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Due process duly needed at universities

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Today, I'd like to talk about SB 2150, a bill currently facing the North Dakota 64th Legislative Assembly.

It's a bill that would guarantee due process rights for students and student organizations during university-run disciplinary hearings. It allows students the right to an attorney (at their own expense) and gives the attorney the right to defend the student.

Currently, UND allows students to bring an advisor with them to a disciplinary hearing. That advisor can be a family member, a friend or lawyer is not allowed to speak or influence hearings in any way, according to UND's website.

In addition, UND requires five business days of prior notice if the student chooses to have an attorney be the advisor, "so that a university attorney may be scheduled as well."

SB 2150 states that the attorney or non-attorney advocate "may fully participate during any disciplinary proceeding."

The bill also specifies that these rights do not extend to academic dishonesty.

This bill was introduced by Republican Ray Holmberg and Democrat Lois Delmore partially as a response to the case of Caleb Warner.

Caleb Warner, a UND student, was accused of sexual assault in 2010 and was banned from campus for three years. Here's the problem though: He was never actually charged with a crime, but his accuser was for filing a false report.

Even then the university refused to lift the ban until FIRE (Foundation for Individual Rights in Education) got involved.

Bruce Gjovig, CEO & Entrepreneur Coach at the UND Center for Innovation Foundation stated the following in his testimony supporting SB 2150:

"I am an advisor for several UND students and student groups, and innocent students are punished every month, under the guise of controlling students' behavior."

So according to someone who actually works with students on a regular basis, Caleb's case is not unique or rare.

Gjovig also stated "Some power needs to be granted to the powerless to stop innocent young people from being suspended, expelled or falsely punished." Remember, innocent people being unjustly punished not only does happen at this university, it happens on a regular basis.

Joe Cohen the legislative and policy director for FIRE made these comments in his testimony supporting this bill .

"The stakes are very, very high; the results of these hearings dramatically change the course of students' lives," Cohen said. "An expulsion for criminal activity will have life-long consequences for a student's education and professional career. Such a finding impedes a student's ability to secure jobs — even jobs that do not require a college degree. After all, why should an employer take a chance on a "proven" rapist or thief? Complicating matters further, nothing prevents criminal prosecutors from using statements made in college courts against the accused in criminal proceedings. Without a lawyer during these campus hearings, students may unknowingly waive Fifth Amendment rights."

With all these people in favor of the bill and so many good reasons to support it, who could possibly oppose it and why?

Christopher Wilson, chief counsel for NDUS in Fargo raised concerns that the "educational process" of the disciplinary process would be lost if an advisor is able to act for a student. He also said that there would be the potential for a "disparate system," if some students were able to afford attorneys and others could not.

First of all, what educational process would be lost with this law? The only thing this bill is asking for is for students to be granted the basic rights every other American citizen has. Yet you think it's educational for them to be denied these rights? As far as the potential for a 'disparate system' we already have a disparate system, where it is been proven that innocent students have been punished. What's the reasoning here, some people can't afford lawyers therefore no one should ever have lawyers?

Wilson also claimed that limiting the participation of attorneys in disciplinary hearings is a "common practice" in higher education, and that the disciplinary process could become more complicated with the proposed change.

First of all, just because it's a common practice doesn't make it a good one. Just ask Caleb Warner.

Second of all, the disciplinary process should become more complicated. These hearings need to be more complex than, he was accused of rape therefore he did it.

Murray Sagsveen, NDUS chief of staff and ethics officer, said the bill could mean an additional attorney, administrative law judge and court reporter. A fiscal note states the estimated cost during the current two-year cycle would be \$2.5 million in salaries, benefits and equipment, an estimate based on 1,000 hearings per semester.

However, Holmberg said committee members were skeptical of that dollar figure.

Also, Gjovig said in his testimony: "Since the student pays his own attorney fees, and the campus only pays when students are found innocent after being falsely accused. This is a tacit admission it will be costly to correct their egregious campus disciplinary system."

Right now, people are fighting in the senate to ensure that you have the basic rights as every other American citizen. And right now, there are people fighting to make sure you don't get those rights. I think it's pretty clear which side you should be on.

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