

ELIMINATING THE HAZE: A FEDERAL PROPOSAL FOR ANTIHAZING COMPLIANCE REGULATIONS

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I. Introduction

Higher education has a strong influence over young adults in their personal, behavioral, and professional development. Colleges and universities “shap[e] the mental models of many of society’s professionals and leaders and [are] a critical leverage point in creating a sustainable society.”¹ Students’ experiences of their campus’s climate influences their development both professionally and personally.² Accordingly, “[s]tudents who perceive their campus as welcoming are more likely to demonstrate positive learning outcomes.”³ However, hazing works against the development of a welcoming college climate and “is at odds with educational goals.”⁴ While definitions of hazing vary from state to state, it is generally “defined as any activity expected of someone joining or participating in a group (such as a student club or team) that humiliates, degrades, abuses or endangers regardless of a person’s willingness to participate.”⁵ Hazing affects not only the group or organization participating in hazing activities, but it also affects the greater college community.⁶

In addition to its influence on campus climate, hazing affects the health and safety of students across the country.⁷ Hazing causes depression, loneliness, posttraumatic stress, adverse effects on academic performance, physical injuries, and, at its most extreme,

¹ Georges Dyer & Michelle Dyer, *Strategic Leadership for Sustainability by Higher Education: The American College & University Presidents’ Climate Commitment*, 140 J. CLEANER PRODUCTION 111, 111 (2017).

² See Elizabeth J. Allan, David Kerschner & Jessica M. Payne, *College Student Hazing Experiences, Attitudes, and Perceptions: Implications for Prevention*, 56 J. STUDENT AFFS. RSCH. & PRAC. 32, 35 (2019).

³ *Id.*

⁴ *Id.* at 32.

⁵ Elizabeth J. Allan & Mary Madden, *The Nature and Extent of College Student Hazing*, 24 INT’L J. ADOLESCENT MED. & HEALTH 83, 83 (2012).

⁶ *Id.*

⁷ *Infra*, notes 9-37.

death.⁸ One of the most severe and recent examples of hazing was the death of Timothy Piazza.⁹ Piazza's story sheds light on the seriousness of these incidents and the need to increase efforts for hazing prevention. In response to this incident, some states have introduced or passed anti-hazing legislation named after Piazza in an effort to better combat hazing and its effects.¹⁰

Timothy Piazza was a student at Pennsylvania State University who died in early February 2017 during a hazing incident.¹¹ Video cameras in the fraternity house filmed the 13-hour incident.¹² The fraternity had the men pledging (pledges) arrive at the house around 9:00 p.m. for a "pledge acceptance ceremony" and instructed them to drink from a bottle of vodka.¹³ The fraternity began what is known as "the gauntlet," a practice in which the pledges go to different stations drinking and chugging various types of alcohol including beer, wine, and vodka.¹⁴ It is estimated that each pledge drank about four to five drinks in two minutes.¹⁵ After 11:00 p.m., someone helped Piazza walk to a couch, but Piazza eventually walked drunkenly to the basement door and fell down the stairs.¹⁶ The forensic pathologist estimated "his blood-alcohol content [was] between 0.28 and 0.36 percent at [that] point."¹⁷ Two

⁸ CRITICAL PERSPECTIVES ON HAZING IN COLLEGES AND UNIVERSITIES: A GUIDE TO DISRUPTING HAZING CULTURE 6-8 (Cristóbal Salinas Jr. & Michelle L. Boettcher eds., 2018) [hereinafter CRITICAL PERSPECTIVES ON HAZING].

⁹ Mark Scolforo, *Timeline: Stunning Details in Penn State Frat Death*, 6ABC ACTION NEWS (June 12, 2017), <https://6abc.com/news/timeline-stunning-details-in-penn-state-frat-death/1976183/>.

¹⁰ S. 84, 219th Leg. (N.J. 2020); A. 3149 219th Leg. (N.J. 2020). These bills only amend the state's criminal laws while A. 3176, which is addressed later in this Comment, mandates certain hazing policies in education institutions. *See also* Memorandum from Senator Jake Corman to All Pa. Senate Members (Mar. 21, 2018), <https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20170&cosponId=25456>.

¹¹ Scolforo, *supra* note 9.

¹² *See* Scolforo, *supra* note 9.

¹³ Scolforo, *supra* note 9. Pledge is defined as "a promise to join a fraternity, sorority, or secret society." *Pledge*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/pledge> (last visited June 1, 2021). Some organizations have moved away from using the term "pledges" and "pledging" due to its connection with hazing. Keith Tingley et. al, *Sorority and Fraternity Attitudes Towards Initiation and Hazing*, 13 Res. J. Ass'n Fraternity/Sorority Advisors 46, 47 (2018).

¹⁴ Scolforo, *supra* note 9; *See also* Sarah Vasile, *Timeline: The Events from the Night Leading up to and Surrounding the Death of Timothy Piazza*, DAILY COLLEGIAN (May 5, 2017), https://www.collegian.psu.edu/news/crime_courts/article_b0cd4594-31d3-11e7-ab7e-1f8d2b2a1f24.html.

¹⁵ Scolforo, *supra* note 9.

¹⁶ Scolforo, *supra* note 9.

¹⁷ Scolforo, *supra* note 9.

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minutes later, four fraternity brothers carried Piazza up the stairs.¹⁸ His body appeared limp and his eyes were closed.¹⁹ One fraternity brother attempted to give Piazza a sternum rub, but he did not respond.²⁰ Sometime during the 11:00 p.m. hour, fraternity members poured liquid on Piazza's face and turned him over to his side on the couch.²¹ They placed a backpack on him so he could not roll onto his back, thereby preventing him from choking on his own vomit.²² A fraternity member addressed his concern for Piazza, indicating he may need medical attention, but other fraternity members dismissed him.²³ Throughout the early morning while Piazza vomited, members slapped him on the face and abdomen, and, again, placed a backpack on him to prevent him from rolling onto his back.²⁴ Around 4:00am, he attempted to stand, but fell and hit his head on the floor.²⁵ Within that hour, Piazza again attempted to stand, grabbed at his abdomen, and fell on his face.²⁶ A forensic pathologist estimated his blood alcohol content to be between 0.19 and 0.24 at this point.²⁷

Around 8:00am, Piazza staggered toward the basement.²⁸ While video camera footage does not capture what happened, it is assumed that he fell down the stairs with an estimated blood alcohol content between 0.15 and 0.19.²⁹ Around 10:00am, brothers found him "on his back with his arms tight against his sides, breathing heavily with blood on his face. He [felt] cold to the touch and his eyes remain[ed] half-open."³⁰ He was unconscious.³¹ At 10:48am, a fraternity member called 9-1-1 for an ambulance.³² A forensic pathologist pronounced Piazza dead the next day and determined that his abdomen was filled with blood and he suffered a skull fracture and a shattered spleen.³³

¹⁸ Scolforo, *supra* note 9.

¹⁹ Scolforo, *supra* note 9.

²⁰ Scolforo, *supra* note 9.

²¹ Scolforo, *supra* note 9.

²² Scolforo, *supra* note 9.

²³ Scolforo, *supra* note 9.

²⁴ Scolforo, *supra* note 9.

²⁵ Scolforo, *supra* note 9.

²⁶ Scolforo, *supra* note 9.

²⁷ Scolforo, *supra* note 9.

²⁸ Scolforo, *supra* note 9.

²⁹ Scolforo, *supra* note 9.

³⁰ Scolforo, *supra* note 9.

³¹ Scolforo, *supra* note 9.

³² Scolforo, *supra* note 9.

³³ Scolforo, *supra* note 9.

Timothy Piazza is not alone in his unconscionable and tragic death at the hands of hazing. Louisiana State University,³⁴ Florida State University,³⁵ and Texas State University,³⁶ among others,³⁷ have reported recent stories of hazing. Many of these deaths, making national news, have sparked a renewed interest in how the law can be used as a tool to prevent these tragic situations, as evidenced by the fact that several states have amended their hazing statutes.³⁸

Despite increased hazing awareness, hazing education, and both criminal and civil statutes prohibiting acts of hazing, hazing continues to occur in “increasingly more dangerous forms.”³⁹ While most colleges

³⁴ Dakin Andone & Tina Burnside, *LSU Fraternity Pledge's Death Leads to 4 Indictments*, CNN (Mar. 17, 2018), <https://www.cnn.com/2018/03/16/us/maxwell-gruver-hazing-indictments/index.html>.

³⁵ Eric Levenson, *FSU Fraternity Pledge Died 'Alone in a Room Full of People' at Party*, CNN (Dec. 21, 2017), <https://www.cnn.com/2017/12/20/us/fsu-fraternity-pledge-death-grand-jury/index.html>.

³⁶ Abby Jackson, *A Texas State University Fraternity Pledge has Died – Continuing the Alarming Trend of Deaths at Public University Fraternities*, BUSINESS INSIDER (Nov. 15, 2017), <https://www.businessinsider.com/matthew-ellis-texas-state-fraternity-death-2017-11>.

³⁷ See Emily Bamforth, *Ohio State Sigma Pi Fraternity Expelled for Hazing After Student Death – Five Years After Suspension*, CLEVELAND.COM (May 1, 2019), <https://www.cleveland.com/news/2019/05/ohio-university-sigma-pi-fraternity-expelled-for-hazing-after-student-death-five-years-after-suspension.html>; Lindsey Holden & Kaytlyn Leslie, *Cal Poly Fraternity Waterboarded a Member in a Hazing Incident, Video Shows*, SAN LUIS OBISPO TRIBUNE (Oct. 4, 2019), <https://www.sanluisobispo.com/news/local/education/article235800047.html>; Jacob Holmes, *Troy University Suspends All Fraternity New Member Activities After Hazing Incidents*, TROYMESSENGER.COM (Oct. 1, 2019), <https://www.troymessenger.com/2019/10/01/troy-university-suspends-all-fraternity-new-member-activities-after-hazing-incidents/>.

³⁸ Susan Snyder & Liz Navratil, *Tougher Penalties for Hazing Likely in Pennsylvania*, PHILA. INQUIRER (Apr. 18, 2018), <https://www.inquirer.com/philly/education/pennsylvania-fraternity-hazing-felony-penn-state-tim-piazza-jake-corman-20180418.html> (Pennsylvania legislation in response to death of Timothy Piazza); Samantha Marcus, *N.J. Seeks to End Hazing with Bill Named for Penn State Student Who Died at Frat House*, NJ.COM (Sept. 11, 2019), <https://www.nj.com/politics/2019/09/nj-seeks-to-end-hazing-with-bill-named-for-penn-state-student-who-died-at-frat-house.html> (New Jersey legislation in response to death of Timothy Piazza); Elizabeth Crisp, *'Max Gruver Act' to Create Harsher Penalties for Hazing in Louisiana Swiftly Wins House Passage, Heads to Senate*, ADVOCATE (Apr. 2, 2018, 5:41 PM), https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_0a86de08-36c7-11e8-b244-43b7f218103a.html (Louisiana legislation in response to Max Gruver's death); Jeremy Bauer-Wolf, *Tough New Law Against Hazing*, INSIDE HIGHER ED (July 18, 2019), <https://www.insidehighered.com/news/2019/07/18/florida-governor-signs-tough-new-hazing-law> (Florida legislation in response to Andrew Coffey's death).

³⁹ Jerlando F. L. Jackson, Melvin Cleveland Terrell, & Richie L. Heard, *The Complexity of Maintaining a Safe Campus in higher Education*, in CREATING AND MAINTAINING SAFE

and universities have written policies to prevent hazing, monitor hazing, and sanction those who participate in hazing, many states do not have regulatory laws mandating hazing procedures.⁴⁰ In states that mandate hazing prevention policies and procedures, the law does not include the policies needed to effectively prevent hazing.⁴¹

This Comment proposes a federal legislative approach to combat hazing by analyzing a research driven framework designed specifically for hazing prevention and existing legislation. Part II of this Comment will provide a general overview of hazing, including its definition, history, and statistics. Part III will discuss a research-driven framework developed to prevent hazing, known as the Allan Framework. Part IV will utilize the Allan Framework to analyze current federal hazing legislation and related law and state hazing and bullying laws. Using this analysis, Part V will propose an amendment to the Higher Education Act of 1965 to include federal hazing prevention compliance laws.⁴²

COLLEGE CAMPUSES: SOURCEBOOK FOR EVALUATING AND ENHANCING SAFETY PROGRAMS 9 (M.C. Terrell & J. F. L. Jackson eds., 2007).

