

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1467

By: Quinn

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5
6 AS INTRODUCED

7 An Act relating to higher education; creating the
8 Student and Administration Equality Act; providing
9 short title; providing definitions; providing a right
10 to representation to students enrolled in certain
11 institutions of higher education during certain
12 disciplinary proceedings; providing for type of
13 participation; clarifying application of certain
14 rules and evidence; allowing questioning of certain
15 students prior to certain proceeding; requiring
16 institutions to advise certain students of certain
17 rights; clarifying that certain students do not have
18 a right to representation; providing a right to
19 representation to certain student organizations
20 during certain disciplinary proceedings; applying
21 certain right to representation until the conclusion
22 of certain appellate process; providing certain
23 construction; requiring an institution to provide
24 access to certain evidence; requiring an institution
25 to ensure certain proceedings are free from certain
26 conflicts of interest; clarifying obligation of
27 certain institutions to provide certain equivalent
28 rights; clarification use of temporary suspension;
29 creating a cause of action; allowing awarding of
30 damages, court costs and fees; providing time
31 limitation on causes of action; clarifying
32 application of act; providing for codification;
33 providing an effective date; and declaring an
34 emergency.

35 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2129 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 A. This act shall be known and may be cited as the "Student and
5 Administration Equality Act".

6 B. As used in this act, unless the context otherwise requires,
7 the term "institutions of higher education" or "institution" shall
8 mean an institution within The Oklahoma State System of Higher
9 Education.

10 C. A student enrolled at an institution of higher education who
11 is accused of a violation of the disciplinary or conduct rules that
12 carries a potential penalty of a suspension of ten (10) or more days
13 or expulsion shall have the right to be represented at the student's
14 expense by a licensed attorney or, if the student prefers, a
15 nonattorney advocate, who in either case may fully participate
16 during the disciplinary proceeding or other proceeding adopted and
17 used by the institution of higher education except as provided for
18 in subsection D of this section. When disciplinary proceedings
19 subject to this section arise from a complaint by a student against
20 another student, the complaining student shall also have the right
21 to be represented at his or her own expense by a licensed attorney
22 or, if the complaining student prefers, a nonattorney advocate.

23 D. For purposes of this section, "fully participate" includes
24 the opportunity to make opening and closing statements, to examine

1 and cross-examine witnesses and to provide the accuser or accused
2 with support, guidance and advice. The provisions of this section
3 do not require an institution of higher education to use formal
4 rules of evidence in disciplinary proceedings. The institution,
5 however, through its entity that considers disciplinary matters,
6 shall make good faith efforts to include relevant evidence and
7 exclude evidence that is neither relevant nor probative.

8 E. At least two (2) business days, excluding holidays, before
9 the disciplinary proceeding, a student may be questioned by an
10 institution of higher education or by an agent of the institution
11 about allegations of violations of the institution's disciplinary or
12 conduct rules, when the charges are punishable by a suspension of
13 ten (10) or more days or expulsion. The institution shall advise
14 the student in writing of his or her rights under this act.

15 F. A student shall not have the right pursuant to this act to
16 be represented by a licensed attorney or nonattorney advocate for
17 any allegation of academic dishonesty as defined by the institution
18 of higher education.

19 G. A student organization that is officially recognized by an
20 institution of higher education and that is accused of a violation
21 of disciplinary or conduct rules shall have the right to be
22 represented, at the student organization's expense, by a licensed
23 attorney or, if the student organization prefers, a nonattorney
24 advocate, who in either case may fully participate during the

1 disciplinary proceeding or other proceeding adopted and used by the
2 institution.

3 H. For the purposes of this section, "disciplinary proceeding"
4 includes an investigatory interview or hearing or any other
5 proceeding conducted by the institution of higher education relating
6 to the alleged violation that the student or student organization
7 reasonably believes may result in disciplinary action against the
8 student or the student organization. The disciplinary proceeding
9 shall be conducted at the direction of the institution of higher
10 education or its entity that considers disciplinary matters.

11 I. The right of the student or the student organization under
12 subsection C or G of this section to be represented, at the
13 student's or the student organization's expense, by the student's or
14 the student organization's choice of either an attorney or a
15 nonattorney advocate, shall apply until the conclusion of any
16 institution appellate process.

17 J. The provisions of this section shall not be construed to
18 create a right of a student or student organization to be
19 represented at public expense.

20 K. The institution shall ensure that all parties to the
21 proceeding, including the accused student, the accused student
22 organization and, if applicable, the accusing student, have access
23 to all material evidence, including both inculpatory and exculpatory
24 evidence, no later than one week prior to the start of any formal

1 hearing or similar adjudicatory proceeding. The evidence may
2 include but is not limited to complainant statements, third-party
3 witness statements, electronically stored information, written
4 communications, social media posts and demonstrative evidence.

5 L. The institution shall ensure that the proceeding is carried
6 out free from conflicts of interest. For the purposes of this
7 subsection, an institution shall be considered to have a conflict of
8 interest if any individual carries out more than one of the
9 following roles with respect to the proceeding:

- 10 1. Victim counselor and victim advocate;
- 11 2. Investigator;
- 12 3. Institutional prosecutor;
- 13 4. Adjudicator; or
- 14 5. Appellate adjudicator.

15 M. The provisions of this section do not affect the obligation
16 of an institution to provide equivalent rights to a student who is
17 the accuser or victim in the disciplinary proceeding under this
18 section, including equivalent opportunities to have others present
19 and fully participating during any institutional disciplinary
20 proceeding, to not limit the choice of attorney or nonattorney
21 advocate in any meeting or institutional disciplinary proceeding and
22 to provide simultaneous notification of the institutions'
23 proceedings for the accused and the accuser or victim to appeal the
24 result of the institutional disciplinary proceeding.

1 N. Nothing in this act shall be deemed to prevent the temporary
2 suspension of a student pending an investigation.

3 O. 1. Any student or student organization whose rights under
4 this act have been violated may bring an action in any state court
5 of competent jurisdiction.

6 2. In a cause of action brought under this act, if the court
7 finds a violation of this act, the court may award the aggrieved
8 student or student organization compensatory damages, reasonable
9 court costs and attorneys' fees, including expert fees, monetary
10 damages of not less than the cost of tuition paid by the student or
11 on the student's behalf to the institution for the semester during
12 which the violation of this act occurred, plus monetary damages of
13 not less than the amount of any scholarship funding lost as a result
14 of the institution discipline, and any other relief in equity or law
15 as deemed appropriate including but not limited to a de novo hearing
16 at the institution of higher education, in accordance with this
17 section.

18 P. A student or student organization shall bring suit for
19 violation of this act no later than one (1) year after the day the
20 cause of action accrues. For purposes of calculating the one-year
21 limitation period, the cause of action shall be deemed accrued on
22 the date that the student or student organization receives final
23 notice of discipline from the institution.

1 Q. The provisions of this section shall apply to all
2 disciplinary proceedings beginning on or after the effective date of
3 this act.

4 SECTION 2. This act shall become effective July 1, 2020.

5 SECTION 3. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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