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

Bill Number	<u>HB225</u>	Sponsor	<u>Hernandez</u>
Tracking Number	<u>.226423.7SA</u>	Committee Referrals	<u>HJC/HAFC</u>
Short Title	<u>Create Crime of Hazing</u>		
Analyst	<u>Davalos</u>	Original Date	<u>1/30/2024</u>
		Last Updated	<u>2/12/2024</u>

BILL SUMMARY

Synopsis of Bill

House Bill 225 (HB225) proposes to create the misdemeanor crime of hazing and the fourth-degree felony of aggravated hazing in public and private kindergarten through 12th (K-12) schools and postsecondary educational institutions. HB225 defines aggravated hazing as an unlawful act intentionally committed against a student in connection with initiation into or membership in any student group when the act causes substantial physical or mental harm. HB225 also stipulates that a staff member who knew or should have known of hazing and fails to report it would be guilty of a misdemeanor, along with suspension or revocation of their educator licensure.

HB225 would require the Higher Education Department (HED) to create, advertise, and maintain a statewide online reporting portal for reporting incidents of hazing and aggravated hazing. Online reporting portal staff would work in coordination with the Department of Public Safety (DPS) and local law enforcement to provide referrals and resources for individuals reporting a hazing crime. Additionally, HB225 requires schools serving K-12 students to report hazing incidents annually to the Public Education Department (PED), and postsecondary educational institutions to report hazing incidents annually to HED. All reports of hazing or aggravated hazing would then be reported to the office of Civil Rights of the U.S. Department of Education (USDE).

Furthermore, HB225 would require postsecondary educational institutions to provide hazing prevention education, as well information on the prohibition on hazing, to all employees at the beginning of each academic year, and for new employees at the beginning of each academic term.

The effective date of HB225 would be July 1, 2024, except the requirements for HED to create the online reporting portal and subsequent hazing reporting, which would be effective July 1, 2025.

FISCAL IMPACT

HB225 appropriates \$500 thousand from the general fund to HED for expenditure in FY25. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the general fund. Although, the House Appropriations and Finance Committee Substitute for House Bills 2

and 3 as amended (HB2/HAFCS/aHF1#1/aSFC) does not contain the appropriation proposed by HB225.

It appears HB225 would have a fiscal impact on educational entities that will vary depending on the educational entity's existing resources, as HB225 requires public or private educational entities to report hazing incidents annually to their respective departments and requires postsecondary educational institutions to provide hazing prevention education and the institutions prohibition on hazing to all employees.

New Mexico Independent Community Colleges notes there will be some financial impact on institutions as they update their materials to conform to the definitions in HB225. The New Mexico Institute of Mining and Technology and the University of New Mexico also note recurring costs to meet the bill's requirements, disclosing annual costs ranging from \$15 thousand to \$50 thousand. Additionally, the New Mexico Corrections Department (NMCD) notes there will be some financial implications on the NMCD due to the potential convictions of a new fourth degree felony, which carries a penalty of up to eighteen months imprisonment.

SUBSTANTIVE ISSUES

Hazing and Aggravated Hazing Penalties. Per HB225, a person who commits hazing is guilty of a misdemeanor and would be sentenced pursuant to the provisions of [Section 31-19-1 NMSA 1978](#), whereas a person who commits aggravated hazing is guilty of a fourth-degree felony and would be sentenced pursuant to the provisions of the new section of the Criminal Code that would be enacted by the passage of HB225. Furthermore, HB225 stipulates that a staff member of an educational entity who knew or reasonably should have known of hazing and fails to report hazing would be guilty of a misdemeanor, including the suspension or revocation of any educator licensure under the School Personnel Act.

HB225 specifies that if the perpetrator of the act of hazing or aggravated hazing is under the age of 18, the perpetrator may be considered for services under the Delinquency Act, including services and pre-adjudication diversion by probation and parole.

HB225 states the crime of hazing does not include any activity or conduct that furthers legitimate curricular, extracurricular, or military training program goals that is officially sanctioned by an educational entity.

Hazing Online Reporting Portal. HB225 would require HED to create and maintain a statewide online reporting portal for reporting incidents of hazing and aggravated hazing at educational entities. The online reporting portal would be staffed by a full-time director and one part-time personnel member selected by the secretary of HED to provide referrals and resources for individuals reporting a hazing or aggravated hazing crime. Staff would also work in coordination with the DPS and local law enforcement to report hazing crimes. HB225 states any identifiable information provided on the online reporting portal would be exempt from the Inspection of Public Records Act.

Requirements to Provide Hazing Prevention Education. HB225 requires a public or private postsecondary educational institution to provide hazing prevention education on the signs and dangers of hazing as well as the institution's prohibition on hazing to employees, including student employees, either in person or electronically. Prevention education would be provided to

employees at the beginning of each academic year and for new employees at the beginning of each academic term.

ADMINISTRATIVE IMPLICATIONS

HED notes an annual recurring cost to implement the provisions for HED in HB225 is approximately \$200 thousand per year.

HB225 would require HED to advertise the online reporting portal statewide and post information about the online reporting portal in a prominent place on the department's website. HED notes it would be appropriate for HED to collaborate with PED in designing and advertising the online reporting portal so that it is accessible and appropriate for use by students, parents, and staff from K-12 institutions as well as meeting the needs of postsecondary educational institutions.

Additionally, HB225 would require educational entities to report hazing incidents annually to PED for public or private schools serving K-12 students and to HED for public or private postsecondary educational institutions. HED notes the department would work with PED to compile a statewide annual report of reported hazing incidents with goals to reduce the annual number of hazing incidents in New Mexico educational institutions.

OTHER SIGNIFICANT ISSUES

According to [StopHazing](#), a research organization regarding hazing, New Mexico, Hawaii, Alaska, Wyoming, South Dakota, and Montana are the only states that do not have an anti-hazing law.

HB225 defines hazing, aggravated hazing, and educational entity as follows:

- Hazing: an act intentionally or recklessly committed against a student or prospective student at an educational entity as part of a student's recruitment, initiation, pledging, admission into or affiliation with a student organization, athletic team, club or living group or any pastime or amusement engaged that causes or is likely to cause bodily danger, physical harm or serious psychological or emotional harm to a student or other person attending an educational entity, 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 student's willingness to participate.
- Aggravated hazing: an unlawful act, intentionally committed against a person who is a student or prospective student of an educational entity in connection with initiation into, affiliation with, holding office in or maintaining membership in any student organization, student body or student athletic team or club, regardless of whether the student organization, student body or student athletic team or club is officially recognized, sanctioned or authorized by an educational entity; and when such act causes painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body of the current or prospective student or causes substantial mental harm to the current or prospective student.
- Educational entity: a public or private school serving kindergarten through twelfth grade students or a public or private postsecondary educational institution.

ALTERNATIVES

Most educational entities have implemented anti-hazing policies in their code of conduct for students and employees.

RELATED BILLS

SB55, Anti-Hazing Act, creates the Anti-Hazing Act that implements criminal penalties for hazing; requires postsecondary institutions to create a hazing prevention committee and to establish an anti-hazing code of conduct policy congruent with hazing prevention education.

SOURCES OF INFORMATION

- LESC Files
- Department of Public Safety
- New Mexico Corrections Department (NMCD)
- New Mexico Higher Education Department (HED)
- New Mexico Independent Community Colleges (NMICC)
- New Mexico Institute of Mining and Technology (NMIMT)
- University of New Mexico (UNM)

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