

1 AN ACT relating to immigrants.

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

3 ➔Section 1. KRS 164.020 is amended to read as follows:

4 The Council on Postsecondary Education in Kentucky shall:

- 5 (1) Develop and implement the strategic agenda with the advice and counsel of the
6 Strategic Committee on Postsecondary Education. The council shall provide for and
7 direct the planning process and subsequent strategic implementation plans based on
8 the strategic agenda as provided in KRS 164.0203;
- 9 (2) Revise the strategic agenda and strategic implementation plan with the advice and
10 counsel of the committee as set forth in KRS 164.004;
- 11 (3) Develop a system of public accountability related to the strategic agenda by
12 evaluating the performance and effectiveness of the state's postsecondary system.
13 The council shall prepare a report in conjunction with the accountability reporting
14 described in KRS 164.095, which shall be submitted to the committee, the
15 Governor, and the General Assembly by December 1 annually. This report shall
16 include a description of contributions by postsecondary institutions to the quality of
17 elementary and secondary education in the Commonwealth;
- 18 (4) Review, revise, and approve the missions of the state's universities and the
19 Kentucky Community and Technical College System. The Council on
20 Postsecondary Education shall have the final authority to determine the compliance
21 of postsecondary institutions with their academic, service, and research missions;
- 22 (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively
23 provide for an integrated system of postsecondary education. The council shall
24 guard against inappropriate and unnecessary conflict and duplication by promoting
25 transferability of credits and easy access of information among institutions;
- 26 (6) Engage in analyses and research to determine the overall needs of postsecondary
27 education and adult education in the Commonwealth;

- 1 (7) Develop plans that may be required by federal legislation. The council shall for all
2 purposes of federal legislation relating to planning be considered the "single state
3 agency" as that term may be used in federal legislation. When federal legislation
4 requires additional representation on any "single state agency," the Council on
5 Postsecondary Education shall establish advisory groups necessary to satisfy federal
6 legislative or regulatory guidelines;
- 7 (8) (a) Determine tuition and approve the minimum qualifications for admission to
8 the state postsecondary educational system. In defining residency, the council
9 shall classify a student as having Kentucky residency if the student met the
10 residency requirements at the beginning of his or her last year in high school
11 and enters a Kentucky postsecondary education institution within two (2)
12 years of high school graduation **and is not an alien illegally present in the**
13 **United States**. In determining the tuition for non-Kentucky residents, the
14 council shall consider the fees required of Kentucky students by institutions in
15 adjoining states, the resident fees charged by other states, the total actual per
16 student cost of training in the institutions for which the fees are being
17 determined, and the ratios of Kentucky students to non-Kentucky students
18 comprising the enrollments of the respective institutions, and other factors the
19 council may in its sole discretion deem pertinent, except that the Kentucky
20 Community and Technical College System may assess a mandatory student
21 fee not to exceed eight dollars (\$8) per credit hour to be used exclusively for
22 debt service on amounts not to exceed seventy-five percent (75%) of the total
23 projects cost of the Kentucky Community and Technical College System
24 agency bond projects included in 2014 Ky. Acts ch. 117, Part II, J., 11.
- 25 (b) The Kentucky Community and Technical College System mandatory fee
26 established in this subsection shall only be used for debt service on agency
27 bond projects.

- 1 (c) Any fee established as provided by this subsection shall cease to be assessed
2 upon the retirement of the project bonds for which it services debt.
- 3 (d) Prior to the issuance of any bonds, the Kentucky Community and Technical
4 College System shall certify in writing to the secretary of the Finance and
5 Administration Cabinet that sufficient funds have been raised to meet the
6 local match equivalent to twenty-five percent (25%) of the total project cost;
- 7 (9) Devise, establish, and periodically review and revise policies to be used in making
8 recommendations to the Governor for consideration in developing
9 recommendations to the General Assembly for appropriations to the universities,
10 the Kentucky Community and Technical College System, and to support strategies
11 for persons to maintain necessary levels of literacy throughout their lifetimes. The
12 council has sole discretion, with advice of the Strategic Committee on
13 Postsecondary Education and the executive officers of the postsecondary education
14 system, to devise policies that provide for allocation of funds among the
15 universities and the Kentucky Community and Technical College System;
- 16 (10) Lead and provide staff support for the biennial budget process as provided under
17 KRS Chapter 48, in cooperation with the committee;
- 18 (11) (a) Except as provided in paragraph (b) of this subsection, review and approve all
19 capital construction projects covered by KRS 45.750(1)(f), including real
20 property acquisitions, and regardless of the source of funding for projects or
21 acquisitions. Approval of capital projects and real property acquisitions shall
22 be on a basis consistent with the strategic agenda and the mission of the
23 respective universities and the Kentucky Community and Technical College
24 System.
- 25 (b) The organized groups that are establishing community college satellites as
26 branches of existing community colleges in the counties of Laurel, Leslie, and
27 Muhlenberg, and that have substantially obtained cash, pledges, real property,

