

Department of Planning and Budget

2019 Fiscal Impact Statement

1. Bill Number: HB1831

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

2. Patron: Lindsey

3. Committee: Education

4. Title: Higher educational institutions, public; disciplinary proceedings against enrolled students.

5. Summary: Establishes several requirements for formal and informal proceedings against any student enrolled at a public institution of higher education who is alleged to have violated a rule, policy, or code of student conduct adopted by the institution, including (i) requiring the institution to provide to the student written notice of (a) the specific rule, policy, or code of student conduct that the student is alleged to have violated and the facts upon which such allegation is based, (b) the time, place, and nature of the proceeding, and (c) the rules governing the proceeding; and (ii) granting the student in any such proceeding the right to be present, be represented by legal counsel for the duration of the proceeding and any appeal of the decision or sanctions imposed in the proceeding, present evidence, cross-examine witnesses, make objections, and present arguments.

6. Budget Amendment Necessary: No, as a specific dollar amount cannot be determined at this time.

7. Fiscal Impact Estimates: Preliminary. See Item 8.

8. Fiscal Implications: The potential inclusion of attorney representatives on behalf of students as defined in the legislation may cause disciplinary proceedings to become more legalistic, which may in turn necessitate attorney representatives for the institution in all such proceedings. Based on the requirements placed on disciplinary proceedings, additional costs may arise from the evidence collection and retention, as well as from hiring additional attorneys that may be required at public institutions of higher education or the Office of the Attorney General (OAG). The costs associated with this legislation are indeterminate because it is not possible to project the number of proceedings that may lead to circumstances beyond the normal course of actions in institutions.

Additionally, the proposal gives students the right to appeal any decision made in a disciplinary proceeding in the circuit court of the locality in which the institution is located, with the circuit court being permitted to award court costs and attorney fees to successful appellants. This could increase the workload for legal staff at institutions of higher education or the OAG, and add to caseloads at circuit courts in localities where institutions are located. The Commonwealth may potentially incur additional costs in cases that result in the

appellant being awarded attorney costs as a result of circuit courts overturning institutional decisions.

Lastly, the legislation as proposed states that any student involved in a proceeding has the right to be represented by legal counsel, but does not make clear if this is intended to confer right to counsel at public expense for students who cannot or choose not to pay for counsel. If it is intended to establish the right to counsel at public expense, there will be additional costs to the Commonwealth and/or to individual institutions to provide such counsel, which could include additional attorney positions at institutions to act as student representatives.

9. Specific Agency or Political Subdivisions Affected: Institutions of higher education, circuit courts, Office of the Attorney General.

10. Technical Amendment Necessary: No.

11. Other Comments: None.