⁴⁰ States without any hazing laws include Alaska, the District of Columbia, Hawaii, Montana, New Mexico, South Dakota, and Wyoming. *Hazing Law – Interactive State Map*, HAZINGPREVENTION.ORG., <https://hazingprevention.org/about/state-laws> (last visited June 1, 2021). Other states with hazing laws but no law expressly mandating university hazing policies include, but are not limited to Alabama, Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Mississippi, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, Utah, and Wisconsin. ALA. CODE § 16-1-23 (1981); ARK. CODE ANN. §§ 6-5-201–204 (West 2015); CAL. PENAL CODE § 245.6 (West 2011); COLO. REV. STAT. ANN. § 18-9-124 (West 1999); CONN. GEN. STAT. ANN. § 53-23a (West 1988); GA. CODE ANN. § 16-5-61 (1990); IDAHO CODE § 18-917 (2002); 720 ILL. COMP. STAT. ANN. 5 / 12C-50–50.1 (West 2013); IND. CODE ANN. § 35-42-2-2.5 (LexisNexis 2014); IOWA CODE ANN. § 708.10 (West 1989); KAN. STAT. ANN. § 21-5418 (2011); MD. CODE ANN., CRIM. LAW § 3-607 (LexisNexis 2002); MICH. COMP. LAWS SERV. § 750.411t (LexisNexis 2004); MISS. CODE ANN. § 97-3-105 (1990); MONT. CODE ANN. §20-5-208 (2015); NEB. REV. STAT. ANN. §§ 28-311.06–311.07; N.H. REV. STAT. ANN. § 631:7 (1993); N.J. STAT. ANN. §§ 2C:40-3–4 (West 1980); N.Y. PENAL LAW § 120.17 (LexisNexis 2018); N.C. GEN. STAT. § 14-35 (2003); N.D. CENT. CODE § 12.1-17-10 (1995); OHIO REV. CODE ANN. § 2903.31 (West 1982); OKLA. STAT. ANN. tit. 21, § 1190 (1995); tit. 11 R.I. GEN. LAWS § 11-21-1 (1990); UTAH CODE ANN. § 76-5-107.5 (LexisNexis 2011); WIS. STAT. § 948.51 (2001).

⁴¹ Compare *infra* note 85, with 18 PA. CONS. STAT. § 2808 (2018), 18 PA. CONS. STAT. § 2809 (2018), TEX. EDUC. CODE ANN. § 51.936 (2019), TEX. EDUC. CODE ANN. § 51.9361 (2013), TENN. CODE ANN. § 49-7-123 (1995), TENN. CODE ANN. § 49-2-120 (2001), and S.C. CODE ANN. § 59-101-210 (2016).

⁴² While institutional liability is closely related to this Comment, it is not covered in the scope of this Comment.

II. Understanding Hazing

To better determine how to prevent and eradicate hazing, it is important to understand how hazing has evolved and the current approach to hazing prevention in the United States. The following sections will: (A) describe the history of hazing from Europe to the United States and the current U.S. position, (B) provide a concrete definition of hazing for the reader to better understand what hazing entails, and (C) put forth current available statistics on incidents of hazing at colleges and universities.

A. HAZING HISTORY

In order to propose an effective legislation on hazing, it is important to understand the history of how hazing developed.⁴³ While hazing at each institution is unique, the practice has affected institutions across the country. Therefore, this section will describe hazing history generally.

Historians suggest that students from Europe brought hazing traditions to America.⁴⁴ Hazing practices included beating, humiliation, and servitude in an attempt to teach obedience.⁴⁵ During the mid-1800s, the term “hazing” developed in reference to higher education institutions in America.⁴⁶ As it developed, students moved away from personal servitude and focused on forcing students to perform crude pranks, such as fights between freshmen and sophomores known as “class battle royals” and tarring and feathering students in the town square.⁴⁷

There are three theories posited by historians that attempt to explain how hazing began in Greek letter organizations.⁴⁸ The first

⁴³ See BRUCE A. VANSLEDRIGHT, *ASSESSING HISTORICAL THINKING & UNDERSTANDING* 6 (2014) (stating that in order for a reader to judge an “author’s reliability in making reputable claims,” the reader must be able to “search[] out evidence, assess[] the sources . . . [and] mak[e] sense of the perspectives of the sources’ authors[.]”).

⁴⁴ Gregory S. Parks, Shayne E. Jones, Rashawn Ray, Matthew W. Hughey & Jonathan M. Cox, *White Boys Drink, Black Girls Yell . . . : A Racialized and Gendered Analysis of Violent Hazing and the Law*, 18 J. GENDER, RACE AND JUST. 93, 104 (2015).

⁴⁵ *Id.* at 102-04.

⁴⁶ Walter M. Kimbrough, *BLACK GREEK 101: THE CULTURE, CUSTOMS, AND CHALLENGES OF BLACK FRATERNITIES AND SORORITIES* 39 (2012).

⁴⁷ *Id.*

⁴⁸ Parks, *supra* note 44, at 105. Greek letter organizations, also known as fraternities (for men) and sororities (for women) and often referred to as “Greek life” or “GLOs,” are student organizations on college campuses with exclusive membership. Often, GLOs are social organizations, but professional GLOs exist as well. GLOs often include “names composed of Greek letters; secret rituals and symbols that affirm shared values and

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theory proposes that at the university level, practices of hazing freshmen “bled over into fraternities.”⁴⁹ Another theory suggests that drop-outs from military academies brought hazing from the military to colleges and universities and thus into Greek organizations.⁵⁰ Finally, an alternative theory purports that “hazing occurs spontaneously and organically whenever people form an exclusive club that enforces standards of admittance.”⁵¹

During the 1920s, freshmen began rebelling against hazing performed by upperclassman.⁵² A similar rebellion did not occur to eliminate hazing among Greek letter organizations.⁵³ Once freshmen hazing began to decline and was “tabooed,” the concept of pledging emerged.⁵⁴ Within ten years of the termination of freshmen hazing and the beginning of pledging within Black Greek-letter organizations (BGLOs), “hazing had become a predominant aspect of the pledge process.”⁵⁵

Hazing practices were similar between White universities and historically Black colleges and universities (“HBCUs”).⁵⁶ “However, lynchings and other racially motivated crimes in the South against African Americans served as a catalyst to the process of eradicating freshmen hazing” at HBCUs.⁵⁷ While university-wide hazing began to decline over the years, it remained a prominent practice within Greek letter organizations.⁵⁸

During the depression, World War I, and World War II, the prevalence of Greek letter organizations dwindled.⁵⁹ After World War II, Greek letter organizations began to expand again and simultaneously, a large number of veterans enrolled in colleges and universities,

beliefs; and a badge that, in general, only initiated members wear.” See Edward G. Whipple & Eileen G. Sullivan, *Greek Letter Organizations: Communities of Learners?*, 81 *NEW DIRECTIONS FOR STUDENT SERVS.* 7 (1998).

⁴⁹ Parks, *supra* note 44, at 105.

⁵⁰ Parks, *supra* note 44, at 105.

⁵¹ Parks, *supra* note 44, at 105.

⁵² Parks, *supra* note 44, at 106.

⁵³ Parks, *supra* note 44, at 106.

⁵⁴ Parks, *supra* note 44, at 106. Pledging “is a ritual process for taking a non-member of an organization and bringing him [or her] into membership.” While pledging can lead to hazing, pledging is not necessarily hazing. See Kevin M. Foster, *Black Greeks and Underground Pledging: Public Debates and Communal Concerns*, 16 *TRANSFORMING ANTHROPOLOGY* 3, 7 (2008).

⁵⁵ Parks, *supra* note 44, at 106.

⁵⁶ Parks, *supra* note 44, at 105106.

⁵⁷ Parks, *supra* note 44, at 105.

⁵⁸ Parks, *supra* note 44, at 105.

⁵⁹ Parks, *supra* note 44, at 107.

bringing a “boot camp mentality” to college campuses.⁶⁰ Pledging became a fad during this time, which resulted in a “dramatic increase in hazing, both in terms of physical violence and psychological torture.”⁶¹ The growth in hazing likewise increased its visibility, leading to its opposition.⁶² Students and administrators alike acted to prevent and end hazing.⁶³ Despite efforts taken by students, administration, and national fraternity officers, hazing still continues today.

Student Affairs professionals are not currently equipped to prevent hazing.⁶⁴ A study of HBCUs in Tennessee found that Student Affairs professionals were aware that hazing was occurring, but did not have “first hand experience with hazing” and cannot “easily identify such indicators of hazing.”⁶⁵ In order to fully grasp the impact of hazing, it is important to understand what the term “hazing” means. This is discussed in the next section.

B. WHAT IS HAZING?

There is no universal definition of hazing.⁶⁶ Scholars have suggested that the definition of hazing is different for the perpetrator and victim as well as the university and administrators.⁶⁷ Some definitions include only physical injury, while others include both physical and mental injury.⁶⁸ A study by Alfred University defined hazing:

Any activity expected of someone joining a group that humiliates, degrades, abuses or endangers, regardless of the person’s willingness to participate. This does not include

⁶⁰ Dara Aquila Govan, “Hazing Out” the Membership Intake Process in Sororities and Fraternities: Preserving the Identity of the Pledge Process Versus Hazing Liability, 53 RUTGERS L. REV. 679, 686 (2001) (quoting Sharon Christensen & Michelle Devera, *Hazing Problem Down at Cal-State-Long Beach*, DAILY FORTY-NINER VIA U-WIRE (Sept. 8, 1999)).

⁶¹ Parks, *supra* note 44, at 107.

⁶² Parks, *supra* note 44, at 107.

⁶³ Parks, *supra* note 44, at 108-09. At Howard University, former pledges created an antihazing fraternity. Parks, *supra* note 44, at 108. At Fisk University, there was a moratorium ordered for hazing. Parks, *supra* note 44, at 108. Three fraternities’ national headquarters prohibited all forms of hazing during the 1940s. Parks, *supra* note 44, at 108. Several fraternities turned “Hell Week” into “Help Week,” consisting of constructive advice to pledges. Parks, *supra* note 44, at 108-09.

⁶⁴ See William E. Arnold, Jr., *A Comparison of Hazing Attitudes in Student Affairs Professionals at Select Historically Black Institutions of Higher Education in Tennessee*, TENN. STATE UNIV. 67 (May 2005), <https://search.proquest.com/docview/305361598?pq-origsite=gscholar>.

⁶⁵ *Id.*

⁶⁶ CRITICAL PERSPECTIVES ON HAZING, *supra* note 8, at 5.

⁶⁷ CRITICAL PERSPECTIVES ON HAZING, *supra* note 8, at 5.

⁶⁸ CRITICAL PERSPECTIVES ON HAZING, *supra* note 8, at 5.

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activities such as rookies carrying the balls, team parties with community games, or going out with your teammates, unless an atmosphere of humiliation, degradation, abuse or danger arises.⁶⁹

Lipkins defines hazing as “a process based on tradition that is used by [a] group[] to maintain hierarchy . . . within the group. Regardless of consent, the rituals require individuals to engage in activities that are physically and psychologically stressful.”⁷⁰ In contrast, the following definition has been offered by Allan et. al:

[H]azing is a form of interpersonal violence. Generally defined as any activity expected of someone joining or participating in a group (such as a student club or team) that humiliates, degrades, abuses or endangers regardless of a person’s willingness to participate, hazing can be understood as a form of bullying specific to a group context. Emotional and physical harm are documented outcomes of hazing and, at times, consequences of hazing can be lethal.⁷¹

Each state defines hazing differently, which can lead to divergent implications. Therefore, when defining hazing, especially when amending or proposing law, it is important that these implications are considered. The definition used for this Comment’s proposal is discussed in a later section.⁷² The lack of a universal definition of hazing may be a factor contributing to the difficulty in obtaining statistics on hazing.

C. STATISTICS ON HAZING

There are no organizations, governmental agencies, or databases that report statistics on incidents of hazing.⁷³ Most hazing statistics and literature come from hazing activists, including professor of journalism, Hank Nuwer,⁷⁴ who has created a database of hazing deaths dating back to 1838.⁷⁵ According to Brandon Chamberlin, many scholars have used

⁶⁹ ALFRED UNIVERSITY, *infra* note 84, at 8.

⁷⁰ Susan Lipkins, PREVENTING HAZING: HOW PARENTS, TEACHERS, AND COACHES CAN STOP THE VIOLENCE, HARASSMENT, AND HUMILIATION 13 (2006).

⁷¹ Allan, *supra* note 5, at 83 (internal citations omitted).

⁷² See *infra* Section Defining Hazing.

