

**STORAGE NAME:** h1883.cu

**DATE:** March 28, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COLLEGES & UNIVERSITIES  
ANALYSIS**

**BILL #:** HB 1883

**RELATING TO:** University Student Discipline

**SPONSOR(S):** Representative Willie Logan and Others

**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COLLEGES & UNIVERSITIES
  - (2) GOVERNMENTAL RULES & REGULATIONS
  - (3) EDUCATION APPROPRIATIONS
- 

**I. SUMMARY:**

This bill directs each state university to adopt uniform disciplinary rules that are applicable to students and student organizations. These disciplinary rules must include penalty guidelines that classify each offense as a minor offense, a moderate offense, or a serious offense. The bill specifies the punitive penalties associated with each offense committed by a student or student organization.

This bill also directs a state university that charges a student or student organization with an offense to conduct a disciplinary hearing. A student or student organization must be provided with a reasonable notice at least seven days prior to the disciplinary hearing. The disciplinary hearing must be conducted within 30 days after a student or student organization is charged with an offense. The disciplinary hearing must be conducted and adjudged by a hearing board composed entirely of students.

This bill also directs each state university to adopt rules that create a student judicial system that includes hearing boards that are composed entirely of students. Hearing boards must issue a recommended order within 30 days after the disciplinary hearing and provide a student or student organization with the opportunity to appeal a recommended order to the university president or his or her designee. A university must issue a written final order once a recommended order is approved. An adversely affected student or student organization must be provided with standing to seek judicial review of any final order.

This bill also directs the Board of Regents to adopt rules that provide system-wide model disciplinary rules, penalty guidelines, and procedure rules for state universities conducting disciplinary hearings.

This bill clarifies that each community college board of trustees may adopt rules relating to a uniform code of appropriate penalties for students and employees who violate rules adopted by the board of trustees, county and municipal ordinances, and state or national laws. The bill includes expulsion as one of the appropriate penalties that may be imposed.

This bill repeals two sections of statute relating to the discipline of state university and community college students and the penalties imposed against students or employees participating in disruptive activities at state higher learning institutions.

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This bill may have a negative fiscal impact on state expenditures due to a potential increase in the State University System's administrative costs associated with the proposed student discipline process.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

Although the bill repeals two sections of statute, it does direct each state university and the Board of Regent to adopt a variety of rules relating to the discipline of students and student organizations.

B. PRESENT SITUATION:

Section 240.261, Florida Statutes, permits each state university to adopt rules relating to a uniform code of appropriate penalties for rule violations committed by students and employees. These penalties must be administered by the president of each state university. The penalties may include fines; the withholding of diplomas or transcripts; and the imposition of probation, suspension, or dismissal. Section 240.261, Florida Statutes, also directs each state university to adopt rules relating to the lawful discipline of any student, faculty member, or member of the administrative staff who intentionally acts to impair, interfere with, or obstruct the orderly conduct, processes, and functions of a state university. These rules may apply to acts conducted on campus or off campus.

Subsection 120.81(1)(g), Florida Statutes, directs the Board of Regents to establish a committee in order to adopt rules and guidelines that provide due process to state university students in judicial proceedings. At least half of this committee must be appointed by the Council of Student Body Presidents. The committee is known as the Student Due Process Rule Review Committee and it held its first meeting on March 30, 2000.

Rule 6C-6.0105, Florida Administrative Code, directs each state university president to adopt rules that provide due process to students. At a minimum, the due process must include providing a student with a detailed written notice of the charges filed against him or her at least three days preceding a hearing before an appropriate committee or court; providing a student with a prompt hearing before an appropriate committee or court; permitting a student to inspect the evidence that will be presented against him or her; permitting a student to present evidence on his or her behalf; permitting a student to question adverse witnesses; not obligating a student to present testimony that is self-incriminating; permitting a student to have an advisor at the hearing; presenting a student with the decision of the hearing in writing; basing the decision of the hearing on the evidence presented; and permitting a student to appeal the decision of the hearing to the president of the institution. At the conclusion of the appeal's process, the decision of the president is final.

Rule 6C-6.0105, Florida Administrative Code, also directs each state university to establish a student judicial system. At a minimum, the student judicial system must include membership by students on hearing committees or courts; a written description of the penalties and

sanctions that may be imposed on a student for violating the conduct code; a written description of the procedures to be followed during the initial student disciplinary hearing; a written procedure for the disposition of emergency cases that involve the safety, health, or general welfare of a student or university; acknowledgment that the burden of proof in disciplinary matters must be on the complainant; establishment of requirements relating to the burden of proof; establishment of a time limit relating to the filing of charges; and establishment of a means for recording a hearing. Each state university must publish a description of its student judicial system and disseminate it to the students and establish a committee responsible for periodically evaluating the student judicial system.

Subsection 240.319(4)(h), Florida Statutes, permits each board of trustees of a community college to adopt rules relating to a uniform code of appropriate penalties for rule violations committed by students and employees. These penalties may include fines; the withholding of diplomas or transcripts; and the imposition of probation, suspension, or dismissal.

