

1 AN ACT relating to postsecondary institutions.

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 *As used in Sections 1 to 8 of this Act:*

6 *(1) "Affiliated organization" means an entity whose primary purpose includes*
7 *supporting or benefitting an institution or an officer, director, or employee of an*
8 *institution;*

9 *(2) "Bias incident" means noncriminal conduct that is alleged to constitute an act or*
10 *statement against a particular group or towards an individual because of his or*
11 *her characteristics or membership or perceived membership in a particular*
12 *group;*

13 *(3) "Binding contract" means any grant, endowment, settlement agreement,*
14 *commercial contract, or other legally enforceable agreement entered into by or on*
15 *behalf of an institution;*

16 *(4) "Council" means the Council on Postsecondary Education;*

17 *(5) "Differential treatment or benefits" means:*

18 *(a) Differential, preferential, or prejudicial treatment or consideration; or*

19 *(b) To confer or withhold a benefit;*

20 *(6) "Discriminatory concepts" means concepts:*

21 *(a) Presenting as truth, rather than as a subject for inquiry, that an existing*
22 *structure, system, or relation of power, privilege, or subordination persists*
23 *on the basis of oppression, colonialism, socioeconomic status, religion, race,*
24 *sex, color, or national origin; or*

25 *(b) Justifying or promoting differential treatment or benefits conferred to*
26 *individuals on the basis of religion, race, sex, color, or national origin,*
27 *unless the differential treatment or benefits are:*

- 1 1. Excluded from diversity, equity, and inclusion initiatives under
2 subsection (7)(b) of this section; or
3 2. Established or required by law, including but not limited to differential
4 treatment or benefits on the basis of citizenship status;

5 (7) "Diversity, equity, and inclusion initiatives":

6 (a) Means:

- 7 1. Policies, practices, or procedures designed or implemented to promote
8 or provide differential treatment or benefits to individuals on the basis
9 of religion, race, sex, color, or national origin, including but not
10 limited to any such policy, practice, or procedure related to
11 employment, employee recruitment, employee hiring, employee
12 promotion, contracts, contract renewal, student recruitment, student
13 admission, student housing, financial assistance, or scholarship
14 awards; or
15 2. A training, conference, presentation, meeting, or professional
16 development containing, implementing, or promoting discriminatory
17 concepts; and

18 (b) Does not include:

- 19 1. A policy, practice, procedure, office, employee, training, program, or
20 activity that is required pursuant to:
21 a. The Americans with Disabilities Act of 1990, 42 U.S.C. sec.
22 12101 et seq., as amended;
23 b. The Individuals with Disabilities Education Act, 20 U.S.C. sec.
24 1400 et seq., as amended;
25 c. The federal Age Discrimination in Employment Act of 1967, 29
26 U.S.C. sec. 621 et seq., as amended;
27 d. The federal Civil Rights Act of 1964, Pub. L. No. 88-352, as

- 1 amended;
- 2 e. Title IX of the Education Amendments of 1972, 20 U.S.C. sec.
- 3 1681 et seq.;
- 4 f. Any other applicable federal or state law;
- 5 g. A court order; or
- 6 h. A binding contract entered into prior to the effective date of this
- 7 Act;
- 8 2. Bona fide qualifications or accommodations based on sex that are
- 9 historically maintained in the usual course of operating an institution,
- 10 including but not limited to:
- 11 a. Sex-based athletic eligibility restrictions;
- 12 b. Sex-based fraternal organization membership restrictions;
- 13 c. Sex-based restrictions required to maintain separate living
- 14 facilities for members of a single biological sex; and
- 15 d. Bona fide occupational qualifications reasonably necessary to
- 16 the normal operation of the institution;
- 17 3. Differential treatment or benefits necessary to provide medical
- 18 treatment or information; or
- 19 4. Services and programming of resource centers, provided that student,
- 20 faculty, staff, and volunteer access to center services and participation
- 21 in center programming is voluntary and is not restricted on the basis
- 22 of religion, race, sex, color, or national origin;
- 23 (8) "Diversity, equity, and inclusion office" means a nonacademic office, division, or
- 24 other unit of an institution that is:
- 25 (a) Responsible for developing, implementing, or promoting discriminatory
- 26 concepts or diversity, equity, and inclusion initiatives, regardless of whether
- 27 the office is designated by the institution as a diversity, equity, and inclusion

1 office; and

2 (b) Not expressly required pursuant to applicable federal or state law, a court
3 order, or a binding contract entered into prior to the effective date of this
4 Act;

5 (9) "Diversity, equity, and inclusion officer" means an employee, contractor, or
6 volunteer:

7 (a) Whose responsibilities include developing, implementing, or promoting
8 discriminatory concepts or diversity, equity, and inclusion initiatives outside
9 of the context of academic courses or instruction, regardless of whether the
10 position is designated as a diversity, equity, and inclusion position or
11 affiliated with a diversity, equity, and inclusion office; and

12 (b) Who serves in a role that is not expressly required pursuant to applicable
13 federal or state law, a court order, or a binding contract entered into prior
14 to the effective date of this Act;

15 (10) "Diversity, equity, and inclusion training" means a training, conference,
16 presentation, meeting, or professional development that:

17 (a) Contains, implements, or promotes discriminatory concepts or diversity,
18 equity, and inclusion initiatives;

