

1 AN ACT relating to prohibited instruction and declaring an emergency.

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

3 ➔Section 1. KRS 158.183 is amended to read as follows:

4 (1) Consistent with the Constitutions of the United States of America and the
5 Commonwealth of Kentucky, a student shall have the right to carry out an activity
6 described in any of paragraphs (a) to (j) of subsection (2) of this section, if the
7 student does not:

8 (a) Infringe on the rights of the school to:

- 9 1. Maintain order and discipline;
- 10 2. Prevent disruption of the educational process; and
- 11 3. Determine educational curriculum and assignments;

12 (b) Harass other persons or coerce other persons to participate in the activity; or

13 (c) Otherwise infringe on the rights of other persons.

14 (2) Consistent with the Constitutions of the United States of America and the
15 Commonwealth of Kentucky, and subject to the provisions of subsection (1) of this
16 section, a student shall be permitted to voluntarily:

17 (a) Pray or engage in religious activities in a public school, vocally or silently,
18 alone or with other students to the same extent and under the same
19 circumstances as a student is permitted to vocally or silently reflect, meditate,
20 speak on, or engage in nonreligious matters alone or with other students in the
21 public school;

22 (b) Express religious or political viewpoints in a public school to the same extent
23 and under the same circumstances as a student is permitted to express
24 viewpoints on nonreligious or nonpolitical topics or subjects in the school;

25 (c) Express religious or political viewpoints in classroom, homework, artwork,
26 and other written and oral assignments free from discrimination or penalty
27 based on the religious or political content of the submissions;

- 1 (d) Speak to and attempt to discuss religious or political viewpoints with other
2 students in a public school to the same extent and under the same
3 circumstances as a student is permitted to speak to and attempt to share
4 nonreligious or nonpolitical viewpoints with other students. However, any
5 student may demand that this speech or these attempts to share religious or
6 political viewpoints not be directed at him or her;
- 7 (e) Distribute religious or political literature in a public school, subject to
8 reasonable time, place, and manner restrictions to the same extent and under
9 the same circumstances as a student is permitted to distribute literature on
10 nonreligious or nonpolitical topics or subjects in the school;
- 11 (f) Display religious messages on items of clothing to the same extent that a
12 student is permitted to display nonreligious messages on items of clothing;
- 13 (g) Access public secondary school facilities during noninstructional time as a
14 member of a religious student organization for activities that may include
15 prayer, Bible reading, or other worship exercises to the same extent that
16 members of nonreligious student organizations are permitted access during
17 noninstructional time;
- 18 (h) Use school media, including the public address system, the school newspaper,
19 and school bulletin boards, to announce student religious meetings to the same
20 extent that a student is permitted to use school media to announce student
21 nonreligious meetings;
- 22 (i) Meet as a member of a religious student group during noninstructional time in
23 the school day to the same extent that members of nonreligious student groups
24 are permitted to meet, including before and after the school day; and
- 25 (j) Be absent, in accordance with attendance policy, from a public school to
26 observe religious holidays and participate in other religious practices to the
27 same extent and under the same circumstances as a student is permitted to be

1 absent from a public school for nonreligious purposes.

- 2 (3) (a) Notwithstanding KRS 158.200 to 158.260 and 160.345, consistent with the
3 Constitutions of the United States of America and the Commonwealth of
4 Kentucky, a local board of education or board of a public charter school
5 shall ensure that no public school or public charter school offers any
6 classroom instruction or discussion, formal or informal, or distributes any
7 printed or digital material, including but not limited to textbooks and
8 instructional materials, that promotes any of the following concepts:
- 9 1. One (1) race, sex, or religion is inherently superior to another race,
10 sex, or religion;
 - 11 2. An individual, by virtue of his or her race, sex, or religion, is
12 inherently racist, sexist, or oppressive, whether consciously or
13 unconsciously;
 - 14 3. An individual should be discriminated against or receive adverse
15 treatment solely or partly because of his or her race, sex, or religion;
 - 16 4. Members of one (1) race, sex, or religion cannot and should not
17 attempt to treat others without respect to race, sex, or religion;
 - 18 5. An individual's moral character is determined by his or her race or
19 sex;
 - 20 6. An individual, by virtue of his or her race, sex, or religion, bears
21 responsibility for actions committed in the past by other members of
22 the same race, sex, or religion;
 - 23 7. Any individual should feel discomfort, guilt, anguish, or any other
24 form of psychological distress on account of his or her race, sex, or
25 religion; or
 - 26 8. Meritocracy or traits such as a hard work ethic are racist, sexist, or
27 oppressive, or were created by members of a particular race or religion

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

to oppress members of another race or religion.

(b) A school district employee that violates paragraph (a) of this subsection shall be subject to disciplinary action in accordance with KRS 161.120(1)(l).

