

1 AN ACT relating to postsecondary institutions.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, unless the context requires otherwise:*

6 *(a) "Discriminatory concept" means a concept that:*

- 7 *1. One (1) race or sex is inherently superior or inferior to another race*
8 *or sex;*
- 9 *2. An individual, by virtue of the individual's race or sex, is inherently*
10 *privileged, racist, sexist, or oppressive, whether consciously or*
11 *subconsciously;*
- 12 *3. An individual should be discriminated against or receive adverse*
13 *treatment because of the individual's race or sex;*
- 14 *4. An individual's moral character is determined by the individual's race*
15 *or sex;*
- 16 *5. An individual, by virtue of the individual's race or sex, bears*
17 *responsibility for actions committed in the past by other members of*
18 *the same race or sex;*
- 19 *6. An individual should feel discomfort, guilt, anguish, or another form*
20 *of psychological distress solely because of the individual's race or sex;*
- 21 *7. A meritocracy is inherently racist or sexist, or designed by a particular*
22 *race or sex to oppress another race or sex;*
- 23 *8. The Commonwealth of Kentucky or the United States of America is*
24 *fundamentally or irredeemably racist or sexist;*
- 25 *9. Promotes or advocates the violent overthrow of the United States*
26 *government;*
- 27 *10. Promotes division between, or resentment of, a race, sex, religion,*

- 1 creed, nonviolent political affiliation, social class, or class of people;
- 2 11. Ascribes character traits, values, moral or ethical codes, privileges, or
- 3 beliefs to a race or sex, or to an individual because of the individual's
- 4 race or sex;
- 5 12. The rule of law does not exist, but instead is a series of power
- 6 relationships and struggles among racial or other groups;
- 7 13. All Americans are not created equal and are not endowed by their
- 8 Creator with certain unalienable rights, including, life, liberty, and the
- 9 pursuit of happiness;
- 10 14. Governments should deny to any person within the government's
- 11 jurisdiction the equal protection of the law;
- 12 15. Includes race or sex stereotyping; or
- 13 16. Includes race or sex scapegoating;
- 14 (b) "Race or sex scapegoating" means assigning fault, blame, or bias to a race
- 15 or sex, or to members of a race or sex, because of their race or sex, and
- 16 includes any claim that, consciously or subconsciously, and by virtue of a
- 17 person's race or sex, members of a race are inherently racist or inclined to
- 18 oppress others, or that members of a sex are inherently sexist or inclined to
- 19 oppress others;
- 20 (c) "Race or sex stereotyping" means ascribing character traits, values, moral
- 21 or ethical codes, privileges, status, or beliefs to a race or sex, or to an
- 22 individual because of his or her race or sex; and
- 23 (d) "Training" includes non-credit classes, seminars, workshops, trainings,
- 24 and orientations.
- 25 (2) A student or employee of a public postsecondary education institution or an
- 26 applicant for admission or employment at a public postsecondary education
- 27 institution shall not:

- 1 (a) Be penalized, discriminated against, or receive any adverse treatment due to
2 the individual's refusal to support, believe, endorse, embrace, confess, act
3 upon, or otherwise assent to one (1) or more discriminatory concepts; or
- 4 (b) Be required to endorse a specific ideology or political viewpoint to be
5 eligible for admission, hiring, contract renewal, tenure, promotion, research
6 approval, graduation, or any other benefit and an institution shall not ask
7 the ideological or political viewpoint of a student, job applicant, job
8 candidate, employee, or candidate for promotion or tenure.
- 9 (3) A public postsecondary education institution shall not:
- 10 (a) Solicit or require an applicant for admission, employment, hiring, contract
11 renewal, tenure, promotion, research approval, graduation, or any other
12 benefit to describe the applicant's attitude or actions in support of or in
13 opposition to specific ideologies, beliefs, affiliations, ideals, or principles;
- 14 (b) Provide preferential or prejudicial consideration or treatment to an
15 individual on the basis of the individual's actual or perceived political or
16 social ideology;
- 17 (c) Conduct any mandatory training of students or employees if the training
18 presents one (1) or more discriminatory concepts as fact or otherwise
19 advocates for any individual to assent to or support one (1) or more
20 discriminatory concepts;
- 21 (d) Require a course that presents one (1) or more discriminatory concepts as
22 fact or otherwise advocates for any individual to assent to or support one (1)
23 or more discriminatory concepts as a prerequisite, program requirement, or
24 general education course;
- 25 (e) Use training programs or training materials for students or employees if the
26 program or material includes one (1) or more discriminatory concepts; or
- 27 (f) Use state-appropriated funds to incentivize, beyond payment of regular