19 (b) Is not expressly required pursuant to applicable federal or state law, a court
20 order, or a binding contract entered into prior to the effective date of this
21 Act; and

22 (c) Does not include academic courses or instruction;

23 (11) "Governing board" means the governing board of an institution;

24 (12) "Institution" means a public postsecondary education institution and includes all
25 programs, departments, divisions, offices, centers, colleges, student governments,
26 affiliated organizations, and any individual acting in an official capacity on
27 behalf of a public postsecondary institution and does not include student

1 organizations;

2 (13) "Qualified individual" means:

3 (a) An individual enrolled in an institution;

4 (b) A parent or guardian of a student under the age of eighteen (18) who is
5 enrolled in an institution;

6 (c) An individual who is employed by the institution or the council; or

7 (d) A candidate or applicant for student admission, student housing, financial
8 assistance, scholarship awards, employment, employee promotion, employee
9 contract, or employee contract renewal;

10 (14) "Resource" means:

11 (a) Moneys appropriated by the General Assembly;

12 (b) Moneys or items of value derived from bequests, charges, deposits,
13 donations, endowments, fees, grants, gifts, income, receipts, tuition, or any
14 other source;

15 (c) Materials and other physical resources;

16 (d) Digital resources, including an official website, digital application, or social
17 media page of an institution; or

18 (e) Faculty, staff, volunteers, and other human resources;

19 (15) "Resource center" means a center maintained by an institution that offers
20 services and programming for students, faculty, staff, and volunteers, including
21 but not limited to centers that offer academic, health, religious, disability,
22 community, and career resources, services, and support; and

23 (16) "Student-on-student harassment" means unwelcome conduct directed toward a
24 student that is so severe, pervasive, and objectively offensive that it effectively
25 denies equal access to an educational opportunity or benefit.

26 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) An institution shall not:

2 (a) Except as provided in subsection (2)(n) and (o) of this section, provide any
3 differential treatment or benefits to an individual, including a candidate or
4 applicant for employment, promotion, contract, contract renewal, or
5 admission, on the basis of the individual's religion, race, sex, color, or
6 national origin;

7 (b) Discriminate in student admissions on the basis of religion, race, sex, color,
8 or national origin;

9 (c) Except as provided in subsection (2)(l) of this section:

10 1. Impose any scholarship criteria or scholarship eligibility restriction
11 on, or provide differential treatment or benefits to, a scholarship
12 applicant, candidate, or recipient on the basis of an individual's
13 religion, race, sex, color, or national origin; or

14 2. Execute or renew any legally binding restriction that would require an
15 institution to consider the religion, race, sex, color, or national origin
16 of a scholarship applicant, candidate, or recipient;

17 (d) Prioritize or provide preferential consideration for vendors, contracts, or
18 other transactions based upon the religion, race, sex, color, or national
19 origin of the ownership, management, or staff of any business or nonprofit
20 entity;

21 (e) Make student housing assignments on the basis of religion, sex, race, color,
22 or national origin unless an exception is necessary to:

23 1. Maintain separate living facilities for members of a single biological
24 sex; or

25 2. Permit need-based access to student housing facilities during school
26 breaks, provided that room assignments are not implemented in a
27 discriminatory manner or segregated by religion, race, color, or

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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;*
- 4. Establish or maintain diversity, equity, and inclusion initiatives; or*
- 5. Promote or justify discriminatory concepts outside of academic courses or instruction;*

(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 1. If an applicant for admission or scholarship submits an unsolicited
2 statement concerning how a matter relating to religion, race, sex,
3 color, or national origin affected his or her life, the institution may
4 consider the statement but shall not provide differential treatment or
5 benefits based upon the race, sex, religion, color, or national origin of
6 the applicant; and
- 7 2. Require an applicant for housing to disclose his or her biological sex
8 for the purpose of maintaining separate living facilities for members
9 of a single biological sex;
- 10 (j) Require any student to enroll in or complete a course or training dedicated
11 to the promotion or justification of discriminatory concepts or diversity,
12 equity, and inclusion initiatives as a mandatory graduation requirement; or
- 13 (k) Require or incentivize students, faculty, or staff to attend a diversity, equity,
14 and inclusion training.
- 15 (2) Notwithstanding subsection (1) of this section, nothing in this section shall be
16 construed to apply to or affect any of the following:
- 17 (a) Rights secured by the First Amendment of the United States Constitution or
18 Section 1 of the Constitution of Kentucky;
- 19 (b) Academic course content or instruction;
- 20 (c) Academic freedom of faculty, students, and student organizations;
- 21 (d) Academic research or creative works by an institution's students, faculty, or
22 research personnel;
- 23 (e) The distribution of grant funding for academic research;
- 24 (f) Religious freedom of faculty, students, and student organizations;
- 25 (g) Publications and the freedom of expression of student newspapers and
26 university press;
- 27 (h) Activities, funding, conduct, speech, and freedom of association of student-