(4) Consistent with its obligations to respect the rights secured by the Constitutions of the United States of America and the Commonwealth of Kentucky, a local board of education shall ensure that:

- (a) 1. The selection of students to speak at official events is made without regard to the religious or political viewpoint of the student speaker;
- 2. The prepared remarks of the student are not altered before delivery, except in a viewpoint-neutral manner, unless requested by the student. However, student speakers shall not engage in speech that is obscene, vulgar, offensively lewd, or indecent; and
- 3. If the content of the student's speech is such that a reasonable observer may perceive affirmative school sponsorship or endorsement of the student speaker's religious or political viewpoint, the school shall communicate, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the school;
- (b) Religious and political organizations are allowed equal access to public forums on the same basis as nonreligious and nonpolitical organizations; and
- (c) No recognized religious or political student organization is hindered or discriminated against in the ordering of its internal affairs, selection of leaders and members, defining of doctrines and principles, and resolving of organizational disputes in the furtherance of its mission, or in its determination that only persons committed to its mission should conduct these activities.

~~(5)~~ Consistent with its obligations to respect the rights secured by the

1 Constitutions of the United States of America and the Commonwealth of Kentucky,
2 a local board of education shall permit public schools in the district to sponsor
3 artistic or theatrical programs that advance students' knowledge of society's cultural
4 and religious heritage, as well as provide opportunities for students to study and
5 perform a wide range of music, literature, poetry, and drama.

6 ~~(6)~~⁽⁵⁾ No action may be maintained under KRS 158.181 to 158.187 unless the
7 student has exhausted the following administrative remedies;

8 (a) The student or the student's parent or guardian shall state his or her complaint
9 to the school's principal. The principal shall investigate and take appropriate
10 action to ensure the rights of the student are resolved within seven (7) days of
11 the date of the complaint;

12 (b) If the concerns are not resolved, then the student or the student's parent or
13 guardian shall make a complaint in writing to the superintendent with the
14 specific facts of the alleged violation;

15 (c) The superintendent shall investigate and take appropriate action to ensure that
16 the rights of the student are resolved within thirty (30) days of the date of the
17 written complaint; and

18 (d) Only after the superintendent's investigation and action may a student or the
19 student's parent or legal guardian pursue any other legal action.

20 ➔Section 2. KRS 164.348 is amended to read as follows:

21 (1) For purposes of this section:

22 (a) "Faculty" means any person tasked by a public postsecondary education
23 institution with providing scholarship, academic research, or teaching,
24 regardless of whether the person is compensated by the public postsecondary
25 education institution; and

26 (b) "Student" means an individual currently enrolled in at least one (1) credit hour
27 at a public postsecondary education institution or a student organization

1 registered pursuant to the policies of a public postsecondary education
2 institution.

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

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

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

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

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

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

22 (f) **No student enrolled at a public postsecondary education institution shall be**
23 **subjected to any classroom instruction or discussion, formal or informal, or**
24 **printed or digital material, including but not limited to textbooks and**
25 **instructional materials, that promotes any of the following concepts:**

26 **1. One (1) race, sex, or religion is inherently superior to another race,**
27 **sex, or religion;**

- 1 2. An individual, by virtue of his or her race, sex, or religion, is
 2 inherently racist, sexist, or oppressive, whether consciously or
 3 unconsciously;
- 4 3. An individual should be discriminated against or receive adverse
 5 treatment solely or partly because of his or her race, sex, or religion;
- 6 4. Members of one (1) race, sex, or religion cannot and should not
 7 attempt to treat others without respect to race, sex, or religion;
- 8 5. An individual's moral character is determined by his or her race or
 9 sex;
- 10 6. An individual, by virtue of his or her race, sex, or religion, bears
 11 responsibility for actions committed in the past by other members of
 12 the same race, sex, or religion;
- 13 7. Any individual should feel discomfort, guilt, anguish, or any other
 14 form of psychological distress on account of his or her race, sex, or
 15 religion; or
- 16 8. Meritocracy or traits such as a hard work ethic are racist, sexist, or
 17 oppressive, or were created by members of a particular race or religion
 18 to oppress members of another race or religion;
- 19 (g) 1. The selection of students to speak at official events is made in a
 20 viewpoint-neutral manner;
- 21 2. The prepared remarks of the student are not altered before delivery,
 22 except in a viewpoint-neutral manner, unless requested by the student.
 23 However, student speakers shall not engage in speech that is obscene,
 24 vulgar, offensively lewd, or indecent; and
- 25 3. If the content of the student's speech is such that a reasonable observer
 26 may perceive affirmative institutional sponsorship or endorsement of the
 27 student speaker's religious or political viewpoint, the institution shall

1 communicate, in writing, orally, or both, that the student's speech does
2 not reflect the endorsement, sponsorship, position, or expression of the
3 institution;

