

1 AN ACT relating to students' rights.

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) Each governing board shall adopt regulations defining a student code of conduct*
6 *and the necessary disciplinary procedures to enforce that code.*

7 *(2) Each governing board shall adopt a policy to invest the faculty or a representative*
8 *committee of designated faculty, staff, and students with the power to suspend or*
9 *expel any student for violation of the student code of conduct, or for any other*
10 *contumacy, insubordination, or immoral conduct. In every case of suspension or*
11 *expulsion of a student, the person suspended or expelled may appeal to the board.*
12 *The board shall prescribe the manner and the mode of procedure on appeal. The*
13 *decision of the board shall be final.*

14 *(3) During the disciplinary process, there shall be a right to be represented at one's*
15 *own expense by a licensed attorney, or if the accused student prefers, a*
16 *nonattorney advocate, who in either case may fully participate during the*
17 *hearing. This right continues through any appellate process under subsection (2)*
18 *of this section. This subsection shall not create a right to be represented at public*
19 *expense. This right shall only be granted to:*

20 *(a) A student enrolled at a public postsecondary education institution who is*
21 *accused of a violation of the student code of conduct that carries a potential*
22 *penalty of a suspension of ten (10) or more calendar days or expulsion;*

23 *(b) A student organization that is officially recognized by the public*
24 *postsecondary education institution and that is accused of a violation of the*
25 *student code of conduct that could result in the suspension or the removal*
26 *of the student organization from the institution; and*

27 *(c) A student who is accusing a student or a student organization identified in*

1 paragraph (a) or (b) of this subsection.

2 (4) Notwithstanding any provision to the contrary in this section, no student accused
3 of academic dishonesty, as defined by the public postsecondary education
4 institution's student code of conduct, shall have the right to representation at
5 disciplinary hearings.

6 (5) The institution shall provide written notice of the rights provided under this
7 section to the student:

8 (a) Before a disciplinary hearing is scheduled; and

9 (b) At least two (2) business days before a student may be questioned by a
10 public postsecondary education institution or its agent about allegations of
11 violations of the student code of conduct that could be punishable by a
12 suspension of ten (10) or more calendar days or expulsion.

13 (6) The public postsecondary education institution shall ensure that all parties to a
14 disciplinary hearing, including any accused student, accused student
15 organization, or accusing student, have access to all material evidence known to
16 the institution, both inculpatory and exculpatory, no later than one (1) week prior
17 to the start of any disciplinary hearing. Such evidence may include but is not
18 limited to:

19 (a) Complaint statements;

20 (b) Third-party witness statements;

21 (c) Electronically stored information;

22 (d) Written communications;

23 (e) Social media posts; and

24 (f) Demonstrative evidence.

25 (7) (a) During a disciplinary hearing, a student's representative identified under
26 subsection (3) of this section shall be allowed to fully participate in a
27 disciplinary hearing by:

- 1 1. Making opening and closing statements;
2 2. Examining and cross-examining witnesses; and
3 3. Providing the student with support, guidance, and advice.
4 (b) This subsection shall not require a public postsecondary education
5 institution to adopt formal rules of evidence in disciplinary hearings. The
6 institution, however, shall make good faith efforts to include relevant
7 evidence and exclude evidence that is neither relevant nor probative.
8 (8) The public postsecondary education institution shall ensure that the disciplinary
9 hearing is carried out free from conflicts of interest by ensuring that there is no
10 commingling of administrative and adjudicatory roles. During the disciplinary
11 process, an individual shall not carry out more than one (1) of the following
12 roles:
13 (a) Representative for a student or student organization identified under
14 subsection (3) of this section;
15 (b) Investigator;
16 (c) Institutional prosecutor;
17 (d) Adjudicator of the disciplinary hearing; or
18 (e) Appellate adjudicator.
19 (9) Nothing in this section shall affect the obligation of a public postsecondary
20 education institution to provide equivalent rights to an accusing student or a
21 victim in a disciplinary hearing, including equivalent opportunities to have others
22 present and fully participating, to not limit the choice of attorney or nonattorney
23 advocate in any meeting or institutional disciplinary proceeding, and to provide
24 simultaneous notification of the institution's procedures for the accused and the
25 accusing students to appeal the result of the disciplinary hearing.
26 (10) Nothing in this section shall be deemed to prevent the temporary suspension of a
27 student pending an investigation.

1 (11) (a) Any student or student organization whose rights under this section have
2 been violated may bring an action in any state court of competent
3 jurisdiction.

4 (b) In an action brought under this subsection, if the state court finds a
5 violation of this section, the court shall award the aggrieved party
6 compensatory damages, reasonable court costs, attorney's fees, expert fees,
7 and monetary damages of not less than the amount of any scholarship
8 funding lost as a result of the campus discipline, and any other relief in
9 equity or law as deemed appropriate, including but not limited to a de novo
10 disciplinary hearing by the public postsecondary education institution in
11 accordance with this section.

12 (c) A person or student organization must bring suit for violation of this section
13 no later than one (1) year after the day the student or student organization
14 receives final notice of the disciplinary action taken by the public
15 postsecondary education institution.

16 ➔Section 2. The following KRS section is repealed:

17 164.370 Suspension or expulsion of students.

18 ➔Section 3. This Act shall be known and may be cited as the Student and
19 Administration Equality Act.