1 or other commitments to build the satellite at no cost to the Commonwealth,
2 other than operating costs that shall be paid as part of the operating budget of
3 the main community college of which the satellite is a branch, are authorized
4 to begin construction of the satellite on or after January 1, 1998;

5 (12) Require reports from the executive officer of each institution it deems necessary for
6 the effectual performance of its duties;

7 (13) Ensure that the state postsecondary system does not unnecessarily duplicate
8 services and programs provided by private postsecondary institutions and shall
9 promote maximum cooperation between the state postsecondary system and private
10 postsecondary institutions. Receive and consider an annual report prepared by the
11 Association of Independent Kentucky Colleges and Universities stating the
12 condition of independent institutions, listing opportunities for more collaboration
13 between the state and independent institutions and other information as appropriate;

14 (14) Establish course credit, transfer, and degree components as required in KRS
15 164.2951;

16 (15) Define and approve the offering of all postsecondary education technical, associate,
17 baccalaureate, graduate, and professional degree, certificate, or diploma programs
18 in the public postsecondary education institutions. The council shall expedite
19 wherever possible the approval of requests from the Kentucky Community and
20 Technical College System board of regents relating to new certificate, diploma,
21 technical, or associate degree programs of a vocational-technical and occupational
22 nature. Without the consent of the General Assembly, the council shall not abolish
23 or limit the total enrollment of the general program offered at any community
24 college to meet the goal of reasonable access throughout the Commonwealth to a
25 two (2) year course of general studies designed for transfer to a baccalaureate
26 program. This does not restrict or limit the authority of the council, as set forth in
27 this section, to eliminate or make changes in individual programs within that

- 1 general program;
- 2 (16) Eliminate, in its discretion, existing programs or make any changes in existing
- 3 academic programs at the state's postsecondary educational institutions, taking into
- 4 consideration these criteria:
- 5 (a) Consistency with the institution's mission and the strategic agenda;
- 6 (b) Alignment with the priorities in the strategic implementation plan for
- 7 achieving the strategic agenda;
- 8 (c) Elimination of unnecessary duplication of programs within and among
- 9 institutions; and
- 10 (d) Efforts to create cooperative programs with other institutions through
- 11 traditional means, or by use of distance learning technology and electronic
- 12 resources, to achieve effective and efficient program delivery;
- 13 (17) Ensure the governing board and faculty of all postsecondary education institutions
- 14 are committed to providing instruction free of discrimination against students who
- 15 hold political views and opinions contrary to those of the governing board and
- 16 faculty;
- 17 (18) Review proposals and make recommendations to the Governor regarding the
- 18 establishment of new public community colleges, technical institutions, and new
- 19 four (4) year colleges;
- 20 (19) Postpone the approval of any new program at a state postsecondary educational
- 21 institution, unless the institution has met its equal educational opportunity goals, as
- 22 established by the council. In accordance with administrative regulations
- 23 promulgated by the council, those institutions not meeting the goals shall be able to
- 24 obtain a temporary waiver, if the institution has made substantial progress toward
- 25 meeting its equal educational opportunity goals;
- 26 (20) Ensure the coordination, transferability, and connectivity of technology among
- 27 postsecondary institutions in the Commonwealth including the development and

- 1 implementation of a technology plan as a component of the strategic agenda;
- 2 (21) Approve the teacher education programs in the public institutions that comply with
- 3 standards established by the Education Professional Standards Board pursuant to
- 4 KRS 161.028;
- 5 (22) Constitute the representative agency of the Commonwealth in all matters of
- 6 postsecondary education of a general and statewide nature which are not otherwise
- 7 delegated to one (1) or more institutions of postsecondary learning. The
- 8 responsibility may be exercised through appropriate contractual relationships with
- 9 individuals or agencies located within or without the Commonwealth. The authority
- 10 includes but is not limited to contractual arrangements for programs of research,
- 11 specialized training, and cultural enrichment;
- 12 (23) Maintain procedures for the approval of a designated receiver to provide for the
- 13 maintenance of student records of the public institutions of higher education and the
- 14 colleges as defined in KRS 164.945, and institutions operating pursuant to KRS
- 15 165A.310 which offer collegiate level courses for academic credit, which cease to
- 16 operate. Procedures shall include assurances that, upon proper request, subject to
- 17 federal and state laws and regulations, copies of student records shall be made
- 18 available within a reasonable length of time for a minimum fee;
- 19 (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of
- 20 the Legislative Research Commission for distribution to the Interim Joint
- 21 Committee on Families and Children;
- 22 (25) (a) Develop in cooperation with each public university and the Kentucky
- 23 Community and Technical College System a comprehensive orientation and
- 24 education program for new members of the council and the governing boards
- 25 and continuing education opportunities for all council and board members.
- 26 For new members of the council and institutional governing boards, the
- 27 council shall:

