

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.~~ for an Act to create and
4 enact a new section to chapter 15-10 of the North Dakota Century Code, relating to student and
5 student organization disciplinary proceedings at institutions under the control of the state board
6 of higher education.

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

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

10 ~~Disciplinary proceedings – Right to counsel for students and organizations – Appeals.~~

11 ~~1. Any student enrolled at an institution under the control of the state board of higher~~
12 ~~education has the right to be represented, at the student's expense, by an attorney or~~
13 ~~a nonattorney advocate, who may fully participate during any disciplinary proceeding~~
14 ~~or during any other procedure adopted and used by that institution to address an~~
15 ~~alleged violation. A student does not have the right to be represented by an attorney or~~
16 ~~nonattorney advocate if the allegation pertains to academic dishonesty, as defined by~~
17 ~~the institution.~~

18 ~~2. Any student organization officially recognized by an institution under the control of the~~
19 ~~state board of higher education has the right to be represented, at the student~~
20 ~~organization's expense, by an attorney or nonattorney advocate who may fully~~
21 ~~participate during any disciplinary procedure or during any other procedure adopted~~
22 ~~and used by the institution to address an alleged violation.~~

23 ~~3. a. Any student who is suspended for more than ten days or expelled from an~~
24 ~~institution under the control of the state board of higher education for a violation~~

1 ~~of the disciplinary or conduct rules of that institution and any student organization~~
2 ~~that is found to be in violation of the disciplinary or conduct rules of that institution~~
3 ~~may seek a review of the institution's decision in the district court for the~~
4 ~~jurisdiction in which the institution is located.~~

5 ~~b. The student or a student organization must file a petition for review with the~~
6 ~~appropriate district court no later than one year after the day that the cause of~~
7 ~~action accrues. For purposes of calculating the one-year limitation, the cause of~~
8 ~~action is deemed accrued on the date that the student or the student organization~~
9 ~~receives final notice of discipline from the institution.~~

10 ~~c. In any cause of action under this subsection, the institution shall forward the~~
11 ~~record to the court whose function it is to determine whether the final decision~~
12 ~~reached by the institution, on the basis of the record, could reasonably be said~~
13 ~~not to be arbitrary, capricious, or otherwise contrary to law.~~

14 ~~4. In any successful appeal brought under subsection 3, the court shall award the~~
15 ~~aggrieved student or student organization compensatory damages, reasonable court~~
16 ~~costs, attorney's fees, including expert fees, and any other relief in equity or law that~~
17 ~~the court deems appropriate, including:~~

18 ~~a. A de novo rehearing by the institution in accordance with this section; and~~

19 ~~b. Monetary damages in an amount not less than the cost of tuition and fees paid by~~
20 ~~the student or on the student's behalf, to the institution, for the semester during~~
21 ~~which the alleged violation occurred or during which a suspension or expulsion~~
22 ~~was imposed, plus monetary damages in an amount not less than the amount of~~
23 ~~any scholarship funding lost as a result of the discipline.~~

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

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

27 1. Any student enrolled at an institution under the control of the state board of higher
28 education has the right to be represented, at the student's expense, by the student's
29 choice of either an attorney or a nonattorney advocate, who may fully participate
30 during any disciplinary proceeding or during any other procedure adopted and used by
31 that institution to address an alleged violation of the institution's disciplinary policies.

1 This right only applies if the disciplinary proceeding involves a violation that could
2 result in a suspension or expulsion from the institution. This right does not apply to
3 matters involving academic misconduct.

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

12 3. a. Any student who is suspended or expelled from an institution under the control of
13 the state board of higher education for a violation of the disciplinary or conduct
14 rules of that institution and any student organization that is found to be in
15 violation of the disciplinary or conduct rules of that institution may appeal the
16 institution's decision to the same institutional body that conducted the original
17 proceeding.

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

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

29 4. Upon consideration of the evidence, the institutional body considering the appeal may
30 grant the appeal, deny the appeal, order a new hearing, or reduce or modify the
31 suspension or expulsion. In any successful appeal brought under subsection 3, the

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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.