AN ACT

To enact R.S. 17:3394, relative to the powers and duties of public postsecondary education management boards; to require a disciplinary hearing process for students and student organizations accused of committing non-academic offenses; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. This Act shall be known and may be cited as the "Student Due Process and Protection Act".

Section 2. R.S. 17:3394 is hereby enacted to read as follows:

§3394. Disciplinary proceedings

A. Each public postsecondary education management board shall adopt a policy relative to disciplinary proceedings, right to counsel for students and student organizations, and appeals.

B. Any student enrolled at an institution under the jurisdiction of the management board has the right to be represented, at the student's expense, by an attorney or a non-attorney advocate who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by that institution to address an alleged violation of the institution's non-academic rules or policies. This right applies to both the student who has been accused of the violation and to the student who is the accuser or victim, if applicable. Prior to scheduling a disciplinary proceeding, the student shall be apprised of the grounds for the proceeding and, if appropriate, of the identity of the accuser or victim.

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disciplinary proceeding, the institution shall inform the students in writing of their
rights as provided by this Section.

C. Any student organization officially recognized by an institution under the
jurisdiction of the management board has the right to be represented, at the
organization's expense, by an attorney or a non-attorney advocate who may fully
participate during any disciplinary proceeding or during any other procedure adopted
and used by the institution to address an alleged violation of the institution's non-
academic rules or policies. This right applies to both the student organization that
has been accused of the alleged violation and the accuser or victim, if applicable.

D. A student or student organization subject to a charge or disciplinary
proceeding by the institution is entitled, upon receiving notice of the charge, to
notice of any and all violations of the institution's non-academic rules or policies and
the disciplinary proceedings or charges that will occur as a result. This notice shall
include but need not be limited to each and every section of the institution's rules or
policies that the student or student organization is alleged to have violated and any
evidence the institution used and collected in making the charge.

E.(1) Any student or student organization subject to a charge or disciplinary
proceeding by the institution is entitled to all evidence obtained in the investigation
of the charge or disciplinary proceeding, including from witnesses, written evidence,
and statements taken.

(2) To the extent any of the witnesses, written evidence, or statements taken
include the victim or witness of sexual assault provided in R.S. 14:41, 42 through
43.5, 89, 89.1, or 106, the names of the victims or witnesses may be redacted to
protect their identities, if deemed necessary.

F.(1) Any student or student organization that is found to be in violation of
the institution's non-academic rules or policies shall be afforded an opportunity to
appeal the institution's initial decision to an institutional administrator or body that
did not make the initial decision. Such an appeal shall be filed within ninety days
after receiving final notice of the institution's decision. The right to appeal the result
of the institution's disciplinary proceeding also applies to the student who is the
accuser or victim, if applicable.

(2) The right of the student or student organization as provided in
Subsections A and B of this Section to be represented, at the student's or the
organization's expense, by the student's or the organization's attorney or non-attorney
advocate also applies to the appeal.

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

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

H. For purposes of this Section, "fully participate" includes the opportunity
to make opening and closing statements, to examine and cross-examine witnesses,
and to provide the accuser or accused with support, guidance, and advice. This
Section does not require an institution to use formal rules of evidence in institutional
disciplinary proceedings. The institution, however, shall make good faith efforts to
include relevant evidence and exclude evidence which is neither relevant nor
probative.

I. This Section does not affect the obligation of an institution to provide
equivalent rights to a student who is the accuser or victim in the disciplinary
proceeding, including equivalent opportunities to have others present during an
institutional disciplinary proceeding, to an unrestricted choice of attorney or non-
attorney advocate in any meeting or institutional disciplinary proceeding, and to be
provided simultaneous notification of the institution's procedures for the accused and
the accuser or victim to appeal the result of the institutional disciplinary proceeding.

J.(1) Any student or student organization that has its rights under this Section
violated may bring a private right of action to recover actual damages. If the court
finds this Section or the student or student organization's rights to due process have
been violated, after being put on notice by the attorney general, the court shall award
three times the actual damages sustained. If damages are awarded under this
Subsection, the court shall award to the person or organization bringing such action
reasonable attorney fees and costs.

(2) Upon commencement of any action brought under Paragraph (1) of this
Subsection, the plaintiff's attorney or non-attorney advocate shall mail a copy of the
petition to the attorney general and, upon entry of any judgment or decree in the
action, shall mail a copy of the judgment or decree to the attorney general. Failure
to conform with this Paragraph shall not affect any of the plaintiff's rights under this
Subsection.

(3) This Section may also be enforced by the office of the attorney general
if, in its discretion, it finds the institution engages in repeated violations of due
process and the rights preserved under this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part
of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute
part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 364 Engrossed 2022 Regular Session McKnight

Abstract: Establishes procedure for public postsecondary students to be represented by an
attorney or non-attorney advocate in certain disciplinary hearings.

Proposed law requires public postsecondary education management boards to establish
policies relative to the procedure for students or student organizations being charged with
non-academic offenses to use an attorney or non-attorney advocate in their defense at
disciplinary proceedings and appeal hearings.

Such a policy shall apply to a student or student organization being accused of violating a
non-academic rule or policy and shall include:

(1) Requirements for notice of a charge being brought against a student or student
organization.

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are additions.
(2) The opportunity for a student or student organization to appeal a decision that it was in violation of a non-academic policy or rule within 90 days of the decision.

(3) A procedure for presenting evidence.

(4) The victim or accuser having an opportunity to be represented by an attorney or non-attorney advocate.

Provides for the role of the attorney general in the enforcement of proposed law.

Authorizes a court to award treble damages for a violation of proposed law.

Provides exception for disclosing identity of victims of sexual assault.

(Adds R.S. 17:3394)