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HOUSE BILL NO. 1123

Offered January 13, 2014

A *BILL to amend the Code of Virginia by adding in Chapter 1 of Title 23 a section numbered 23-9.2:13, relating to students and officially recognized student organizations; right to hire counsel and right of review of disciplinary decisions.*

 Patron—Morris

 Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 23 a section numbered 23-9.2:13 as follows:

§ 23-9.2:13. *Students and officially recognized student organizations; right to hire counsel and right of review of disciplinary decisions.*

A. Any student enrolled at a public institution of higher education who is accused of a violation of the institution's rules and regulations for the conduct of students that is punishable by a suspension of more than 10 days or expulsion shall have the right to be represented, at the student's expense and per the student's sole discretion, by a licensed attorney or a nonattorney advocate who may fully participate during any disciplinary procedure or other procedure adopted and used by the educational institution regarding the alleged violation.

B. No student shall have the right to be represented by a licensed attorney or nonattorney advocate for any allegation of "academic dishonesty," as that term is defined by the institution.

C. Any student organization officially recognized by a public institution of higher education that is accused of a violation of the institution's rules and regulations for the conduct of students shall have the right to be represented, at the organization's expense and per its sole discretion, by a licensed attorney or a nonattorney advocate who may fully participate during any disciplinary procedure or other procedure adopted and used by the educational institution regarding the alleged violation.

D. Nothing in this section shall be construed to create a right for students and officially recognized student organizations to be represented at a disciplinary proceeding at public expense.

E. Any student who is suspended for more than 10 days or expelled from a public institution of higher education pursuant to the institution's rules and regulations for the conduct of students and any student organization that is found to be in violation of the institution's rules and regulations for the conduct of students shall have the right to review of the institution's final decision in the circuit court for the jurisdiction in which the relevant institution is located. Students and student organizations shall file a petition for review with the appropriate circuit court not later than one year after the day the cause of action accrues. For purposes of calculating the one-year limitation period, the cause of action shall be deemed accrued on the date that the student or student organization receives final notice of discipline from the public institution of higher education. In any such action, the institution shall forward the record to the court, whose function shall be only to determine whether the final decision reached by the institution could reasonably be said, on the basis of the record, not to be arbitrary, capricious, or otherwise contrary to law.

F. In any successful appeal brought pursuant to subsection E, the court shall award the aggrieved student or student organization compensatory damages, reasonable court costs, attorney fees, including expert fees, and any other relief in equity or law that the court deems appropriate, including (i) a *de novo* rehearing at the public institution of higher education in accordance with this section and (ii) monetary damages of not less than the cost of tuition paid by the student, or on the student's behalf, to the public institution of higher education for the semester during which the alleged violation occurred plus monetary damages of not less than the amount of any scholarship funding lost as a result of the campus discipline.

G. This section shall not apply to students and student organizations at public institutions of higher education whose primary purpose is the training of individuals for the military services of the United States or the merchant marine.

2. That the provisions of this act shall apply to all allegations of violations of institutions' rules and regulations for the conduct of students occurring on or after July 1, 2014.

INTRODUCED

HB1123