⁷³ Brandon W. Chamberlin, “Am I My Brother’s Keeper?”: Reforming Criminal Hazing Laws Based on Assumption of Care, 63 EMORY L.J. 925, 929 (2014).

⁷⁴ See *Id.*

⁷⁵ See Hazing Deaths Database, HANKNUWER.COM, <http://www.hanknuwer.com/hazing-deaths/> (last visited Mar. 12, 2021). The Hazing Deaths Database lists the college students who have died due to hazing, initiation, and pledging-related activities since 1838. It is important, however, to note that Nuwer lists deaths caused by hazing, deaths allegedly caused by hazing, as well as suicides that are thought to be the result of hazing and bullying, and accidents that have occurred that

Nuwer's data to argue that hazing incidents have increased over the years.⁷⁶ However, since Nuwer reports both hazing-related and alleged hazing-related deaths, the actual number of deaths caused by hazing is unclear.⁷⁷ Even if there was an accurate number on hazing incidents, the number would underestimate the true picture of hazing because most hazing incidents go unreported,⁷⁸ and the Clery Act, which requires institutions of higher education to report crimes on campus annually, does not require universities to specifically report hazing.⁷⁹

While there is no central database for hazing reports, scholars have taken surveys on college campuses to assess the extent of hazing.⁸⁰ A national survey of over 11,000 college students from 53 colleges and universities found that 55% of students who participated in campus organizations experienced hazing in some form.⁸¹ The percentage of students that experienced hazing in each activity is as follows: 74% in varsity athletics, 73% in fraternities and sororities, 64% in club sports, and 56% in band and other performing arts organizations.⁸² According to a the same study, 69% of students were aware of hazing in organizations other than their own.⁸³ A second survey revealed that 79% of NCAA athletes were hazed.⁸⁴ Despite the difficulty of obtaining statistics on hazing, hazing undoubtedly continues to be a national

may have resulted from sleep deprivation due to hazing. The Hazing Deaths Database notes that no hazing-related deaths occurred in 2020, presumably because the COVID-19 pandemic brought most university activities to a stop or the death was not reported.

⁷⁶ Chamberlain, *supra* note 73, at 930.

⁷⁷ See Chamberlain, *supra* note 73, at 930.

⁷⁸ Lipkins, *supra* note 70, at 42.

⁷⁹ See 20 U.S.C. § 1092 (f)(1)(F)(i) – (iii) (2013). The Clery Act only requires that universities report the following: burglary; sex offenses; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter; arson; arrest or persons referred for campus disciplinary action for liquor law violations, drug related violations, and weapons possession; larceny-theft; simple assault; intimidation; 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; domestic violence, dating violence, and stalking. *Id.*

⁸⁰ See generally *infra* notes 81–84.

⁸¹ Elizabeth J. Allan & Mary Madden, HAZING IN VIEW: COLLEGE STUDENTS AT RISK 4, 14 (2008), https://www.stophazing.org/wp-content/uploads/2014/06/hazing_in_view_web1.pdf.

⁸² *Id.* at 16.

⁸³ Allan, *supra* note 5, at 88.

⁸⁴ ALFRED UNIVERSITY, NATIONAL SURVEY: INITIATION RITES AND ATHLETICS FOR NCAA SPORTS TEAMS 12, (1999), <https://eric.ed.gov/?q=National+Survey%3a+Initiation+Rites+and+Athletics+for+NCAA+Sports+Teams&id=ED463713>.

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problem. Therefore, it is necessary that the federal government creates legislation to address this pervasive, serious issue.

III. Understanding the Allan Framework for Hazing Prevention

A. HAZING PREVENTION FRAMEWORK

Scholars Elizabeth Allan, Jessica Payne, and David Kerschner developed a research-based framework that can be used to combat hazing (“the Allan Framework”).⁸⁵ An analysis of the data that the scholars collected over the years reveals common themes that are related to distinct components of a hazing prevention framework.⁸⁶ Common components include commitment, capacity, assessment, planning, evaluation, sustainability, cultural competence, and implementation.⁸⁷

1. *Commitment*

Commitment refers to dedicating support structures and resources to cultivate a campus climate that encourages hazing prevention.⁸⁸ Commitment to hazing prevention is demonstrated through a number of methods.⁸⁹ First, it is essential that senior leaders in the university take part in hazing prevention.⁹⁰ The senior leader(s) should partake in hazing prevention and prevention programs on campus, and should also make the hazing policies visible on campus through resource allocation and wide-spread accountability.⁹¹ Initiating hazing prevention is often the responsibility of only the Office of Student Affairs, as it is designated a student problem.⁹² However, it is imperative that institutions take a “multi-sector approach” to combat hazing, as opposed to a compartmentalized approach, by delegating hazing prevention and

⁸⁵ Elizabeth J. Allan, Jessica M. Payne & David Kerschner, *Transforming the Culture of Hazing: A Research-Based Hazing Prevention Framework*, 55 J. STUDENT AFF. RES. & PRAC. 412, 412–24 (2018).

⁸⁶ *Id.* at 415.

⁸⁷ *Id.*

⁸⁸ *Id.* at 416.

⁸⁹ *Id.* at 416–17.

⁹⁰ *Id.* at 416.

⁹¹ Allan, *supra* note 85, at 417.

⁹² Allan, *supra* note 85, at 417.

enforcement to stakeholders (students, faculty, staff, parents, and alumni) across the campus.⁹³

2. Capacity

Capacity refers to the human and structural resources necessary to implement an effective hazing prevention program.⁹⁴ Participants in the Hazing Prevention Consortium (“HPC”) revealed several key aspects for building capacity: (1) the presence of one or more campus professionals whose time is dedicated to hazing prevention, (2) a hazing prevention coalition created and charged by campus senior leaders incorporating training to create and carry out campus-wide hazing prevention, and (3) participation and support from departments and staff across campus – including athletics, Greek life, student activities, health services, student leadership, student conduct committee, and other stakeholders.⁹⁵

3. Assessment

Assessment refers to the collection of data on campus to determine the relevant information for tracking and understanding hazing that occurs.⁹⁶ This includes compiling data on the following areas: the individuals involved in hazing incidents, what occurred during these incidents, when the incidents occurred, and the locations where campus hazing occurred.⁹⁷ Assessing hazing culture and climate on campus is important because it aids the invested stakeholders in developing and applying hazing prevention principles in their specific context.⁹⁸ Since hazing is molded by an institution’s culture, collecting data on the stakeholders’ feelings and experiences aids campus leaders in providing prevention methods tailored to the particular institution’s context.⁹⁹

⁹³ Allan, *supra* note 85, at 417.

⁹⁴ Allan, *supra* note 85, at 417.

⁹⁵ Allan, *supra* note 85, at 417. The HPC is a “research-to-practice designed to rigorously investigate comprehensive approaches to hazing prevention in higher education. Allan, *supra* note 85, at 412. The data collected from the HPC is the data used to support the Allan Framework.

⁹⁶ Allan, *supra* note 85, at 418.

⁹⁷ Allan, *supra* note 85, at 418.

⁹⁸ Allan, *supra* note 85, at 418.

⁹⁹ Allan, *supra* note 85, at 418–19 (Some of the suggested assessment methods include: “surveys and qualitative data collection (e.g., focus groups, document analysis) on experiences and attitudes among students, staff, alumni, and families; tracking of hazing incidents, investigations, sanctions, and media responses; environmental scans to determine hazing risk and protective factors; evidence-based identification of groups at higher risk for hazing; and wide dissemination of data to inform and engage stakeholders and guide strategy implementation.”).

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4. *Planning*

Planning refers to the use of data gathered from the assessment component to develop a strategic and targeted prevention method to address hazing in a particular institution's context.¹⁰⁰ A reactive, short-term response to hazing is not as effective as a proactive and intentional data-informed plan for prevention.¹⁰¹ The planning process should include the identification of measurable goals so that stakeholders may both highlight the university's success and identify areas in need of improvement in its prevention program.¹⁰² The planning component also requires "prioritization of risk and protective factors; identification of concrete goals, proposed interventions, and expected outcomes."¹⁰³ Again, a common theme that exists among all components is the dissemination of data and plans to maintain transparency, which aids in the planning process by helping "generate focus, attention to goals, and increased accountability and engagement in prevention."¹⁰⁴

5. *Evaluation*

Evaluation refers to documenting the steps taken for prevention efforts and their effectiveness.¹⁰⁵ Participants in the HPC revealed that their institutions did not engage in evaluating their hazing prevention efforts prior to using these components.¹⁰⁶ Participants suggested the following as forms of evaluation: "methods to measure characteristics, delivery, and impact of hazing prevention strategies."¹⁰⁷ Evaluation data can be used to set goals, improve effectiveness, report on success, encourage involvement in the prevention program, and increase funding.¹⁰⁸ The evaluation process can be long.¹⁰⁹ It consists of regular evaluation in order to emerge with a solid evidence base supporting a prevention strategy.¹¹⁰

¹⁰⁰ Allan, *supra* note 85, at 419.

¹⁰¹ See Allan, *supra* note 85, at 419.

¹⁰² Allan, *supra* note 85, at 419.

¹⁰³ Allan, *supra* note 85, at 419.

¹⁰⁴ Allan, *supra* note 85, at 419.

¹⁰⁵ Allan, *supra* note 85, at 419.

¹⁰⁶ Allan, *supra* note 85, at 419.

¹⁰⁷ Allan, *supra* note 85, at 419.

¹⁰⁸ Allan, *supra* note 85, at 420.

¹⁰⁹ Allan, *supra* note 85, at 420.

¹¹⁰ Allan, *supra* note 85, at 420.

6. Sustainability

Sustainability, which is closely linked to commitment and capacity, refers to maintaining commitment through the continuous development of relationships, resources, and communication related to the hazing prevention framework.¹¹¹ Participants in the HPC reported that it is important to keep hazing prevention “at the forefront” and “on [the] radar” to make certain that “people [don’t] lose sight” of hazing prevention.¹¹² Participants identified two factors that strengthened the sustainability of hazing prevention at their campus, leading to greater funding, staff devotion, and partnerships across departments.¹¹³ These factors are: (1) the dissemination of campus hazing data with senior leaders and (2) strong relationships between students, staff, and professionals.¹¹⁴

Participants noted several difficulties in sustaining hazing prevention in a college setting.¹¹⁵ First, colleges are not apt to fundraise for hazing prevention because that essentially admits that hazing exists on campus, which is not attractive for public relations.¹¹⁶ If there are little to no funds to support antihazing efforts, the momentum toward eradicating hazing will slow resulting in a loss in community engagement.¹¹⁷ Second, staff turnover, and especially student turnover, can hinder continuity of hazing prevention efforts.¹¹⁸ While an initial spark exists, students soon graduate and leave the campus.¹¹⁹ If senior leaders and long-term staff do not take the initiative to sustain a hazing prevention program, the urgency of eradicating hazing dissipates, which results in difficulty ensuring that hazing prevention efforts continue.¹²⁰

¹¹¹ Allan, *supra* note 85, at 420-2 (Participants suggested the following sustainability strategies: “dedicated resources for hazing prevention (e.g., staff positions, staff time, funds), transition and training to maintain momentum and leadership amidst staff turnover, clearly articulated and highly visible antihazing position statements to lend credibility and keep hazing ‘on the radar’ for all community members, sharing of assessment data to promote accurate understanding and garner engagement, and opportunities for hazing prevention collaborations with other institutions.”).

¹¹² Allan, *supra* note 85, at 420.

¹¹³ Allan, *supra* note 85, at 420–21.

¹¹⁴ Allan, *supra* note 85, at 420.

¹¹⁵ Allan, *supra* note 85, at 421.

¹¹⁶ Allan, *supra* note 85, at 421.

¹¹⁷ Allan, *supra* note 85, at 421.

¹¹⁸ Allan, *supra* note 85, at 421.

¹¹⁹ See Allan, *supra* note 85, at 421.

¹²⁰ See Allan, *supra* note 85, at 421.

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7. *Cultural Competence*

Cultural competency training is making headway in institutions of higher education;¹²¹ however, it has been overlooked in relation to hazing.¹²² The Allan Framework study suggests that cultural competency is an area in need of further development at colleges and universities.¹²³ Cultural competency refers to “an orientation that entails specific training to develop understanding about how sociocultural identity differences and power dynamics shape hazing behaviors, experiences, and outcomes.”¹²⁴ Participants in the study explained that cultural competency is particularly important in evaluating the presence of sociocultural identities, institutional histories, traditions, and cultural diversity.¹²⁵ Each university has a different student population, so incorporating cultural competency into prevention methods will vary among institutions.

