

1 AN ACT relating to student discipline at public postsecondary education
2 institutions.

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

4 ➔Section 1. KRS 164.370 is amended to read as follows:

5 *(1) For the purposes of this section, "student" means the same meaning as in KRS*
6 *164.348.*

7 *(2) Each governing board shall adopt a code of student conduct that shall clearly set*
8 *forth the rules for student conduct and establish disciplinary procedures to*
9 *enforce those rules.*

10 *(3) At a minimum, the disciplinary procedures shall afford any student accused of a*
11 *violation of the rules for student conduct:*

12 *(a) The presumption that a student has not committed a violation until the*
13 *institution has established every element of the alleged violation;*

14 *(b) Written notice of:*

15 *1. Any allegation or formal charge of the violation;*

16 *2. The rights of the student as set forth in this section and the code of*
17 *student conduct, including a clear statement that a student is*
18 *presumed innocent and that it is the obligation of the institution to*
19 *prove every allegation of the alleged violation; and*

20 *3. The date, time, and location of each phase of the disciplinary process*
21 *at least:*

22 *a. Three (3) business days prior to any scheduled event, including*
23 *any administrative meeting that serves an investigative purpose;*
24 *and*

25 *b. Seven (7) business days prior to any disciplinary hearing;*

26 *(c) 1. A record of the disciplinary proceedings that shall include all evidence*
27 *in the institution's possession or control relevant to the alleged*

- 1 violation or the institution's investigation thereof, including
2 exculpatory evidence, and a video recording of any disciplinary
3 hearing.
- 4 2. A student accused of a violation shall be given access to the entire
5 record at least three (3) business days prior to any scheduled event and
6 seven (7) business days prior to any disciplinary hearing.
- 7 3. Only evidence contained in the record may be considered in the
8 determination of whether a violation occurred;
- 9 (d) The right to be present and participate meaningfully in each phase of the
10 disciplinary process;
- 11 (e) The right to fair and impartial treatment at each phase of the disciplinary
12 process, which shall exclude any individual that participates in an
13 investigation or alternative dispute resolution from participating as a
14 hearing adjudicator; and
- 15 (f) If a violation may result in the suspension, expulsion, or termination of an
16 accused student's residence in campus housing or termination of the
17 affiliation of a student organization registered pursuant to the policies of
18 the institution:
- 19 1. The right to be represented by counsel, at the expense of the student,
20 at each material phase of the disciplinary process, including but not
21 limited to any alternative dispute resolution phase, meeting, hearing,
22 or appeal of the matter;
- 23 2. At any hearing, the right to make opening and closing statements, to
24 present evidence, and to cross-examine any testimony, personally or
25 through counsel; and
- 26 3. The right to waive the confidentiality of any hearing to permit the
27 attendance of any support person so long as that person would not

1 interfere with the hearing, violate the privacy rights of another
 2 student, or substantially burden the hearing process.

3 (4) (a) Subject to subsection (3) of this section, a governing board~~[Each board of~~
 4 ~~regents]~~ may invest the faculty or a representative committee of designated
 5 faculty, staff, and students with the power to suspend or expel any student for
 6 disobedience to the~~[its]~~ rules~~[,]~~ for student conduct~~[— or for any other~~
 7 ~~contumacy, insubordination or immoral conduct].~~

8 (b) In every case of suspension or expulsion of a student, termination of a
 9 student's residence in campus housing, or termination of the affiliation of a
 10 student organization, the disciplinary procedures shall grant the student the
 11 right to~~[person suspended or expelled may]~~ appeal to the governing board~~[of~~
 12 ~~regents]~~. The disciplinary procedures~~[board of regents]~~ shall prescribe the
 13 manner and the mode of procedure on appeal. The decision of the governing
 14 board~~[of regents]~~ shall be final.

15 (c) A student who is suspended or expelled by a final decision of the governing
 16 board shall have the right to appeal the final order in accordance with KRS
 17 13B.140, except that:

18 1. A student shall have one (1) year after the final order to file the
 19 petition; and

20 2. A student who has a final order of suspension or expulsion overturned
 21 for a violation of this section shall be entitled to compensatory
 22 damages, including attorney's fees and court costs, in an amount no
 23 less than the full cost of one (1) semester of a full-time, out-of-state
 24 tuition at the institution.

25 (5) Nothing in this section shall be interpreted to:

26 (a) Impede or delay law enforcement officials in investigating an alleged
 27 violation of local, state, or federal law;

- 1 (b) Impair an institution's ability to temporarily suspend a student during a
2 timely investigation and adjudication of a disciplinary issue; and
3 (c) Limit any additional rights afforded to a student under federal law,
4 including Title IX of the Education Amendments of 1972, 20 U.S.C. secs.
5 1681 et seq.

6 ➔Section 2. This Act may be cited as "The Kentucky Student Administrative
7 Rights Protection Act."