

**FIRST ENGROSSMENT
with House Amendments
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 rules or policies. This
14 right applies to both the student who has been accused of the alleged violation and to
15 the student who is the accuser or victim. This right only applies if the disciplinary
16 proceeding involves a violation that could result in a suspension or expulsion from the
17 institution. This right does not apply to matters involving academic misconduct. Before
18 the disciplinary proceeding is scheduled, the institution shall inform the students in
19 writing of the students' rights under this section.
- 20 2. Any student organization officially recognized by an institution under the control of the
21 state board of higher education has the right to be represented, at the student
22 organization's expense, by the student organization's choice of either an attorney or
23 nonattorney advocate, who may fully participate during any disciplinary proceeding or
24 during any other procedure adopted and used by the institution to address an alleged

1 violation of the institution's rules or policies. This right only applies if the disciplinary
2 proceeding involves a violation that could result in the suspension or the removal of
3 the student organization from the institution. This right applies to both the student
4 organization that has been accused of the alleged violation and to the accuser or
5 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 rules or policies of that
8 institution and any student organization that is found to be in violation of the rules
9 or policies of that institution must be afforded an opportunity to appeal the
10 institution's initial decision to an institutional administrator or body that did not
11 make the initial decision for a period of one year after receiving final notice of the
12 institution's decision. The right to appeal the result of the institution's disciplinary
13 proceeding also applies to the student who is the accuser or victim.

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

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

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

29 5. For purposes of this section, "fully participate" includes the opportunity to make
30 opening and closing statements, to examine and cross-examine witnesses, and to
31 provide the accuser or accused with support, guidance, and advice. This section does

1 not require an institution to use formal rules of evidence in institutional disciplinary
2 proceedings. The institution, however, shall make good faith efforts to include relevant
3 evidence and exclude evidence which is neither relevant or probative.

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

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