

Senate Judiciary Committee

Brendan Bunnell 271-4063

HB 510-FN, relative to establishing certain due process rights for students, student organizations, and faculty members facing disciplinary actions by state institutions of higher learning.

Hearing Date: February 3, 2026

Time Opened: 3:00 p.m.

Time Closed: 4:10 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Carson, Altschiller and Reardon

Members of the Committee Absent: None

Bill Analysis: This bill establishes for students, student organizations, and faculty members of publicly funded New Hampshire colleges and universities the right to certain due process protections when disciplinary proceedings are brought against them by such institutions, and addresses the provisions' applicability to collective bargaining agreements.

Sponsors:

Rep. Lynn
Sen. Lang

Rep. Popovici-Muller
Sen. Murphy

Rep. Thibault

Who supports the bill: Representative Bob Lynn, Aubrey Freedman, Tyler Coward (Fire), Curtis Howland and Rosina Lis.

Who opposes the bill: 68 individuals signed in opposition. Contact Brendan Bunnell (brendan.bunnell@gc.nh.gov) for further details.

Who is neutral on the bill: None.

Summary of testimony presented:

Representative Bob Lynn introduced House Bill 510, explaining that it establishes minimum due process protections for students, student organizations, and faculty facing disciplinary action at public colleges and universities.

- He said the bill had previously passed the House but failed in the Senate because of concerns that it might conflict with collective bargaining agreements covering faculty.

- Explained that the bill was revised to allow existing collective bargaining agreements to remain in effect even if they conflict with the statute, but to require that future agreements comply with the due process standards. Lynn argued that opponents claim the bill is unnecessary because universities already provide these protections, but also claim it would require major changes, which he said was contradictory.
- Noted that the bill allows institutions to continue using their own procedures if they provide substantially equivalent protections.
- Acknowledged two concerns raised by university officials in a recent meeting: that notice periods should match Title IX requirements by changing seven days to ten days, and that institutions should be able to take temporary action not only for physical safety threats but also when a person's continued presence could seriously disrupt the educational mission. He said he agreed those changes were reasonable. He argued that federal Title IX rules establish only a minimum standard and do not prevent states from requiring greater protections.
- Stated that past federal guidance, particularly during the Obama administration, had in his view reduced fairness for accused students, and that state law should ensure basic due process protections regardless of future federal policy changes.
- Senator Reardon asked whether it would be better to review existing university procedures and standardize them rather than impose a statutory framework.
 - Rep. Lynn responded that no one had argued that the specific rights listed in the bill were inappropriate, and that if universities truly already provide equivalent protections, they would not need to change anything. He added that much of the university's internal review process occurs before formal charges and would not be affected by the bill, and that the due process requirements would apply only once formal disciplinary proceedings begin. He also said part of his motivation was concern that institutional procedures might not always be as fair as claimed and that federal policy shifts could again weaken protections.
- Senator Altschiller asked what specific incident in New Hampshire motivated the bill, noting that legislation is often prompted by a particular case.
 - Rep. Lynn replied that he could not point to a specific New Hampshire incident but said there were numerous examples nationally of questionable disciplinary cases, including situations involving academic disputes or allegations handled unfairly.
- Senator Altschiller asked whether the bill was intended to preempt future federal policy changes.

- o Rep. Lynn said one purpose was to ensure that due process protections remain in place even if federal Title IX guidance changes again. When asked whether his concerns centered on sexual assault allegations or false accusations, he responded that most accusations are truthful but emphasized that fair procedures are essential to prevent wrongful findings and to maintain confidence in outcomes.
- Senator Carson referenced the Duke University lacrosse case as an example of students being publicly condemned and disciplined before due process was completed, and asked whether this demonstrated the need for statutory protections.
 - o Rep. Lynn agreed that such cases illustrate why procedural safeguards are important even before criminal proceedings occur.

Senator Sharon Carson spoke to a non-germane amendment to HB 510-FN related to the state's slayer statute, explaining that it was intended to close a perceived loophole to ensure that individuals responsible for murder cannot profit from the victim's death, referencing the Harmony Montgomery case.

- Explained that the amendment was intended to align the state's slayer statute with legislative intent from the prior year. She stated that the legislature had passed Senate Bill 148, which prohibits individuals who murder another person from profiting from that murder.
- Said concerns had arisen that the definition of "appeal" and "final criminal conviction" in RSA 562-A:5, I and II could be interpreted in ways that might allow a loophole. The amendment, she explained, would clarify that a criminal conviction is not the only method of demonstrating responsibility for the commission of a murder for purposes of that chapter and would define "final criminal conviction" to prevent judicial interpretations that could undermine the statute.
- Stated that the amendment was intended to ensure that no person responsible for a murder in New Hampshire could benefit financially from the victim's death under any interpretation of the law.

Tyler Coward, representing the Foundation for Individual Rights and Expression (FIRE), testified in support.