- 1 led organizations, or the conduct or speech of students acting in their
2 individual capacity;
- 3 (i) Activities, programs, and initiatives for military veterans, Pell Grant
4 recipients, first-generation college students, low-income students,
5 nontraditional students, transfer students from the Kentucky Community
6 and Technical College System, or students with unique abilities;
- 7 (j) Arrangements for guest speakers and performers with short-term
8 engagements, including those invited by students or faculty;
- 9 (k) The purchase of materials for university library inventory and the access of
10 the public to university library inventory;
- 11 (l) Endowments for privately funded scholarships that existed before the
12 effective date of this Act that require an institution to consider the religion,
13 race, sex, color, or national origin of a scholarship applicant or candidate
14 until the balance of corpus is exhausted;
- 15 (m) Mental or physical health services provided by certified or licensed
16 professionals;
- 17 (n) Bona fide qualifications or accommodations based on sex that are
18 historically maintained in the usual course of operating an institution and
19 do not constitute diversity, equity, and inclusion initiatives, as defined in
20 Section 1 of this Act;
- 21 (o) Bona fide qualifications based on national origin that are related to the
22 eligibility of an individual for a visa;
- 23 (p) The ability of an institution to investigate criminal acts or acts of
24 discrimination in accordance with applicable federal and state law;
- 25 (q) Programs or measures required for institutional accreditations; or
26 (r) Programs or measures intended to enable the collection of demographic
27 data.

1 (3) Notwithstanding subsection (1) of this section, nothing in this section shall be
 2 construed to prohibit programs, procedures, policies, and other initiatives deemed
 3 by the institution's general counsel to be required for compliance with federal or
 4 state law, a court order, or a binding contract entered into prior to the effective
 5 date of this Act.

6 (4) Each governing board shall ensure compliance with this section no later than
 7 June 30, 2024.

8 (5) Beginning July 1, 2025, each institution shall submit an annual certification to
 9 the council that:

10 (a) Is signed by president of the institution or the chief financial officer of the
 11 institution; and

12 (b) Certifies that the institution has not spent money in violation of the section
 13 during the previous fiscal year.

14 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
 15 READ AS FOLLOWS:

16 (1) No later than June 30, 2024, each governing board shall:

17 (a) Adopt a policy on viewpoint neutrality that prohibits discrimination on the
 18 basis of an individual's political or social viewpoint and promotes
 19 intellectual diversity within the institution; and

20 (b) Publish the amended policy in the institution's student handbook and
 21 faculty handbook and on a prominent, publicly accessible page of the
 22 institution's website.

23 (2) An institution shall not require or encourage any individual to endorse or
 24 condemn a specific political or social viewpoint.

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

27 (1) The council shall not:

1 (a) Provide any differential treatment or benefits to an individual on the basis
 2 of the individual's religion, race, sex, color, or national origin;

3 (b) Expend any resources to:

4 1. Establish or maintain a diversity, equity, and inclusion office;

5 2. Contract with or employ an individual to serve as a diversity, equity,
 6 and inclusion officer;

7 3. Provide diversity, equity, and inclusion training or contribute to any
 8 cost associated with planning, promoting, hosting, traveling to,
 9 attending, presenting, or otherwise participating in diversity, equity,
 10 and inclusion training;

11 4. Establish or maintain diversity, equity, and inclusion initiatives; or

12 5. Promote or justify discriminatory concepts; or

13 (c) Compel, solicit, or consider as part of the application process any statements
 14 on the applicant's religion, race, sex, color, or national origin.

15 (2) Nothing in this section shall be construed to prohibit programs, procedures,
 16 policies, and other initiatives deemed by the council's general counsel to be
 17 required for compliance with federal or state law, a court order, or a binding
 18 contract entered into prior to the effective date of this Act.

19 (3) The council shall ensure compliance with this section no later than June 30,
 20 2024.

21 (4) Beginning July 1, 2025, the council shall submit an annual certification that:

22 (a) Is signed by the president or budget director of the council; and

23 (b) Certifies that the council has not spent money in violation of the section
 24 during the previous fiscal year.

25 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
 26 READ AS FOLLOWS:

27 (1) The Attorney General may bring a civil action for a writ of mandamus to compel:

- 1 (a) An institution to comply with Sections 2, 3, 6, 7, and 8 of this Act and
2 subsection (3) of this section; or
- 3 (b) The council to comply with Sections 4, 7, and 9 of this Act and subsection
4 (3) of this section.
- 5 (2) (a) Notwithstanding any provision of law to the contrary, a qualified individual
6 may file a civil action against the council or an institution for injunctive
7 and declaratory relief from a violation of Sections 1 to 8 or 9 of this Act or
8 subsection (3) of this section committed after May 1, 2025. A civil action
9 brought under this section may be brought in the Circuit Court of the
10 county in which:
- 11 1. All or a substantial part of the events or omissions giving rise to the
12 civil action occurred;
- 13 2. The principal office of the institution or council is located; or
- 14 3. The plaintiff resides, if the plaintiff is an individual who resides in the
15 Commonwealth.
- 16 (b) Sovereign and governmental immunity are waived for any claim filed under
17 this subsection and arising from a violation of Sections 1 to 8 or 9 of this
18 Act or subsection (3) of this section.
- 19 (c) A prevailing plaintiff of a claim filed under this subsection and arising from
20 a violation of Sections 1 to 8 or 9 of this Act or subsection (3) of this section
21 shall be permitted to recover reasonable attorney's fees and litigation costs
22 from the institution or council that committed the violation.
- 23 (d) The remedies identified in this section shall be in addition to, and not in lieu
24 of, any other remedies available in law or equity.
- 25 (3) The council or an institution shall not use, or threaten the use of, any official
26 authority or influence to discourage, interfere with, or otherwise retaliate against
27 any qualified individual who in good faith:

1 (a) Files or is about to file a civil action against the council or an institution in
2 accordance with subsection (2) of this section; or

3 (b) Supports, aids, or substantiates a civil action filed or about to be filed in
4 accordance with subsection (2) of this section.

