

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 2017**

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**HOUSE BILL 777**

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Short Title: Amend Law Regarding University Discipline. (Public)

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Sponsors: Representatives Setzer, Howard, and Henson (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

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Referred to: Education - Universities, if favorable, Judiciary I

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April 13, 2017

1                   **A BILL TO BE ENTITLED**  
2   AN ACT TO ESTABLISH DUE PROCESS SAFEGUARDS FOR STUDENTS FACING  
3   UNIVERSITY DISCIPLINARY PROCEEDINGS.

4   The General Assembly of North Carolina enacts:

5                   **SECTION 1.** G.S. 116-11 is amended by adding a new subdivision to read:  
6   **"§ 116-11. Powers and duties generally.**

7   The powers and duties of the Board of Governors shall include the following:

8                   ...

9                   (13b) The Board of Governors shall adopt mandatory, statewide policies  
10                  governing the due process rights afforded to students by a constituent  
11                  institution during disciplinary investigations and disciplinary hearings. At a  
12                  minimum, the policies shall include all of the following with regard to  
13                  allegations of sexual misconduct by a student:

- 14                  a.   The accused student shall be promptly provided adequate notice  
15                  including details of the allegations, details of any alleged violation of  
16                  the Student Code of Conduct, and copies of all evidence at a  
17                  meaningful time and in a meaningful manner. The accused student  
18                  shall also be advised of the right to consult legal counsel, the right to  
19                  be advised and accompanied by legal counsel at all stages of the  
20                  investigation and hearings, and the right to appeal any findings or  
21                  conclusions of misconduct.
- 22                  b.   The parties to the investigation shall be permitted to conduct  
23                  questioning and cross-examination of witnesses in order to establish  
24                  the veracity of witnesses, parties, and documents.
- 25                  c.   The individual conducting the investigation shall not also serve as a  
26                  finder of fact in a subsequent hearing, and the constituent institution  
27                  shall take steps to ensure that both the investigation and any hearing  
28                  are conducted in an impartial manner.
- 29                  d.   All findings of fact and conclusions during both the investigation and  
30                  any hearing shall be written, sufficiently detailed to permit  
31                  meaningful review on appeal, and both the complainant and the  
32                  accused student shall be provided copies within a specified time  
33                  frame.
- 34                  e.   The standard of proof of responsibility for proving sexual  
35                  misconduct shall not be less than clear and convincing evidence.



1       ...."

2       **SECTION 2.** G.S. 116-40.11 is recodified as G.S. 116-44.21 and included in Part 8  
3 of Article 1 of Chapter 116 of the General Statutes as created in Section 3 of this act.

4       **SECTION 3.** Article 1 of Chapter 116 is amended by adding a new Part to read:

5                  "Part 8. Student Disciplinary Proceedings."

6       **"§ 116-44.20. Disciplinary proceedings; adoption of campus policies."**

7       (a) Each constituent institution of The University of North Carolina shall adopt policies  
8 (University policies) to govern the conduct of students and to establish adequate due process  
9 procedures to be followed by university officials and students when conducting disciplinary  
10 proceedings against students. The policies must comply with the policies adopted by the Board  
11 of Governors under G.S. 116-11(13b), the provisions of this Article, and the constitutions,  
12 statutes, and regulations of the United States and the State of North Carolina.

13       (b) University policies adopted under subsection (a) of this section shall include or  
14 provide for the development of a Code of Student Conduct (Code of Conduct). The Code of  
15 Conduct must notify students of the standards of behavior expected of them, conduct that may  
16 subject a student to discipline, and the range of disciplinary measures that may be used in  
17 response to violations of the Code of Conduct.

18       (c) University policies may authorize suspension, but not expulsion, of a student for  
19 conduct not occurring on campus, provided the student's conduct otherwise violates the Code of  
20 Conduct and the conduct has or is reasonably expected to have a direct and immediate impact  
21 on the orderly and efficient operation of the constituent institution or the safety of individuals  
22 in the educational environment.

23       (d) No university policy shall allow a student to be long-term suspended or expelled  
24 without first providing a hearing in which the student has been guaranteed due process rights as  
25 required by this Article.

26       (e) University policies shall not impose mandatory suspensions or expulsions for  
27 specific violations unless otherwise provided by State or federal law.

28       (f) University policies shall minimize the use of long-term suspension and expulsion by  
29 restricting the availability of long-term suspension or expulsion to those violations deemed to  
30 be serious violations of the Code of Conduct that either threaten the future safety of students,  
31 staff, or school visitors, or threaten to substantially disrupt the educational environment.

32       (g) University policies shall include the hearing notification procedures and due process  
33 procedures to be followed by university officials and students for cases involving a disciplinary  
34 outcome that may result in suspension or expulsion, which shall be consistent with this Article.

35       **"§ 116-44.21. Disciplinary proceedings; hearings; right to counsel for students and**

36 **organizations.**

37       (a) Any student enrolled at a constituent institution who is accused of a violation of the  
38 disciplinary or conduct rules Student Code of Conduct of the constituent institution shall have  
39 the right to be represented, at the student's expense, by a licensed attorney or nonattorney  
40 advocate who may shall be permitted to fully participate during any disciplinary procedure  
41 hearing or other procedure adopted and used by the constituent institution regarding the alleged  
42 violation. However, a student shall not have the right to be represented by a licensed attorney or  
43 nonattorney advocate in either of the following circumstances:

44                  (1) If the constituent institution has implemented a "Student Honor Court"  
45 which is fully staffed by students to address such violations.

46                  (2) For any allegation of "academic dishonesty" as defined by the constituent  
47 institution.

48       (b) Any student organization officially recognized by a constituent institution that is  
49 accused of a violation of the disciplinary or conduct rules of the constituent institution shall  
50 have the right to be represented, at the organization's expense, by a licensed attorney or  
51 nonattorney advocate who may fully participate during any disciplinary procedure or other

1 procedure adopted and used by the constituent institution regarding the alleged violation.  
2 However, a student organization shall not have the right to be represented by a licensed  
3 attorney or nonattorney advocate if the constituent institution has implemented a "Student  
4 Honor Court" which is fully staffed by students to address such violations.

5 (c) Nothing in this section-Article shall be construed to create a right to be represented  
6 at a disciplinary proceeding at public expense."

7       **SECTION 4.** This act becomes effective October 1, 2017, and applies to  
8 investigations and proceedings initiated on or after that date.