance which subjects the student to an unreasonable risk of harm or which adversely affects the mental or physical health or safety of the student;
- (D) any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, or that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to the acts described in this subdivision; and
- (E) any activity that induces, causes, or requires the student to perform a duty or task which involves a violation of the Penal Code.

Texas Education Code 37.152 Personal Hazing Offense

- (a) A person commits an offense if the person:
 - (1) engages in hazing;
 - (2) solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;
 - (3) recklessly permits hazing to occur; or
 - (4) has firsthand knowledge of the planning of a specific hazing incident involving student in an educational institution, or has first hand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to the dean of students or other appropriate official of the institution.
- (b) The offense of failing to report is a Class B misdemeanor.
- (c) Any other offense under this section that does not cause serious bodily injury to another is a Class B misdemeanor.
- (d) Any other offense under this section that causes serious bodily injury to another is a Class A misdemeanor.
- (e) Any other offense under this section that causes the death of another is a state jail felony.

Texas Education Code 37.153 Organization Hazing Offense

- (a) An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.
- (b) An offense under this section is a misdemeanor punishable by:
 - (1) a fine of not less than \$5,000 nor more than \$10,000; or
 - (2) if the court finds that the offense caused personal injury, property damage, or other loss, a fine of not less than \$5,000 nor more than double the amount lost or expenses incurred because of the injury, damage, or loss.

Texas Education Code 37.154 Consent Not a Defense

- It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

Texas Education Code 37.156 Offenses in Addition to Other Penal Provisions

- This subchapter does not affect or repeal any penal law of this state. This subchapter does not limit or affect the right of an educational institutional to enforce its own penalties against hazing.

Reporting Procedures

- In order to assist meeting your legal and District obligations in this respect, the following steps should be taken:
 - A. The student will inform the coach / sponsor / teacher, campus administrator, counselor or YISD Athletic Director or Fine Arts Director. Failure to report such an incident will result in the student(s) immediate suspension from all extracurricular activities.
 - B. If the allegation was reported to the coach / sponsor or teacher, that person will immediately inform a campus administrator.
 - C. The campus administrator will inform the parents of the students involved, advise them on what will happen, and keep them informed.
 - D. Take immediate action to investigate the matter.
 1. Inform the Athletic Office or the Fine Arts Department
 2. Make sure to document everything that is done in this matter.
 3. Conduct a thorough and unbiased investigation into the allegations which includes speaking to the alleged victim(s), alleged harasser(s), and witnesses named by alleged victim and / or harrasser.
 4. Inform both the alleged victim and alleged harasser of the outcome of the investigation and what actions have been taken.
 5. Inform all parties involved that retaliation is prohibited and any act thought to be retaliation should be reported immediately to you.
 6. Periodically follow up to ensure that no further problems exist.

Consequences for Participating in a Hazing Incident

- Removal from team, squad, or performing group for the remainder of the competitive season
- YISD Discipline Management Plan
 - Level I Behavior & Consequences
 1. Hazing

2. Consequences: Discretionary removal to SAC, another class room or DAEP; school assessed probation and community service; appropriate legal / court action
- Level II Behavior & Consequences
 1. Assault
 2. Consequences: Removal to a DAEP or suspension
 - Level III Behavior & Consequences
 1. Aggravated assault
 2. Consequence: Expulsion to JJAEP
 - Other possible District or campus sanctions
 1. Report made to Child Protective Services
 2. Report made to El Paso Police Department
 3. Criminal charges may be filed against perpetrators if determination is made that violation of the Texas Penal Code may have occurred
 4. Referral to the El Paso County Juvenile Justice Alternative Education Program

In some cases, multiple sanctions may be imposed on a student if the determination is made that violation(s) of the Student Code of Conduct have occurred and that doing so is in the best interest of the campus or district in maintaining a safe and secure orderly educational environment.