**EDUCATION**

**Student Due Process**

The Act provides students enrolled in the state’s public colleges and universities the right to be represented at their expense by an attorney or advocate in non-academic suspension and expulsion hearings. It also requires a uniform policy for disciplinary proceedings across all North Dakota University System campuses. The Act also allows suspended or expelled students to appeal the university’s decision, and to be reimbursed for tuition and fees paid during the period of suspension or expulsion if the appeal is successful.

Submitted as:
North Dakota
**SB 2150**
Status: Signed into law on April 22, 2015.

**Suggested State Legislation**

*(Title, enacting clause, etc.)*

Section 1. [Disciplinary proceedings - Right to counsel for students and organizations – Appeals.]

1. Any student enrolled at an institution under the control of the state board of higher education has the right to be represented, at the student's expense, by the student's choice of either an attorney or a nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by that institution to address an alleged violation of the institution's rules or policies. This right applies to both the student who has been accused of the alleged violation and to the student who is the accuser or victim. This right only applies if the disciplinary proceeding involves a violation that could result in a suspension or expulsion from the institution. This right does not apply to matters involving academic misconduct. Before the disciplinary proceeding is scheduled, the institution shall inform the students in writing of the students' rights under this section.

2. Any student organization officially recognized by an institution under the control of the state board of higher education has the right to be represented, at the student organization's expense, by the student organization's choice of either an attorney or nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by the institution to address an alleged violation of the institution's rules or policies. This right only applies if the disciplinary proceeding involves a violation that could result in the suspension or the removal of the student organization from the institution. This right applies to both the student organization that has been accused of the alleged violation and to the accuser or victim.

3. a. Any student who is suspended or expelled from an institution under the control of the state board of higher education for a violation of the rules or policies of that institution and any student organization that is found to be in violation of the rules or policies of that institution must be afforded an opportunity to appeal the institution's initial decision to an institutional administrator or body that did not make the initial decision for a period of one year after receiving final notice of the institution's decision. The right to appeal the
result of the institution's disciplinary proceeding also applies to the student who is the
accuser or victim.

b. The right of the student or the student organization under subsection 1 or 2 to be
represented, at the student's or the student organization's expense, by the student's or the
student organization's choice of either an attorney or a nonattorney advocate, also applies
to the appeal.

c. The issues that may be raised on appeal include new evidence, contradictory evidence,
and evidence that the student or student organization was not afforded due process. The
institutional body considering the appeal may consider police reports, transcripts, and the
outcome of any civil or criminal proceeding directly related to the appeal.

4. Upon consideration of the evidence, the institutional body considering the appeal may grant
the appeal, deny the appeal, order a new hearing, or reduce or modify the suspension or
expulsion. If the appeal results in the reversal of the decision or a lessening of the sanction,
the institution may reimburse the student for any tuition and fees paid to the institution for
the period of suspension or expulsion which had not been previously refunded.

5. For purposes of this section, “fully participate” includes the opportunity to make opening and
closing statements, to examine and cross-examine witnesses, and to provide the accuser or
accused with support, guidance, and advice. This section does not require an institution to
use formal rules of evidence in institutional disciplinary proceedings. The institution,
however, shall make good faith efforts to include relevant evidence and exclude evidence
which is neither relevant or probative.

6. This section does not affect the obligation of an institution to provide equivalent rights to a
student who is the accuser or victim in the disciplinary proceeding under this section,
including equivalent opportunities to have others present during any institutional disciplinary
proceeding, to not limit the choice of attorney or nonattorney advocate in any meeting or
institutional disciplinary proceeding, and to provide simultaneous notification of the
institution's procedures for the accused and the accuser or victim to appeal the result of the
institutional disciplinary proceeding.

Section 2. [State Board of Higher Education to develop policy – report to legislative
management.]
The state board of higher education shall develop and implement a procedure for student and
student organization disciplinary proceedings which is applied uniformly to all institutions under
the control of the state board of higher education. Before [insert date], the state board of higher
education shall report to the legislative management on the status of the implementation of the
uniform procedure.