

FRANCZEKRADELET

ATTORNEYS & COUNSELORS

How to Handle Hazing

Choice Menu Tri-Conference

September 1, 2017

Nicki B. Bazer

nbb@franczek.com

Jamel A.R. Greer

jag@franczek.com

Goals for Today

- Review laws and policies that prohibit bullying and hazing.
- Understand best practices for responding to bullying and hazing.
- Understand your responsibilities as a mandated reporter under the ANCRA.



Bullying

Bullying

- What is bullying?
 - Severe or pervasive conduct
 - Directed toward a student
 - Reasonably predicted to:
 - Place the student in fear of harm;
 - Detrimentially affect physical or mental health;
 - Substantially interfere with academic performance; or
 - Substantially interfere with participation in or benefit from school.

Bullying

- Bullying includes:
 - Harassment
 - Threats
 - Intimidation
 - Stalking
 - Physical/sexual violence
 - Theft
 - Public humiliation
 - Destruction of property
 - Retaliation
- Bullying is prohibited:
 - on school property,
 - on school buses or other school vehicles;
 - At bus stops waiting for the school bus;
 - At school-sponsored or school-sanctioned events or activities; or
 - From a school computer, network, or other similar electronic school equipment.

- Cyberbullying
 - Bullying through the use of technology or any electronic communication.
 - Includes the creation of a web page in which creator assumes identity of another person.
 - Includes electronic distribution of communication or posting of communication.

Cyberbullying vs. Traditional Bullying

- Cyberbully can hide his/her identity by using anonymous email addresses or pseudonymous screen names.
- Cyberbully is often more cruel using technology because he/she can do so from a distance and not have to confront the victim.
- Victims often do not know who the bully is, or why they are being targeted.
- The harmful actions of a cyberbully can reach a large number of people with little effort and in a short amount of time.
- Cyberbullying easily allows others to be involved in an attack on a victim.
- Greater harm to the victim, as he/she perceives that “everyone” is aware of the harmful comments.
- Parents and school staff cannot easily monitor.



Hazing

Questions for the Audience

- Are you aware of any hazing that has taken place at your school?
- Have you witnessed hazing in the course of your professional career?

**Pennsylvania High School Cancels
Football Season Over Alleged Hazing,
“Waterboarding”**

**Fifth teen alleges hazing at Maine
West**

Hazing probe of girls' soccer team at Joliet, Ill. high school

**Cheltenham School District addresses hazing
incident with team building initiative**

**Four Oklahoma football players
expelled, coach resigns over alleged
hazing**

Andover Basketball Hazing: High School Hazing Allegations Get Camp Kicked Off Campus

Florida hazing trial begins in college marching band death

Hazing Arrests Prompt a Debate Over Student Conduct at Bronx Science

High School Football Players Charged in N.J. Hazing Case

Penn State Drops Recruitment Of Player From High School Team Caught In Hazing Scandal

Hazing v. Bullying

- Bullying usually involves singling out one or two individuals at any time and bullying as a means to exclude.
- Hazing involves having to “earn” the way onto a team or into a group.
- Both can involve the same tactics and power dynamics.

Hazing Stats

- A survey conducted by www.insidehazing.com reveals that:
 - 1.5 million high school students are hazed each year;
 - 48% of high school students acknowledge participating in hazing;
 - 79% of NCAA Athletes report being hazed in high school; and
 - 25% of high school students are hazed before the age of 13.

Hazing: Illinois Criminal Code

- An incident where:
 - A person knowingly requires the performance of any act by a student or other person in a school, college, university, or other educational institution for the purpose of induction or admission into any group, organization associated with the institution, if
 - The act is not sanctioned or authorized by that educational institution; and
 - The act results in bodily harm to any person.