8. *Implementation*

The final component of the Allan Framework is implementation, which focuses on trainings and information sharing directed to stakeholders.¹²⁶ The implementation component should include policies that further knowledge on hazing prevention and develop skills needed to prevent hazing.¹²⁷ The authors found that implementation was significantly related to providing senior leaders with knowledge on how to demonstrate institutional commitment and providing staff with information on their “roles and accountability in hazing prevention.”¹²⁸

Each campus should tailor its implementation strategies to its unique circumstances.¹²⁹ One participant institution focused its efforts more on staff than students because, based on its assessment of the data, it seemed a better use of resources to focus implementation on staff since hazing was so ingrained in the students.¹³⁰ Therefore, implementation should be intentional, strategic, and targeted at the correct audience.¹³¹

¹²¹ Allan, *supra* note 85, at 421.

¹²² Allan, *supra* note 85, at 421.

¹²³ Allan, *supra* note 85, at 421.

¹²⁴ Allan, *supra* note 85, at 421.

¹²⁵ Allan, *supra* note 85, at 421.

¹²⁶ Allan, *supra* note 85, at 422.

¹²⁷ Allan, *supra* note 85, at 422.

¹²⁸ Allan, *supra* note 85, at 422.

¹²⁹ See Allan, *supra* note 85, at 422.

¹³⁰ Allan, *supra* note 85, at 422.

¹³¹ Allan, *supra* note 85, at 422.

Overall, it is important that any law proposed and passed that mandates hazing policies at institutions of higher education be guided by research driven prevention methods. Otherwise, the policy may prove to be ineffective, unworkable, and unsustainable, and therefore a waste of both the legislature's and universities' time and energy. As the Allan Framework suggests, antihazing efforts must be spearheaded by the university as a whole, must require the presence of hazing prevention staff, and must include dissemination of data. Understanding the Allan Framework is crucial because each component is utilized as a guide, together with the current federal and state legislation, discussed below, to propose new hazing legislation in Section V of this Comment.

IV. The Current Legal Landscape for U.S. Hazing Laws

This section will discuss different legislation related to higher education. Some of the legislation is directly related to hazing, while other legislation is only analogous or helpful in addressing hazing prevention. Existing and proposed federal legislation will be discussed first, with state legislation to follow.

A. FEDERAL LEGISLATION

There are no existing federal statutes that directly address hazing. However, there are existing federal statutes that can be utilized to create federal hazing legislation. Additionally, the United States Congress is considering several bills related directly to combating hazing.

1. *Existing Opportunities for Federal Legislation*

While there have been attempts in Congress to pass hazing legislation, those proposals have failed up to this point.¹³² However, despite this lack of federal legislation, there are federal laws that have the potential to offer guidance for hazing regulation, if amended. Title IX, while unrelated to hazing, can act as a guide for creating hazing legislation. The Clery Act requires universities and colleges to report specific crimes annually but does not require hazing reports. These federal laws will be examined more closely below in terms of their requirements and how they could potentially impact hazing prevention.

¹³² See generally REACH Act, H.R. 662 116th Cong. (2019-2020); REACH Act, S. 706 116th Cong. (2019-2020); END ALL Hazing Act, H.R. 3267 116th Cong. (2019-2020).

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i. Title IX

Title IX, which codifies Title IX of the Education Amendments of 1972 of the Higher Education Act of 1965 (“HEA”), “eliminate[s] . . . discrimination on the basis of sex in any education program or activity receiving Federal financial assistance.”¹³³ To comply with Title IX, it is required that any education institution affected by this law “designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX regulations, including any investigation of any complaint communicated to such [institution] alleging its noncompliance . . . or alleging any action that would be prohibited by these . . . regulations.”¹³⁴ Additionally, the institution “shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by . . . Title IX[.]”¹³⁵

While Title IX does not discuss hazing, the provisions requiring the designation of a responsible employee to carry out the policy can aid in hazing prevention efforts. However, each college campus is different, and it is important that a college or university assess its own needs when designating officers for hazing prevention. For instance, a large state university may want to provide for several hazing prevention officers in different departments, including athletics, student affairs, and each school. However, a smaller private institution with a student body between 1,000 and 2,000 students may only require one or two officers for the campus that provide assistance in each department and school.

ii. The Clery Act

The Clery Act requires universities remain transparent in their campus security policies and campus crime statistics.¹³⁶ The Act requires that the university publish a report which includes crime statistics on specific crimes as well as reporting procedures, facilities, and programs for students and faculty.¹³⁷ Hazing, however, is not one of the crimes institutions are required to report.¹³⁸ The Pennsylvania and Texas hazing laws resemble this law in reporting measures.¹³⁹ However, they additionally require particular reporting for hazing.¹⁴⁰

¹³³ 6 C.F.R. §17.100 (2003).

¹³⁴ 6 C.F.R. §17.135 (2003).

¹³⁵ *Id.*

¹³⁶ 20 U.S.C. § 1092(f) (2013).

¹³⁷ *Id.*

¹³⁸ *See* 20 U.S.C. § 1092(f)(1)(F).

¹³⁹ *See infra* notes 166–170, 184.

¹⁴⁰ *See infra* notes 166–170, 184.

Monitoring and reporting incident of hazing allows a university the opportunity to assess hazing issues particular to its campus and remain transparent and accountable. Reporting mandates are imperative because they aid in taking proactive safety measures as opposed to reactive measures.¹⁴¹ Reporting incidents that both result in injury and that do not result in injury are vital to creating a proactive hazing prevention program.¹⁴² While Title IX and the Clery Act are potential avenues to address hazing, several proposals for federal hazing legislation may be a better solution as discussed below.

2. Proposed Federal Hazing Legislation

Despite the lack of federal hazing legislation, and in light of notable cases across the country that have drawn national attention to hazing, such as Timothy Piazza's case, there are currently several proposed federal hazing bills in the Senate and House of Representatives; this includes the College Affordability Act (H.R. 4674); the Reach Act, with bills in both the House (H.R.1932) and Senate (S. 744); and the End All Hazing Act (S. 775).

i. The College Affordability Act (H.R. 4674)¹⁴³

The College Affordability Act (H.R. 4674) includes a number of provisions including (1) an amendment to the Clery Act requiring the institution to report "hazing incidents that were reported to campus security authorities or local police agencies";¹⁴⁴ (2) an amendment to the Clery Act requiring institutions to include a report of violations of the institution's policies on hazing, or local, state, or Federal laws on hazing, including the name of the organization that committed the violation, the description of the events that led to the violation, charges brought, findings by the institution, sanctions placed on the organization, and all pertinent dates;¹⁴⁵ and (3) an amendment to Section 487(a) of the HEA to include a provision requiring institutions to implement an education program for students on hazing, covering

¹⁴¹ See NATIONAL SAFETY COUNCIL & OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, NEAR MISS REPORTING SYSTEMS (2013).

¹⁴² See *id.*

¹⁴³ At the time of publication, a similar and more recent bill had been introduced in the House – H.R. 2525. However, the text of the bill had not yet been published. See Text, H.R. 2525 – *To amend the Higher Education Act of 1965 to require institutions of higher education to disclose hazing incidents, and for other purposes*, CONGRESS.GOV, <https://www.congress.gov/bill/117th-congress/house-bill/2525/text?r=22&s=1> (last visited June 3, 2021).

¹⁴⁴ College Affordability Act, H.R. 4674 § 4608 116th Cong. (2019-2020).

¹⁴⁵ *Id.*

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information on hazing awareness, prevention, and policies regarding hazing.¹⁴⁶

ii. The Reach Act (H.R. 1932 & S. 744)

The Reach Act, which has bills in both the House (H.R. 1932) and Senate (S. 744), proposes amendments to the HEA similar to those proposed by H.R. 4674.¹⁴⁷ The Senate's bill, however, includes an education program on hazing that is more comprehensive than H.R. 1932 and H.R. 4674.¹⁴⁸ Senate bill 744 proposes that the HEA be amended to include a program to prevent hazing that shall:

(aa) be a campus-wide program for students, staff, faculty, and other campus stakeholders (such as alumni and families of students); (bb) be a research-based program; (cc) be designed and implemented in partnership with a broad coalition of campus stakeholders, including leadership of the institution, faculty, staff, students, alumni, and families of students; (dd) include information on hazing awareness, hazing prevention, the institution's policies on hazing, how to report hazing, and the process used to investigate hazing; and (ee) include skill building for bystander intervention, information about ethical leadership, and the promotion of strategies for building group cohesion without hazing.¹⁴⁹

S. 744 appears to use the same or similar language as the Allan Framework. This might suggest that lawmakers are beginning to look to the Allan Framework for insight on hazing legislation.

iii. The End All Hazing Act (S. 775)

The End All Hazing Act (S. 775), a bill in the Senate, also addresses hazing.¹⁵⁰ It provides for many of the same considerations as the bills above except that its hazing disclosure section is more comprehensive, including compliance with the Family Educational Rights and

¹⁴⁶ H.R. 4674 § 4621 116th Cong. This only requires a program for students, and no other stakeholders.

¹⁴⁷ REACH Act, H.R. 1932, 117th Cong. (2020-2021); Reach Act, S.744, 117th Cong. (2020-2021). Both bills propose (1) inclusion of hazing in Clery Act reports, (2) definition of hazing to the Higher Education Act of 1965, and (3). Both bills propose an amendment to the Higher Education Act of 1965, however S. 744 program is more comprehensive.

¹⁴⁸ Compare S. 744, 117th Cong. with H.R. 1932, 117th Cong. and H.R. 4674 116th Cong.

¹⁴⁹ Reach Act, S.744, 117th Cong.

¹⁵⁰ END All Hazing Act, S. 775, 117th Cong. (2020-2021).

Compliance Act (“FERPA”),¹⁵¹ public website publication, and mandatory reporting of allegations of hazing to campus police and local law enforcement.¹⁵²

3. Analyzing Proposed Federal Legislation

According to GovTrack, H.R. 4674 died in a previous Congress.¹⁵³ House Representative bill 1932, S. 744, and S. 775, each has a very low passage rate.¹⁵⁴ Published reports on hazing help not just students decide which university to attend or which organization to join, but it also assists the institution in assessing its own hazing issues.¹⁵⁵ H.R. 4674 goes beyond other bills because it not only amends the Clery Act to add hazing violations to the list of criminal violations an institution must report, but it also mandates a separate report solely dedicated to hazing incidents. Creating a separate report for hazing is essential in sustaining all hazing prevention policies and methods on campus.

House Representative bill 4674, S. 775, and S. 744 also propose an education program focused on hazing awareness, prevention, and policies. However, S. 744 exceeds the other two bills in providing this educational program not just for students but for all “campus stakeholders.” This notion is connected to the commitment and sustainability components of the Allan Framework.¹⁵⁶ Involving larger parts of the campus community, as opposed to just the student affairs office, increases commitment from all departments and senior leaders, as well as maintains the sustainability and long-term effects of hazing prevention policies and procedures.¹⁵⁷ Due to the lack of federal requirements regarding hazing, a number of states have passed laws that tackle hazing as discussed below:

¹⁵¹ For more information on FERPA, see 34 C.F.R. 99 (1974).

¹⁵² END All Hazing Act, S. 775, 117th Cong.

¹⁵³ H.R. 4674: College Affordability Act, GovTrack, <https://www.govtrack.us/congress/bills/116/hr4674> (last visited June 3, 2021).

¹⁵⁴ H.R. 1932: REACH Act, GovTrack, <https://www.govtrack.us/congress/bills/117/hr1932> (last visited June 3, 2021); S. 744: REACH Act, GovTrack, <https://www.govtrack.us/congress/bills/117/s744> (last visited June 3, 2021); S. 775: END ALL Hazing Act, GovTrack, <https://www.govtrack.us/congress/bills/117/s775> (last visited June 3, 2021). See table on next page for exact projected passing rates.

¹⁵⁵ Bill Schackner, *Pa. Schools Reported Dozens of Hazing Violations Under New Law*, PITTSBURGH POST-GAZETTE, (Jan. 15, 2019, 9:35PM), <https://www.post-gazette.com/news/education/2019/01/15/Penn-State-hazing-Timothy-Piazza-law-fraternities-sororities-college-Pitt-Duquesne-CMU/stories/201901150176>.

¹⁵⁶ See Allan, *supra* note 85, at 416, 420.

¹⁵⁷ Allan, *supra* note 85, at 417.