5 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) No later than October 1 of each year, each institution shall submit a certified
8 report on governmentally mandated discrimination to the Legislative Research
9 Commission for referral to the Interim Joint Committee on Education, and shall
10 publish the report to a prominent, publicly accessible location on the institution's
11 website. Each report shall be certified by the institution's general counsel and
12 contain a complete list and description of the nature, costs, and source of
13 authority of all policies, programs, practices, and procedures of the institution
14 that are:

15 (a) Designed or implemented to promote or provide differential treatment or
16 benefits to individuals on the basis of religion, race, sex, color, or national
17 origin; and

18 (b) Required pursuant to any applicable federal or state law, a court order, or a
19 binding contract entered into prior to the effective date of this Act.

20 (2) An institution shall not claim, assert, or rely upon a governmental mandate as a
21 defense to a civil action filed by the Attorney General or a qualified individual in
22 accordance with Section 5 of this Act unless that mandate was listed and clearly
23 and accurately described in:

24 (a) The institution's most recent annual report on governmentally mandated
25 discrimination required by subsection (1) of this section prior to the date the
26 events or omissions giving rise to the civil action occurred; or

27 (b) An addendum to the institution's most recent annual report on

1 governmentally mandated discrimination required by subsection (1) of this
 2 section that was published:

3 1. Prior to the date the events or omissions giving rise to the civil action
 4 occurred; and

5 2. In the same location on the institution's website as the report required
 6 by subsection (1) of this section.

7 (3) This section shall expire on and have no force or effect after June 30, 2030,
 8 unless extended by an act of the General Assembly.

9 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
 10 READ AS FOLLOWS:

11 (1) No later than October 1, 2024, the council shall develop and publish an annual
 12 survey to assess intellectual freedom and viewpoint diversity which uses
 13 statistically valid survey techniques to evaluate the extent to which the students,
 14 faculty, and staff of an institution:

15 (a) Are exposed to a variety of ideological and political perspectives, including
 16 competing ideas and perspectives; and

17 (b) Feel at liberty to express their ideological and political viewpoints and
 18 beliefs on campus and in the classroom.

19 (2) By November 1 of each year, each institution shall administer the survey to assess
 20 intellectual freedom and viewpoint diversity published by the council to all
 21 students, faculty, and staff of the institution. The communication distributing the
 22 survey shall be clearly identified and shall not be combined with any other
 23 communication.

24 (3) The institution shall provide students, faculty, and staff at least thirty (30) days
 25 from the date the survey to assess intellectual freedom and viewpoint diversity is
 26 initially distributed to respond to the survey. The institution shall provide a
 27 reminder to students, faculty, and staff to complete the survey at least three (3)

1 business days prior to the deadline to submit a response. The reminder shall be
2 clearly identified and shall not be combined with any other communication.

3 (4) Each institution shall collect and store responses to the survey to assess
4 intellectual freedom and viewpoint diversity anonymously and securely.

5 (5) Each institution shall compile all responses to its survey to assess intellectual
6 freedom and viewpoint diversity into an annual report on intellectual freedom
7 and viewpoint diversity to be submitted to the council no later than January 1 of
8 each year. The council shall publish the annual report on intellectual freedom
9 and viewpoint diversity submitted by each institution to a prominent, publicly
10 accessible location on the council's website no later than January 7 of each year.

11 (6) This section shall expire on and have no force or effect after June 30, 2030,
12 unless extended by an act of the General Assembly.

13 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
14 READ AS FOLLOWS:

15 (1) (a) Beginning January 1, 2025, each institution shall provide the State
16 Treasurer and the Personnel Cabinet with the name, job title, duty station,
17 and salary or wages of each employee of the institution by the twentieth day
18 of each month.

19 (b) The State Treasurer shall regularly report the information received under
20 this subsection to the public in the manner and method designated by the
21 State Treasurer.

22 (2) (a) The annual operating budget of each institution shall include an itemized
23 budget of each school, department, administrative office, resource center,
24 and research facility of the institution, regardless of the source of funding.

25 (b) Each itemized budget required by this subsection shall be published to a
26 prominent, publicly accessible location on the institution's website.

