

HB 510-FN - AS AMENDED BY THE HOUSE

7Jan2026... 3092h

2025 SESSION

25-0592

09/02

HOUSE BILL

510-FN

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

SPONSORS: Rep. Lynn, Rock. 17; Rep. Cordelli, Carr. 7; Rep. Popovici-Muller, Rock. 17; Rep. Thibault, Merr. 25; Sen. Lang, Dist 2; Sen. Murphy, Dist 16

COMMITTEE: Education Funding

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.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

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

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Due Process Protections for Students, Student Organizations, and Faculty
2 Members of New Hampshire Public Post-Secondary Education Institutions. Amend RSA by
3 inserting after chapter 188-J the following new chapter:

CHAPTER 188-K

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

7 188-K:1 Declaration of Purpose. The purpose of this chapter is to establish for students, student
8 organizations, and faculty members of publicly funded New Hampshire colleges and universities the
9 right to certain due process protections when disciplinary proceedings are brought against them by
10 such institutions.

11 188-K:2 Definitions. As used in this chapter:

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

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

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

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

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

25 188-K:3 Due Process Rights Established.

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

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

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

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

14 (d) The right against self-incrimination.

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

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

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

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

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

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

35 II. The procedural rights, including the hearing, specified in paragraph I shall be afforded to
36 a student, student organization, or faculty member prior to the imposition of any discipline, provided
37 however that, in cases where the public institution of higher education can show a substantial

1 likelihood of an immediate threat to the physical health or safety of any student or other individual
2 before a hearing can be held, the institution may immediately take such actions as are necessary to
3 prevent or ameliorate the threat and shall thereupon hold the hearing as soon as reasonably
4 practicable after it has taken such actions.

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

7 188-K:4 Rules and Regulations of Public Institutions of Higher Education. Any New Hampshire
8 public institution of higher education may adopt rules, regulations, policies, or procedures that
9 afford students, student organizations, or faculty members more due process protections than those
10 provided in this chapter, but no such institution shall adopt or utilize any rules, regulations, policies,
11 or procedures that afford students, student organizations, or faculty members facing a disciplinary
12 proceeding less protections than those afforded them herein.

13 188-K:5 Applicability of Chapter to Existing Collective Bargaining Agreements. If the rights
14 afforded to faculty members under this chapter conflict with grievance or disciplinary procedures
15 established under a valid collective bargaining agreement between a public institution of higher
16 education and a union representing faculty members of such institution that is in effect when this
17 chapter becomes effective, the grievance or disciplinary procedures provided for in the collective
18 bargaining agreement rather than those provided by this chapter shall apply to any disciplinary
19 proceedings brought against faculty members covered by the collective bargaining agreement while
20 the agreement remains in effect. After the expiration of said collective bargaining agreement, the
21 provisions of this chapter shall apply to any new disciplinary proceedings commenced against faculty
22 members represented by the union. From and after the effective date of this chapter, no public
23 institution of higher education and no union representing faculty members of such institution shall
24 enter into any new collective bargaining agreement, nor extend the expiration date of an existing
25 collective bargaining agreement, which contains grievance or disciplinary procedures less protective
26 of faculty members' due process rights than those established by this chapter.

27 2 Effective Date. This act shall take effect July 1, 2026.

HB 510-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-3092h)

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

FISCAL IMPACT:

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
Revenue Fund(s)	None			
Expenditures*	\$0	<u>USNH</u> \$500,000+ Per Year		
		<u>CCSNH</u> \$50,000 to \$250,000 Per Year		
Funding Source(s)	USNH and CCSNH Operating Expenses			
Appropriations*	\$0	\$0	\$0	\$0
Funding Source(s)	None			

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill establishes certain due process rights for students, student organizations, and faculty members facing disciplinary actions by the University System of New Hampshire and Community College System of New Hampshire. Information and fiscal impact estimates for each system are discussed below.

University System of New Hampshire

USNH states this bill would pertain to public postsecondary disciplinary proceedings that could result in the expulsion, suspension, or termination of a student or faculty member, or, in the case of a student organization, the deprivation of customary rights and privileges. The bill would require that USNH conduct all such disciplinary proceedings with a formal hearing and numerous attendant due process rights including the right to cross-examine witnesses and to appeal. USNH has provided the following assumptions related to this bill:

- The bill would increase the number of due process steps by requiring a level of discovery and procedure that is akin to a trial. Failure by USNH to sufficiently follow the full scope of expanded procedural steps (which are different in requirement but not intent

from those that currently exist) would open the institution to delays, costly appeals, and greater potential to have justifiable disciplinary action overturned.

