

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2150

Introduced by

Senators Holmberg, Armstrong, Casper

Representatives Delmore, M. Johnson, Larson

1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota
2 Century Code, relating to student and student organization disciplinary proceedings at
3 institutions under the control of the state board of higher education; to provide for the
4 development of a uniform policy; and to provide for a report to the legislative management.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Disciplinary proceedings - Right to counsel for students and organizations - Appeals.**

- 9 1. Any student enrolled at an institution under the control of the state board of higher
10 education has the right to be represented, at the student's expense, by the student's
11 choice of either an attorney or a nonattorney advocate, who may fully participate
12 during any disciplinary proceeding or during any other procedure adopted and used by
13 that institution to address an alleged violation of the institution's ~~disciplinary rules or~~
14 policies. Before the disciplinary proceeding is scheduled, the institution shall
15 inform the students in writing of the students' rights under this section.
- 16 2. Any student organization officially recognized by an institution under the control of the
17 state board of higher education has the right to be represented, at the student
18 organization's expense, by the student organization's choice of either an attorney or
19 nonattorney advocate, who may fully participate during any disciplinary
20 procedure proceeding or during any other procedure adopted and used by the
21 state board of higher education.

1 institution to address an alleged violation of the institution's rules or policies. This right
2 only applies if the disciplinary proceeding involves a violation that could result in the
3 suspension or the removal of the student organization from the institution. This right
4 applies to both the student organization that has been accused of the alleged violation
5 and to the accuser or victim.

6 3. a. Any student who is suspended or expelled from an institution under the control of
7 the state board of higher education for a violation of the ~~disciplinary or conduct~~
8 rules or policies of that institution and any student organization that is found to be
9 in violation of the ~~disciplinary or conduct~~ rules or policies of that institution
10 may must be afforded an opportunity to appeal the institution's initial decision to
11 ~~the same institutional body that conducted the original proceeding~~ an institutional
12 administrator or body that did not make the initial decision for a period of one
13 year after receiving final notice of the institution's decision. The right to appeal the
14 result of the institution's disciplinary proceeding also applies to the student who is
15 the accuser or victim.

16 b. ~~The student or a student organization must file the appeal no later than one year~~
17 ~~after the day the student or the student organization receives final notice of~~
18 ~~discipline from the institution.~~ The right of the student or the student organization
19 under subsection 1 or 2 to be represented, at the student's or the student
20 organization's expense, by the student's or the student organization's choice of
21 either an attorney or a nonattorney advocate, also applies to the appeal.

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

27 4. Upon consideration of the evidence, the institutional body considering the appeal may
28 grant the appeal, deny the appeal, order a new hearing, or reduce or modify the
29 suspension or expulsion. ~~In any successful appeal brought under subsection 3.~~ If the
30 appeal results in the reversal of the decision or a lessening of the sanction, the

1 institution may reimburse the student for any tuition and fees paid to the institution for
2 the period of suspension or expulsion which had not been previously refunded.

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

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

16 **SECTION 2. STATE BOARD OF HIGHER EDUCATION TO DEVELOP POLICY - REPORT**
17 **TO LEGISLATIVE MANAGEMENT.** The state board of higher education shall develop and
18 implement a procedure for student and student organization disciplinary proceedings which is
19 applied uniformly to all institutions under the control of the state board of higher education.
20 Before July 1, 2016, the state board of higher education shall report to the legislative
21 management on the status of the implementation of the uniform procedure.