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Bill Name and Congress	Bill Number	Description	Passage Rate/Status
College Affordability Act, 116th Congress (2019-2020)	H.R.4674	- Amendment to Clery Act to include hazing in its Clery Act report - Amendment to Clery Act to report all violations of hazing - Requires hazing education program	Died in Congress
Reach Act, 117th Congress (2020- 2021)	H.R.1932 & S. 744	- Amendment to Clery Act to include hazing in its Clery Act report - Amendment to Clery Act to report all violations of hazing - Requires more comprehensive hazing prevention program than H.R. 4674	4% & 3%
End All Hazing Act, 2020-2021)	S. 775	- Amendment to Clery Act to include hazing in its Clery Act report - Amendment to Clery Act to	3%

		report all violations of hazing - More comprehensive disclosure	
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B. STATE LEGISLATION ON HAZING

Currently, forty-four states have antihazing laws.¹⁵⁸ Some states' laws only include hazing as a criminal offense.¹⁵⁹ While other states only have laws that provide for mandatory compliance measures for antihazing for institutions of higher education.¹⁶⁰ In addition, some states' statutes include both criminal hazing laws and mandatory requirements for colleges and universities.¹⁶¹ This Comment will not address criminal hazing statutes but will only consider mandatory requirements for institutions of higher education. The following states' laws were chosen as guides because they are the most comprehensive or include a particular piece of legislation that resonates with the Allan Framework. Additionally, Pennsylvania's and Texas's laws include reporting measures which are important in creating transparency and accountability. The laws discussed in this section include Pennsylvania's hazing law, Texas's hazing law, Tennessee's hazing law, and New Jersey's anti-bullying law.

1. Pennsylvania

After Timothy Piazza's death at Penn State, Pennsylvania amended its antihazing law.¹⁶² The law, which is under the Crime and Offenses Title of Pennsylvania's Statutes, requires each institution to adopt a written hazing policy that includes both a program for the enforcement

¹⁵⁸ See *Hazing Law - Interactive State Map*, HAZINGPREVENTION.ORG, <https://hazingprevention.org/about/state-laws> (last visited Mar. 21, 2021). (This source may not be up to date with the most recently enacted laws.).

¹⁵⁹ See *id.*

¹⁶⁰ See *id.*

¹⁶¹ See *id.*

¹⁶² PENNSYLVANIA STATE UNIVERSITY, *Timothy J. Piazza Antihazing Legislation Signed into Pennsylvania Law*, PENN STATE NEWS (Oct. 19, 2018), <https://news.psu.edu/story/542868/2018/10/19/administration/timothy-j-piazza-antihazing-legislation-signed-pennsylvania>. New Jersey has also introduced a bill named after Timothy Piazza in its Senate and Assembly. However, these bills do not address hazing policy requirements in education institutions. S. 84, 219th Leg. (N.J. 2020); A. 3149 219th Leg. (N.J. 2020).

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of the policy and penalties for violating the policy.¹⁶³ The sanctions should be administered by the person or department responsible for recognition of organizations that are covered by the policy.¹⁶⁴ Additionally, the law requires that the institution provide a copy of the policy to each of the organizations on campus.¹⁶⁵

The next section of the chapter requires an institutional report of hazing violations under the institution's antihazing policy or Federal or State hazing laws that are reported to the institution.¹⁶⁶ The report is required to include the following:

- (1) The name of the subject of the report.
- (2) The date when the subject was charged with a violation of . . . hazing.
- (3) A general description of the violation, any investigation and findings by the institution and, if applicable, penalties.
- (4) The date on which the matter was resolved.¹⁶⁷

The report must be updated biannually on January 1 and August 1 of each year.¹⁶⁸ The report should not include any identifiable information of individuals.¹⁶⁹ Each report must include information on violations from the five years prior to the publishing date of the report.¹⁷⁰

Since the bill was signed into law, each institution of higher education has issued three reports.¹⁷¹ From January 2016 to December 2020, Penn State reported twenty-nine incidents of hazing related to its students, with six occurring in 2019 and three occurring in 2020.¹⁷² Twenty-five of the incidents involved Greek letter organizations, and three other incidents involved the baseball team, the Eclipse Winter Guard, and the Student Athletic Trainers' Club.¹⁷³ During the same time frame, Bucknell University reported seven hazing incidents involving

¹⁶³ 18 PA. CONS. STAT. § 2808 (2018).

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ 18 PA. CONS. STAT. § 2809.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ Min Xian, *Pennsylvania Higher Ed Institutions Publish Second Biannual Hazing Reports*, WPSU RADIO (Aug. 5, 2019), <https://radio.wpsu.org/post/pennsylvania-higher-ed-institutions-publish-second-biannual-hazing-reports>.

¹⁷² THE PENNSYLVANIA STATE UNIVERSITY, ANTIHAZING REPORT, https://universityethics.psu.edu/sites/universityethics/files/penn_state_antihazing_report.pdf (2021). The report includes hazing incidents from every Penn State campus.

¹⁷³ *Id.* One incident occurred during a high-school sports camp that were not Penn State students.

Greek letter organizations, sports teams, and one other club.¹⁷⁴ Additionally, Shippensburg University reported ten incidents from 2016 through 2020, seven related to Greek life and three related to athletic teams.¹⁷⁵

The mandatory reports are the key to promoting accountability and transparency at the university level and they allow the university to take measurements of the outcomes of the methods it has implemented to prevent hazing. Because the fraternity had a hazing incident just the year before, Max Gruver's parents admitted they would have been able to warn their son, prior to his hazing-related death, not to join the same fraternity had the university published a hazing report.¹⁷⁶ Pennsylvania's amendment to its law is a step in the right direction to better prevent hazing. However, the law is still lacking. The law only requires the department or administrator that oversees student organizations to sanction those organizations for a hazing violation. A more effective measure would require the involvement of more stakeholders, not just in the sanctioning of student organizations, but also in the (1) implementation of prevention policies and measures; (2) hazing prevention training; and (3) investigations, reports, and sanctions.¹⁷⁷ Additionally, in order to better equip students, faculty, staff, and administration with the necessary tools to prevent hazing, the law should also require mandatory programs and training for the campus community.

When Governor Tom Wolf signed the Senate bill into law in 2018, Senate Majority Leader Jake Corman stated that the new law "emphasizes prevention, enforcement and transparency" and "provides tools for prosecutors, parents, students and schools to see where the problems are . . ."¹⁷⁸ After the deadline for institutional reports were released in January 2019, Corman provided,

¹⁷⁴ BUCKNELL UNIVERSITY, BUCKNELL UNIVERSITY TIMOTHY J. PIAZZA ANTIHAZING LAW REPORT (2021), <https://www.bucknell.edu/sites/default/files/file/2020-12/hazingreport8-20.pdf>.

¹⁷⁵ SHIPPENSBURG UNIVERSITY, SHIPPENSBURG UNIVERSITY ANTIHAZING REPORT (2021) https://www.ship.edu/life/dean-students/student-conduct/hazing_reports/.

¹⁷⁶ Catherine Thorbecke, *Parents Mourn Son's 'Senseless' and 'Horrible' Death Following Alleged Hazing Incident at LSU Fraternity*, ABC NEWS (Dec. 14, 2017), <https://abcnews.go.com/US/parents-mourn-sons-senseless-horrific-death-alleged-hazing/story?id=51781180>.

¹⁷⁷ See *infra* notes 95 - 131.

¹⁷⁸ Press Release, Governor Wolf Signs the Timothy J. Piazza Antihazing Law, Protecting Students and Increasing Penalties (Oct. 19, 2019), <https://www.governor.pa.gov/newsroom/governor-wolf-signs-timothy-j-piazza-antihazing-law-protecting-students-increasing-penalties/>.

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The reporting component of the law provides students with the tools they need to make informed choices about the groups they consider joining and colleges they plan to attend . . . Parents can also use this as a resource to talk with their children about the decisions they are making while adding an additional layer of accountability to the schools and other organizations.¹⁷⁹

Penn State President Eric J. Barron stated that the “law is an important movement in an ongoing conversation to identify meaningful solutions that create transformational change.”¹⁸⁰

2. Texas

A new Texas hazing law recently went into effect on September 1, 2019.¹⁸¹ Texas Senator Judith Zaffirini, a sponsor of the law, stated that since her last attempt at passing this law in 2017, three students have died as a result of hazing – Matthew Ellis from Texas State University, Joseph Little from Texas A&M University, and Nicky Cumberland from University of Texas.¹⁸² The law provides for a number of provisions that establish mandatory hazing requirements for institutions of higher education.¹⁸³ In Texas, all private and public institutions of higher education are required to “develop and post . . . a report on hazing committed on or off campus by an organization registered with or recognized by the institution,” which includes from the three preceding years:

(A)the name of the organization disciplined or convicted;
(B)the date on which the incident occurred or the citation was issued; (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; (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

¹⁷⁹ Schackner, *supra* note 155 (internal quotations omitted).

¹⁸⁰ Governor Wolf Signs the Timothy J. Piazza Antihazing Law, Protecting Students and Increasing Penalties, *supra* note 178.

¹⁸¹ Tex. S.B. 38 86th Leg. (2019-2020).

¹⁸² Lisa Nhan, *New Hazing Bill Passes, Holds Texas Universities More Accountable*, DAILY TEXAN (June 17, 2019 11:40 PM), <http://dailytexanonline.com/2019/06/17/new-hazing-bill-passes-holds-texas-universities-more-accountable>.

¹⁸³ TEX. EDUC. CODE ANN. § 51.936 (2019); TEX. EDUC. CODE ANN. § 51.9361 (2013).

disciplinary process was resolved or on which the conviction became final.¹⁸⁴

The report must be updated within 30 days of any disciplinary process that has been resolved or when convictions become final.¹⁸⁵ The report must not include any student identifiers and comply with FERPA.¹⁸⁶ Students attending the institution's student orientation must receive notice of the report.¹⁸⁷

Furthermore, Texas requires that each institution of higher education "provide a risk management program for members of student organizations registered at the institution."¹⁸⁸ The law mandates that the program address a number of issues including hazing.¹⁸⁹ The program does not focus solely on hazing.¹⁹⁰ Every organization that the university designates as one that must send a representative to the risk management program must then send both its advisor and all officers to the program.¹⁹¹ An officer or advisor must report the contents of the program to the members of the organization.¹⁹² The school can impose sanctions on a person that is required to attend but fails to do so.¹⁹³

Texas universities and colleges have released their hazing reports. Texas State University reported sixteen Greek letter organizations that have been "convicted" or "disciplined" for hazing within the last three

¹⁸⁴ TEX. EDUC. CODE ANN. § 51.936.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*; see also 20 U.S.C. §1232g (2013).

¹⁸⁷ TEX. EDUC. CODE ANN. § 51.936.

¹⁸⁸ TEX. EDUC. CODE ANN. § 51.9361.

¹⁸⁹ *Id.* An institution may address any issue it deems necessary and it must address: "(1) possession and use of alcoholic beverages and illegal drugs . . . ; (2) hazing; (3) sexual abuse and harassment; (4) fire and other safety issues . . . ; (5) travel to a destination outside the area in which the institution is located; (6) behavior at parties and other events held by a student organization; (7) adoption by a student organization of a risk management policy; and (8) issues regarding persons with disabilities"

¹⁹⁰ *Id.* According to a Prezi presentation uploaded by the Director for Student Activities and Orientation at Texas Wesleyan University, the presentation for TWU risk management program included six slides focusing on hazing out of a total of thirty-three slides. See Barb B, *Student Org Risk Taking*, PREZI, <https://prezi.com/p/7jzwfknxj9jg/student-org-risk-training/> (last updated Sept. 24, 2020).

¹⁹¹ TEX. EDUC. CODE ANN. § 51.9361. An advisor is "a person who: (A) serves in an advisory capacity to a student organization to provide guidance to the organization and its members; (B) is older than 21 years of age; and (C) is not a student of the postsecondary educational institution at which the student organization is registered."

¹⁹² *Id.*

¹⁹³ *Id.*

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years.¹⁹⁴ The University of Texas at Austin twenty-one hazing incidents involving twenty different organizations.¹⁹⁵

Texas's law accomplishes more than Pennsylvania's law because it provides a risk management program for student organizations and their advisors. However, this risk management program covers a broad array of subject matters. While it must incorporate hazing, there is no requirement for student organizations to attend a program with the sole purpose of providing those organizations with hazing prevention information, methods, and support. The law also lacks any requirement for hazing prevention officers to be appointed or for the training of any other university stakeholders.

