

2026 Regular Session

HOUSE BILL NO. 738

BY REPRESENTATIVES MCMAKIN AND STAGNI

COLLEGES/UNIVERSITIES: Provides relative to student disciplinary proceedings

1 AN ACT

2 To amend and reenact R.S. 17:3394(B), (D), (E), and (F)(1) and to enact R.S. 17:3394(F)(4)
3 and (5), relative to disciplinary proceedings at public postsecondary education
4 institutions; to provide relative to an appeals process; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 17:3394(B), (D), (E), and (F)(1) are hereby amended and reenacted
8 and R.S. 17:3394(F)(4) and (5) are hereby enacted to read as follows:

9 §3394. Disciplinary proceedings

10 * * *

11 B. Any student enrolled at an institution under the jurisdiction of the
12 management board and accused of a violation of the disciplinary or conduct rules
13 that carries a potential penalty of suspension of ten or more days, ~~deferred~~
14 suspension, or expulsion has the right to be represented, at the student's expense, by
15 an attorney or a non-attorney advocate who may fully participate during any
16 disciplinary proceeding or during any other procedure adopted and used by that
17 institution to address an alleged violation of the institution's nonacademic rules or
18 policies. This right applies to both the student who has been accused of the violation

1 and the student who is the alleged victim, if applicable. Prior to scheduling a
2 disciplinary proceeding, the institution shall inform the students in writing of their
3 rights as provided by this Section.

4 * * *

5 D.(1) An institution shall provide a student or student organization subject
6 to a charge or disciplinary proceeding with a written notice of the charge not later
7 than fourteen business days after receiving credible information, including but not
8 limited to a police report or other documentation, sufficient to initiate formal
9 disciplinary proceedings.

10 ~~(2) A student or student organization subject to a charge or disciplinary~~
11 ~~proceeding by the institution is entitled, upon receiving notice of the charge, to~~ The
12 written notice shall include information of on any and all violations of the
13 institution's nonacademic rules or policies and the disciplinary proceedings or
14 charges that will occur as a result.

15 (3) This notice shall include but need not be limited to each and every
16 section of the institution's rules or policies that the student or student organization
17 is alleged to have violated and any evidence the institution used and collected in
18 making the charge.

19 E. When a violation is punishable by suspension of ten or more days or
20 expulsion, or when a violation by a student organization is punishable by suspension
21 or removal of the organization from the institution, the disciplinary procedures
22 contained in the code of student conduct shall include but need not be limited to the
23 following:

24 (1) Afford the accused student or organization the express presumption of
25 innocence and set forth that the student or the organization may not be deemed guilty
26 of the violation until the student or the organization formally acknowledges
27 responsibility or the conclusion of a hearing where the institution has proven every
28 element of the violation necessary to constitute ~~guilt~~ responsibility by clear and
29 convincing evidence. The standard of establishing ~~guilt~~ responsibility through clear

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 and convincing evidence shall not alter the burden of proof in hearings held pursuant
2 to Title IX of the Education Amendments of 1972 or R.S. 17:3399.11 et seq.

3 (2)(a) Notwithstanding Paragraph (1) of this Subsection, in any disciplinary
4 proceeding arising from physical conduct that resulted in serious bodily injury as
5 defined in R.S. 14:2(C) or death, the institution shall establish responsibility by a
6 preponderance of the evidence.

7 (b) The preponderance standard shall apply only when the institution
8 possesses objective and verifiable evidence that serious bodily injury or death
9 occurred and that the alleged conduct is directly connected thereto.

10 (c) Such evidence may include, but is not limited to, law enforcement
11 reports, medical records, coroner reports, or other comparable documentation. The
12 institution shall issue written findings identifying the objective evidence relied upon.

13 (3) Require the institution to maintain an administrative file of the
14 disciplinary proceedings. The file shall include all documents and evidence in the
15 institution's possession or control relevant to the alleged violation and the
16 institution's investigation including but not limited to exculpatory evidence,
17 documents submitted by any participant, and the institution's choice of a video
18 recording, audio recording, or transcript of any disciplinary hearing ultimately held
19 in the matter. The file shall not include privileged documents or internal
20 memorandums that the institution does not intend to introduce as evidence at any
21 hearing on the matter.

22 ~~(3)~~ (4) Provide both the accused student or organization and the alleged
23 victim reasonable continuing access to the administrative file and the ability to make
24 copies of all evidence or documents in the file beginning at least seven business days
25 prior to any disciplinary hearing, or sooner if otherwise specified under federal law,
26 except that individual portions of the administrative file shall be redacted if
27 disclosure of the evidence is required by law.

28 ~~(4)~~ (5) Ensure that all disciplinary proceedings are carried out free from
29 conflicts of interest by ensuring that there is no commingling of administrative or

1 adjudicative roles. For purposes of this Paragraph, an institution shall be considered
2 to commingle such roles if any individual carries out more than one of the following
3 roles with respect to any disciplinary proceeding:

- 4 (a) Victim counselor and victim advocate.
- 5 (b) Investigator.
- 6 (c) Institutional prosecutor.
- 7 (d) Adjudicator.
- 8 (e) Appellate adjudicator.

9 F.(1) Any student or student organization that is found to be in violation of
10 the institution's nonacademic rules or policies shall be afforded an opportunity to
11 appeal the institution's initial decision to an appellate entity that is an institutional
12 administrator or body that did not make the initial decision. Such an appeal shall be
13 filed within ~~ten~~ fourteen business days after receiving final notice of the institution's
14 decision. The right to appeal the result of the institution's disciplinary proceeding
15 also applies to the student who is the alleged victim, if applicable. The institution
16 may designate the appellate entity as the final institutional authority on the matter;
17 however, nothing in this Section shall preclude a court from granting a prevailing
18 plaintiff equitable relief.

19 * * *

20 (4)(a) Notwithstanding any other provisions of law, sanctions imposed under
21 this Section shall not take effect, be enforced, or be considered final until the later
22 of:

23 (i) The deadline for filing an appeal has expired without an appeal being
24 filed.

25 (ii) All institutional appeals have been completed, and any appellate
26 decisions have been issued.

27 (b) Nothing in this Paragraph shall prohibit an institution from taking
28 reasonable interim safety measures, including but not limited to housing adjustments,

Proposed law provides that sanctions cannot take effect or be enforced until the later of:

- (1) The deadline for filing an appeal has expired without an appeal being filed.
- (2) All institutional appeals have been completed and an appeal decisions have been issued.

Proposed law requires the decisionmaker to issue a written determination including all of the following:

- (1) A statement of all the factual bases for the violation.
- (2) A summary of the evidence.
- (3) A description of the sanctions.
- (4) A statement of the procedures and timelines for an appeal.

(Amends R.S. 17:3394(B), (D), (E), and (F)(1); Adds R.S. 17:3394(F)(4) and (5))