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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 2nd Session, 2024

Bill Number	<u>SB55/aSEC</u>	Sponsor	<u>Pope/Herndon</u>
Tracking Number	<u>.227143.1</u>	Committee Referrals	<u>SCC/SEC/SJC/SFC</u>
Short Title	<u>Anti-Hazing Act</u>		
Analyst	<u>Davalos</u>	Original Date	<u>1/23/2024</u>
		Last Updated	<u>1/31/2024</u>

BILL SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee amendment to Senate Bill 55 (SB55/aSEC) removes language that mandated whoever commits hazing resulting in substantial bodily harm to another person to be convicted of a fourth-degree felony. The amendment also adds language that exempts identifying information from the Inspection of Public Records Act to further align with the federal Family Educational Rights and Privacy Act in the mandated annual reporting from postsecondary educational institutions.

Synopsis of Original Bill

Senate Bill 55 (SB55) would create the Anti-Hazing Act. The bill provides definitions related to hazing and links criminal penalties to hazing participants as misdemeanors or, in severe cases, felonies.

SB55 would require public and private postsecondary educational institutions to prohibit hazing by holding participating individuals and student organizations accountable. The bill would require postsecondary institutions to establish an anti-hazing code of conduct policy congruent with hazing prevention education. Postsecondary institutions would be required to support a hazing prevention committee to promote and address hazing prevention.

SB55 would also require postsecondary institutions to maintain and publicly report actual findings of violations of the anti-hazing code of conduct, or any violation of state or federal law, including offenses related to alcohol, drugs, sexual assault, or physical assault. SB55 also sets requirements related to hazing for social fraternities and sorority organizations.

FISCAL IMPACT

SB55/aSEC does not contain an appropriation. However, several agencies have expressed concern regarding the institutional cost to implement SB55/aSEC including statements from the University

of New Mexico (UNM) noting there are cost associated with law enforcement, training, and administrative duties.

- Eastern New Mexico University (ENMU) noted the Anti-Hazing Act will have an estimated cost of \$250 thousand each year to provide online training to each student and personnel cost to track and support the Anti-Hazing training.
- New Mexico Independent Community Colleges (NMICC) notes there will be cost associated with developing training material and outreach requirements.
- The Higher Education Department (HED) mentioned the potential cost for postsecondary institutions to update their webpages per the annual report requirement.
- The Office of the Attorney General (NMAG) notes institutional costs associated with mandated investigations and reporting, although the exact amount of financial burden would be institution specific.
- The Law Offices of the Public Defender (LOPD) notes it would be impossible to predict a precise fiscal impact.

SUBSTANTIVE ISSUES

As defined in SB55/aSEC, hazing is an action “that causes, or is likely to cause, bodily danger or physical harm or serious psychological or emotional harm to a student or other person... including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance that subjects the person to risk of such harm, regardless of the person's willingness to participate.” NMAG noted this definition may be too broad, which may cause difficulties in implementing and enforcing the mandates requested in SB55/aSEC.

SB55/aSEC would require postsecondary institutions to prohibit hazing through penalties, create a code of conduct policy to prohibit hazing off- and on-campus, establish a hazing prevention committee, provide hazing prevention education, submit a public annual report of hazing violations by any student organization, and institute requirements for social fraternity and sorority organizations regarding hazing.

Penalizing Hazing. SB55/aSEC would set a criminal penalty and postsecondary institutional penalties for individuals and postsecondary organizations that willingly participate in or permit hazing rituals.

Criminal Penalty. Any person who intentionally commits hazing is guilty of a misdemeanor. Further, any organizational entity that permits hazing is strictly liable for damages caused to a person or property. SB55/aSEC includes corporations, in which directors may be held individually liable for damages.

Postsecondary Institutional Penalties. Any person who intentionally commits hazing would forfeit any entitlements, including state-funded grants, scholarships, and awards, for a period of time that is determined by the postsecondary institution. Furthermore, any organizational entity that permits hazing would forfeit any official recognition or approval granted by the postsecondary institution.

Code of Conduct Policies and Hazing Prevention Education. SB55/aSEC requires postsecondary institutions to prohibit, in their code of conduct, hazing off- and on-campus. Beginning the fall term of 2024, SB55/aSEC would require a postsecondary institution to provide students with an educational program on hazing as part of the new student orientation sessions. Hazing educational programs would include information regarding hazing awareness, prevention, intervention, and the institution’s policy on hazing. Anti-hazing materials would be provided to all

student groups and organizations regarding anti-hazing policy and student rights and responsibilities. Hazing prevention education would also be provided to employees at the beginning of each academic year and at the beginning of each academic term for new employees.