3. Tennessee

Tennessee law requires that each institution of higher education adopt a policy regarding hazing and that "[t]ime shall be set aside during orientation to specifically discuss the policy and its ramifications as a criminal offense and the institutional penalties that may be imposed by the . . . institution."¹⁹⁶ Researchers have recommended that institutions involve and introduce students to hazing prevention efforts "early in students' campus experience."¹⁹⁷ This law takes a step in the right direction by incorporating hazing prevention into orientation, but lacks training initiatives and the involvement of other stakeholders.¹⁹⁸

4. New Jersey

New Jersey has existing hazing laws, but the legislation is lacking.¹⁹⁹ New Jersey, however, has recently introduced new hazing legislation to address its currently inadequate law.²⁰⁰ If passed, the bill would require every institution to adopt a policy against hazing, create a program for the enforcement of the policy against hazing, and publish a hazing violation report from the preceding five years.²⁰¹ Nevertheless,

¹⁹⁴ HAZING MEMORANDUM, TEXAS STATE UNIVERSITY, <https://www.dos.txstate.edu/hazing.html> (last visited Mar. 21, 2021).

¹⁹⁵ THE UNIVERSITY OF TEXAS AT AUSTIN, HAZING VIOLATIONS, <https://hazing.utexas.edu/hazing-violations> (last visited June 7, 2021).

¹⁹⁶ TENN. CODE ANN. § 49-7-123 (1995); *see also* TENN. CODE ANN. § 49-2-120 (2000).

¹⁹⁷ Allan, *supra* note 81, at 3.

¹⁹⁸ Other states have similar statutes such as Louisiana and Texas. LA. STAT. ANN. § 17:1801.1 (2019); TEX. EDUC. CODE ANN. § 51.936(c-2) (2019). New Jersey's anti-bullying law does not use the word hazing in any way.

¹⁹⁹ *See* N.J. STAT. ANN. §§ 2C:40-3–2C:40-4 (1980). New Jersey's current law only prohibits hazing by a person. The state does not have laws regulating higher education institutions' hazing policies.

²⁰⁰ *See* A. 3176, 219th Leg. (N.J. 2020).

²⁰¹ *Id.* The bill also amends the state's current criminal hazing statutes.

because this legislation is pending and is not as comprehensive as New Jersey's anti-bullying statutes, this Comment will not analyze it. New Jersey has enacted the Anti-Bullying Bill of Rights Act that provides a framework appropriate for this Comment due to its implementation of Allan Framework elements.²⁰²

The New Jersey anti-bullying law is used as a parallel to hazing laws for the purpose of this Comment.²⁰³ The terms hazing and bullying are sometimes conflated or used synonymously, and while they both "are forms of interpersonal violence in which a power-differential exists" and both result in consequences, there are differences between the two.²⁰⁴ The U.S. Centers for Disease Control and Prevention defines bullying as "[a]ny unwanted aggressive behavior(s) by another youth . . . that involves an observed or perceived power imbalance and is repeated multiple times or is highly likely to be repeated. Bullying may inflict harm or distress on the targeted youth . . ." ²⁰⁵ Whereas, hazing, defined below,²⁰⁶ can occur regardless of the victim's willingness to participate.²⁰⁷ Additionally, most hazing definitions do not include behavior that is as repetitive as the definition of bullying.²⁰⁸

²⁰² N.J. STAT. ANN. § 18A:37-13.2 (2010). New Jersey is not the only state with comprehensive bullying laws. Other states and territories with similar laws include: Arkansas, California, Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, Minnesota, Oregon, and Rhode Island. According to StopBullying.gov, each of these states have provisions that cover every component included in a framework that the U.S. Department of Education developed from all state laws, policies, and regulations. The components include a prohibiting statement, definition, scope, protected groups, district policy requirements, reporting and investigations, consequences, communication of policy, safeguards and supports, review and update of local policies, prevention education, staff training, and parent engagement. *Common Components of State Anti-Bullying Laws and Regulations, by State*, STOPBULLYING.GOV, <https://www.stopbullying.gov/sites/default/files/StopBullying-Law-Policies-Regulations.pdf> (last visited Mar. 19, 2021). New Jersey's law was chosen for this Comment because the author's institution is located in New Jersey.

²⁰³ Some authors have analogized hazing and bullying and even conflated the two. See Susan H. Duncan, *College Bullies – Precursors to Campus Violence: What Should Universities and College Administrators Know About the Law?*, 55 VILL. L. REV. 269 (2010); Bryce E. Johnson, *Please Tell Me You Caught That on Video! Social Media's Role in the Hazing Problem and Common Sense Solutions to Reduce the Prevalence of Hazing*, 39 U. LA VERNE L. REV. 62 (2017); Kyle Prince, *... After Further Review: The Future of Bullying & Hazing Laws and Interscholastic Athletics*, 4 MISS. SPORTS L. REV. 123 (2014).

²⁰⁴ Alex B. Diamond et al., *Qualitative Review of Hazing in Collegiate and School Sports: Consequences From a Lack of Culture, Knowledge and Responsiveness*, 50 BRITISH J. OF SPORTS MED. 149 (2016).

²⁰⁵ *Id.* (quoting NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL, CENTERS FOR DISEASE CONTROL AND PREVENTION, and U.S. DEPT. OF EDUC., BULLYING SURVEILLANCE AMONG YOUTHS 7 (2014)).

²⁰⁶ See *infra* Section A.

²⁰⁷ Diamond, *supra* note 204.

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While the Anti-Bullying Bill of Rights Act has requirements similar to the above hazing laws,²⁰⁹ it also includes policies and procedures that align with the Allan Framework.²¹⁰ New Jersey's law, which applies to K-12 schools, requires that a school's bullying policy include a statement prohibiting retaliation against any person that has reported a bullying incident.²¹¹ Additionally, the law requires that the school's principal decide how the school will respond to a bullying incident, but the response must include different services available within the district including support services, counseling, and intervention services.²¹² Certain individuals defined by the statute that have witnessed an act of bullying are required to report the incident to a designated school official, including board of education members, school employees, contracted service providers, and students or volunteers.²¹³ The Act also requires that a budget be created by the Department of Education solely for the purpose of carrying out the Act.²¹⁴

The Anti-Bullying Bill of Rights Act also requires that the school district provide employees and volunteers who have significant contact with students, with training on the district's bullying policies.²¹⁵ Each principal shall appoint an anti-bullying specialist who oversees the school safety team, leads investigations regarding reported incidents of bullying, and is the primary official in charge of preventing, identifying, and addressing bullying incidents.²¹⁶ The superintendent of the school district shall appoint an anti-bullying coordinator.²¹⁷ The coordinator is responsible for creating and implementing the district's prevention policies, collaborating with stakeholders and other bullying officials to prevent bullying, and providing data on bullying of students.²¹⁸ The Commissioner of the Department of Education is required to collaborate with members in academia, child advocacy organizations, nonprofit organizations, professional associations, and government agencies to establish training programs and in-service workshops for anti-bullying coordinators and specialists.²¹⁹

²⁰⁹ See *supra* notes 163–170, 183–193.

²¹⁰ See N.J. STAT. ANN. §§ 18A:37-13–31; see generally Allan, *supra* note 85.

²¹¹ N.J. STAT. ANN. § 18A:37-15 (2012).

²¹² *Id.*

²¹³ N.J. STAT. ANN. § 18A:37-16 (2010).

²¹⁴ N.J. STAT. ANN. § 18A:37-28 (2012).

²¹⁵ N.J. STAT. ANN. § 18A: 37-17(b) (2012).

²¹⁶ N.J. STAT. ANN. § 18A:37-20 (2010).

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ N.J. STAT. ANN. § 18A:37-26 (2010).

A school safety team shall be formed at each school to develop and maintain a healthy school climate and environment.²²⁰ Some of the responsibilities of the school safety team include reviewing any complaints of bullying, identifying and addressing patterns of bullying, evaluating and improving school climate and bullying prevention policies, educating the school community on bullying prevention, participating in training, and collaborating with the anti-bullying coordinator to collect data and develop district policies.²²¹

The anti-bullying law includes several methods that align with the Allan Framework. While public K-12 schools are different in population, faculty, and administration, the law can be analogized to create and amend hazing laws. The New Jersey law requires the pooling of resources to respond to bullying, including counseling and support services. Similarly, a university can use its resources in responding to and preventing hazing incidents such as providing student counseling services, health services, and tutoring. The law requires training for employees that have contact with students. None of the hazing laws incorporate this kind of training for faculty at institutions of higher education. However, professors may be the first to notice a change in a student's behavior. A student that may have shown interest and attended class regularly in the beginning of the semester may then begin to show up late or not at all, sleep during class, or show no interest or effort in the classroom. While this can occur for a variety of reasons, if professors are not aware of the effects of hazing, they may never suspect that this student could be a victim of hazing.²²² This also applies to resident assistants and others that work in residence life, athletic coaches, career counselors, and organization leaders.

The NJ Bullying Bill of Rights Act requires the creation of a "school safety team."²²³ This is analogous to the Allan Framework's hazing coalition.²²⁴ Creating a group of stakeholders to combat hazing allows involvement of different departments and populations at the university. Lastly, the Act created a budget to implement the law, which is also a critical aspect when it comes to sustaining hazing prevention policies,

²²⁰ N.J. STAT. ANN. § 18A:37-21 (2010).

²²¹ *Id.*

²²² This is especially true for first year students. Most organizations invite new members to join their organizations from the freshmen class in both their fall and spring semesters. See John Hechinger & David Glovin, *Should Fraternities Defer Recruitment For Freshmen?*, WBUR (Oct. 22, 2013), <https://www.wbur.org/hereandnow/2013/10/22/fraternities-recruitment-freshmen>.

²²³ N.J. STAT. ANN. § 18A:37-21.

²²⁴ See Allan, *supra* note 85, at 417-18.

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procedures, and programs on any campus.²²⁵ The New Jersey Anti-Bullying Task Force reported a decline in harassment, intimidation, and bullying as well as an increase in bullying prevention programs for students and staff.²²⁶

Having explored the legislative landscape regulating hazing at both the federal and state levels, this Comment will next propose federal legislation that could effectively implement hazing prevention.

V. Federal Proposal for Hazing Legislation

This section will propose legislation and analyze potential challenges to that proposal. The proposed legislation, including a definition for hazing and requiring compliance from institutions of higher education, is described more fully below:

- (1) Amendment to the Clery Act adding hazing as one of the crimes reported;
- (2) Amendment to the Clery Act requiring a separate report for alleged hazing incidents;
- (3) Charging a senior leader with spearheading compliance by creating a hazing prevention program in compliance with this proposed legislation;
- (4) Appointment of hazing officers by a senior leader;
- (5) Creation of a hazing coalition to assist in carrying out compliance with this proposed legislation;
- (6) Designation of faculty and staff that are mandatory reporters;
- (7) Creation of a budget for compliance with this proposed legislation;
- (8) Collection of data on hazing and dissemination of that data;
- (9) Data collected must be used by hazing coalition to develop strategic and targeted prevention methods;
- (10) Training for stakeholders, designated hazing officers, members of hazing coalition, senior leadership, faculty that have significant contact with students, students; and others the institution deems necessary;

²²⁵ N.J. STAT. ANN. § 18A:37-28 (2012); *see also* Allan, *supra* note 85, at 421.

²²⁶ NEW JERSEY ANTI-BULLYING TASK FORCE, ANNUAL REPORT 4 (Jan. 26, 2016), <https://www.nj.gov/education/students/safety/behavior/hib/task/AnnualReport16.pdf>.

- (11) Creation of a training program for students at orientation;
- (12) Institution and hazing coalition must evaluate hazing prevention methods annually.

A. DEFINING HAZING

Jurisdictions define hazing differently.²²⁷ As hazing definitions vary, so do the implications. Hazing cannot be defined in such a way that will violate the First Amendment.²²⁸ Additionally, a universal definition for hazing across the country will improve statistics on hazing. The definition chosen, while not as comprehensive as some, covers both physical and mental harm, an important piece missing in some hazing definitions. For the following federal proposal, hazing is defined as follows:

²²⁷ Compare N.J. STAT. ANN. § 2C:40-3 (1980) (making hazing a criminal offense if a person, “in connection with initiation of applicants to or members of a student or fraternal organization, . . . knowingly or recklessly organizes, promotes, facilitates or engages in any conduct other than competitive athletic events, which places or may place another person in danger of bodily injury.”), with N.H. REV. STAT. ANN. § 631:7 (1993) (defining “student hazing” as “any act directed toward a student, or any coercion or intimidation of a student to act or to participate in or submit to any act, when: (1) Such act is likely or would be perceived by a reasonably person as likely to cause physical or psychological injury to any person; and (2) Such act is a condition of initiation into, admission into, continued member in or association with any organization.”), and with KAN. STAT. ANN. § 21-5418 (2011) (defining hazing as “recklessly coercing, demanding or encouraging another person to perform, as a condition of membership in a social or fraternal organization, any act which could reasonably be expected to result in great bodily harm, disfigurement or death or which is done in a manner whereby great bodily harm, disfigurement or death could be inflicted.”).