1 salary or other regular compensation, a faculty member to incorporate one
2 (1) or more discriminatory concepts into academic curricula.

3 (4) (a) Any new student orientation program offered by a public postsecondary
4 education institution shall include:

5 1. The full text of the First Amendment of the Constitution of the United
6 States;

7 2. Discussion and resources on the principles and importance of free
8 speech and viewpoint diversity;

9 3. Historical examples demonstrating the necessity of protecting free
10 speech, including unpopular speech, in the United States and other
11 nations;

12 4. The policies adopted by the institution pursuant to subsection (2) of
13 Section 3 of this Act to protect free speech on the institution's campus;
14 and

15 5. Written and verbal notice of the Attorney General's authority to bring
16 a civil action to compel a public postsecondary education institution to
17 comply with this section, any policy required by this section, and the
18 Constitution of the United States.

19 (b) 1. Except as provided in subparagraph 2. of this paragraph, the
20 following materials distributed or presented to students as part of any
21 new student orientation program offered by a public postsecondary
22 education institution shall be published to a prominent, publicly
23 accessible location on the institution's website:

24 a. Any audio or video materials;

25 b. Digital resources;

26 c. Printed or digital materials;

27 d. Presentation slides; and

1 e. The written notice required by paragraph (a)5. of this subsection
2 and instructions on how to contact the Office of the Attorney
3 General to submit a complaint against a public postsecondary
4 education institution.

5 2. If an item of copywritten material or resources cannot be published to
6 the institution's website as required by subparagraph 1. of this
7 paragraph, a link to access or purchase the material or resource and a
8 description of the contents of the material or resource shall be
9 published to the same location on the institution's website.

10 (5) If a public postsecondary education institution employs or contracts an individual
11 whose primary duties include diversity initiatives, then:

12 (a) The individual's duties shall include efforts to strengthen and increase
13 intellectual diversity among the students and faculty of the public
14 postsecondary education institution at which they are employed; and

15 (b) At least fifty percent (50%) of the individual's duties shall be allocated to
16 mentoring and providing academic coaching and related learning support
17 activities necessary for the academic success of students who are eligible to
18 receive a federal Pell grant. An institution shall document the allocation of
19 the duties of each individual whose primary duties include diversity
20 initiatives to ensure compliance with this paragraph.

21 (6) The Attorney General may bring a civil action for a writ of mandamus to compel
22 a public postsecondary education institution to comply with this section or any
23 policy adopted or required to have been adopted pursuant to this section.

24 (7) Nothing in this section shall be interpreted to:

25 (a) Prohibit public postsecondary education institutions from training students
26 or employees on the nondiscrimination requirements of federal or state law;

27 (b) Infringe on the rights of freedom of speech protected by the First

- 1 Amendment to the Constitution of the United States or Section 3 of this Act;
2 (c) Infringe on the rights of academic freedom of faculty in public
3 postsecondary education institutions;
4 (d) Require an employee of a public postsecondary education institution to:
5 1. Violate any federal law, rule, or regulation; or
6 2. Fail to comply with any applicable academic accreditation
7 requirement;
8 (e) Prohibit an individual providing training from responding to questions
9 regarding one (1) or more discriminatory concepts, so long as the response
10 does not endorse or advocate for discriminatory concepts; or
11 (f) Prohibit public postsecondary education institutions from supporting
12 diversity initiatives that do not include discriminatory concepts.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
14 READ AS FOLLOWS:

- 15 (1) For each course offered by a public postsecondary education institution, the
16 institution shall publish the following information to a prominent, publicly
17 accessible location on the institution's website:
18 (a) A description of the course;
19 (b) The current syllabus of the course; and
20 (c) The title of each book assigned or recommended for the course, including
21 but not limited to any textbook or workbook.
22 (2) The governing boards of each public postsecondary education institution shall
23 adopt policies to ensure compliance with subsection (1) of this section.

