

Floor Amendment to SB 409-FN

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT relative to the penalties for the offense of disobeying an officer and relative to
4 establishing certain due process rights for students, student organizations, and
5 faculty members facing disciplinary actions by state institutions of higher learning.
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7 Amend the bill by replacing all after section 1 with the following:

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9 2 New Chapter; Due Process Protections for Students, Student Organizations, and Faculty
10 Members of New Hampshire Public Post-Secondary Education Institutions. Amend RSA by
11 inserting after chapter 188-J the following new chapter:

12

CHAPTER 188-K

13

DUE PROCESS PROTECTIONS FOR STUDENTS, STUDENT ORGANIZATIONS, AND FACULTY
14 MEMBERS OF NEW HAMPSHIRE PUBLIC POST-SECONDARY EDUCATION INSTITUTIONS

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18-K:1 Declaration of Purpose. The purpose of this chapter is to establish for students, student
16 organizations, and faculty members of publicly funded New Hampshire colleges and universities the
17 right to certain due process protections when disciplinary proceedings are brought against them by
18 such institutions.

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18-K:2 Definitions. As used in this chapter:

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I. "Disciplinary proceeding" means an action or proceeding instituted against a student,
21 student organization, or faculty member of a New Hampshire public institution of higher education
22 that could result in the student or faculty member being suspended, expelled, or terminated, or
23 result in a student organization being deprived, either temporarily or permanently, of any of the
24 rights or privileges accorded to other student organizations duly recognized or approved by the
25 institution.

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II. "Faculty member" means a full or part-time member of the faculty of a New Hampshire
27 public institution of higher education, but does not include a faculty member who is in probationary
28 status.

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III. "Public institution of higher education" means "public institution of higher education" as
30 defined by RSA 188-J:1, V.

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IV. "Student" means "student" as defined by RSA 188-J:1, VII.

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V. "Student organization" means "student organization" as defined by RSA 188-J:1, VIII.

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188-K:3 Due Process Rights Established.

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1 I. In all disciplinary proceedings, as defined by RSA 188-K:2, I, against a student, student
2 organization, or faculty member, the student, student organization, or faculty member shall be
3 entitled to a hearing under published procedures that include, at a minimum, all of the following:

4 (a) The right to receive written notice at least 7 days prior to the hearing of the
5 allegations upon which the proceeding is based, and the specific provisions of law, rule, regulation, or
6 code of conduct that allegedly were violated.

7 (b) The right to receive at least 5 days before the hearing a listing of all known witnesses
8 who have provided or will provide evidence or information against the student, student organization,
9 or faculty member, as well as copies of all written documents, statements of witnesses, photographs,
10 electronic data, tangible evidence, and all other relevant inculpatory or exculpatory information.
11 Recipients shall take reasonable steps to prevent the parties from disclosing to third parties
12 information and evidence obtained through the grievance process.

13 (c) The right to the presumption that no violation occurred. This presumption may be
14 overcome only if the public institution of higher education establishes by a preponderance of the
15 evidence that the violation alleged was committed by the student, student organization, or faculty
16 member charged.

17 (d) The right against self-incrimination.

18 (e) The right to confront and cross-examine witnesses who provide evidence against the
19 student, student organization, or faculty member; provided, however, that if a person who claims to
20 be a victim of the conduct giving rise to the disciplinary action objects to being cross-examined by the
21 person accused of the violation, the hearing officer or panel shall require that the cross-examination
22 be conducted by another person selected by the accused and approved by the hearing officer or panel.
23 The person accused shall have the right to be present when his or her accuser is cross-examined.

24 (f) The right to present a defense and call witnesses in support of the defense.

25 (g) The right to an impartial hearing officer or panel.

26 (h) The right to have the assistance of an advisor, advocate, or legal representative, at
27 the student's, student organization's, or faculty member's own expense, who shall be allowed to be
28 present at and directly participate in all aspects of the proceeding. Such advisor, advocate, or legal
29 representative shall not serve in any other role in connection with the proceeding, including as
30 investigator, witness, decider of fact, hearings officer, panel member, decider of an appeal, or advisor
31 to any of the foregoing.

32 (i) The right to have a verbatim record of the hearing made and preserved for use in the
33 event there is an appeal.

34 (j) The right to appeal a final adverse decision to the vice president of student affairs or
35 equivalent official or body specifically designated by the institution to hear such appeals. The person
36 or persons comprising the appeal tribunal shall not have directly participated in any other aspect of
37 the proceeding in question.

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1 II. The procedural rights, including the hearing, specified in paragraph I shall be afforded to
2 a student, student organization, or faculty member prior to the imposition of any discipline, provided
3 however that, in cases where the public institution of higher education can show a substantial
4 likelihood of an immediate threat to the physical health or safety of any student or other individual
5 before a hearing can be held, the institution may immediately take such actions as are necessary to
6 prevent or ameliorate the threat and shall thereupon hold the hearing as soon as reasonably
7 practicable after it has taken such actions.

8 III. A student, student organization, or faculty member may waive any or all of the rights
9 specified in paragraph I, provided that such waiver is made knowingly, intelligently, and voluntarily.

10 188-K:4 Rules and Regulations of Public Institutions of Higher Education. Any New Hampshire
11 public institution of higher education may adopt rules, regulations, policies, or procedures that
12 afford students, student organizations, or faculty members more due process protections than those
13 provided in this chapter, but no such institution shall adopt or utilize any rules, regulations, policies,
14 or procedures that afford students, student organizations, or faculty members facing a disciplinary
15 proceeding less protections than those afforded them herein.

16 188-K:5 Applicability of Chapter to Existing Collective Bargaining Agreements. If the rights
17 afforded to faculty members under this chapter conflict with grievance or disciplinary procedures
18 established under a valid collective bargaining agreement between a public institution of higher
19 education and a union representing faculty members of such institution that is in effect when this
20 chapter becomes effective, the grievance or disciplinary procedures provided for in the collective
21 bargaining agreement rather than those provided by this chapter shall apply to any disciplinary
22 proceedings brought against faculty members covered by the collective bargaining agreement while
23 the agreement remains in effect. After the expiration of said collective bargaining agreement, the
24 provisions of this chapter shall apply to any new disciplinary proceedings commenced against faculty
25 members represented by the union. From and after the effective date of this chapter, no public
26 institution of higher education and no union representing faculty members of such institution shall
27 enter into any new collective bargaining agreement, nor extend the expiration date of an existing
28 collective bargaining agreement, which contains grievance or disciplinary procedures less protective
29 of faculty members' due process rights than those established by this chapter.

30 3 Effective Date.

31 I. Section 1 of this act shall take effect January 1, 2027.

32 II. The remainder of this act shall take effect July 1, 2026.

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2026-1964h

AMENDED ANALYSIS

This bill:

- I. Amends the penalties for the offense of disobeying an officer.
- II. 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.