27 ➔Section 9. KRS 164.020 is amended to read as follows:

- 1 The Council on Postsecondary Education in Kentucky shall:
- 2 (1) Develop and implement the strategic agenda with the advice and counsel of the
3 Strategic Committee on Postsecondary Education. The council shall provide for and
4 direct the planning process and subsequent strategic implementation plans based on
5 the strategic agenda as provided in KRS 164.0203;
 - 6 (2) Revise the strategic agenda and strategic implementation plan with the advice and
7 counsel of the committee as set forth in KRS 164.004;
 - 8 (3) Develop a system of public accountability related to the strategic agenda by
9 evaluating the performance and effectiveness of the state's postsecondary system.
10 The council shall prepare a report in conjunction with the accountability reporting
11 described in KRS 164.095, which shall be submitted to the committee, the
12 Governor, and the General Assembly by December 1 annually. This report shall
13 include a description of contributions by postsecondary institutions to the quality of
14 elementary and secondary education in the Commonwealth;
 - 15 (4) Review, revise, and approve the missions of the state's universities and the
16 Kentucky Community and Technical College System. The Council on
17 Postsecondary Education shall have the final authority to determine the compliance
18 of postsecondary institutions with their academic, service, and research missions;
 - 19 (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively
20 provide for an integrated system of postsecondary education. The council shall
21 guard against inappropriate and unnecessary conflict and duplication by promoting
22 transferability of credits and easy access of information among institutions;
 - 23 (6) Engage in analyses and research to determine the overall needs of postsecondary
24 education and adult education in the Commonwealth;
 - 25 (7) Develop plans that may be required by federal legislation. The council shall for all
26 purposes of federal legislation relating to planning be considered the "single state
27 agency" as that term may be used in federal legislation. When federal legislation

1 requires additional representation on any "single state agency," the Council on
2 Postsecondary Education shall establish advisory groups necessary to satisfy federal
3 legislative or regulatory guidelines;

- 4 (8) (a) Determine tuition and approve the minimum qualifications for admission to
5 the state postsecondary educational system. In defining residency, the council
6 shall classify a student as having Kentucky residency if the student met the
7 residency requirements at the beginning of his or her last year in high school
8 and enters a Kentucky postsecondary education institution within two (2)
9 years of high school graduation. In determining the tuition for non-Kentucky
10 residents, the council shall consider the fees required of Kentucky students by
11 institutions in adjoining states, the resident fees charged by other states, the
12 total actual per student cost of training in the institutions for which the fees
13 are being determined, and the ratios of Kentucky students to non-Kentucky
14 students comprising the enrollments of the respective institutions, and other
15 factors the council may in its sole discretion deem pertinent, except that the
16 Kentucky Community and Technical College System may assess a mandatory
17 student fee not to exceed eight dollars (\$8) per credit hour to be used
18 exclusively for debt service on amounts not to exceed seventy-five percent
19 (75%) of the total projects cost of the Kentucky Community and Technical
20 College System agency bond projects included in 2014 Ky. Acts ch. 117, Part
21 II, J., 11.
- 22 (b) The Kentucky Community and Technical College System mandatory fee
23 established in this subsection shall only be used for debt service on agency
24 bond projects.
- 25 (c) Any fee established as provided by this subsection shall cease to be assessed
26 upon the retirement of the project bonds for which it services debt.
- 27 (d) Prior to the issuance of any bonds, the Kentucky Community and Technical

- 1 College System shall certify in writing to the secretary of the Finance and
2 Administration Cabinet that sufficient funds have been raised to meet the
3 local match equivalent to twenty-five percent (25%) of the total project cost;
- 4 (9) Devise, establish, and periodically review and revise policies to be used in making
5 recommendations to the Governor for consideration in developing
6 recommendations to the General Assembly for appropriations to the universities,
7 the Kentucky Community and Technical College System, and to support strategies
8 for persons to maintain necessary levels of literacy throughout their lifetimes. The
9 council has sole discretion, with advice of the Strategic Committee on
10 Postsecondary Education and the executive officers of the postsecondary education
11 system, to devise policies that provide for allocation of funds among the
12 universities and the Kentucky Community and Technical College System;
- 13 (10) Lead and provide staff support for the biennial budget process as provided under
14 KRS Chapter 48, in cooperation with the committee;
- 15 (11) (a) Except as provided in paragraph (b) of this subsection, review and approve all
16 capital construction projects covered by KRS 45.750(1)(f), including real
17 property acquisitions, and regardless of the source of funding for projects or
18 acquisitions. Approval of capital projects and real property acquisitions shall
19 be on a basis consistent with the strategic agenda and the mission of the
20 respective universities and the Kentucky Community and Technical College
21 System.
- 22 (b) The organized groups that are establishing community college satellites as
23 branches of existing community colleges in the counties of Laurel, Leslie, and
24 Muhlenberg, and that have substantially obtained cash, pledges, real property,
25 or other commitments to build the satellite at no cost to the Commonwealth,
26 other than operating costs that shall be paid as part of the operating budget of
27 the main community college of which the satellite is a branch, are authorized

- 1 to begin construction of the satellite on or after January 1, 1998;
- 2 (12) Require reports from the executive officer of each institution it deems necessary for
3 the effectual performance of its duties;
- 4 (13) Ensure that the state postsecondary system does not unnecessarily duplicate
5 services and programs provided by private postsecondary institutions and shall
6 promote maximum cooperation between the state postsecondary system and private
7 postsecondary institutions. Receive and consider an annual report prepared by the
8 Association of Independent Kentucky Colleges and Universities stating the
9 condition of independent institutions, listing opportunities for more collaboration
10 between the state and independent institutions and other information as appropriate;
- 11 (14) Establish course credit, transfer, and degree components as required in KRS
12 164.2951;
- 13 (15) (a) Define and approve the offering of all postsecondary education technical,
14 associate, baccalaureate, graduate, and professional degree, certificate, or
15 diploma programs in the public postsecondary education institutions. **The**
16 **council shall not approve a new degree, certificate, or diploma program that**
17 **includes a requirement for a course or training dedicated to the promotion**
18 **or justification of discriminatory concepts or diversity, equity, and inclusion**
19 **initiatives, as defined in Section 1 of this Act; and**
- 20 (b) The council shall expedite wherever possible the approval of requests from
21 the Kentucky Community and Technical College System board of regents
22 relating to new certificate, diploma, technical, or associate degree programs of
23 a vocational-technical and occupational nature. Without the consent of the
24 General Assembly, the council shall not abolish or limit the total enrollment
25 of the general program offered at any community college to meet the goal of
26 reasonable access throughout the Commonwealth to a two (2) year course of
27 general studies designed for transfer to a baccalaureate program. This does not

