

REAL-WORLD CONSEQUENCES

Developed by Dave Westol, Speaker and CEO of Limberlost Consulting, Inc.

TIME | 40 minutes

Objectives:

- To develop an understanding of the criminal and civil law aspects of hazing
- To understand accountability group members face in preventing and stopping hazing

Group size:

- Any group size is suitable for this workshop.

Setup:

- Choose a space where the group can sit and face the facilitator comfortably.
- A classroom environment works best.
- Arrange chairs in a circle or square if possible.
- You will play a PowerPoint presentation during the lesson, so you'll need to connect a laptop to a projector and screen.

Preparation:

- Look up the university and state hazing policies and add them to the PowerPoint.
- Find state hazing policies at www.stophazing.org.
- Be sure to review these policies in advance to gain a clear understanding of each set and any differences between them.

Materials needed:

- Laptop
- Projector and screen
- PowerPoint
- "What is Hazing?" handout for each participant

INTRODUCTION | 5 minutes

Introduce yourself, welcome participants and thank everyone for attending the session.

- This program and our discussion today will help us better understand the criminal and civil consequences of hazing and how you could be held accountable as individual students and as a team.

Ask:

- How many of you belong to a student group organization, club or sports team?

Have students raise their hands or stand to answer. Use the raise hand feature on Zoom for virtual presentations.

- What organizations do you belong to?

Allow three to four students to share.

- What teams are you on?

Allow three to four students to share.

- What groups are you involved in?

Allow three to four students to share.

- All of those teams, groups and organizations you belong to are important to keep in mind as we talk about what hazing is. It's important that you actively participate in today's workshop.
- As we talk today, remember that there are no dumb questions. Education is the main focus of our discussion. We're not here to debate the position on hazing or argue about the definition of hazing. We are here to learn about the legal ramifications of hazing.

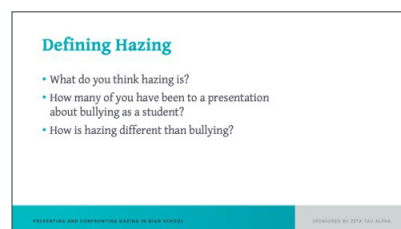
Defining Hazing

Ask:

- What do you think hazing is?

Allow three to four students to share.

- According to David Westol, a national expert on hazing prevention, one definition of hazing is "...any activity expected of someone joining or participating in a group that humiliates, degrades, abuses or endangers them regardless of a person's willingness to participate."
- It is important to know that hazing takes many forms and occurs whether someone agrees to participate or not, and the level of severity varies greatly. Most do not think of activities such as wearing a silly article of clothing in public to be hazing, but rather a joke or prank; but the negative effects of hazing can be both long-lasting and psychologically traumatic to the victim.



Discuss:

- How many of you have been to a presentation about bullying as a student?

Have students raise their hands or stand to answer. Use the raise hand feature on Zoom for virtual presentations.

- How is hazing different than bullying?

Allow three to four students to share.

Share:

- The difference between hazing and bullying is that hazing involves requiring people—almost always those who are new or younger—to “earn” membership or “qualify” as a member of a group or organization.
- Bullying usually involves one or a few individuals singling out another individual through repeated attacks of intentionally hurtful behavior. The reasons behind bullying range from a lack of self-confidence to feelings of inferiority, which lead bullies to demean others to make themselves feel superior or better about themselves.
- Hazing is bullying, but not all bullying is hazing.

WHAT LAWS AFFECT US IN TERMS OF HAZING? | 10 minutes

Ask:

- Have you seen shows or movies about crime or lawsuits? If so, can you share what you have learned?

Allow three to four students to share.

Share:

Note: You will need to know the state's legal age of adulthood.

- Hazing has consequences in both criminal and civil law.
- In criminal law, an individual may be prosecuted for violating a state or local law; the consequences may involve jail time, restitution to the victim, fines and costs, and a criminal record.
- Violations of civil law may result in monetary compensation to the victim for physical, emotional and/or psychological damages suffered as a result of actions by the defendant.
 - » It is important to note that a person may be responsible for paying compensation even if that person did not intend the actions to result in injuries to the victim or other damages.
- The standard of proof is a factor in legal consequences as well.
- In a criminal case, “beyond a reasonable doubt” is the standard of proof. Judges will not assign a percentage value to that standard, because one’s liberty is at stake; it is a high standard.

What Laws Affect Us in Terms of Hazing?

