

## Department of Planning and Budget

### 2015 Fiscal Impact Statement

**1. Bill Number:** HB 1323

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Delegate Morris

**3. Committee:** Education

**4. Title:** Permit students and recognized student organizations the right to petition the circuit courts for review of institutional disciplinary cases

**5. Summary:** This bill provides both students and recognized student organizations of Virginia's public institutions of higher education, with the exception of Virginia Military Institute, the right to petition the circuit courts for a review of an institution's decision on a disciplinary case to determine if said decision could be deemed arbitrary, capricious, or otherwise contrary to the law. A student may request a judicial review if as a result of any disciplinary proceeding or other institutional proceeding, he is suspended for more than 10 days or expelled from a public institution of higher education for violating the institution's policies for the conduct of students. A student organization may petition for judicial review if it is found to be in violation of the institution's policies for the conduct of students as a result of any disciplinary proceeding or other institutional proceeding. If the circuit court for the locality where the institution of higher education is located rules in favor of the student or student organization, it may award certain damages and other forms of relief deemed appropriate

**6. Budget Amendment Necessary:** Yes. Items 56, 147, 151, 162, 166, 174, 178, 193, 204, 210, 221, and 227

**7. Fiscal Impact Estimates:** Preliminary (see Section 8)

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2015	\$0	0.0	GF
2015	\$0	0.0	NGF
2016	\$208,667	2.0	GF
2016	\$796,120	8.0	NGF
2017	\$208,667	2.0	GF
2017	\$796,120	8.0	NGF
2018	\$208,667	2.0	GF
2018	\$796,120	8.0	NGF
2019	\$208,667	2.0	GF
2019	\$796,120	8.0	NGF
2020	\$208,667	2.0	GF

2020	\$796,120	8.0	NGF
2021	\$208,667	2.0	GF
2021	\$796,120	8.0	NGF

- 8. Fiscal Implications:** There are 16 public institutions of higher education in the Commonwealth, excluding Virginia Military Institute. Each institution operates at least one, but sometimes multiple, disciplinary systems with the power to expel or suspend students. Although the proposed legislation does not state it, a student or recognized student organization who petitions the circuit court to review an institution of higher education's disciplinary decision would require legal representation. In turn, the institution whose decision is being appealed to the circuit court would also rely on its legal counsel to represent its interests and those of the Commonwealth. As a result of possible court involvement, the institutions of higher education would also be obligated to have legal counsel present at all disciplinary hearings to observe the proceedings and reduce the risk of compensable errors.

Given this increased need for direct attorney involvement in the oversight of the disciplinary systems of Virginia's institutions of higher education and possible legal representation in the circuit courts, the OAG estimates that an additional full-time attorney at an average cost of \$99,515 would be required at each of the larger campuses that have attorneys on-site (University of Virginia, Virginia Tech, George Mason University, Virginia Commonwealth University, and Old Dominion University) for a total cost to the institutions of \$497,575. In addition, the OAG believes that the requirements of this proposed legislation would increase the current workload by one-half of one position for six other institutions with on-campus attorneys (College of William and Mary, Christopher Newport University, James Madison University, Norfolk State University, Virginia Community College System, and Virginia State University) resulting in an additional cost of \$298,545. The direct costs associated with the institutions' attorneys are typically born by their employers. These costs, totaling \$796,120, would be covered by institutional operating funds generated from tuition and fees.

The responsibility of supervising the additional attorneys and increased workload would fall on the OAG. In addition, Virginia's remaining public institutions of higher education not listed above could probably be advised centrally by OAG attorneys. Legal consulting on these issues would likely require the presence of central office OAG attorneys on campus with the associated travel time. Therefore, it is estimated that two additional OAG attorneys would be needed to sufficiently protect the Commonwealth's interests at an estimated cost of \$208,667 annually in general fund support.

This bill creates an opportunity for judicial review and provides for statutory damages and shifting litigation costs, all of which increase the likelihood that the decisions of these disciplinary systems would be challenged in court. This could result in increased caseloads for circuit courts in college towns. However, the Office of the Executive Secretary of the Supreme Court believes that the affected courts would be able to adjudicate the additional cases within their existing dockets using present resources.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia's public institutions of higher education, the circuit courts, and the Office of the Attorney General

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

**11. Other Comments:** None.

**Date:** 01/21/15 sas

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c: Secretary of Education