1 restrict or limit the authority of the council, as set forth in this section, to
2 eliminate or make changes in individual programs within that general
3 program;

4 (16) Eliminate, in its discretion, existing programs or make any changes in existing
5 academic programs at the state's postsecondary educational institutions, taking into
6 consideration these criteria:

7 (a) Consistency with the institution's mission and the strategic agenda;

8 (b) Alignment with the priorities in the strategic implementation plan for
9 achieving the strategic agenda;

10 (c) Elimination of unnecessary duplication of programs within and among
11 institutions;~~and~~

12 (d) Efforts to create cooperative programs with other institutions through
13 traditional means, or by use of distance learning technology and electronic
14 resources, to achieve effective and efficient program delivery; and

15 (e) Alignment with Section 2 of this Act, including the elimination of any
16 program that includes a requirement for a course or training dedicated to
17 the promotion or justification of discriminatory concepts or diversity, equity,
18 and inclusion initiatives, as defined in Section 1 of this Act;

19 (17) Ensure the governing board and faculty of all postsecondary education institutions
20 are committed to providing instruction free of discrimination against students who
21 hold political views and opinions contrary to those of the governing board and
22 faculty;

23 (18) Review proposals and make recommendations to the Governor regarding the
24 establishment of new public community colleges, technical institutions, and new
25 four (4) year colleges;

26 (19) Postpone the approval of any new program at a state postsecondary educational
27 institution, unless the institution has met its equal educational opportunity goals, as

- 1 established by the council. In accordance with administrative regulations
2 promulgated by the council, those institutions not meeting the goals shall be able to
3 obtain a temporary waiver, if the institution has made substantial progress toward
4 meeting its equal educational opportunity goals;
- 5 (20) Ensure the coordination, transferability, and connectivity of technology among
6 postsecondary institutions in the Commonwealth including the development and
7 implementation of a technology plan as a component of the strategic agenda;
- 8 (21) Approve the teacher education programs in the public institutions that comply with
9 standards established by the Education Professional Standards Board pursuant to
10 KRS 161.028;
- 11 (22) Constitute the representative agency of the Commonwealth in all matters of
12 postsecondary education of a general and statewide nature which are not otherwise
13 delegated to one (1) or more institutions of postsecondary learning. The
14 responsibility may be exercised through appropriate contractual relationships with
15 individuals or agencies located within or without the Commonwealth. The authority
16 includes but is not limited to contractual arrangements for programs of research,
17 specialized training, and cultural enrichment;
- 18 (23) Maintain procedures for the approval of a designated receiver to provide for the
19 maintenance of student records of the public institutions of higher education and the
20 colleges as defined in KRS 164.945, and institutions operating pursuant to KRS
21 165A.310 which offer collegiate level courses for academic credit, which cease to
22 operate. Procedures shall include assurances that, upon proper request, subject to
23 federal and state laws and regulations, copies of student records shall be made
24 available within a reasonable length of time for a minimum fee;
- 25 (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of
26 the Legislative Research Commission for distribution to the Interim Joint
27 Committee on Families and Children;

1 (25) (a) Develop in cooperation with each public university and the Kentucky
2 Community and Technical College System a comprehensive orientation and
3 education program for new members of the council and the governing boards
4 and continuing education opportunities for all council and board members.
5 For new members of the council and institutional governing boards, the
6 council shall:

7 1. Ensure that the orientation and education program comprises six (6)
8 hours of instruction time and includes but is not limited to information
9 concerning the roles of the council and governing board members, the
10 strategic agenda and the strategic implementation plan, and the
11 respective institution's mission, budget and finances, strategic plans and
12 priorities, institutional policies and procedures, board fiduciary
13 responsibilities, legal considerations including open records and open
14 meetings requirements, ethical considerations arising from board
15 membership, and the board member removal and replacement
16 provisions of KRS 63.080;

17 2. Establish delivery methods by which the orientation and education
18 program can be completed in person or electronically by new members
19 within one (1) year of their appointment or election;

20 3. Provide an annual report to the Governor and Legislative Research
21 Commission of those new board members who do not complete the
22 required orientation and education program; and

23 4. Invite governing board members of private colleges and universities
24 licensed by the Council on Postsecondary Education to participate in the
25 orientation and education program described in this subsection;

26 (b) Offer, in cooperation with the public universities and the Kentucky
27 Community and Technical College System, continuing education

