

## Department of Planning and Budget 2016 Fiscal Impact Statement

**1. Bill Number:** HB1247

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Albo

**3. Committee:** Education

**4. Title:** Public institutions of higher education; student expulsion; appeal.

**5. Summary:** Permits any student who, as a result of any institutional proceeding at a public institution of higher education, is expelled from the institution for a violation of the institution's code, rules, or set of standards governing student conduct to appeal such decision to the governing board of such institution. The bill requires the governing board of each public institution of higher education to adopt institution policies and procedures for such student appeals.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Indeterminate, see item 8.

**8. Fiscal Implications:** The boards of visitors of public institutions of higher education have been granted the authority, pursuant to Va. Code Sec. 23-9.2:3, to establish rules and regulations for the conduct of its students. Such rules and regulations also govern disciplinary proceedings that may lead to the expulsion of students. This bill would reduce the authority of the board of visitors over disciplinary appeals by establishing a right to an appeal directly to the board of visitors for any sanction of expulsion.

It should be noted that guidance from the United States Office for Civil Rights requires that any appeal right or process afforded to one party in Title IX matters must be afforded to the other. If this legislation is enacted, institutions will also have to provide the complainant in any case involving sexual assault or sexual harassment the right to appeal to the board of visitors to remain compliant with this federal guidance.

It is unclear from this legislation if this right to appeal would be applicable to honor offenses. Honor systems have well-established processes for the trial and appeal of honor offenses that may or may not involve appeal to the board of visitors.

Legal counsel for the institutions could be required to become more involved in appeals of dismissals or expulsions, whether by respondents or complainants, due to their role as legal advisor to the boards of visitors. This could require increased involvement of institution counsel in any fact-finding trial or hearing. Thus, additional attorneys could be required for many institutions, particularly those that have a high volume of expulsions or dismissals.

It should be noted that the cost for each additional assistant attorney general, either at the colleges or universities or at the Office of Attorney General, would be at a minimum \$105,000, not including additional staff support. This would require either general fund support or a potential increase in student tuition and fees.

According to the State Council of Higher Education for Virginia (SCHEV), there are a limited number of expulsions per year at any particular institution. There are typically five or less per institution, although one institution did report eight expulsions in a recent year. However, the duty of hearing an appeal would require a familiarity with the student disciplinary process that most board members do not have. The required Board of Visitors (BOV) training program provided by SCHEV each year does not cover student affairs issues such as disciplinary proceedings. Even if the topic were incorporated into the SCHEV training, it would not be possible to create a standard module that would adequately train all of the members, as each institution's processes are unique. Each institution provides an individualized training to new board members which may include an overview of student affairs processes, but that is unlikely to afford the level of detail required to hear an appeal. The institutions would likely need to expend additional resources to adequately train their board of visitors.

- 9. Specific Agency or Political Subdivisions Affected:** All state colleges and universities, the Office of the Attorney General, the State Council of Higher Education for Virginia.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** Additional concerns are raised by the prospect of including student appeal proceedings in a regular BOV meeting agenda:

- A Freedom of Information Act (FOIA) exemption currently does not exist to protect student records disclosed during BOV meetings. Subsequently, BOV would be required to go into executive session. Additionally, some colleges and universities have students as members of the BOV which could compromise confidentiality.
- BOV's generally meet only four times a year, which may not be sufficient to hear an appeal in a timely manner.