- Resources would be expended for additional staff and/or overtime for hourly staff to manage increased training and investigation activities, increased documentation, expanded volunteer management for the additional panel hearings and appeals, and increased time involved to manage and attend the hearings themselves. Increased staffing resources would be required to review, rewrite, and maintain existing policies and procedural manuals to ensure compliance with the statute initially and on-going in conjunction with ever-changing federal statutes.
- The bill's requirements would prolong the adjudication process for the suspension or termination of faculty covered through collective bargaining, resulting in delayed resolution and increased resource expenditure, as opposed to labor arbitrations that are viewed across all industries as a cost-efficient process to afford significant due process. In cases resulting in termination, the expanded process would unnecessarily extend salary outlay to the individual. The bill additionally would create a significant procedural burden for the termination of adjunct faculty.
- The bill's language envisions an either/or (either expired or in effect) collective bargaining agreement (CBA) status. Because current USNH CBAs are simultaneously expired and yet still in effect during ongoing negotiations, concurrent compliance with the bill and with CBA provisions would involve redundant work, with duplicative administrative and disciplinary action undertaken by many individuals, including witnesses, administrators, administrative support, legal counsel, HR partners, and others who support employees and conduct the necessary steps of due process.
- The threshold for student organization behavior that would be subject to the bill's provisions remains broad. Currently, most lower-level violations are handled by student-elected governing bodies, which have the authority to "deprive" a student organization of some modest privileges – e.g., lower-level violations of fraternities (noise complaints, alcohol violations, etc.) are handled by the Interfraternity Council, a governing body duly elected by fraternity students; budgetary violations are handled by the Student Activity Fee Committee, an elected body of the student senate. Requiring full hearings for lower-level violations would escalate matters, create adversarial processes for students, and consume limited resources for matters that could be handled by student peer governance processes.

USNH states compliance with this bill is expected to increase operating expenses by an indeterminable amount ranging from \$500,000 to \$1,000,000 annually. With approximately 22,000 enrolled students, 5,400 employees, and 300 recognized student organizations (not counting those seeking recognition, also covered by the bill), the number of infractions across the

five USNH campuses that would be subjected to the disciplinary proceedings stipulated in this bill that otherwise would be resolved through existing policy and practice cannot be reliably predicted. Given this limitation and the numerous assumptions described above, the fiscal impact of the bill is indeterminable but expected to result in significantly increased USNH operating expense. The additional expense, anticipated mainly for staffing resources to manage increased training and investigation activities, panel hearings, appeals, and documentation, is estimated to be \$500,000 or more annually, effective FY 2027, with some preparatory expense potentially beginning in FY 2026. It is anticipated that the expense increase would necessitate increases in USNH tuition/mandatory fee rates and/or a reduction in student financial aid from institutional resources.

Community College System of New Hampshire (CCSNH)

CCSNH states this bill establishes requirements related to instances when certain disciplinary proceedings are brought by the institution against college faculty, students and student organizations. The bill does not apply to staff. CCSNH assumes the bill will create the following operational needs that will add expense:

- Conduct a legal review of existing policies and procedures across disciplinary steps for faculty, students and student organizations; incorporate changes where needed; and train personnel in new requirements. CCSNH does not presently have in-house counsel and it would need to utilize outside counsel.
 - Estimate is between \$10,000 and \$20,000 (mostly incurred in FY 2027)
- Review federal Title IX to address questions of alignment with this bill.
- Labor counsel review of collective bargaining agreements to assess impact of invalidated elements; re-write policies in alignment with this bill's requirements.
 - Estimate is between \$10,000 and \$20,000 (mostly incurred in FY 2027).
- Increase its use of legal counsel as arbiters and advisors in order to appropriately manage the enhanced disciplinary requirements.
 - Estimate is between \$10,000 and \$100,000, per year.
- Make a verbatim record of hearings.
 - Estimate is less than \$10,000 per year.
- Make or defend special accommodations for affected individuals whom it is advisable to separate from others or from the institution until the disciplinary procedure is complete, in light of 188-K:3, II, in the bill which states that: *"The procedural rights, including the hearing, specified in paragraph I shall be afforded to a student, student organization, or faculty member prior to the imposition of any discipline, provided however that, in cases where the public institution of higher education can show a substantial likelihood of an immediate threat to the physical health or safety of any student or other individual before a hearing can be held, the institution may immediately take such actions as are necessary*

to prevent or ameliorate the threat and shall thereupon hold the hearing as soon as reasonably practicable after it has taken such actions.”

- Increased workload to manage the varying requirements. CCSNH is unclear whether it would attempt to meet any additional workload with existing staff time, add to compensated hours, or seek to add staff.
 - Estimate is between \$10,000 and \$100,000, per year.

Taken together, CCSNH estimates the above elements could have a fiscal impact of between \$50,000 and \$250,000, per year. The bill does not include an appropriation, therefore, CCSNH states any increased expenses would need to be addressed through re-allocation of resources or potentially a fee increase.

AGENCIES CONTACTED:

University System of New Hampshire and Community College System of New Hampshire