

# **Austin College – Tex. Educ. Code Hazing Report**

**Issuing Date: January 1, 2020**

1. Hazing Definitions, Offenses, Additional Provisions
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## **Chapter 37, Subchapter F. Hazing<sup>1</sup>**

Sec. 37.151. DEFINITIONS. In this subchapter:

- (1) "Educational institution" includes a public or private high school.
- (2) "Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in an organization.
- (3) "Pledging" means any action or activity related to becoming a member of an organization.
- (4) "Student" means any person who:
  - (A) is registered in or in attendance at an educational institution;
  - (B) has been accepted for admission at the educational institution where the hazing incident occurs; or
  - (C) intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.
- (5) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or a service, social, or similar group, whose members are primarily students.<sup>2</sup>
- (6) "Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization if the act:
  - (A) is 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) involves sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other similar activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
  - (C) involves consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance, other than as described by Paragraph (E), that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
  - (D) is any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code; or
  - (E) involves coercing, as defined by Section 1.07, Penal Code, the student to consume:

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<sup>1</sup> Tex. Educ. Code, Title 2, Chapter 37, Subchapter F

<sup>2</sup> If you wish to make a report of hazing please contact the Austin College Police Department at 903.813.2555

- (i) a drug; or
- (ii) an alcoholic beverage or liquor in an amount that would lead a reasonable person to believe that the student is intoxicated, as defined by Section 49.01, Penal Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by: Acts 2019, 86th Leg., R.S., Ch. 1371 (S.B. 38), Sec. 1, eff. September 1, 2019.

Sec. 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 a student in an educational institution, or has firsthand 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.
- (f) Except if an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same conditions imposed on a person placed on community supervision under Chapter 42A, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.30, eff. January 1, 2017.

Sec. 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.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 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.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 37.155. IMMUNITY FROM PROSECUTION OR CIVIL LIABILITY AVAILABLE.**

(a) In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution.

(b) Any person who voluntarily reports a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the reported hazing incident if the person:

(1) reports the incident before being contacted by the institution concerning the incident or otherwise being included in the institution's investigation of the incident; and

(2) as determined by the dean of students or other appropriate official of the institution designated by the institution, cooperates in good faith throughout any institutional process regarding the incident.

(c) Immunity under Subsection (b) extends to participation in any judicial proceeding resulting from the report.

(d) A person is not immune under Subsection (b) if the person:

(1) reports the person's own act of hazing; or

(2) reports an incident of hazing in bad faith or with malice.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by: Acts 2019, 86th Leg., R.S., Ch. 1371 (S.B. 38), Sec. 2, eff. September 1, 2019.

**Sec. 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 institution to enforce its own penalties against hazing. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 37.157. REPORTING BY MEDICAL AUTHORITIES.**

A doctor or other medical practitioner who treats a student who may have been subjected to hazing activities:

(1) may report the suspected hazing activities to police or other law enforcement officials; and

(2) is immune from civil or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

**Sec. 37.158. VENUE.**

(a) In this section, "prosecuting attorney" means a county attorney, district attorney, or criminal district attorney.

(b) An offense under this subchapter may be prosecuted:

(1) in any county in which the offense may be prosecuted under other law; or

(2) if the consent required by Subsection (c) is provided, in a county, other than a county described by Subdivision (1), in which is located the educational institution campus at which a victim of the offense is enrolled.

(c) An offense under this subchapter may be prosecuted in a county described by Subsection (b)(2) only with the written consent of a prosecuting attorney of a county described by Subsection (b)(1) who has authority to prosecute an offense under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1371 (S.B. 38), Sec. 3, eff. September 1, 2019.

## **Sec. 51.936(c) Report Requirements<sup>3</sup>**

Sec. 51.936. HAZING.

(a) Subchapter F, Chapter 37, applies to a postsecondary educational institution under this section in the same manner as that subchapter applies to a public or private high school.

(b) For purposes of this section, "postsecondary educational institution" means:

- (1) an institution of higher education as defined by Section 61.003;
- (2) a private or independent institution of higher education as defined by Section 61.003; or
- (3) a private postsecondary educational institution as defined by Section 61.302.

(c) Not later than the 14th day before the first class day of each fall or spring semester, each postsecondary educational institution shall distribute to each student enrolled at the institution:

- (1) a summary of the provisions of Subchapter F, Chapter 37; and
- (2) a copy of, or an electronic link to a copy of, the report required under Subsection (c-1).

(c-1) Each postsecondary educational institution shall develop and post in a prominent location on the institution's Internet website a report on hazing committed on or off campus by an organization registered with or recognized by the institution. The report:

(1) must include information regarding each disciplinary action taken by the institution against an organization for hazing, and each conviction of hazing under Section 37.153 by an organization, during the three years preceding the date on which the report is issued or updated, including:

- (A) the name of the organization disciplined or convicted;
- (B) the date on which the incident occurred or the citation was issued, if applicable;
- (C) the date on which the institution's investigation into the incident, if any, was initiated;
- (D) a general description of:
  - (i) the incident;
  - (ii) the violations of the institution's code of conduct or the criminal charges, as applicable;
  - (iii) the findings of the institution or court; and
  - (iv) any sanctions imposed by the institution, or any fines imposed by the court, on the organization; and
- (E) the date on which the institution's disciplinary process was resolved or on which the conviction became final;

(2) must be updated to include information regarding each disciplinary process or conviction not later than the 30th day after the date on which the disciplinary process is resolved or the conviction becomes final, as applicable; and

(3) may not include personally identifiable student information and must comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

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<sup>3</sup> Tex. Educ. Code, Title 3, Chapter 51, Subchapter Z Sec. 51.936

## **The Report**<sup>4</sup>

Applicable Period: January 1, 2017 – January 1, 2020

There have been no reports of Organizational Hazing committed by any Austin College fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or a service, social, or similar group, whose members are primarily students in the above stated applicable period.

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<sup>4</sup> Tex. Educ. Code, Title 3, Chapter 51, Subchapter Z Sec. 51.936(c-1)