- Have you seen shows or movies about crime or lawsuits? If so, can you share what you have learned?
- There are two types of law that address hazing cases: criminal and civil law
 1. Criminal law
 2. Civil law

Criminal and Civil Law Differences

- | Criminal Law | Civil Law |
|---|---|
| <ul style="list-style-type: none">• Individual may be prosecuted for violating a state or local law• Consequences may involve jail time, restitution to the victim, fines and costs, and a criminal record.• Burden of proof is “beyond a reasonable doubt” | <ul style="list-style-type: none">• Plaintiff usually seeks monetary compensation for damages• Consequences may involve monetary compensation to the victim for physical, emotional and/or psychological damages.• Burden of proof is “preponderance of evidence” |

- In civil cases, the standard is “preponderance of the evidence,” which means the jury will base its verdict on whether or not the evidence presented indicates there is at least a 51% chance that the actions brought to court took place. That is a very low standard, which is why the payouts in some civil litigation verdicts are so huge—in the millions of dollars.
- An additional factor in cases involving high school students is the ages of the students involved. State laws vary regarding what age constitutes adulthood. This factor may impact whether a hearing is open (to the public and media) or closed and any repercussions of a guilty verdict.
- In your state, the legal age of an adult is *[Insert the legal age for your state]*.

States Laws

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- In your state, the legal age of an adult is _____.

CASE STUDIES | 15 minutes

Discuss:

Let’s talk about some real examples of hazing and the legal consequences.

Case Number One

You are a sophomore in high school. During the fall semester, you decide you want to become involved with a club called “The Helping Hand” whose members promote, organize and coordinate community service projects. The club is registered with the high school and has an office and a reasonably good reputation.

You, along with about 15 other sophomores and a few juniors, are instructed to report to a meeting of “H2,” which is the club’s nickname. After you arrive, you are introduced to your “Squad Leader” and her assistant. The Squad Leader says, “We’re going to walk you through our orientation process, and the most important things to remember are that everyone has gone through this to belong to H2 and that some of the things you do are secret.”

The new members are called “Neos,” which is an abbreviation of the word “neophytes.” The club assigns new members to a GroupMe that includes the Squad Leader and assistant.

Neos are told that the orientation period will last at least six weeks, but it may take more time “depending on how well you do.” As a Neo, you experience the following things:

When you enter the H2 office, you must name all of the members who are in the office alphabetically. If you make a mistake, you must reenter the office and do it again until you get it right.

If you are sitting in a chair in the cafeteria or food court and a member of H2 comes over, you must offer your chair to that member and find another for yourself.

During the first project for the fall, which is a river cleanup on a Saturday morning, the Neos are the only H2 representatives present for the first 90 minutes, when the most difficult work—

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- If you are sitting in a chair in the cafeteria or food court and a member of H2 comes over, you must offer your chair to that member and find another for yourself.
- During the first project for the fall, which is a river cleanup on a Saturday morning, the Neos are the only H2 representatives present for the first 90 minutes, when the most difficult work—dragging heavy objects from the water—occurs. H2 members show up as the day progresses, and nearly all are present by mid-afternoon, when a local newspaper reporter shows up for a story and photos.

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Discuss:

- Are you comfortable with the hidden agenda that is not publicized until you become a Neo?

Listen for comments such as, “I expected something like this,” or “It’s like being an intern.” Then ask, “Okay, but when you’re being interviewed for an internship, someone described what you would be expected to do, right? What’s the difference here?”

- Is it hazing if you must recite all the names of members in alphabetical order when you enter the office?
- Is giving up your chair if a member wants it hazing?

You may hear dismissive comments like, “These are silly but no big deal.” Make the following points: What do these requirements have to do with being a good member of H2? While no one suffers any physical harm, what tone does the group set with these silly requirements? If H2 is all about friendship and helping others, why do new members need to follow silly requirements? Show me the relationship.

- Is having to show up early and do all the hard work and setup without any older members assisting hazing?

This question may elicit more responses because some of the students will pick up on the “We have to do the heavy lifting while older members get the praise” dynamic.

- What is your definition of “leading by example”?
- “How does your idea of leading by example align (or not align) with older members avoiding the work but accepting praise?”
- What are your thoughts about the conditional “end” to orientation?

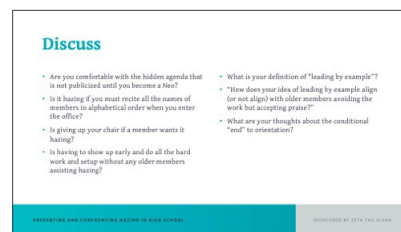
Make the following points:

- What qualifies someone as a member?
- How many times do Neos have to recite dumb details or give up their chairs before they are accepted?
- What comes next?

One of the underlying concerns here is that the newest members of H2 are being prepped for more serious hazing.

Share:

- If they accept all of the silly things, they could find themselves in a compromising position if more serious hazing is rolled out at the end, which is typical.



- They will be told, “You don’t want to give up eight weeks of work, do you? And you’re almost there—just do this final thing, and you’re **in!**”

Case Number Two

A team with three consecutive conference championships is preparing for the season. The team places great emphasis upon the responsibility of first-year students (ninth graders) to perpetuate so-called “traditions” that help prepare the team to win.

