

164.2895 Prohibited practices -- Consideration of religion, race, sex, color, or national origin by public postsecondary education institution disallowed -- Resources not to be spent on diversity, equity, and inclusion office -- Exceptions -- Attorney General to enforce -- Audit.

- (1) An institution shall not:
 - (a) Except as provided in subsection (2)(n) and (o) of this section, provide any differential treatment or benefits to an individual, including a candidate or applicant for employment, promotion, contract, contract renewal, or admission, on the basis of the individual's religion, race, sex, color, or national origin;
 - (b) Discriminate in student admissions on the basis of religion, race, sex, color, or national origin;
 - (c) Except as provided in subsection (2)(l) of this section:
 1. Impose any scholarship criteria or scholarship eligibility restriction on, or provide differential treatment or benefits to, a scholarship applicant, candidate, or recipient on the basis of an individual's religion, race, sex, color, or national origin; or
 2. Execute or renew any legally binding restriction that would require an institution to consider the religion, race, sex, color, or national origin of a scholarship applicant, candidate, or recipient;
 - (d) Prioritize or provide preferential consideration for vendors, contracts, or other transactions based upon the religion, race, sex, color, or national origin of the ownership, management, or staff of any business or nonprofit entity, except that the institution may provide preferential consideration for businesses owned by residents of Kentucky and the United States;
 - (e) Make student housing assignments on the basis of religion, sex, race, color, or national origin unless an exception is necessary to:
 1. Maintain separate living facilities for members of a single biological sex; or
 2. Permit need-based access to student housing facilities during school breaks, provided that room assignments are not implemented in a discriminatory manner or segregated by religion, race, color, or national origin;
 - (f) Initiate an investigation of a bias incident unless the general counsel for the institution authorizes the investigation and certifies in writing that the investigation is necessary because the conduct being investigated:
 1. May rise to the level of student-on-student harassment if all facts alleged are taken as true; or
 2. Is subject to mandatory investigation pursuant to applicable state or federal law;
 - (g) Hold a hearing, tribunal, or other disciplinary proceeding on a bias incident unless the general counsel for the institution authorizes the hearing and certifies in writing, after a review of all relevant evidence, that the hearing is

necessary to ensure compliance with applicable state or federal law;

- (h) Expend any resources to:
 - 1. Establish or maintain a diversity, equity, and inclusion office;
 - 2. Contract or employ an individual to serve as a diversity, equity, and inclusion officer;
 - 3. Provide diversity, equity, and inclusion training or contribute to any cost associated with planning, promoting, hosting, traveling to, attending, presenting, or otherwise participating in diversity, equity, and inclusion training; or
 - 4. Establish or maintain a diversity, equity, and inclusion initiative;
 - (i) On an application for employment, promotion, contract, contract renewal, admission, housing, financial aid, or scholarship, compel, solicit, or consider any pledge or statement on an applicant's experience with or views on religion, race, sex, color, or national origin, except an institution may:
 - 1. If an applicant for admission or scholarship submits an unsolicited statement concerning how a matter relating to religion, race, sex, color, or national origin affected his or her life, consider the statement but shall not provide differential treatment or benefits based upon the race, sex, religion, color, or national origin of the applicant; and
 - 2. Require an applicant for housing to disclose his or her biological sex for the purpose of maintaining separate living facilities for members of a single biological sex;
 - (j) Require any student to enroll in or complete an academic course of which the primary purpose is to indoctrinate participants with a discriminatory concept; or
 - (k) Require or incentivize students, faculty, or staff to attend a diversity, equity, and inclusion training.
- (2) Notwithstanding subsection (1) of this section, nothing in this section shall be construed to apply to or affect any of the following:
- (a) Rights secured by the First Amendment of the United States Constitution or Section 1 of the Constitution of Kentucky;
 - (b) Academic course content or instruction;
 - (c) Academic freedom of faculty, students, and student organizations;
 - (d) Academic research or creative works by an institution's students, faculty, or research personnel;
 - (e) The distribution of grant funding for academic research;
 - (f) Religious freedom of faculty, students, and student organizations;
 - (g) Publications and the freedom of expression of student newspapers and university press;
 - (h) Activities, funding, conduct, speech, and freedom of association of student-led organizations, or the conduct or speech of students acting in their individual capacity;

- (i) Activities, programs, and initiatives for military veterans, Pell Grant recipients, first-generation college students, low-income students, nontraditional students, transfer students from the Kentucky Community and Technical College System, or students with unique abilities;
 - (j) Arrangements for guest speakers and performers with short-term engagements, including those invited by students or faculty;
 - (k) The purchase of materials for university library inventory and the access of the public to university library inventory;
 - (l) Endowments for privately funded scholarships that existed before June 27, 2025, that require an institution to consider the religion, race, sex, color, or national origin of a scholarship applicant or candidate until the balance of corpus is exhausted;
 - (m) Mental or physical health services provided by certified or licensed professionals;
 - (n) A bona fide qualification or accommodation based on biological sex that is historically maintained in the usual course of operating an institution and does not constitute a diversity, equity, and inclusion initiative;
 - (o) A bona fide qualification based on national origin that is related to the eligibility of an individual for a visa;
 - (p) A bona fide accommodation based on religion that is necessary to comply with federal or state law;
 - (q) The ability of an institution to investigate criminal acts or acts of discrimination in accordance with applicable federal or state law;
 - (r) Programs or measures required for institutional accreditations; or
 - (s) Programs or measures intended to enable the collection of demographic data.
- (3) Notwithstanding subsection (1) of this section, nothing in this section shall be construed to prohibit programs, procedures, policies, and other initiatives deemed by the institution's general counsel to be required for compliance with federal or state law, a court order, or a binding contract entered into prior to June 7, 2025.
- (4) Each governing board shall ensure compliance with this section no later than June 30, 2025.
- (5) Beginning July 1, 2026, each institution shall submit an annual certification to the council that:
- (a) Is signed by president of the institution or the chief financial officer of the institution; and
 - (b) Certifies that the institution has not spent money in violation of this section during the previous fiscal year.
- (6) The Attorney General may bring a civil action for a writ of mandamus to compel an institution to comply with this section.
- (7) (a) The Auditor of Public Accounts shall periodically conduct a compliance audit to determine whether an institution spent money in violation of subsection (1)(h) of this section. The Auditor shall adopt a schedule by which the Auditor will conduct these compliance audits, provided that they shall occur at least

once every four (4) years.

- (b) If the Auditor determines that an institution spent money in violation of subsection (1)(h) of this section, the Auditor shall notify the institution. The institution shall cure the violation within one hundred eighty (180) days from the date of the Auditor's notice. If the institution fails to cure the violation within that time, the institution shall be ineligible to receive formula funding increases pursuant to KRS 164.092 during the following fiscal year.
- (c) If the institution disputes the Auditor's finding that it violated subsection (1)(h) of this section, then within thirty (30) days the institution may petition the Office of the Attorney General to evaluate the evidence and determine whether the violation occurred.

Effective: June 27, 2025

History: Created 2025 Ky. Acts ch. 120, sec. 2, effective June 27, 2025.