²²⁸ See *Shelton v. Tucker*, 364 U.S. 479, 487 (1960) (“The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.”); *Healy v. James*, 408 U.S. 169, 180 (1972) (“The college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas’”); *DeJohn v. Temple Univ.*, 537 F.3d 301, 314 (3d Cir. 2008) (“Because overbroad harassment policies can suppress or even chill core protected speech, and are susceptible to selective application amounting to content-based or viewpoint discrimination, the overbreadth doctrine may be invoked in student free speech cases.”). While the Supreme Court of the United States has not addressed hazing as related to freedom of speech, the Supreme Court, in *Texas v. Johnson*, stated: “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” 491 U.S. 397, 414 (1989)). The Third Circuit, applying *Johnson* to harassment policies at institutions of higher education, concluded that, “[h]arassing’ or discriminatory speech, although evil and offensive, may be used to communicate ideas or emotions that nevertheless implicate First Amendment protections.” (*DeJohn*, 537 F.3d at 314. The court concluded that any harassment law cannot prohibit speech solely on expressive content. *See id* at 319-20.

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- (1) The term ‘hazing’ means any 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 -
- (a) was committed in connection with an initiation into, an affiliation with, to the maintenance of membership in, any organization that is affiliated with such institution of higher education; and
 - (b) contributes to a substantial risk of physical injury, mental harm, or degradation or causes physical injury, mental harm or personal degradation.²²⁹

With this understanding of how hazing should be defined for purposes of this federal proposal, the following section demonstrates how the application of the Allan Framework is critical to enhancing a federal proposal which aims to prevent hazing.

B. APPLYING THE ALLAN FRAMEWORK

In order to propose the most effective legislation to prevent hazing, it is important that a proposal incorporate research-based prevention methods. Using the Allan Framework to propose federal legislation is crucial because universities and colleges lack policies that conform to the Allan Framework, and therefore are not as effective in preventing hazing. Therefore, the proposed legislation in this Comment incorporates the Allan Framework.²³⁰

Every institution is different. Hazing prevention methods for one university may not work for another. The proposed legislation only requires hazing prevention policy methods that are somewhat broad, so each college or university may adapt methods particular to its own hazing issues, resources, and climate. Therefore, while every institution will be required to implement what is required by the proposal, it is not a ceiling. If an institution can take greater hazing prevention measures based on its resources and size, it should do so, albeit according to the Allan Framework. This allows the institution to assess the hazing issue on its own campus, along with its assets and resources, to create and implement hazing prevention policies and methods that are effective.²³¹

²²⁹ The author does not suggest this definition meets First Amendment requirements. That analysis is outside the scope of this Comment. If, however, this were to meet First Amendment requirements, this definition would be preferred.

²³⁰ See *supra* notes 85-131.

²³¹ See Allan, *supra* note 85, at 415.

If federal legislation, based on an effective prevention framework, mandates universities to follow certain policies, institutions across the country will have effective hazing prevention policies and programs. As discussed above, the Allan Framework includes the following components: commitment, capacity, assessment, planning, evaluation, sustainability, cultural competence, and implementation.²³² This Comment will illustrate how these components can be implemented into a federal legislative proposal.

1. *Commitment*

The first component of the Allan Framework includes commitment of resources, support structures, and senior leaders.²³³ An amendment to current federal law requiring mandatory reporting and involvement of senior leaders in the hazing prevention program satisfies the requirements of the commitment component of the Allan Framework. Senior leader involvement is necessary to better allocate resources and provide for wide-spread accountability.²³⁴ In order to do this, an institution should take a “multi-sector approach” in which hazing prevention is the responsibility of not just one department but many departments across the campus.²³⁵ It is recommended that, in addition to each senior leader’s commitment to a hazing prevention program, institutions appoint an official or representative from each or most departments, including residence life, student life, and academic departments, to take part in implementing a hazing prevention program.

Many of the laws discussed are useful in developing commitment at an institution. H.R. 4674’s amendment to the Clery Act includes hazing among the crimes reported as well as a separate hazing report which has the potential to develop wide-spread accountability at the university.²³⁶ Along the same lines, the Pennsylvania and Texas reporting statutes do the same.²³⁷ Research indicates that institutions that reported a higher number of incidents had a lower matriculation rate.²³⁸ The study suggests that when deciding which institution to

²³² Allan, *supra* note 85, at 415.

²³³ Allan, *supra* note 85, at 416-17.

²³⁴ Allan, *supra* note 85, at 416-17.

²³⁵ Allan, *supra* note 85, at 417.

²³⁶ College Affordability Act, H.R. 4674 116th Cong. § 4608 (2019-2020).

²³⁷ 18 PA. CONS. STAT. § 2809 (2018); TEX. EDUC. CODE ANN. § 51.936 (1995).

²³⁸ Dennis H. H. Hall, *Impact of the Clery Act: An Examination of the Relationship between Clery Act Data and Recruitment at Private Colleges and Universities*, at 87-88 (2017) (dissertation, University of North Texas).

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attend, students account for crime data in their decisions.²³⁹ Therefore, administration and senior leaders should prioritize campus safety, including a focus on hazing prevention.²⁴⁰

The proposed law, therefore, includes: (1) an amendment to the Clery Act to add hazing as one of the crimes reported; and (2) an amendment to the Clery Act that requires a separate report for alleged hazing incidents on or off campus that includes the organization involved, a brief description of the incident, the outcome of the investigation/hearing, and pertinent dates including but not limited to the date of the incident and the date the incident was resolved.

Involving senior leaders is important in raising commitment. Therefore, the proposed law echoes the New Jersey anti-bullying law. The New Jersey law requires: (1) the principal to appoint an anti-bullying specialist; (2) the superintendent to appoint an anti-bullying coordinator; and (3) the principal to decide how the school will respond to bullying incidents. Similarly, the proposed hazing law requires a senior leader, who is charged with creating, implementing, and sustaining antihazing policies, appoint hazing officers. A hazing official or representative should be appointed in each department. This senior leader should also be a part of the hazing coalition discussed below.

2. Capacity

The second component is capacity; capacity refers to the human and structural resources needed to create and implement hazing prevention policies and methods.²⁴¹ An amendment requiring the appointment of a senior leader to spearhead a hazing prevention program, in which the senior leader appoints hazing officers and creates a hazing coalition, would fulfill the capacity component. Human resources include students, professionals, and other stakeholders who have or can develop their skills and proficiencies in hazing prevention through training, networking, and willingness and motivation to participate.²⁴² Structural resources include the infrastructure at the university, such as time, staff, resource allocation, and the creation of a hazing coalition.²⁴³ The Allan Framework provides that when building capacity, an institution should: (1) have one professional on campus whose time is dedicated to hazing prevention; (2) create a hazing prevention coalition that (i) includes stakeholders such as faculty, staff,

²³⁹ *Id.*

²⁴⁰ *See id.* at 88.

²⁴¹ Allan, *supra* note 85, at 417.

²⁴² Allan, *supra* note 85, at 417.

²⁴³ Allan, *supra* note 85, at 417.

administration, students, parents and alumni, (ii) is charged by senior leadership, and (iii) creates and implements training and methods for hazing prevention; and (3) incorporates participation and support from departments across the entire campus.²⁴⁴

Title IX and the New Jersey anti-bullying law both require the appointment of an officer designated for the carrying out of the respective law.²⁴⁵ Under Title IX, each institution must have at least one employee designated to implement the required policies.²⁴⁶ Under New Jersey law, each school must have one anti-bullying specialist and each school district must have one anti-bullying coordinator.²⁴⁷ From these laws and the Allan Framework, the proposed hazing law should include the designation of a senior leader to spearhead the implementation of this proposed law. That senior leader should appoint hazing officers across campus from different departments such as student services, health services, counseling services, campus ministry, athletics, etc. and should also charge a hazing coalition composed of different stakeholders from across the campus to assist in complying with the law.²⁴⁸ The coalition will have responsibilities directly related to other components of the Allan Framework. The coalition will consist of other senior leaders and long-term staff and faculty from different departments, students, and other stakeholders. The senior leader will also determine which faculty on campus are deemed mandatory reporters, similar to the New Jersey anti-bullying law and Title IX.²⁴⁹

The New Jersey law also established a state fund in order to carry out the anti-bullying law.²⁵⁰ In order to ensure resources are available for institutions, the senior leader will work with the institution's budget office to determine an allocated budget for the carrying out of this proposed law.

²⁴⁴ Allan, *supra* note 85, at 417-18.

²⁴⁵ 6 C.F.R. § 17.135 (2003); N.J. STAT. ANN. § 18A:37-20 (2010) (using the term "specialist" and "coordinator").

²⁴⁶ 6 C.F.R. § 17.135.

²⁴⁷ N.J. STAT. ANN. § 18A:37-20.

²⁴⁸ This should be similar to the school safety team required by the New Jersey anti-bullying law. *See generally* N.J. STAT. ANN. § 18A:37-21 (2010).

²⁴⁹ N.J. STAT. ANN. § 18A:37-16 (2010). While this Comment was being written, Title IX regulations were amended and no longer require mandatory reporting. Benjamin Rosenberg, *New Title IX Regulations No Longer Require Mandatory Reporting in Colleges*, DAILY NW (May 10, 2020), <https://dailynorthwestern.com/2020/05/10/sports/new-title-ix-regulations-no-longer-require-mandatory-reporting-in-colleges/>.

²⁵⁰ N.J. STAT. ANN. § 18A:37-28 (2010).

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3. *Assessment and Planning*

The third and fourth components of the framework are assessment and planning.²⁵¹ A proposed law that requires (1) collection of data and dissemination of that data, and (2) use of that data by the institution and hazing coalition to develop strategic and targeted prevention methods, would satisfy both the assessment and planning component of the Allan Framework. Assessment refers to the collection of data on hazing incidents and attitudes on hazing, and disseminating that data to the institution's stakeholders which aids them in determining the methods and policies best suited to the hazing issues particular to a given institution.²⁵² Planning refers to the use of that data to develop prevention methods suited to the individual institution's needs and resources, including the use of measurable goals to measure improvements.²⁵³ Therefore, proposed legislation includes a requirement for institutions to collect data on hazing incidents and disseminating that information, not just to the stakeholders, but the public at large, to create transparency and accountability.²⁵⁴ This relates to the amendments to the Clery Act that H.R. 4674 proposes: the addition of hazing to the list of crimes universities must report, as well as mandating that universities publish a separate hazing report (also required by Texas and Pennsylvania law).²⁵⁵ The data collected shall be used by the hazing coalition to fulfill the planning component of the Allan Framework. One of the responsibilities of the coalition will be to use the data collected to develop strategic and targeted prevention methods to better address an institution's particular hazing issues.

4. *Implementation*

The fifth component is implementation.²⁵⁶ To incorporate this component into law, an amendment would require training of stakeholders and other important faculty and staff to help them identify

²⁵¹ See Allan, *supra* note 85, at 417-19.

²⁵² Allan, *supra* note 85, at 418-19

²⁵³ Allan, *supra* note 85, at 419.

²⁵⁴ While the proposed legislation in this Comment will not include data collection on the institution's communities' attitudes and experiences toward hazing, it is recommended that institutions continually collect data on these criteria in order to better assess the institution's climate and needs and to better measure the prevention methods implemented.

²⁵⁵ College Affordability Act, H.R. 4674 § 4608 116th Cong. (2019-2020); 18 PA. CONS. STAT. § 2809 (2018); TEX. EDUC. CODE ANN. § 51.936 (2019). While this Comment does not propose the collection of data concerning the experiences and feelings of stakeholders, it is highly recommended that institutions collect data on this to better assess the climate of the institution.