- 1 1. Ensure that the orientation and education program comprises six (6)
2 hours of instruction time and includes but is not limited to information
3 concerning the roles of the council and governing board members, the
4 strategic agenda and the strategic implementation plan, and the
5 respective institution's mission, budget and finances, strategic plans and
6 priorities, institutional policies and procedures, board fiduciary
7 responsibilities, legal considerations including open records and open
8 meetings requirements, ethical considerations arising from board
9 membership, and the board member removal and replacement
10 provisions of KRS 63.080;
- 11 2. Establish delivery methods by which the orientation and education
12 program can be completed in person or electronically by new members
13 within one (1) year of their appointment or election;
- 14 3. Provide an annual report to the Governor and Legislative Research
15 Commission of those new board members who do not complete the
16 required orientation and education program; and
- 17 4. Invite governing board members of private colleges and universities
18 licensed by the Council on Postsecondary Education to participate in the
19 orientation and education program described in this subsection;
- 20 (b) Offer, in cooperation with the public universities and the Kentucky
21 Community and Technical College System, continuing education
22 opportunities for all council and governing board members; and
- 23 (c) Review and approve the orientation programs of each public university and
24 the Kentucky Community and Technical College System for their governing
25 board members to ensure that all programs and information adhere to this
26 subsection;
- 27 (26) Develop a financial reporting procedure to be used by all state postsecondary

- 1 education institutions to ensure uniformity of financial information available to
2 state agencies and the public;
- 3 (27) Select and appoint a president of the council under KRS 164.013;
- 4 (28) Employ consultants and other persons and employees as may be required for the
5 council's operations, functions, and responsibilities;
- 6 (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A,
7 governing its powers, duties, and responsibilities as described in this section;
- 8 (30) Prepare and present by January 31 of each year an annual status report on
9 postsecondary education in the Commonwealth to the Governor, the Strategic
10 Committee on Postsecondary Education, and the Legislative Research Commission;
- 11 (31) Consider the role, function, and capacity of independent institutions of
12 postsecondary education in developing policies to meet the immediate and future
13 needs of the state. When it is found that independent institutions can meet state
14 needs effectively, state resources may be used to contract with or otherwise assist
15 independent institutions in meeting these needs;
- 16 (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and
17 students of the public postsecondary education system and the independent colleges
18 and universities;
- 19 (33) Develop a statewide policy to promote employee and faculty development in state
20 and locally operated secondary area technology centers through the waiver of
21 tuition for college credit coursework in the public postsecondary education system.
22 Any regular full-time employee of a state or locally operated secondary area
23 technology center may, with prior administrative approval of the course offering
24 institution, take a maximum of six (6) credit hours per term at any public
25 postsecondary institution. The institution shall waive the tuition up to a maximum
26 of six (6) credit hours per term. The employee shall complete the Free Application
27 for Federal Student Aid to determine the level of need and eligibility for state and

1 federal financial aid programs. The amount of tuition waived shall not exceed the
2 cost of tuition at the institution less any state or federal grants received, which shall
3 be credited first to the student's tuition;

4 (34) Participate with the Kentucky Department of Education, the Kentucky Board of
5 Education, and postsecondary education institutions to ensure that academic content
6 requirements for successful entry into postsecondary education programs are
7 aligned with high school content standards and that students who master the high
8 school academic content standards shall not need remedial courses. The council
9 shall monitor the results on an ongoing basis;

10 (35) Cooperate with the Kentucky Department of Education and the Education
11 Professional Standards Board in providing information sessions to selected
12 postsecondary education content faculty and teacher educators of the high school
13 academic content standards as required under KRS 158.6453(2)(l);

14 (36) Cooperate with the Office of the Kentucky Center for Statistics and ensure the
15 participation of the public institutions as required in KRS 151B.133;

16 (37) Pursuant to KRS 63.080, review written notices from the Governor or from a board
17 of trustees or board of regents concerning removal of a board member or the entire
18 appointed membership of a board, investigate the member or board and the conduct
19 alleged to support removal, and make written recommendations to the Governor
20 and the Legislative Research Commission as to whether the member or board
21 should be removed;~~and~~

22 (38) **Require and collect from each public postsecondary education institution the**
23 **immigration data of the institution's students for each semester and submit that**
24 **data to the United States Immigration and Customs Enforcement; and**

25 **(39)** Exercise any other powers, duties, and responsibilities necessary to carry out the
26 purposes of this chapter. Nothing in this chapter shall be construed to grant the
27 Council on Postsecondary Education authority to disestablish or eliminate any

1 college of law which became a part of the state system of higher education through
2 merger with a state college.

