

# THE ANTI-HAZING LAW (RA 8049)

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## **I. A. What is the concept of hazing?**

As used in the law, hazing and initiation are interchangeably used. From the title "An Act Regulating Hazing and Other Forms of Initiations Rites in Fraternities, Sororities and Organizations and Providing Penalties Therefore," hazing is allowed if it is regulated.

The following are the elements in the violation of the law:

1. The act is a prerequisite for admission into membership in a fraternity, sorority or organization; hence, if the victim is already a member, there is no violation of the anti-hazing law but the illegal act is punishable by the Revised Penal Code;
2. The recruit, neophyte or applicant is placed in either of the following situations:
  - a. embarrassing situation;
  - b. humiliating situation;
  - c. is subjected to physical suffering or injury; or
  - d. is subjected to psychological suffering or injury

## **B. When is it not hazing?**

If the purpose is simply to embarrass, humiliate or subject the victim to physical or psychological suffering not as a condition for admission into the group, there is no violation of the anti-hazing law but of the provisions of the Revised Penal Code, like but not limited to, unjust vexation, physical injuries, coercion, threats, etc.

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*II. What are the humiliating/embarrassing situations?*

*Examples are forcing the neophyte to do menial, silly or foolish acts and similar tasks or activities. The law specifically mentions placing the neophyte in a humiliating or embarrassing situation which means that the situation is the determining factor in the violation, and not the circumstance of whether he is humiliated or not*

*III. Is there an exception to the application of the anti-hazing law?*

*The Physical, mental and psychological testing and training procedure and practices to determine and enhance the physical, mental and psychological fitness of prospective regular members of the Armed Forces of the Philippines and the Philippine National Police as approved and duly recommended by appropriate officials.*

*The officer and cadet corps of Citizens Military Training or Citizen's Army Training are covered by the Anti-Hazing Law since they are not prospective regular members of the military. The fraternities, organizations or dubs in the AFP, PMA and PNP are also covered by the law.*

*IV. When is hazing or initiation allowed?*

*The following must be present:*

- 1. The organization must secure a written notice to the school authorities at least seven (7) days before the conduct of the initiation;*
- 2. The period of the initiation shall not exceed three (3) days;*
- 3. The names and ages of those to be initiated must be included;*
- 4. An undertaking that no physical violence must be employed by anybody during the initiation rites;*
- 5. The head of the schools or his representative must assign at least two (2) representatives of the school to be present in the initiation with the duty to see to it that no physical harm of any kind shall be inflicted;*
- 6. The place where the initiation is conducted.*

**V. Who are liable in case of physical injuries or death?****A. What is the liability of the actual participants?**

The officers and members who actually participated in the infliction of physical harm shall be liable as principals. They shall suffer a penalty ranging from reclusion perpetua (from 20 years and 1 day to 40 years imprisonment) if death, sodomy, rape or mutilation results therefrom, to prison correccional in its maximum (from 4 years, 2 months and 1 day to 6 years imprisonment) even if the injuries do not prevent the victim from engaging in his habitual activity or work nor require medical attendance.

**B. What is the liability of the owner of the place where hazing was conducted?**

1. He is liable as an accomplice (if he is not a parent of any officer or member of the fraternity); or

2. He is liable as a principal (if he is a parent of any officer or member of the fraternity);

but in both cases he has actual knowledge thereof but failed to take any action to prevent the illegal act from occurring.

**C. What is the liability of the school authorities and faculty members?**

They are liable as accomplices

1. If they consent to the hazing, or

2. If they have actual knowledge thereof

but failed to take any action to prevent the same from occurring in both cases.

**D. What is the liability of the adviser?**

1. If he is present when the acts constituting hazing were committed and failed to take any action to prevent the same from occurring, he is liable as a principal.

2. If he is not present but consents to the hazing, he is liable as accomplice.

3. If he is not present but has actual knowledge of the hazing but failed to take any action to prevent the same, he is liable as accomplice.

**E. What is the liability of officers of the fraternity even if they are absent during the hazing?**

If they are part of the planning or if they actually planned it, they shall be liable as principals.

**F. Are outsiders liable?**

Outsiders, like former officers or alumni, even if they are absent during the hazing are liable as principals if they actually planned it

**G. Are members of the fraternity who merely recruit or induce a neophyte liable?**

The officers or members who knowingly cooperated in carrying out the hazing by inducing the victim to be present thereat, shall be liable as principals.

**H. Is anybody who is merely present during the hazing liable?**

Anybody who is present during the hazing may be liable as principal. The law says that mere presence is a prima facie evidence of participation in the hazing as principal unless he shows that he prevented the commission of the illegal acts. This means that he has the burden of proving that he is innocent of the crime charged.

**I. Are there other people who are liable for violation of the law?**

The President, manager, director or other responsible officers of a corporation engaged in hazing as a requirement for employment in the manner provided by the law.

**VI. Is there a need for a finding of guilt by the courts before school officials can impose the penalty provided in the student handbook against their erring student?**

No. The proceedings in school disciplinary boards are only administrative. It is enough that the penalty is based on substantial evidence (not an evidence beyond reasonable doubt as required in criminal cases).

**VII. What are the aggravating circumstances that the court shall consider in imposing the maximum penalty?**

1. When the recruitment is accompanied by force, violence, threats or intimidation or deceit on the person who refuses to join;
2. When the recruit initially consents to join but is prevented from quitting upon learning that hazing will be committed;
3. When die recruit has undergone hazing is prevented from reporting the unlawful acts to his parents or guardians or the proper authorities through force, violence, threats or intimidation;
4. When the hazing is committed outside the school;
5. When the victim is below 12 years old.

**VIII. Who is an accomplice?**

He is one who merely cooperated in the commission of illegal acts by previous or simultaneous acts. He does not have a previous agreement in the commission of the crime with the principal (the violator), or an understanding in the commission of die illegal act with die principal, or is not in conspiracy with the principal. His penalty is one degree lower than that provided for the principal.

**IX. Observation**

The Anti-Hazing Law does not provide penalties in the following situations: when the victim suffers psychologically, or when he is placed in a humiliating or embarrassing situation. Only when there are physical injuries or death that the violator is penalized. It is suggested that the Student Handbook shall be reviewed to provide die necessary penalties to cover these lapses in die law.

To understand fully the implication of the Anti-Hazing Law, a comparison between die penalties and the designation of die crime under die Revised Penal Code and die Anti-Hazing Law is necessary.

Under die Revised Penal Code, when unintentional death results from hazing, the act is only an imprudence and the penalty is only prision correccional in its medium period or an imprisonment of from 2 years, 4 months and 1 day to 4 years and 2 months. In the Anti-Hazing Law, which was approved on June 7, 1995, the penalty is reclusion perpetua.