



Photo by Mike Taheri

New Topics in Criminal Law

In light of the upcoming Fall sports season and the recent incident of alleged hazing at a local high school that has received prominent media attention, we thought it may be helpful to review the appropriate New York State criminal provisions regarding the offense of hazing.

The laws prohibiting hazing were passed because the public became concerned over the injuries (and deaths) that occurred when students were being initiated into school fraternities or onto sports teams. In many cases, alcohol is involved in the initiation of the person who is the victim of hazing. Other types of conduct have also been found to constitute hazing, including tying the victim up and beating them or having them exercise to the point of collapse.

A person is guilty of hazing when in the course of another person's initiation into or affiliation with any organization, he or she intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to that person and causes such an injury as a result.¹

New York State defines a "physical injury" as substantial pain or physical impairment. For example, if a student suffered a swollen and blackened eye or a broken finger while being initiated onto a school team, the responsible individuals could be prosecuted under this law.

Hazing is a misdemeanor, which is a crime punishable by up to one year in jail, three years of probation and a fine of up to \$1,000. A court can also use a combination of punishments such as jail and probation when sentencing a person convicted of this crime.

New York also recognizes a lesser version of hazing. Under this law, all that is required is that the accused intentionally or recklessly engage in conduct which created a substantial risk of physical injury to the person being initiated. No actual physical injury need have occurred.² In New York State, this offense is a violation, not a crime. This lesser version of hazing is punishable by up to fifteen days in jail and a fine of up to \$250. Other conditions may be imposed, such as counseling or community service.

In addition to facing a charge under the statutes specifically directed at hazing, in some cases individuals who engage in this behavior may face additional charges such as a felony or misdemeanor assault, which may depend on the extent of the victim's injuries. As a result, more serious incidents of hazing may give rise to felony charges against the perpetrators.

In addition to criminal prosecution, hazing can carry many collateral consequences. These include the possibility of the offender and the school being sued for monetary damages and penalties being placed against athletes and the team, such as forfeiting games or suspension of players.

Our firm has been providing lectures and handout material to both high school and college athletic teams on this topic. If you are interested in learning more, please visit our website.

1. See New York State Penal Law 120.16, a class A misdemeanor, for the entire statute.
2. See New York State Penal Law 120.17, a violation, for the entire statute.

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