One of those traditions is that first years, often referred to as rookies, must carry equipment to and from the practice field each day. This duty requires the rookies to show up at least 20 minutes before everyone else, gather all the equipment and lug it to the practice field in time for practice to begin. Then, at the end of practice, the rookies must reverse the process and carry all the equipment back. From time to time, a few older team members help the rookies, but other older team members consistently harass the rookies verbally or create additional physical labor for them by, for example, kicking a ball away from the practice field so that the rookies have to chase it down in order to take it back. As the season progresses, the team focuses in on and increases harassment of specific rookies.

Halfway through the season, several older team members tell the rookies to stay behind for a conversation after practice ends. After the coaches and other adults have left the area, the older team members tell the rookies they must prank select seniors on the team and that the pranking must occur off campus after 10 p.m. They say the pranking can include just about anything as long as it doesn’t involve damage to property or physical harm. If the rookies are successful, the seniors will have to carry the equipment for the rest of the season.

Some of the ninth graders opt out. They agree to participate in the planning, but they won’t take part in the pranking. Most of the rookies are enthused and see this as a test of their teamwork and unity.

The rookies identify themselves as the “Strike Force.” They decide to masquerade as Amazon delivery persons and deliver boxes to the seniors at their homes. When a senior opens the box, a small explosion will occur that will theoretically cover the person holding the box with purple (the school color) dust.

The plan works up to the point of the explosion for the first of four deliveries that night. The senior who was victimized begins chasing two rookies (one made the delivery; the other was recording the prank on his phone. The rookie driver became nervous and left in the getaway car. The senior tackles one of the rookies as they are running in the street, and the rookie suffers a significant injury to his right knee that may eliminate his participation in athletics for the rest of his life.

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EXPERIENTIAL AND CONSTRUCTIVIST LEARNING IN HIGH SCHOOL

CONTRIBUTED BY ZETA TAU ALPHA

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Discuss:

- Is there potential negligence on the part of the two rookies who made the delivery? In other words, could they be sued by the individual who opened the box?

Allow time for students to respond. The key point isn't liability per se but that the activities they engaged in weren't a recognized activity sponsored by the school or the team.

- Is there potential negligence on the part of the senior who tackled the rookie who was injured? Could the parents of the rookie sue the senior?

Allow time for students to respond. Then, share:

- Imagine you were the rookie's parent/guardian and were counting on him to earn an athletic scholarship to attend college. Now he can't play sports, and you're going to be paying a lot of money for rehabilitation. Wouldn't you want to sue?
- Is there potential negligence on the part of the team members who held the meeting to encourage the pranking and those rookies that helped plan?

Allow time for students to respond. Then, share:

- Yes, this possibility also exists.
- It's important to remember the cost of litigation isn't just money; it also costs time—often years.
- The team members who planned this prank can't simply say, "I wasn't there." The wheels were turning before this night. That defense might work with a jury, but would you want to have to think about the possibility of being sued for the next three years?
- Let's take this a step further. The parents of the injured rookie have announced that they will seek "...any and all remedies" because their son had planned on earning a college scholarship in that sport. What happens next?
- At the minimum, the parents/guardians will file an insurance claim against the parents of the older player. Things will get tense in the locker room. The whole team may suffer consequences, like probation from playing or disqualification for playoff games.

Ask:

- What is the duty of a player—to follow what older players say to do despite the risk or to ask questions, such as "Why do we have to do this?"
- It's not easy to stand up and speak out, but if one or more of the rookies had done so, they wouldn't be in this situation.

Case Study Three

One of your friends was selected to play in the drum line on the marching band—she is a ninth grader. She informs you that the

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PROVIDING AND EXPERIENCING CASES IN THIS COURSE

DESIGNED BY ZETA TAU ALPHA

Case Study Number Three

One of your friends was selected to play in the drum line on the marching band—she is a ninth grader. She informs you that the seniors are going to hold a "Midnight Breakfast" event for the ninth graders on Friday evening. An email was sent to all the parents of the ninth graders on the line. The breakfast is described as a "bonding experience and a time when we can get to know each other and have fun." The breakfast will take place from 8 p.m. to 1 a.m. at a local 24-hour restaurant. The email concludes with this sentence: "We will pick up your students and bring them home safely. We do ask that this be a drum line only event."

The event goes as described. However, around 11 p.m., two seniors stand and say, "We're going to add a little excitement to the evening. Please come with us!"

They leave the restaurant. A few ninth graders and members decide to go back to their homes, but the rest of them go to a senior's home. The senior's parents are apparently gone for the weekend.