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

5 (1) As used in this section:

6 (a) "Law enforcement agency" means:

7 1. Any public agency that employs a police officer as defined in KRS
8 15.420(2)(a) or a special law enforcement officer as defined in KRS
9 61.900(6)(a) to (e);

10 2. Any public agency that is composed of or employs other public peace
11 officers;

12 3. Jailers;

13 4. Metropolitan correctional services departments operating under KRS
14 Chapter 67B;

15 5. The Department of Corrections as organized under KRS Chapter 196;
16 and

17 6. A public postsecondary education institution's police department
18 established under KRS 164.950;

19 (b) "Law enforcement official" means an elected or appointed officer, peace
20 officer or other employee that oversees or serves within a law enforcement
21 agency;

22 (c) "Public agency" has the same meaning as in KRS 61.870;

23 (d) "Public postsecondary education institution employee" means any elected
24 or appointed official of a public postsecondary education institution and
25 any other person who is employed by a public postsecondary education
26 institution, including a police department established under KRS 164.950;
27 and

1 (e) "Sanctuary policy" means an order, ordinance, resolution, or policy,
2 whether written or unwritten, that:

3 1. Limits or prohibits a public postsecondary education institution
4 employee from communicating or cooperating with:

5 a. Authorized federal agencies or federal law enforcement officers
6 or agencies or officers of another state; or

7 b. A law enforcement agency, law enforcement official, or public
8 agency;

9 to verify or report the immigration status of a person within this state;

10 2. Grants to aliens illegally present in the United States the right to
11 lawful presence or status within the boundaries of this state in
12 violation of federal law;

13 3. Violates 8 U.S.C. sec. 1373 or 1644;

14 4. Restricts or imposes any conditions upon a public postsecondary
15 education institution's cooperation or compliance with detainers or
16 other legal and valid requests from United States Immigration and
17 Customs Enforcement to maintain custody of an immigrant or to
18 transfer an immigrant to the custody of United States Immigration
19 and Customs Enforcement or another authorized federal agency or
20 federal law enforcement officer;

21 5. Requires United States Immigration and Customs Enforcement, or
22 another federal law enforcement agency or federal law enforcement
23 officer, to obtain a warrant or demonstrate more than probable cause
24 before complying with detainers or other legal and valid requests from
25 United States Immigration and Customs Enforcement to maintain
26 custody of an immigrant or to transfer an immigrant to the custody of
27 United States Immigration and Customs Enforcement or another

- 1 authorized federal agency or federal law enforcement officer;
- 2 6. Prevents public postsecondary education institution employees from
- 3 asking a person about his or her citizenship or immigration status; or
- 4 7. Prohibits a federal immigration officer, or other federal law
- 5 enforcement officer or a law enforcement official, from entering a jail
- 6 or other correctional facility to enforce federal immigration laws.
- 7 (2) Any public postsecondary education institution and any public postsecondary
- 8 education institution employee shall not enact, adopt, or otherwise enforce any
- 9 sanctuary policy.
- 10 (3) Any sanctuary policy adopted by a public postsecondary education institution
- 11 prior to or after the effective date of this Act that violates this section shall be
- 12 invalid, void, and unenforceable.
- 13 (4) (a) If a public postsecondary education institution negligently enrolls an alien
- 14 illegally present in the United States on or after the effective date of this Act
- 15 and that person subsequently commits an offense within this state which
- 16 would classify him or her as a violent offender under KRS 439.3401, the
- 17 victim, or the victim's family if the victim of the crime dies or sustains
- 18 serious physical injury as defined in KRS 500.080 as a result of the crime,
- 19 may file a civil action against the public postsecondary education institution
- 20 in a court of competent jurisdiction for compensatory damages, punitive
- 21 damages, costs, and attorney's fees.
- 22 (b) Sovereign, governmental, and qualified immunity that is afforded to public
- 23 postsecondary education institutions, including but not limited to immunity
- 24 under the Eleventh Amendment to the Constitution of the United States, are
- 25 waived for purposes of this subsection.