24 ➔Section 3. KRS 164.348 is amended to read as follows:

25 (1) For purposes of this section:

- 26 (a) "Faculty" means any person tasked by a public postsecondary education
27 institution with providing scholarship, academic research, or teaching,

1 regardless of whether the person is compensated by the public postsecondary
2 education institution; and

3 (b) "Student" means an individual currently enrolled in at least one (1) credit hour
4 at a public postsecondary education institution or a student organization
5 registered pursuant to the policies of a public postsecondary education
6 institution.

7 (2) Consistent with its obligations to respect the rights secured by the Constitutions of
8 the United States and the Commonwealth of Kentucky, a governing board of a
9 public postsecondary education institution shall adopt policies to ensure that:

10 (a) The institution protects the fundamental and constitutional right of all students
11 and faculty to freedom of expression;

12 (b) The institution grants students and faculty the broadest possible latitude to
13 speak, write, listen, challenge, learn, and discuss any issue;

14 (c) The institution commits to maintaining a marketplace of ideas where the free
15 exchange of ideas is not suppressed because an idea put forth is considered by
16 some or even most of the members of the institution's community to be
17 offensive, unwise, disagreeable, conservative, liberal, traditional, or radical;

18 (d) Students and faculty do not substantially obstruct or otherwise substantially
19 interfere with the freedom of others to express views they reject so that a
20 lively and fearless freedom of debate and deliberation is promoted and
21 protected;

22 (e) The expression of a student's religious or political viewpoints in classroom,
23 homework, artwork, and other written and oral assignments is free from
24 discrimination or penalty based on the religious or political content of the
25 submissions;

26 (f) 1. The selection of students to speak at official events is made in a
27 viewpoint-neutral manner;

- 1 2. The prepared remarks of the student are not altered before delivery,
2 except in a viewpoint-neutral manner, unless requested by the student.
3 However, student speakers shall not engage in speech that is obscene,
4 vulgar, offensively lewd, or indecent; and
- 5 3. If the content of the student's speech is such that a reasonable observer
6 may perceive affirmative institutional sponsorship or endorsement of the
7 student speaker's religious or political viewpoint, the institution shall
8 communicate, in writing, orally, or both, that the student's speech does
9 not reflect the endorsement, sponsorship, position, or expression of the
10 institution;
- 11 (g) Student religious and political organizations are allowed equal access to
12 public forums on the same basis as nonreligious and nonpolitical
13 organizations;
- 14 (h) No recognized religious or political student organization is hindered or
15 discriminated against in the ordering of its internal affairs, selection of leaders
16 and members, defining of doctrines and principles, and resolving of
17 organizational disputes in the furtherance of its mission, or in its
18 determination that only persons committed to its mission should conduct such
19 activities;
- 20 (i) Student activity fee funding to a student organization is not denied based on
21 the viewpoints that the student organization advocates;
- 22 (j) The generally accessible, open, outdoor areas of the campus be maintained as
23 traditional public forums for students and faculty to express their views, so
24 that the free expression of students and faculty is not limited to particular
25 areas of the campus often described as "free speech zones";
- 26 (k) There shall be no restrictions on the time, place, and manner of student speech
27 that occurs in the outdoor areas of campus or is protected by the First

1 Amendment of the United States Constitution, except for restrictions that are:

- 2 1. Reasonable;
- 3 2. Justified without reference to the content of the regulated speech;
- 4 3. Narrowly tailored to serve a compelling governmental interest; and
- 5 4. Limited to provide ample alternative options for the communication of
- 6 the information;

7 (l) Permit requirements do not prohibit spontaneous outdoor assemblies or

8 outdoor distribution of literature, although an institution may adopt a policy

9 that grants members of the university community the right to reserve certain

10 outdoor spaces in advance;