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They leave the restaurant. A few ninth graders and members decide to go back to their homes, but the rest of them go to a senior’s home. The senior’s parents are apparently gone for the weekend.

The home has a large swimming pool. The seniors collect the ninth graders’ phones and order them to stand in a line facing the pool. The tone of the event changes from friendly and excited to serious and scary.

The seniors tell the ninth graders to place their hands behind them and not to question anything that happens. Your friend says someone placed a blindfold over her eyes and that her hands were tied with some type of fabric or a soft rope. Then, the seniors lecture the ninth graders about secrecy and unity, saying anything that happens in the line stays in the line. To test their faith, the ninth graders must pass a test.

All ninth graders are then pushed from behind so that they fall forward into the pool. One ninth grader does not know how to swim. She begins screaming in a panicked voice. Two older band members jump into the water and pull her to the side of the pool.

After the night is over, your friend calls you. She was told not to text or say anything about what happened. “What should I do?” she asks you. “I don’t want to rat anyone out, but there are at least two other ninth graders who think we should report this. But if we do, it’s going to create a lot of problems for everyone.”

Discuss:

- Could there be negligence on the part of older drum line members who participated in this event?

Allow time for students to respond. Then, share:

- Yes, this example would be criminal more than civil negligence, although the woman who couldn’t swim may be able to make the case that she now suffers a form of post-traumatic stress and related issues. In criminal court, the blindfolding, hand binding and pushing the ninth graders into the pool make this a clear case of hazing. Eyesight is the most important of the five senses and is usually hazers’ first target because it invokes fright and terror.
- Could there be negligence on the part of older members who opted out?

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PREVENTING AND RESPONDING TO HAZING IN HIGH SCHOOLS

DEVELOPED BY ZETA TAU ALPHA

Discuss

- Could there be negligence on the part of older drum line members who participated in this event?
- Could there be negligence on the part of older members who opted out?
- Do these activities meet the definition of hazing?
- What can you do to support your friend?

PREVENTING AND RESPONDING TO HAZING IN HIGH SCHOOLS

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Allow time for students to respond. Then, share:

- Yes, they could be prosecuted for conspiracy to commit a crime (hazing).
- Some may admit that they didn't want to attend because they don't like hazing, but that isn't the same as standing up and speaking out. The fact that they didn't attend indicates that they knew what would happen and that they didn't like it.
- If one of those who didn't attend had simply stood up at the dinner and said to the ninth graders, "We have a dumb tradition on the line. I'm going to tell you about it and then ask you not to participate," that would make for a very different outcome. It would also provide a defensible position for that older member.

Ask:

- Do these activities meet the definition of hazing?

Allow time for students to respond. Pushback may include, "Well, they didn't do anything really bad." You can respond with: Why use blindfolds? Why push them into a pool? Why didn't they ask if everyone could swim? What does all of this have to do with bonding?

- What can you do to support your friend?

Allow time for students to respond. Then, share:

- As a friend, listen and support. Don't tell or advise her what to do; wait until the victim asks for your opinion.
- At some point, you need to do more than just listen. If you have a reporting system at your school—anonymous or not—please share the information there.

WRAP UP | 10 minutes

Share:

- Remember the key aspects of civil and criminal law. In a civil case, the plaintiff usually seeks monetary compensation for physical, emotional and/or psychological damages. In the second case, for example, the damages were physical (serious and possibly lifelong knee injuries) and arguably psychological (being required to participate in an illegal activity).
- In criminal law, the burden upon the prosecution is much heavier. Some states have supersized their laws to include felony-level hazing, and more local police, prosecutors and district attorneys are enforcing the laws to the fullest extent.

Discuss:

- Would consequences be different if those individuals intended to harm people versus not intending to hurt/harm anyone?
- How could hazing impact us individually and collectively?
- What will you do to help eliminate hazing?

Remember...

- In a civil case, the plaintiff usually seeks monetary compensation for damages. In the first case, the damages were physical or psychological injuries that resulted from an illegal activity.
- In criminal law, the burden upon the prosecution is much heavier. States have supersized their laws to include felony-level hazing, and more local prosecutors and district attorneys are enforcing the laws to the fullest extent.

Wrap Up

- Would consequences be different if those individuals intended to harm people versus not intending to hurt/harm anyone?
- How could hazing impact us individually and collectively?
- What will you do to help eliminate hazing?

The room may be quiet at this point, which usually means that those in attendance are thinking about the legal consequences.

- Does anyone have additional questions?

Answer any remaining questions and thank participants for attending. Share any school resources related to reporting hazing.

WHAT IS HAZING?

SCHOOL HAZING POLICY

(Search your school's policies to include it here.)

STATE HAZING POLICY

(Find each state's policy on www.stophazing.org.)

WHO CAN YOU TALK TO?

(Add in your school's resources of how to report hazing and mental health resources.)