IL Law: Failure to Report Hazing

- A school official commits failure to report hazing when:
 - while fulfilling his or her official responsibilities as a school official, he or she personally observes an act which is not sanctioned or authorized by that educational institution;
 - the act results in bodily harm to any person; and
 - the school official knowingly fails to report the act to supervising educational authorities or, in the event of death or great bodily harm, to law enforcement.
- Applies to all paid school administrators, teachers, counselors, support staff, and coaches, and any and all volunteer coaches employed by a school.
- Class A or B misdemeanor

School Board Policy

- **5:90 Abused and Neglected Child Reporting.** Reporting of Hazing.
- **6:250 Community Resource Persons and Volunteers.** Requires volunteer coaches to report hazing under 5:90.
- **7:190 Student Behavior.** Prohibits hazing.
- **7:240 Conduct Code for Participants in Extracurricular Activities.** Development of a conduct code that emphasizes that hazing is prohibited.

- **7:190 Student Behavior** – many districts have expanded the prohibition on hazing to include psychological harm or acts that do not result in physical harm.
 - District 156: physical or psychological harm

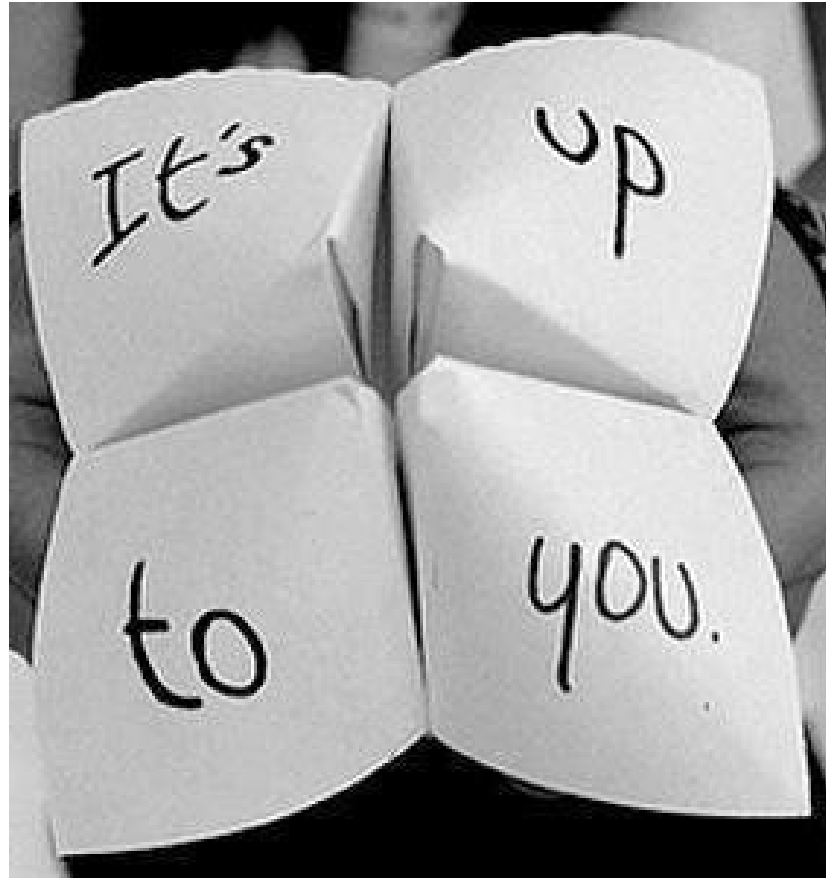
Examples

- Behavior that could be considered hazing include being forced to:
 - Destroy or steal property
 - Be tied up, taped or confined in small space
 - Be paddled, whipped, beaten, kicked or beat up others
 - Do embarrassing, painful or dangerous acts
 - Be kidnapped or transported and abandoned
 - Consume spicy or disgusting concoctions
 - Be deprived of sleep, food or hygiene
 - Engage in or simulate sexual acts
 - Participate in drinking contests
 - Be tattooed or pierced

- Activity considered “forced” even if a student willingly participates if conditioned on initiation into organization sanctioned by the District.

