

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 117

Short Title: Amend Law Regarding University Discipline. (Public)

Sponsors: Senators Krawiec, Ballard, and Sawyer (Primary Sponsors).

Referred to: Rules and Operations of the Senate

February 22, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH DUE PROCESS SAFEGUARDS FOR STUDENTS FACING
3 UNIVERSITY DISCIPLINARY PROCEEDINGS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 116-11 reads as rewritten:

6 "§ 116-11. Powers and duties generally.

7 The powers and duties of the Board of Governors shall include the following:

8 ...

9 (13c) The Board of Governors shall adopt mandatory, systemwide policies
10 governing the due process rights afforded to students by a constituent
11 institution during disciplinary investigations and disciplinary hearings. At a
12 minimum, the policies shall include all of the following with regard to
13 allegations of sexual misconduct by a student:

14 a. The accused student, who is the respondent, shall be promptly
15 provided adequate notice including details of the allegations, details of
16 any alleged violation of the Code of Student Conduct, and copies of
17 all evidence at a meaningful time and in a meaningful manner. The
18 accused student shall also be advised of the right to consult legal
19 counsel, the right to be advised and accompanied by legal counsel at
20 all stages of the investigation and hearings, and the right to appeal any
21 findings or conclusions of misconduct.

22 b. The parties to the investigation shall be permitted to conduct
23 questioning and cross-examination of witnesses in order to establish
24 the veracity of witnesses, parties, and documents.

25 c. The individual conducting the investigation shall not also serve as a
26 finder of fact in a subsequent hearing, and the constituent institution
27 shall take steps to ensure that both the investigation and any hearing
28 are conducted in an impartial manner.

29 d. All findings of fact and conclusions during both the investigation and
30 any hearing shall be written, sufficiently detailed to permit meaningful
31 review on appeal, and both the complainant and the accused student
32 shall be provided copies within a specified time frame.

33 e. The standard of proof of responsibility for proving sexual misconduct
34 shall not be less than clear and convincing evidence.

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1 **SECTION 2.** G.S. 116-40.11 is recodified as G.S. 116-44.21 and included in Part 8
2 of Article 1 of Chapter 116 of the General Statutes as created in Section 3 of this act.

3 **SECTION 3.** Article 1 of Chapter 116 of the General Statutes is amended by adding
4 a new Part to read:

5 "Part 8. Student Disciplinary Proceedings.

6 "**§ 116-44.20. Disciplinary proceedings; adoption of campus policies.**

7 (a) Each constituent institution of The University of North Carolina shall adopt policies
8 (University policies) to govern the conduct of students and to establish adequate due process
9 procedures to be followed by university officials and students when conducting disciplinary
10 proceedings against students. The policies must comply with the policies adopted by the Board
11 of Governors under G.S. 116-11(13c), the provisions of this Part, and the constitutions, statutes,
12 and regulations of the United States and the State of North Carolina.

13 (b) University policies adopted under subsection (a) of this section shall include or
14 provide for the development of a Code of Student Conduct (Code of Conduct). The Code of
15 Conduct must notify students of the standards of behavior expected of them, conduct that may
16 subject a student to discipline, and the range of disciplinary measures that may be used in
17 response to violations of the Code of Conduct.

18 (c) University policies may authorize suspension, but not expulsion, of a student for
19 conduct not occurring on campus, provided the student's conduct otherwise violates the Code of
20 Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on
21 the orderly and efficient operation of the constituent institution or the safety of individuals in the
22 educational environment.

23 (d) No university policy shall allow a student to be long-term suspended or expelled
24 without first providing a hearing in which the student has been guaranteed due process rights as
25 required by this Article.

26 (e) University policies shall not impose mandatory suspensions or expulsions for specific
27 violations unless otherwise provided by State or federal law.

28 (f) University policies shall minimize the use of long-term suspension and expulsion by
29 restricting the availability of long-term suspension or expulsion to those violations deemed to be
30 serious violations of the Code of Conduct that either threaten the future safety of students, staff,
31 or school visitors or threaten to substantially disrupt the educational environment.

32 (g) University policies shall include the hearing notification procedures and due process
33 procedures to be followed by university officials and students for cases involving a disciplinary
34 outcome that may result in suspension or expulsion, which shall be consistent with this Article.

35 "**§ 116-44.21. Disciplinary proceedings; hearings; right to counsel for students and**
36 **organizations.**

37 (a) Any student enrolled at a constituent institution who is accused of a violation of the
38 ~~disciplinary or conduct rules~~ Code of Student Conduct of the constituent institution shall have
39 the right to be represented, at the student's expense, by a licensed attorney or nonattorney
40 advocate who ~~may~~ shall be permitted to fully participate during any disciplinary ~~procedure~~
41 hearing or other procedure adopted and used by the constituent institution regarding the alleged
42 violation. However, a student shall not have the right to be represented by a licensed attorney or
43 nonattorney ~~advocate in either of the following circumstances:~~

44 (1) ~~If the constituent institution has implemented a "Student Honor Court" which~~
45 ~~is fully staffed by students to address such violations.~~

46 (2) ~~For~~ for any allegation of "academic dishonesty" as defined by the constituent
47 institution.

48 (b) Any student organization officially recognized by a constituent institution that is
49 accused of a violation of the disciplinary or conduct rules of the constituent institution shall have
50 the right to be represented, at the organization's expense, by a licensed attorney or nonattorney
51 advocate who may fully participate during any disciplinary procedure or other procedure adopted

1 and used by the constituent institution regarding the alleged violation. However, a student
2 organization shall not have the right to be represented by a licensed attorney or nonattorney
3 advocate if the constituent institution has implemented a "Student Honor Court" which is fully
4 staffed by students to address such violations.

5 (c) Nothing in this ~~section~~ Article shall be construed to create a right to be represented at
6 a disciplinary proceeding at public expense."

7 **SECTION 4.** This act becomes effective October 1, 2021, and applies to
8 investigations and proceedings initiated on or after that date.