Section 240.132, Florida Statutes, stipulates that any person who attends or is employed by a state college, a state community college, or a state university is deemed to have given his or her consent to the policies of that institution, the Board of Regents, and the laws of the State of Florida. These policies include the prohibition against disruptive activities at state institutions of higher learning. After it is determined that an employee of a state institution of higher learning has participated in disruptive activities, a penalty involving the immediate termination of his or her employment contract may be imposed. After it is determined that a student attending a state institution of higher learning has participated in disruptive activities, a penalty involving his or her immediate expulsion for a minimum of two year may be imposed.

Subsection 240.133(3), Florida Statutes, authorizes each president of a state university and community college to expel, suspend, or discipline any student who is found to have violated any law, ordinance, or rule or regulation of the Board of Regents or of the board of trustees of a community college.

Despite the aforementioned rule and statutory provisions, student leaders have voiced several concerns relating to the due process that students are provided when having to appear before a university disciplinary hearing. Some of the concerns include: university hearing officers and boards are inadequately trained to fairly and effectively conduct student disciplinary hearings while protecting the rights of a student charged with an offense, students are prohibited from being represented by counsel in disciplinary hearings, university officials possess broad discretion when assigning a penalty for a specific offense, universities provide students with insufficient time to adequately prepare a defense before a disciplinary hearing is conducted, and graduate and professional students are not afforded the same level of due process protections that are afforded to undergraduate students.

#### C. EFFECT OF PROPOSED CHANGES:

This bill directs each state university to adopt uniform disciplinary rules that are applicable to students and student organizations. These disciplinary rules must include penalty guidelines that classify each offense as a minor offense, moderate offense, or a serious offense. A minor offense is punishable by issuing a verbal or written reprimand, imposing probation, or imposing a combination of these penalties; a moderate offense is punishable by issuing a verbal or written reprimand, imposing probation or suspension, or imposing a combination of these penalties; and a serious offense is punishable by issuing a verbal or written offense, imposing probation, suspension, dismissal, or expulsion, or imposing a combination of these penalties. Although this bill specifies the punitive penalties associated with a minor offense, a moderate offense, and a serious offense, the bill does not define each of these offenses.

Specifying the punitive penalties associated with a specific offense appears to inform students and student organizations of the consequences they may incur should they choose to commit a particular offense. Proponents of the bill suggest that specifying the punitive penalties associated with a specific offense may limit the absolute discretion of the university hearing board.

This bill also directs a state university that charges a student or student organization with an offense to conduct a disciplinary hearing. A student or student organization must be provided with a reasonable notice at least seven days prior to the disciplinary hearing. The disciplinary hearing must be conducted within 30 days after a student or student organization is charged with an offense. The disciplinary hearing must be conducted and adjudged by a hearing board composed entirely of students.

Providing a student or student organization with a reasonable notice at least seven days preceding the disciplinary hearing and requiring the disciplinary hearing to be conducted within 30 days after a student or student organization is charged with an offense may expedite and quickly resolve a pending violation. According to a state university, requiring a disciplinary hearing to be conducted and adjudged by a hearing board composed entirely of students implies that committed offenses only affect students. Presently, state universities consist of a community of faculty, staff, and students. According to the aforementioned state university, a hearing board's composition should reflect the total community of a university and not just a segment of the community of a university.

This bill also provides each student and student organization charged with an offense with the opportunity to respond to the charges filed, present evidence relating to issues under consideration, conduct cross-examinations, receive a list of each witness and a copy of documented evidence at least 72 hours before the disciplinary hearing, submit rebuttal evidence, be represented by counsel or a non-attorney representative, and appeal a hearing board's recommended order. The bill also places the burden of proof on a university by requiring it to submit evidence that is clear and convincing at a disciplinary hearing.

Providing each student and student organization charged with an offense with the opportunity to respond to the charges filed, present evidence relating to issues under consideration, conduct cross-examinations, receive a list of each witness and a copy of documented evidence at least 72 hours before the disciplinary hearing, submit rebuttal evidence, be represented by counsel or a non-attorney representative, and appeal a hearing board's recommended order, produces a more structured and formalized student disciplinary process. Proponents of the bill suggest that a more structured and formalized student disciplinary process may be necessary in order to provide students with certain rights they currently are not guaranteed. Several state universities oppose a more structured and formalized student disciplinary process because it may thwart the educational nature of the student disciplinary process. State universities also argue that permitting students and student organizations to be represented by an attorney at a disciplinary hearing would require universities to hire a full-time attorney solely responsible for representing hearing boards.

The bill also directs each state university to adopt rules creating a student judicial system and requiring each student organization to register with the university on an annual basis. The bill directs the Board of Regents to adopt rules that provide system-wide model disciplinary rules, penalty guidelines, and procedure rules for state universities conducting disciplinary hearings.

