

## CHAPTER 15

## ( SB 17 )

AN ACT relating to the expression of religious or political viewpoints in public schools and public postsecondary institutions.

WHEREAS, the General Assembly is dedicated to enforcing the constitutional rights of its citizens, which are secured by the Constitutions of the United States of America and the Commonwealth of Kentucky;

NOW, THEREFORE,

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

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

- (1) ***Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky***, a student shall have the right to carry out an activity described in any of paragraphs (a) to ~~(j)~~ of subsection (2) of this section, if the student does not:
- (a) Infringe on the rights of the school to:
    1. Maintain order and discipline;
    2. Prevent disruption of the educational process; and
    3. Determine educational curriculum and assignments;
  - (b) Harass other persons or coerce other persons to participate in the activity; or
  - (c) Otherwise infringe on the rights of other persons.
- (2) ***Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky, and subject to the provisions of subsection (1) of this section***, a student shall be permitted to voluntarily:
- (a) Pray ***or engage in religious activities*** in a public school, vocally or silently, alone or with other students to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, ~~or~~ speak on, ***or engage in*** nonreligious matters alone or with other students in the public school;
  - (b) Express religious ***or political*** viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious ***or nonpolitical*** topics or subjects in the school;
  - (c) ***Express religious or political viewpoints in classroom, homework, artwork, and other written and oral assignments free from discrimination or penalty based on the religious or political content of the submissions;***
  - (d) Speak to and attempt to discuss religious ***or political*** viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious ***or nonpolitical*** viewpoints with other students. However, any student may demand that this speech or these attempts to share religious ***or political*** viewpoints not be directed at him or her;
  - ~~(e)~~ Distribute religious ***or political*** literature in a public school, subject to reasonable time, place, and manner restrictions to the same extent and under the same circumstances as a student is permitted to distribute literature on nonreligious ***or nonpolitical*** topics or subjects in the school; ~~and~~
  - ~~(f)~~ ***Display religious messages on items of clothing to the same extent that a student is permitted to display nonreligious messages on items of clothing;***
  - (g) ***Access public secondary school facilities during noninstructional time as a member of a religious student organization for activities that may include prayer, Bible reading, or other worship exercises to the same extent that members of nonreligious student organizations are permitted access during noninstructional time;***

- (h) *Use school media, including the public address system, the school newspaper, and school bulletin boards, to announce student religious meetings to the same extent that a student is permitted to use school media to announce student nonreligious meetings;*
  - (i) *Meet as a member of a religious student group during noninstructional time in the school day to the same extent that members of nonreligious student groups are permitted to meet, including before and after the school day; and*
  - (j) Be absent, in accordance with attendance policy, from a public school to observe religious holidays and participate in other religious practices to the same extent and under the same circumstances as a student is permitted to be absent from a public school for nonreligious purposes.
- (3) *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.*
- (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 permit public schools in the district to sponsor artistic or theatrical programs that advance students' knowledge of society's cultural and religious heritage, as well as provide opportunities for students to study and perform a wide range of music, literature, poetry, and drama.*
- (5) No action may be maintained under KRS 158.181 to 158.187 unless the student has exhausted the following administrative remedies;
- (a) The student or the student's parent or guardian shall state his or her complaint to the school's principal. The principal shall investigate and take appropriate action to ensure the rights of the student are resolved within seven (7) days of the date of the complaint;
  - (b) If the concerns are not resolved, then the student or the student's parent or guardian shall make a complaint in writing to the superintendent with the specific facts of the alleged violation;
  - (c) The superintendent shall investigate and take appropriate action to ensure that the rights of the student are resolved within thirty (30) days of the date of the written complaint; and
  - (d) Only after the superintendent's investigation and action may a student or the student's parent or legal guardian pursue any other legal action.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

*A teacher in a public school shall be permitted to:*

- (1) *Teach about religion with the use of the Bible or other scripture, but without providing religious instruction, for the secular study of:*
  - (a) *The history of religion;*
  - (b) *Comparative religions;*
  - (c) *The Bible as literature;*

- (d) *The role of religion in the history of the United States and other countries; and*
- (e) *Religious influences on art, music, literature, and social studies; and*
- (2) *Teach about religious holidays, including religious aspects, and celebrate the secular aspects of holidays.*

➔Section 3. KRS 158.186 is amended to read as follows:

The Department of Education shall send *electronic or paper* copies of *Section 1 of this Act and KRS 158.195*~~[158.181 to 158.187]~~ to each local school board,~~[-and]~~ school-based decision making council, *and certified employee* in Kentucky on an annual basis.

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

*Consistent with its obligations to respect the rights secured by the Constitutions of the United States and the Commonwealth of Kentucky, a governing board of a public postsecondary education institution shall ensure that:*

- (1) *The expression of a student's religious or political viewpoints in classroom, homework, artwork, and other written and oral assignments is free from discrimination or penalty based on the religious or political content of the submissions;*
- (2)
  - (a) *The selection of students to speak at official events is made in a viewpoint-neutral manner; and*
  - (b) *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*
  - (c) *If the content of the student's speech is such that a reasonable observer may perceive affirmative institutional sponsorship or endorsement of the student speaker's religious or political viewpoint, the institution shall communicate, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the institution;*
- (3) *Religious and political organizations are allowed equal access to public forums on the same basis as nonreligious and nonpolitical organizations;*
- (4) *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 such activities; and*
- (5) *There shall be no restrictions on the time, place, and manner of student speech that occurs in the outdoor areas of campus or is protected by the First Amendment of the United States Constitution, except for restrictions that are:*
  - (a) *Reasonable;*
  - (b) *Justified without reference to the content of the regulated speech;*
  - (c) *Narrowly tailored to serve a compelling governmental interest; and*
  - (d) *Limited to provide ample alternative options for the communication of the information.*

Signed by Governor March 16, 2017.