- 1 opportunities for all council and governing board members; and
- 2 (c) Review and approve the orientation programs of each public university and
- 3 the Kentucky Community and Technical College System for their governing
- 4 board members to ensure that all programs and information adhere to this
- 5 subsection;
- 6 (26) Develop a financial reporting procedure to be used by all state postsecondary
- 7 education institutions to ensure uniformity of financial information available to
- 8 state agencies and the public;
- 9 (27) Select and appoint a president of the council under KRS 164.013;
- 10 (28) Employ consultants and other persons and employees as may be required for the
- 11 council's operations, functions, and responsibilities;
- 12 (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A,
- 13 governing its powers, duties, and responsibilities as described in this section;
- 14 (30) Prepare and present by January 31 of each year an annual status report on
- 15 postsecondary education in the Commonwealth to the Governor, the Strategic
- 16 Committee on Postsecondary Education, and the Legislative Research Commission;
- 17 (31) Consider the role, function, and capacity of independent institutions of
- 18 postsecondary education in developing policies to meet the immediate and future
- 19 needs of the state. When it is found that independent institutions can meet state
- 20 needs effectively, state resources may be used to contract with or otherwise assist
- 21 independent institutions in meeting these needs;
- 22 (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and
- 23 students of the public postsecondary education system and the independent colleges
- 24 and universities;
- 25 (33) Develop a statewide policy to promote employee and faculty development in state
- 26 and locally operated secondary area technology centers through the waiver of
- 27 tuition for college credit coursework in the public postsecondary education system.

- 1 Any regular full-time employee of a state or locally operated secondary area
2 technology center may, with prior administrative approval of the course offering
3 institution, take a maximum of six (6) credit hours per term at any public
4 postsecondary institution. The institution shall waive the tuition up to a maximum
5 of six (6) credit hours per term. The employee shall complete the Free Application
6 for Federal Student Aid to determine the level of need and eligibility for state and
7 federal financial aid programs. The amount of tuition waived shall not exceed the
8 cost of tuition at the institution less any state or federal grants received, which shall
9 be credited first to the student's tuition;
- 10 (34) Participate with the Kentucky Department of Education, the Kentucky Board of
11 Education, and postsecondary education institutions to ensure that academic content
12 requirements for successful entry into postsecondary education programs are
13 aligned with high school content standards and that students who master the high
14 school academic content standards shall not need remedial courses. The council
15 shall monitor the results on an ongoing basis;
- 16 (35) Cooperate with the Kentucky Department of Education and the Education
17 Professional Standards Board in providing information sessions to selected
18 postsecondary education content faculty and teacher educators of the high school
19 academic content standards as required under KRS 158.6453(2)(1);
- 20 (36) Cooperate with the Office of the Kentucky Center for Statistics and ensure the
21 participation of the public institutions as required in KRS 151B.133;
- 22 (37) Pursuant to KRS 63.080, review written notices from the Governor or from a board
23 of trustees or board of regents concerning removal of a board member or the entire
24 appointed membership of a board, investigate the member or board and the conduct
25 alleged to support removal, and make written recommendations to the Governor
26 and the Legislative Research Commission as to whether the member or board
27 should be removed; and

1 (38) Exercise any other powers, duties, and responsibilities necessary to carry out the
2 purposes of this chapter. Nothing in this chapter shall be construed to grant the
3 Council on Postsecondary Education authority to disestablish or eliminate any
4 college of law which became a part of the state system of higher education through
5 merger with a state college.

6 ➔Section 10. (1) Every public postsecondary education institution in the
7 Commonwealth shall:

8 (a) Review its organizational structure and existing diversity, equity, and
9 inclusion initiatives to ensure compliance with the requirements of Sections 2 and 3 of
10 this Act and, no later than June 30, 2024:

11 1. Eliminate all diversity, equity, and inclusion initiatives, including but not
12 limited to any scholarship criteria, living-learning programs, student services, community
13 services, or other initiatives designed to promote discriminatory concepts or to provide
14 differential treatment or benefits to an individual on the basis of race, sex, color, or
15 national origin;

16 2. Eliminate all diversity, equity, and inclusion offices;

17 3. Terminate all diversity, equity, and inclusion officer positions. An institution
18 may only transfer or rehire a diversity, equity, and inclusion officer to another position
19 within the institution if:

20 a. The individual is qualified for the new position; and

21 b. The duties of the new position comply with Sections 2 and 3 of this Act; and

22 (b) Review all trainings, orientations, and other programming to ensure
23 compliance with the requirements of Sections 2 and 3 of this Act. The institution shall
24 terminate the use of diversity, equity, and inclusion trainings and diversity, equity, and
25 inclusion initiatives, as defined in Section 1 of this Act, no later than June 30, 2024. If the
26 training, orientation, or similar programming is offered through a third party, such as a
27 contractor, the institution shall promptly terminate or cancel any contract with the third

1 party, consistent with applicable law and regulations.

2 (2) The Attorney General may bring a civil action for a writ of mandamus to
3 compel a public postsecondary education institution to comply with this section.
4 Notwithstanding any other provision of law to the contrary, a qualified individual may
5 also file a civil action against a public postsecondary education institution for injunctive
6 relief, declaratory relief, and reasonable attorney's fees and litigation costs. Sovereign and
7 governmental immunity are waived for any claim filed under this section. The remedies
8 identified in this section shall be in addition to, and not in lieu of, any other remedies
9 available in law or equity.