**D. SECTION-BY-SECTION ANALYSIS:**

**SECTION 1:** Amends section 240.261, Florida Statutes, to eliminate the requirement that each state university adopt rules relating to a uniform code of appropriate penalties for rule violations committed by students and eliminate the requirement that each state university adopt rules relating to the lawful discipline of any student who intentionally acts to impair, interfere with, or obstruct the orderly conduct, processes, and functions of a state university.

**SECTION 2:** Creates section 240.2612, Florida Statutes, in order to (1) direct each state university to adopt uniform disciplinary rules that are applicable to students and student organizations; (2) stipulate that these disciplinary rules must include penalty guidelines that are based on the severity and repetition of a specific offense and classify each offense as a minor offense, a moderate offense, or a serious offense; (3) permit the disciplinary rules to prescribe penalties that affect the academic standing of student who commits an offense involving academic dishonesty; (4) specify that disciplinary rules may not classify a student who does not prevent another student from committing an offense as committing an offense; (5) specify the punitive penalties associated with each offense committed by a student organization; (6) specify that disciplinary rules may only apply to acts conducted on campus, acts associated with a student's conduct and connected to a university or to a student organization, and acts conducted off campus if these acts endanger other individuals at a university; and (7) permit a university to adopt penalties that include the withholding of diplomas or transcripts.

**SECTION 3:** Creates section 240.2614, Florida Statutes, in order to (1) direct a state university that charges a student or student organization with an offense to provide a student or student organization with a reasonable notice at least seven days preceding a disciplinary hearing; (2) direct each university to adopt rules that provide uniform procedures for filing complaints and conducting disciplinary hearings and require disciplinary hearings to be conducted and adjudged by a hearing board composed entirely of students; (3) provide each student and student organization charged with an offense with the opportunity to respond to the charges filed, present evidence relating to issues under consideration, conduct cross-examinations, receive a list of each witness and a copy of documented evidence at least 72 hours before the disciplinary hearing, submit rebuttal evidence, and be represented by counsel or a non-attorney representative; (4) not obligate a student to submit self-incriminating testimony and not place a student or student organization twice in jeopardy for the same offense; (5) provide a student or student organization with the opportunity to waive certain rights in order to expedite the disciplinary hearing; (6) permit each university conducting a disciplinary hearing to swear witnesses, require the attendance of a student or student organization charged with an offense, and issue subpoenas; (7) require each university to accurately record each disciplinary hearing; (8) place the burden of proof on a university by requiring it to submit evidence that is clear and convincing at a disciplinary hearing; (9) permit evidence that is commonly relied upon by reasonably prudent individuals in the conduct of their affairs to be admissible in a disciplinary hearing; and (10) permit a university to temporarily suspend a student pending the disposition of a disciplinary hearing if a student appears to present an immediate danger to others.

**SECTION 4:** Creates section 240.2616, Florida Statutes, in order to direct each state university to adopt rules that create a student judicial system that includes hearing boards that are composed entirely of students.

**SECTION 5:** Creates section 240.2618, Florida Statutes, in order to (1) require a state university hearing board to issue a recommended order within 30 days after the disciplinary hearing and provide a student or student organization with the opportunity to appeal a

recommended order to the university president or his or her designee; (2) specify that a recommended order must be approved by the university president or his or her designee and prohibit the university president or his or her designee from increasing the penalty imposed by the hearing board; (3) require a university to issue a written final order once a recommended order is approved; and (4) provide an adversely affected student or student organization with standing to seek judicial review of any final order.

**SECTION 6:** Creates section 240.2622, Florida Statutes, in order to direct the Board of Regents to adopt rules that provide system-wide model disciplinary rules, penalty guidelines, and procedure rules for state universities conducting disciplinary hearings.

**SECTION 7:** Creates section 240.2624, Florida Statutes, in order to direct each state university to adopt rules requiring each student organization to register with the university on an annual basis.

**SECTION 8:** Amends subsection 240.319(4)(h), Florida Statutes, in order to (1) clarify that each community college board of trustees may adopt rules relating to a uniform code of appropriate penalties for students and employees who violate rules adopted by the board of trustees, county and municipal ordinances, and state or national laws and (2) include expulsion as one of the penalties that may be imposed.

**SECTION 9:** Repeals sections 240.132 and 240.133, Florida Statutes.

**SECTION 10:** Establishes an effective date of September 1, 2000.

### III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

This bill may have a negative fiscal impact on state expenditures due to a potential increase in the State University System's administrative costs associated with the proposed student discipline process.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill directs each state university to adopt uniform disciplinary rules that are applicable to students and student organizations. The bill also directs each state university to adopt rules that provide uniform procedures for filing complaints and conducting disciplinary hearings, create a student judicial system, and require the annual registration of each student organization.

The bill directs the Board of Regents to adopt rules that provide system-wide model disciplinary rules, penalty guidelines, and procedure rules for state universities conducting disciplinary hearings. Lastly, the bill directs each state university to adopt the system-wide model disciplinary rules adopted by the Board of Regents.

C. OTHER COMMENTS:

None.



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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Staff Director:

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Daniel Furman

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Betty H. Tilton, Ph.D.