SB55/aSEC states if there is reasonable cause to believe that hazing has occurred, students or employees must report the incident “at the first opportunity to do so” to a designated authority at the postsecondary institution. Individuals who made a report in “good faith” may not be sanctioned or punished unless the person is directly engaged in the planning, directing, or act of hazing.

Hazing Prevention Committee. The bill would require postsecondary institutions to establish a minimum-six-member hazing prevention committee to promote and address hazing prevention. Committee members would include current students, a student from any student organization, one faculty or staff member, and one parent or legal guardian.

Annual Reports. SB55/aSEC would require postsecondary institutions to maintain and publicly report actual findings of violations of the anti-hazing code of conduct, or any violation of state or federal law, including offenses related to alcohol, drugs, sexual assault, or physical assault. SB55/aSEC would require postsecondary institutions to make their reports available on their website.

The annual reports would include the name of the violating organization, the start and end date of the investigation, a description of the incident, including the date of the incident, findings and sanctions placed on the organization, and the date of the charged violation. In respect to the federal Family Educational Rights and Privacy Act¹, including exemption to the Inspection of Public Records Act, reports will not include any personal or identifying information of individual students.

Requirements for Social Fraternity and Sorority Organizations. SB55/aSEC would require social fraternity and sorority organizations to notify the postsecondary institution before chartering, rechartering, opening, or reopening a local chapter or operation and when the organization instigates an investigation related to hazing. Investigations instigated by the organization must provide a full report on the findings from the investigation. SB55/aSEC would require social fraternities and sorority organizations to publicly report a full list of the previous five years of all findings of violations of anti-hazing policies to maintain registration. Social fraternity and sorority organizations that fail to comply with SB55/aSEC requirements would result in an automatic loss of recognition until “such time that the organization comes into compliance.”

ADMINISTRATIVE IMPLICATIONS

According to HED, SB55/aSEC would require postsecondary institutions to examine their existing anti-hazing policies to ensure they comply with the Anti-Hazing Act. Postsecondary institutions would need to develop new training and prepare annual reports. LOPD also noted it would be impossible to predict the increase in workload attorneys and staff would see from the passage of SB55/aSEC.

TECHNICAL ISSUES

¹ 1 The Family Educational Rights and Privacy Act ([FERPA](#)) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records with some exclusion to directory information. “The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.”

HED noted that SB55/aSEC has no mechanism to ensure postsecondary institutions are following the anti-hazing act mandates. NMAG suggests additional amendments to provide the missing mechanisms or provide a requirement for referral to law enforcement.

OTHER SIGNIFICANT ISSUES

According to [StopHazing](#), a research organization, New Mexico, Hawaii, Alaska, Wyoming, South Dakota, and Montana are the only states that do not have an anti-hazing law. However, there are other initiatives being taken to intervene and prevent hazing. According to [HED budget recommendations](#), they are requesting \$500 thousand to establish the anti-hazing division and reporting portal to address prevention and incidents of hazing on New Mexico postsecondary campuses.

In November 2023, Attorney General Raúl Torrez released a [press release](#) regarding three former New Mexico State University (NMSU) basketball players who were charged with multiple felony sex crime related to hazing incidents that occurred in fall 2022. NMSU also fired its head basketball coach and ended the 2022-2023 basketball season due to hazing allegations.

RELATED BILLS

HB225, Create Crime of Hazing, creates the misdemeanor crime of hazing and the fourth-degree felony of aggravated hazing. The bill requires HED to create, advertise, and maintain a statewide online reporting portal for reporting incidents of hazing. HB225 also requires postsecondary educational institutions to provide hazing prevention education.

SOURCES OF INFORMATION

- LESC Files
- Eastern New Mexico University ENMU)
- Higher Education Department (HED)
- Law Offices of the Public Defender (LOPD)
- New Mexico Department of Justice
- New Mexico Independent Community Colleges (NMICC)
- New Mexico Institute of Mining and Technology (NMIMT)
- New Mexico Sentencing Commission
- Office of the Attorney General (NMAG)
- University of New Mexico (UNM)

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