Prevention

- Anti-hazing education for students.
- Training for staff and coaches, including volunteer coaches.
- Review policies, procedures, and handbooks.
- Supervision of locker room.
- Ensuring that reporting channels are clear.
- Zero Tolerance Policy
- Player Pledge



Responding to Bullying & Hazing

Potential Liability

- Denied access to education
- Heightened risk with special needs students (denial of FAPE)
- Civil rights violations where bullying is result of a protected characteristic
- Breach of duty of care to protect students

School District Response

Three steps to respond to bullying or hazing:

- Intervention: to stop immediate conduct;
- Investigation: “prompt, thorough, and impartial;” and
- Response: “prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment” and prevent reoccurrence.



Mandatory Reporting: ANCRA

Neglect/Failure to Adequately Supervise

- Failure to provide “minimal” standards for providing adequate supervision
- May be obligated to report:
 - Child under 14 left alone for an “unreasonable period of time”
 - Incident between two minors while under the supervision of school personnel
 - Incident between two minors due to inadequate supervision

Mandated Reporting

- What is a Mandated Reporter?
 - Illinois Abused and Neglected Child Reporting Act (ANCRA), 325 ILCS 5/1
 - Board Policy 5.90: Abused and Neglected Child Reporting
- Who is a Mandated Reporter?
 - Individuals who work with children
 - As school personnel, you are mandated reporters
- What must a Mandated Reporter do?
 - Sign a form indicating they understand their responsibilities to report
 - Report to DCFS where there is reasonable cause to believe a child may be an abused or neglected child

Abused/Neglected Child

■ Four Key Criteria

- Alleged victim under the age of 18 (a “child”);
- Alleged perpetrator is any person responsible for the child’s welfare or who came to know the child through a position of trust;
- A specific incident or specific set of circumstances raises suspicion that a child has been abused or neglected; and/or
- The child was harmed or is at substantial risk of physical or sexual injury.

From DCFS Recognizing and Reporting Child Abuse: Training for Mandated Reporters

Definitions of Types of Abuse/Neglect

▪ Physical Abuse

- Physical injury; EXCESSIVE corporal punishment
- Controlled substances
- Indicators: *bruise, fracture*

▪ Sexual Abuse

- Sexual penetration; Sexual molestation
- Sexual exploitation (includes situations that do not involve contact with the child)
- Indicators: *Sexually transmitted diseases; Recurring pain or itching in genital or anal areas.*

▪ Neglect

- Failure to provide adequate supervision, medical care/attention, food, clothing, or shelter, or delay in such provision
- Ex: Poverty ≠ Neglect
- Indicators: *poor hygiene, underweight, consistent hunger*

Students Who Report

- DO
 - Tell the student you are proud of them and you know it was hard;
 - Tell the student what they have told you does not change the way you feel about him/her; and/or
 - Tell the student what you will do next (report the conduct).

- DON'T
 - Put words in the student's mouth or ask more than you need to know;
 - Act shocked – keep a calm expression;
 - Tell the student that you will keep their information secret;
 - Answer questions if you don't know the answer – just say “I don't know” and find out; and/or
 - Tell anyone who does not need to know the information.

From DCFS Recognizing and Reporting Child Abuse: Training for Mandated Reporters

Standard: Reasonable Cause

- School personnel with reasonable cause to suspect abuse/neglect must report.
- No privilege in communication made to school personnel concerning abuse/neglect.
- **WHEN IN DOUBT, REPORT!**

How Do I Make a Report?

- Report Immediately to DCFS hotline
 - 1-800-25-ABUSE (TTY: 1-800-358-5117)
 - By phone or in person
- Follow up with written report within 48 hours of verbal report
 - www.state.il.us/dcfs
- ALSO (not instead) notify Superintendent or Building Principal that report has been made
- **The person who identifies the suspected abuse or neglect MUST make the report – cannot delegate**

Immunity and Liability

- Any person who acts in good faith by making a report is immune from civil and criminal liability.
- False reports: knowingly transmits false report - Class A misdemeanor/Class 3 felony for subsequent violation.
- Failure to report: knowing and willful failure -- Class A misdemeanor -- Class 3 felony for subsequent violation.
- May also be subject to license suspension or revocation of teaching certificate.

Questions?