

**HAZING SECOND DEGREE
(Violation)
(Creating Substantial Risk of Injury)
PENAL LAW 120.17
(Committed on or after Nov. 1, 1988)**

The _____ count is Hazing in the Second Degree.

Under our law, a person is guilty of Hazing in the Second Degree when, in the course of another person's initiation or affiliation with any organization, he or she intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person [*or* to a third person].

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "physical injury" "intentionally" and "recklessly".

PHYSICAL INJURY means impairment of physical condition or substantial pain.¹

A person acts INTENTIONALLY when that person's conscious objective or purpose is to cause a particular result or to engage in particular conduct.² Thus, a person intentionally engages in conduct which creates a substantial risk of physical injury to another person when his or her conscious objective or purpose is to engage in conduct which creates a substantial risk of physical injury to another person.³

A person RECKLESSLY engages in conduct which creates a substantial risk that physical injury to another person will occur

¹ Penal Law § 10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

² See Penal Law § 15.05(1).

³ *Id.*

when he or she engages in such conduct and is aware of and consciously disregards such risk,

and when the risk of physical injury is of such nature and degree that disregard of that risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.⁴

[NOTE: Where there is evidence of voluntary intoxication on the part of the defendant, add:

A person also acts recklessly when he or she creates such a risk but is unaware of that risk solely by reason of his or her voluntary intoxication.⁵]

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), in the course of (specify)'s initiation or affiliation with (name of organization), engaged in conduct which created a substantial risk of physical injury to (specify); and
2. That the defendant engaged in such conduct intentionally or recklessly.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Hazing in the Second Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those

⁴ See Penal Law § 15.05(3); *People v. Boutin*, 75 NY2d 692, 696 (1990).

⁵ See Penal Law § 15.05(3).

elements, you must find the defendant not guilty of the crime of Hazing in the Second Degree as charged in the _____ count.