²⁵⁶ See Allan, *supra* note 85, at 422.

indicators of hazing. The institution should begin to train the pertinent stakeholders in their roles so they may begin to create or change the existing hazing policies and methods at the institution.²⁵⁷ Stakeholders should be provided “trainings for basic understanding of hazing, bystander intervention, and ethical leadership development; social norms messaging; and promotion of healthy group cohesion without hazing.”²⁵⁸ The training should be individualized to the institution’s needs and resources.²⁵⁹ Therefore, aligned with S.744’s hazing education program, Texas’ risk management program, and Tennessee’s approach to address hazing at orientation,²⁶⁰ this Comment proposes legislation that includes training for designated hazing officers, members of the hazing coalition, senior leadership, faculty who have significant contact with students, and any other members of the community that the institution deems necessary. This training, which would be required during orientation, would provide trainees with adequate knowledge to identify indicators of hazing and how to report an incident or perceived incident of hazing. Additionally, the law proposes that senior leaders, including the one charged with spearheading hazing prevention, be trained on how to demonstrate commitment to hazing prevention and how to provide staff with information on their roles pertaining to hazing prevention at the institution.

5. Evaluation

Another component of the framework includes evaluation.²⁶¹ To fulfill the requirement of the evaluation component, the institution would need to collect data on both hazing and attitudes of hazing and then use that data to evaluate the institutions hazing prevention program. Evaluation requires that the institution continually measure its hazing prevention efforts.²⁶² This can be done through data collection.²⁶³ This process can be tedious and long because it consists of continuous evaluation to develop a data-driven prevention program.²⁶⁴ Neither federal nor state legislation addresses evaluation. This Comment proposes the hazing coalition to take charge in evaluating the

²⁵⁷ Allan, *supra* note 85, at 422.

²⁵⁸ Allan, *supra* note 85, at 422.

²⁵⁹ See Allan, *supra* note 85, at 422.

²⁶⁰ See Reach Act, S.706, 116th Cong. (2019-2020); TEX. EDUC. CODE ANN. § 51.9361 (2007); TENN. CODE ANN. § 49-7-123 (1995).

²⁶¹ See Allan, *supra* note 85, at 419-20.

²⁶² Allan, *supra* note 85, at 419.

²⁶³ Allan, *supra* note 85, at 419-20.

²⁶⁴ Allan, *supra* note 85, at 420.

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institution's prevention methods annually using the data collected and other resources available to it.

6. Sustainability

Sustainability is the institution's ability to maintain and support the hazing prevention methods and policies.²⁶⁵ To satisfy the sustainability component, proposed legislation should require (1) the collection of data regarding attitudes on hazing and hazing itself, and (2) the involvement of senior leaders and long-term staff in hazing prevention. Two important components of sustainability include the dissemination of campus hazing data with senior leaders and continuing strong relationships between students, staff, and professionals.²⁶⁶ Because higher education institutions have high staff turnover rates and even higher student turnover rates, sustainability requires that senior leaders and long-term staff take initiative in hazing prevention policies and methods.²⁶⁷ Using this component and mandated reporting legislation discussed above, this Comment proposes legislation requiring institutions to continually collect data on hazing incidents and highly encourages institutions to collect data on the institution's stakeholders' experiences and attitudes towards hazing on their campus. Additionally, the law will require the involvement of senior leaders in the coalition as well as long-term staff members.

7. Cultural Competence

Cultural competency,²⁶⁸ while not included in the proposed legislation, is a very important component in assessing and providing a tailored prevention program at an institution.²⁶⁹ Each institution is unique and is comprised of different students, faculty, and administrative populations. A federal proposal that mandates policies for every institution would not suffice in addressing the distinct culture, climate, and intricacies that are particular to each institution. Therefore, it is recommended that institutions pay particular attention

²⁶⁵ Allan, *supra* note 85, at 420.

²⁶⁶ Allan, *supra* note 85, at 420.

²⁶⁷ Allan, *supra* note 85, at 420-21.

²⁶⁸ The last component of the hazing prevention framework is cultural competency. It is difficult for legislation to address cultural competency measures because each institution is unique. While this Comment will not propose legislation directly related to this component, it is highly recommended that institutions refer to this component in the Allan Framework when creating and implementing hazing prevention policies and methods.

²⁶⁹ Allan, *supra* note 85, at 421.

to cultural competency when it comes to hazing prevention as it relates to their communities.

Scholars Gregory S. Parks and Dorsey Spencer have described some of the issues Black Greek-letter Organizations (“BGLOs”) face at the chapter level.²⁷⁰ For instance, many BGLOs do not have traveling consultants that visit the local chapters from their national organizations.²⁷¹ This means that campus professionals are often the only ones advising the chapter.²⁷² Parks and Spencer found that student affairs professionals “often have a superficial understanding of the similarities and distinctions between BGLOs and their White counterparts.”²⁷³ An advisor’s lack of understanding is often a result of the institution’s failure to either hire professionals with the needed expertise or to adequately train the existing professionals.²⁷⁴ If student affairs professionals lack the adequate understanding to advise BGLOs generally, it is possible that professionals across the campus also lack that understanding especially when it comes to hazing. This is why training in cultural competency is as important as an institution’s overall commitment to diversity and inclusion.

As an analogy, it is important to look at how other professions incorporate cultural competency training into other fields. For instance, cultural competency curricula at medical schools have blossomed over the last two decades.²⁷⁵ However, medical schools still face challenges with their curricula.²⁷⁶ These challenges include (1) students resistance to learning cultural competency because they see it as a “soft science;” (2) curricula must avoid the perpetuation of stereotypes; and (3) most curricula in medical schools lack a component that fosters

²⁷⁰ See Gregory S. Parks & Dorsey Spencer, *Student Affairs Professionals, Black “Greek” Hazing, and University Civil Liability*, 31 *COLLEGE STUDENT AFFAIRS J.* 125 (2013).

²⁷¹ *Id.* at 126. Kappa Kappa Gamma Sorority’s Leadership Consultants have responsibilities that include “Provid[ing] guidance and coaching to chapter leadership on best practices in areas of membership growth and retention, chapter management and organization, leadership development . . . [and] [w]ork[ing] with Kappa Headquarters, district teams, local alumnae, Panhellenics, and campus officials to assure the chapter is on track and supported.” Kappa Kappa Gamma, *Leadership Consultant Position Description*, <https://www.kappakappagamma.org/Kappa/uploadedFiles/Leadership%20Consultant.pdf> (last visited June 8, 2021).

²⁷² Parks, *supra* note 270, at 126.

²⁷³ Parks, *supra* note 270, at 126.

²⁷⁴ Parks, *supra* note 270, at 126-27.

²⁷⁵ Carla Boutin-Foster, Jordan C. Foster, & Lyuba Konopasek, *Physician, Know Thyself: The Professional Culture of Medicine as a Framework for Teaching Cultural Competence*, 83 *ACADEMIC MEDICINE* 106, 106 (2008).

²⁷⁶ *Id.* at 106-7.

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understanding of a student's own cultural background.²⁷⁷ While medical school curricula is much different from creating a hazing prevention program overall, the challenges faced by medical schools should be considered when incorporating an effective cultural competence component in any hazing prevention program.

C. CHALLENGES TO SUCH LEGISLATION

1. *Fiscal Challenges*

Before the Governor signed Pennsylvania's antihazing law, the House Committee on Appropriations made several findings.²⁷⁸ One important finding was that sections 2808 (Enforcement by institution and secondary school) and 2809 (Institutional reports) would have a "minimal" fiscal impact on institutions.²⁷⁹

Additionally, as hazing imposes a safety issue for any institution, universities that do not invest in hazing prevention programs may find themselves losing matriculation if hazing rates are high.²⁸⁰ However, as considered below, institutions that move too quickly to change policy may face opposition from alumni and donors which may affect the institution fiscally.²⁸¹ If an institution decides to begin making changes to its policies regarding hazing and other related matters, it should do so by involving all stakeholders in order to involve the many populations that affect an institution's fiscal budget.

2. *"Code of Silence" Challenge*

Opponents to more comprehensive and stricter hazing laws believe that the more stringent laws are, the more likely it will drive organizations and hazing underground, worsening a "code of silence" that already exists on some campuses.²⁸² Those in favor of stricter hazing laws believe they are needed to deter hazing.²⁸³ Laws requiring compliance measures by universities, however, as opposed to criminal laws for students, aim for a different goal: hazing prevention. Criminal laws, while they do have a deterrent effect and therefore do play a role in some prevention, are essentially reactive to hazing incidents.

²⁷⁷ *Id.*

²⁷⁸ See COMMONWEALTH OF PA. HOUSE COMMITTEE ON APPROPRIATIONS, FISCAL NOTE, SB 1090 (Printers No. 1825, 2018).

²⁷⁹ *Id.*

²⁸⁰ Hall, *supra* note 238, at 25.

²⁸¹ See *infra* note 284.

²⁸² Helene Bruckner, *Students Fall Victim to Hazing Epidemic: Unity at What Cost?*, 34 TOURO L. REV. 459, 472 (2018).

²⁸³ *Id.* at 471-72.

However, the law proposed here mandates institutions take a proactive approach in preventing hazing. By mandating institutions to develop a campus-wide hazing prevention policy and program for all campus stakeholders, hazing will not be “brushed under the rug” but will be addressed head on before an incident occurs and will begin to change overall campus climate on hazing.

3. *Challenges Facing Senior Leaders*

Senior leaders at institutions of higher education may face opposition when creating and implementing new hazing policies.²⁸⁴ Greek letter organizations own a total of \$3 billion in real estate property on 800 campuses across the United States and those organizations’ leaders raise over \$20 million a year.²⁸⁵ One of six men who attend a four-year college are a part of a fraternity.²⁸⁶ Because of the amount of money spent on Greek letter organizations and the high number of individuals involved in these organizations, push back from students, alumni, and other donors can occur.²⁸⁷ For instance, in 2013, Trinity College’s former president, James F. Jones, resigned earlier than expected because of “fire from alumni who withheld donations and threatened a lawsuit” after Jones had initiated policies on hazing that included a ban on pledging, stricter alcohol policies, and co-educational pledge classes.²⁸⁸ Similarly, when President John Thrasher of Florida State University suspended Greek life activities, he received opposition from parents who had “accused him of ruining their children’s cultural life.”²⁸⁹ To combat this challenge, it is suggested that students take part and have a voice in improving hazing policies at their universities.²⁹⁰

²⁸⁴ Valerie Strauss, *Are Colleges Really Doing Enough to Stop Fraternity Hazing Deaths?*, WASH. POST (Nov. 16, 2017), <https://www.washingtonpost.com/news/answer-sheet/wp/2017/11/16/are-colleges-really-doing-enough-to-stop-fraternity-hazing-deaths/> (quoting Liz Willen, *Are Hazing, Sexual Assault, Drinking and unabashed racism inevitable on campus?*, HECHINGER REPORT (Nov. 15, 2017), <https://hechingerreport.org/hazing-sexual-assault-drinking-unabashed-racism-inevitable-campus/>).

²⁸⁵ *Id.*

²⁸⁶ *Id.*

²⁸⁷ *See id.*

²⁸⁸ *Id.*

²⁸⁹ *Id.*

²⁹⁰ Strauss, *supra* note 284.

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VI. Conclusion

Hazing has affected institutions of higher education all over the country. It is incompatible to the goals of a learning environment. In its most extreme form, it is detrimental to students' lives, and even in its most minor form, it can affect a student's ability to learn and therefore, affect the student's skill development and talents needed in the professional workplace. While the state of the current hazing legislative landscape seems comprehensive, it often only addresses the criminal aspect of hazing, an after-the-fact approach, and fails to consider prevention methods institutions can implement to stop hazing before it begins. States have both criminal laws and civil laws on hazing, but no law exists at the federal level defining and regulating hazing compliance measures. Despite the existence of states' compliance laws regulating hazing, they are not comprehensive enough – as evidenced by data driven research in hazing prevention methods.

Therefore, a better equipped, research driven federal compliance law is needed in order to combat hazing today. Many universities and colleges have adopted hazing policies. However, the policies, procedures, and programs must incorporate components of the Allan Framework to the extent possible to be effective. The framework includes several components: commitment, capacity, assessment, planning, evaluation, sustainability, cultural competence, and implementation. A hazing prevention policy designed for a college or university should incorporate some, if not all, of these components in order to provide effective hazing prevention methods. The federal legislative proposal discussed in this Comment, which suggests amending the Higher Education Act of 1965, attempts to address each of these components by combining examples from other hazing and education legislation and mandating certain compliance measures for institutions of higher education, including: publication of hazing incident reports; creation of hazing coalitions consisting of campus stakeholders; designation of professionals on campus to take on rolls to implement hazing prevention policies, procedures, and programs; required training for employees in direct contact with students; required programs for campus community on hazing prevention; required budget allocation for the implementation of the proposed law; and collection and dissemination of data related to hazing. The federal legislative proposal is a proactive approach that is necessary to both address hazing nationwide and eliminate the haze that exists in the current legal antihazing landscape.