4 (h)~~(g)~~ Student religious and political organizations are allowed equal access to
5 public forums on the same basis as nonreligious and nonpolitical
6 organizations;

7 (i)~~(h)~~ No recognized religious or political student organization is hindered or
8 discriminated against in the ordering of its internal affairs, selection of leaders
9 and members, defining of doctrines and principles, and resolving of
10 organizational disputes in the furtherance of its mission, or in its
11 determination that only persons committed to its mission should conduct such
12 activities;

13 (j)~~(i)~~ Student activity fee funding to a student organization is not denied based
14 on the viewpoints that the student organization advocates;

15 (k)~~(j)~~ The generally accessible, open, outdoor areas of the campus be
16 maintained as traditional public forums for students and faculty to express
17 their views, so that the free expression of students and faculty is not limited to
18 particular areas of the campus often described as "free speech zones";

19 (l)~~(k)~~ There shall be no restrictions on the time, place, and manner of student
20 speech that occurs in the outdoor areas of campus or is protected by the First
21 Amendment of the United States Constitution, except for restrictions that are:

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

27 (m)~~(l)~~ Permit requirements do not prohibit spontaneous outdoor assemblies or

1 outdoor distribution of literature, although an institution may adopt a policy
2 that grants members of the university community the right to reserve certain
3 outdoor spaces in advance;

4 ~~(n)~~~~(m)~~ All students and faculty are allowed to invite guest speakers to campus
5 to engage in free speech regardless of the views of the guest speakers;

6 ~~(o)~~~~(n)~~ Students are not charged fees based on the content of their speech, the
7 content of the speech of guest speakers invited by students, or the anticipated
8 reaction or opposition of listeners to the speech; and

9 ~~(p)~~~~(o)~~ The institution does not disinvite a speaker invited by a student, student
10 organization, or faculty member because the speaker's anticipated speech may
11 be considered offensive, unwise, disagreeable, conservative, liberal,
12 traditional, or radical by students, faculty, administrators, government
13 officials, or members of the public.

14 (3) (a) Any person aggrieved by a violation of any policy adopted or required to have
15 been adopted pursuant to subsection (2) of this section shall have a cause of
16 action against the institution, or any of its agents acting in their official
17 capacities, for damages arising from the violation, including reasonable
18 attorney's fees and litigation costs.

19 (b) A claim brought pursuant to this subsection may be asserted in any court of
20 competent jurisdiction within one (1) year of the date the cause of action
21 accrued. The cause of action shall be deemed to have accrued at the point in
22 time the violation ceases or is cured by the institution.

23 (c) Excluding reasonable attorney's fees and litigation costs, any prevailing
24 claimant shall be awarded no less than one thousand dollars (\$1,000) but no
25 more than one hundred thousand dollars (\$100,000) cumulatively per action.
26 If multiple claimants prevail and the damages awarded would exceed one
27 hundred thousand dollars (\$100,000), the court shall divide one hundred

1 thousand dollars (\$100,000) amongst all prevailing claimants equally.

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

4 1. Publishing in the institution's student handbook and faculty handbook,
5 whether paper or electronic; and

6 2. Posting to a prominent location on the institution's Web site.

7 (b) The policies adopted pursuant to subsection (2) of this section may also be
8 made available to students and faculty using the following methods:

9 1. Mailing electronically to students and faculty annually using their
10 institutionally provided e-mail addresses; or

11 2. Including in orientation programs for new students and new faculty.

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

17 (b) Conduct intentionally, materially, and substantially disrupts another's
18 expressive activity if it significantly hinders the expressive activity of another
19 person or group, or prevents the communication of a message or the
20 transaction of a lawful meeting, gathering, or procession by:

21 1. Being of a violent or seriously disruptive nature; or

22 2. Physically blocking or significantly hindering any person from
23 attending, hearing, viewing, or otherwise participating in an expressive
24 activity.

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

27 1. Is protected under the First Amendment to the United States

1 Constitution or the Constitution of the Commonwealth of Kentucky,
2 including but not limited to lawful protests and counter-protests in the
3 outdoor areas of campus generally accessible to the public, except
4 during times when those areas have been reserved in advance for other
5 events; or

6 2. Is an isolated occurrence that causes minor, brief, and nonviolent
7 disruptions of expressive activity.

8 ➔Section 3. If any provision of this Act or the application thereof to any person or
9 circumstance is held invalid, the invalidity shall not affect other provisions or
10 applications of the Act that can be given effect without the invalid provision or
11 application, and to this end the provisions of this Act are severable.

12 ➔Section 4. Whereas it is imperative that the racist indoctrination of Kentucky
13 students be eradicated, an emergency is declared to exist, and this Act takes effect upon
14 its passage and approval by the Governor or upon its otherwise becoming a law.