

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.)

- 1 Section 1. [*Disciplinary proceedings - Right to counsel for students and organizations –*
 2 *Appeals.*]
- 3 1. Any student enrolled at an institution under the control of the state board of higher education
 4 has the right to be represented, at the student's expense, by the student's choice of either an
 5 attorney or a nonattorney advocate, who may fully participate during any disciplinary
 6 proceeding or during any other procedure adopted and used by that institution to address an
 7 alleged violation of the institution's rules or policies. This right applies to both the student
 8 who has been accused of the alleged violation and to the student who is the accuser or victim.
 9 This right only applies if the disciplinary proceeding involves a violation that could result in
 10 a suspension or expulsion from the institution. This right does not apply to matters involving
 11 academic misconduct. Before the disciplinary proceeding is scheduled, the institution shall
 12 inform the students in writing of the students' rights under this section.
- 13 2. Any student organization officially recognized by an institution under the control of the state
 14 board of higher education has the right to be represented, at the student organization's
 15 expense, by the student organization's choice of either an attorney or nonattorney advocate,
 16 who may fully participate during any disciplinary proceeding or during any other procedure
 17 adopted and used by the institution to address an alleged violation of the institution's rules or
 18 policies. This right only applies if the disciplinary proceeding involves a violation that could
 19 result in the suspension or the removal of the student organization from the institution. This
 20 right applies to both the student organization that has been accused of the alleged violation
 21 and to the accuser or victim.
- 22 3.
- 23 a. Any student who is suspended or expelled from an institution under the control of the
 24 state board of higher education for a violation of the rules or policies of that institution
 25 and any student organization that is found to be in violation of the rules or policies of that
 26 institution must be afforded an opportunity to appeal the institution's initial decision to an
 27 institutional administrator or body that did not make the initial decision for a period of
 28 one year after receiving final notice of the institution's decision. The right to appeal the

1 result of the institution's disciplinary proceeding also applies to the student who is the
2 accuser or victim.

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

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

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

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

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

29
30 Section 2. [*State Board of Higher Education to develop policy – report to legislative*
31 *management.*]

32 The state board of higher education shall develop and implement a procedure for student and
33 student organization disciplinary proceedings which is applied uniformly to all institutions under
34 the control of the state board of higher education. Before [insert date], the state board of higher
35 education shall report to the legislative management on the status of the implementation of the
36 uniform procedure.