

CLIENT ALERT

Federal Anti-Hazing Legislation Gains Momentum in Congress

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Addressing hazing incidents on college and university campuses has been a bipartisan priority for many advocates and legislators in recent years. After multiple failed attempts to pursue legislation which would address the reporting, disclosure, and prevention of hazing, the House Education and Workforce Committee (the “Committee”) recently took a meaningful step toward the goal of hazing prevention by approving the bipartisan Stop Campus Hazing Act (“SCHA”) ¹ on September 12, 2024. Proponents of the bill hope that the SCHA “will create a roadmap for a culture shift in hazing” and “ensure that students and parents will be better informed about the culture of hazing on their college campuses.”²

If enacted, the SCHA would create a national standard to address the ways in which colleges and universities handle incidents of hazing. More specifically, the SCHA would amend the Higher Education Act of 1965 to require all colleges and universities that participate in federal student-aid programs to collect information on and publicly disclose hazing-related incidents and implement programming to help prevent hazing. The bill would require schools to add information about hazing incidents to the annual reports required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), enacted in 1990 to improve campus safety and transparency.

¹ Stop Campus Hazing Act, H.R. 5646, 118th Congress (2023).

² *Federal Anti-Hazing Bill Moves One Step Closer to Becoming Law*, INSIDE HIGHER ED (Sept. 12, 2024), https://www.insidehighered.com/news/students/safety/2024/09/12/house-education-committee-advances-anti-hazing-bill?utm_source=Inside+Higher+Ed&utm_campaign=7654ff3b01-DNU_2021_COPY_02&utm_medium=email&utm_term=0_1fcbc04421-7654ff3b01-237993354&mc_cid=7654ff3b01&mc_eid=f1e4d9f11c.

Federal Anti-Hazing Legislation Gains Momentum in Congress

I. Prior Attempts at Hazing Legislation in Congress

The SCHA consolidates provisions of two previous anti-hazing bills that did not advance out of committee: the Educational Notification and Disclosure of Actions risking Loss of Life by Hazing Act, or the “END ALL Hazing Act,”³ and the Report and Educate About Campus Hazing Act, or the “REACH Act.”⁴

In 2019, Representative Glenn Thompson of Pennsylvania and Representative Marcia Fudge of Ohio introduced the END ALL Hazing Act. It mandated, on the institution’s website, the public disclosure of violations of anti-hazing laws and campus rules. The END ALL Hazing Act defined hazing as an act committed only by current or former students that “causes, or contributes to a substantial risk of, physical injury, mental harm, or personal degradation.” This Act did not require the implementation of anti-hazing programming for students and staff. It was referred to the House Committee on Education and Labor.

In 2021, Senator Amy Klobuchar of Minnesota and Senator Dr. Bill Cassidy of Louisiana introduced the REACH Act. Like the END ALL Hazing Act, the bill also defined hazing as acts committed by students against other students. It did not include procedures for reporting and disclosing hazing incidents. Instead, it focused on programming aimed at hazing prevention for students and staff. It was referred to the Senate Committee on Health, Education, Labor and Pensions.

The SCHA brings the specific provisions of the prior bills together and proposes a universal standard for both hazing prevention and mandatory reporting of hazing incidents.

II. The Stop Campus Hazing Act

The SCHA defines “hazing” as any intentional, knowing, or reckless act committed by a person, whether individually or in concert with other persons, against a student regardless of that student’s willingness to participate that:

- (I) was committed in connection with an initiation into, an affiliation with, or the maintenance of membership in, an organization (such as a club, society, association, athletic team, fraternity, sorority, or student government); and
- (II) causes or is likely to contribute to a substantial risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical training necessary for participation in an athletic team), of physical injury, mental harm, or degradation.

The bill requires higher education institutions to record and compile statistical information on hazing incidents reported on campus. The SCHA also requires the creation and implementation of programming for students, staff, faculty, and other campus stakeholders to prevent hazing. This programming must be designed and implemented in partnership with a broad

³ END ALL Hazing Act, H.R. 3267, 116th Congress (2019).

⁴ REACH Act, S. 744, 117th Congress (2021).

Federal Anti-Hazing Legislation Gains Momentum in Congress

coalition of campus stakeholders. The purpose of the program is to provide information about hazing awareness and prevention and inform students and staff about the institution's policies on hazing, how to report hazing, and the process used to investigate hazing. It must also include skill building for bystander intervention, information about ethical leadership, and strategies for building group cohesion without hazing.

The SCHA sets forth a procedure for the collection and reporting of hazing incidents, which would be added to the already-existing Clery Act's reporting requirements. Institutions must prepare a Campus Hazing Transparency Report (the "Report") that discloses each hazing-related incident involving a student of the institution for which a formal finding of guilt, responsibility, or culpability is issued. Incidents that violate the institution's code of conduct or of federal, state, or local law must be included. The Report must list the name of the organization associated with the violation, a description of the violation, the date on which the incident was alleged to have occurred, the date on which the formal finding was issued, and the start and end date of the investigation. The Report must not include any personally identifying information about individual students. As with the other reportable information subject to the Clery Act, the hazing reports must be publicly available through the institutions' website within 12 months of the enactment of the SCHA and updated twice per year.

III. Impact of the SCHA

The Committee's passage of the SCHA moves the bill to the floor of the House of Representatives. The Committee's bipartisan passage of the bill and the clear consensus in both houses of Congress that federal anti-hazing legislation is needed suggests that the SCHA will soon become law. The Clery Act enjoys wide support in Congress and is seen as an important mechanism to protect student safety. Extending the Clery Act requirements to include acts of hazing as well as the mandated training of student groups who have traditionally engaged in this behavior are logical steps that enjoy an uncommon level of bipartisan support. While the bill could be modified in the Senate before passage, the core training and reporting requirements have achieved a clear consensus in Congress and are almost certain to become law.

Higher education institutions should ensure that they are doing all they can to prevent hazing on campus. While most schools provide some level of hazing prevention programming, these programs must be widely available and designed to reach the individuals and organizations most directly affected by potential acts of hazing. Universities should endeavor to document these prevention efforts and keep track of policy violations. Of course, colleges and universities should also be aware of, and in compliance with, existing state and local anti-hazing laws. Should the SCHA be enacted, institutions will be required to begin tracking data within six months after the date of enactment. Given the likely success of the SCHA, colleges and universities should immediately begin implementing anti-hazing programs, tracking data and maintaining thorough documentation about any investigative steps taken into allegations of alleged hazing.

Willkie is here to assist higher education institutions with ensuring compliance with hazing-related laws. We conduct investigations of reported hazing incidents and evaluate campus culture on this crucial and difficult issue. We provide policy review and evaluate existing anti-hazing programs, as well as help implement systems to ensure compliance with the SCHA

Federal Anti-Hazing Legislation Gains Momentum in Congress

and other anti-hazing regulations. Willkie can assist university personnel and local and campus security to ensure that the current reporting protocols at universities adequately capture the data which will be required to be included in Clery Act reports. Finally, we can help ensure that schools comply with best practices in promoting a student environment that prevents hazing.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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