- Argued that universities frequently adjudicate serious allegations that can permanently affect students' education and careers and that clear procedural protections are necessary to ensure accurate outcomes.
- Said the bill guarantees written notice, access to evidence, a presumption of non-responsibility, a live hearing before an impartial decision maker, the ability to question witnesses through an advisor, a record of proceedings, and a right to appeal.

- Stated that court cases across the country have found due process violations in university disciplinary systems and that some institutions provide fewer protections when Title IX rules do not strictly require them, such as in off-campus incidents.
- Cited research by his organization showing that disciplinary policies at New Hampshire universities scored poorly on due process benchmarks, with the University of New Hampshire receiving a mid-range score and Plymouth State scoring very low. He argued that uniform standards would prevent outcomes from varying widely between campuses and reduce litigation caused by flawed procedures.
- Senator Reardon asked whether the bill was really about sexual assault cases rather than general due process.
 - Tyler Coward replied that the bill applies to all suspensions and expulsions, including cases involving drugs, fights, or other misconduct, and that due process requirements apply regardless of the nature of the allegation.
 - Senator Reardon also asked whether his research found gender bias in disciplinary rules.
 - Tyler Coward said he was not aware of any policies explicitly treating students differently by gender and noted that such policies would violate Title IX.

Aubrey Freedman testified in support, stating that the due process rights listed in the bill were reasonable and should apply at taxpayer-funded institutions.

- Emphasized the importance of cross-examination and argued that the bill already allows accommodations to avoid forcing alleged victims to be questioned directly by the accused.
- Disputed claims that implementing the bill would require hiring additional staff, arguing that universities already have sufficient administrative personnel.

Catherine Provencher, Chancellor of the University System of New Hampshire, testified in opposition.

- Stated that universities already provide extensive due process protections and questioned what specific problem in New Hampshire the bill was intended to solve.
- Said disciplinary systems are complex and vary depending on the type of misconduct, and that imposing a uniform statutory framework could create inefficiencies and require significant policy revisions, training, and administrative changes.

- Argued that resources would be diverted to comply with a law addressing an issue that universities do not believe exists.

Attorney Chad Pimentel, general counsel for the university system, answered questions.

- Explained that cross-examination provisions could create practical difficulties in many cases unrelated to sexual misconduct, such as plagiarism or misuse of grant funds, where identifying a “victim” is not straightforward.
- He also said the bill could require duplicative hearings or appeals layered on top of existing arbitration processes and collective bargaining procedures. In response to a question, he confirmed that the bill could limit the university’s ability to temporarily suspend student organizations before completing a full hearing, meaning events might have to proceed unless a safety exception applied.
- Agreed that current procedures allow organizations to be paused while investigations occur and said the bill could restrict that flexibility.
- Senator Abbas asked whether creating an exception to confrontation rights for victims of violent or sexual misconduct would address some concerns.
 - Chad Pimentel replied that it would help but would not resolve the broader issue that implementing the bill would require substantial administrative changes to address what the university considers a non-existent problem.
- Senator Abbas also asked how many students are expelled or suspended each year.
 - Chad Pimentel said he did not have the numbers immediately but would provide them,
 - Chancellor Provencher added that there are roughly a thousand disciplinary matters annually, though many do not rise to the level covered by the bill.

Mark Rubenstein, Chancellor of the Community College System of New Hampshire, testified in opposition along with **Shannon Reid** the Director of Government Affairs for the Community College System of New Hampshire.

- Chancellor Rubenstein said the system supports due process but argued that existing procedures have developed over time through policy, case law, and collective bargaining, and that aligning them precisely with statutory language would require detailed revisions.

- He compared the situation to tools that are similar but not interchangeable, saying that even small differences would require reviewing every policy and procedure.
- He suggested that identifying shared principles and building from existing systems might be more practical than imposing a detailed statutory framework.

Pamela Keilig, representing the New Hampshire Coalition Against Domestic and Sexual Violence, testified in opposition.

- Said institutions already follow detailed federal and state requirements for handling sexual misconduct cases and argued that the bill could disrupt the balance between protecting complainants and ensuring fairness.
- Stated that Title IX is designed as an administrative safety process rather than a criminal proceeding and expressed concern that the bill could create more adversarial, courtroom-style hearings, increase risks of retaliation or harassment, and create conflicts with federal law.

Tina Mulleavy, an advocate who works with survivors, testified in opposition and described the Title IX process as already complex, stressful, and emotionally difficult for complainants.

- Said additional procedural requirements could increase trauma and discourage reporting. She described how survivors often must recount events repeatedly while continuing their studies and daily lives and said some withdraw from school or from the complaint process entirely because of the strain.
- Read a statement from a survivor describing her experience with sexual assault, the Title IX process, and the long duration of criminal proceedings, emphasizing that reporting is already difficult and arguing that increasing procedural burdens could make it harder for victims to seek help.
- Senator Altschiller asked them to submit additional written material regarding Title IX concerns, and she agreed to provide it for the record.