11 (m) All students and faculty are allowed to invite guest speakers to campus to

12 engage in free speech regardless of the views of the guest speakers;

13 (n) Students are not charged fees based on the content of their speech, the content

14 of the speech of guest speakers invited by students, or the anticipated reaction

15 or opposition of listeners to the speech; and

16 (o) The institution does not disinvite a speaker invited by a student, student

17 organization, or faculty member because the speaker's anticipated speech may

18 be considered offensive, unwise, disagreeable, conservative, liberal,

19 traditional, or radical by students, faculty, administrators, government

20 officials, or members of the public.

21 (3) (a) Any person aggrieved by a violation of any policy adopted or required to have

22 been adopted pursuant to subsection (2) of this section shall have a cause of

23 action against the institution, or any of its agents acting in their official

24 capacities, for damages arising from the violation, including reasonable

25 attorney's fees and litigation costs.

26 (b) A claim brought pursuant to this subsection may be asserted in any court of

27 competent jurisdiction within one (1) year of the date the cause of action

1 accrued. The cause of action shall be deemed to have accrued at the point in
2 time the violation ceases or is cured by the institution.

3 (c) Excluding reasonable attorney's fees and litigation costs, any prevailing
4 claimant shall be awarded no less than one thousand dollars (\$1,000) but no
5 more than one hundred thousand dollars (\$100,000) cumulatively per action.
6 If multiple claimants prevail and the damages awarded would exceed one
7 hundred thousand dollars (\$100,000), the court shall divide one hundred
8 thousand dollars (\$100,000) amongst all prevailing claimants equally.

9 (4) (a) The policies adopted pursuant to subsection (2) of this section shall be made
10 available to students and faculty using the following methods:

11 1. Publishing in the institution's student handbook and faculty handbook,
12 whether paper or electronic;~~and~~

13 2. Posting to a prominent location on the institution's website~~[Web site]~~;
14 and

15 3. Including in orientation programs for new students and new faculty.

16 (b) The policies adopted pursuant to subsection (2) of this section may also be
17 mailed~~[made available to students and faculty using the following methods:~~

18 ~~1. Mailing]~~ electronically to students and faculty annually using their
19 institutionally provided email~~[e-mail]~~ addresses~~;~~~~or~~

20 ~~2. Including in orientation programs for new students and new faculty].~~

21 (5) (a) Nothing in this section shall be construed to grant students the right to engage
22 in conduct that intentionally, materially, and substantially disrupts another's
23 expressive activity if that activity is occurring in a campus space previously
24 scheduled or reserved for that activity or under the exclusive use or control of
25 a particular group.

26 (b) Conduct intentionally, materially, and substantially disrupts another's
27 expressive activity if it significantly hinders the expressive activity of another

1 person or group, or prevents the communication of a message or the
2 transaction of a lawful meeting, gathering, or procession by:

- 3 1. Being of a violent or seriously disruptive nature; or
- 4 2. Physically blocking or significantly hindering any person from
5 attending, hearing, viewing, or otherwise participating in an expressive
6 activity.

7 (c) Conduct does not intentionally, materially, and substantially disrupt another's
8 expressive activity if the conduct:

- 9 1. Is protected under the First Amendment to the United States
10 Constitution or the Constitution of the Commonwealth of Kentucky,
11 including but not limited to lawful protests and counter-protests in the
12 outdoor areas of campus generally accessible to the public, except
13 during times when those areas have been reserved in advance for other
14 events; or
- 15 2. Is an isolated occurrence that causes minor, brief, and nonviolent
16 disruptions of expressive activity.

17 ➔Section 4. During the 2025 and 2027 academic years, each public
18 postsecondary education institution shall conduct a survey of the institution's students and
19 employees to assess the campus climate with regard to diversity of thought and the
20 respondents' comfort level in speaking freely on campus, regardless of political affiliation
21 or ideology. Each institution shall publish the results of the respective survey on a
22 publicly accessible webpage of the institution's website by July 1, 2025 and July 1, 2027.