10 ➔Section 11. (1) The Council on Postsecondary Education shall:

11 (a) Review its organizational structure and existing contracts related to diversity,
12 equity, and inclusion initiatives to ensure compliance with the requirements of Sections 4
13 and 9 of this Act and, no later than June 30, 2024:

14 1. Eliminate all diversity, equity, and inclusion initiatives;

15 2. Eliminate all diversity, equity, and inclusion offices;

16 3. Terminate all diversity, equity, and inclusion officer positions. The council
17 may only transfer or rehire a diversity, equity, and inclusion officer to another position
18 within the council if:

19 a. The individual is qualified for the new position; and

20 b. The duties of the new position comply with Sections 4 and 9 of this Act;

21 (b) Review all trainings, orientations, and other programming to ensure
22 compliance with the requirements of Sections 4 and 9 of this Act. The council shall
23 terminate the use of diversity, equity, and inclusion trainings and diversity, equity, and
24 inclusion initiatives, as defined by Section 1 of this Act, no later than June 30, 2024. If
25 the training, orientation, or similar programming is offered through a third party, such as
26 a contractor, the council shall promptly:

27 1. Terminate any contract with the third party, consistent with applicable law

1 and regulations; and

2 2. Evaluate whether to permanently bar the third party from contracts with the
3 council, consistent with applicable law and regulations.

4 (2) The Attorney General may bring a civil action for a writ of mandamus to
5 compel the council to comply with this section. Notwithstanding any other provision of
6 law to the contrary, a qualified individual may also file a civil action against the council
7 for injunctive relief, declaratory relief, and reasonable attorney's fees and litigation costs.
8 Sovereign and governmental immunity are waived for any claim filed under this section.
9 The remedies identified in this section shall be in addition to, and not in lieu of, any other
10 remedies available in law or equity.

11 ➔Section 12. (1) No later than August 30, 2024, each president of a public
12 postsecondary education institution shall submit a report to the Legislative Research
13 Commission, for referral to the Interim Joint Committee on Education, and the Attorney
14 General containing:

15 (a) A detailed description of the institution's compliance with each provision of
16 Sections 2, 3, 6, 7, 8, and 10 of this Act that certifies the status of the institution's
17 compliance with each provision, the steps taken by the institution to achieve compliance
18 with each provision, and the guardrails put in place to ensure future compliance with each
19 provision;

20 (b) If the president cannot certify full compliance with any provision of Sections
21 2, 3, 6, 7, 8, and 10 of this Act, the president shall provide a detailed and clear description
22 of any obstacles to achieving or certifying compliance with that provision, the measures
23 that the president and institution are enacting to overcome those obstacles, and the
24 estimated completion date of each measure;

25 (c) A detailed description of the institution's strategy for attracting and retaining
26 faculty members with diverse perspectives and points of view; and

27 (d) A description of the institution's strategy for fostering a campus environment

1 where the free exchange of ideas is a prized value and where ideas can be freely
2 discussed and debated in accordance with First Amendment principles, without
3 intimidation.

4 (2) The report required by this section shall be published to a prominent, publicly
5 accessible page on the institution's website for a period of no less than one year. The
6 report shall not be combined with any other report when submitted or published by the
7 institution.

8 (3) The Attorney General may bring a civil action for a writ of mandamus to
9 compel a public postsecondary education institution to comply with this section.
10 Notwithstanding any other provision of law to the contrary, a qualified individual may
11 also file a civil action against a public postsecondary education institution for injunctive
12 relief, declaratory relief, and reasonable attorney's fees and litigation costs. Sovereign and
13 governmental immunity are waived for any claim filed under this section.

14 ➔Section 13. (1) No later than August 30, 2024, the president of the Council
15 on Postsecondary Education shall submit a report to the Legislative Research
16 Commission, for referral to the Interim Joint Committee on Education, and the Attorney
17 General containing:

18 (a) A detailed description of the council's compliance with each provision of
19 Sections 4, 9, and 11 of this Act that certifies the status of the council's compliance with
20 each provision, the steps taken by the council to achieve compliance with each provision,
21 and the guardrails put in place to ensure future compliance with each provision;

22 (b) If the president cannot certify full compliance with any provision of Sections
23 4, 9, and 11 of this Act, a detailed and clear description of any obstacles to achieving or
24 certifying compliance with that provision, the measures that the president and council are
25 enacting to overcome those obstacles, and the estimated completion date of each
26 measure;

27 (c) A detailed description of the council's strategy for attracting and retaining

1 faculty members with diverse perspectives and points of view to Kentucky's
2 postsecondary institutions; and

3 (d) A detailed description of the council's strategy for fostering a postsecondary
4 education system where the free exchange of ideas is a prized value and ideas can be
5 freely discussed and debated in accordance with First Amendment principles, without
6 intimidation.

7 (2) The report required by this section shall be published to a prominent, publicly
8 accessible page on the council's website for a period of no less than one year. The report
9 shall not be combined with any other report when submitted or published by the
10 institution.

11 (3) The Attorney General may bring a civil action for a writ of mandamus to
12 compel the Council on Postsecondary Education to comply with this section.
13 Notwithstanding any other provision of law to the contrary, a qualified individual may
14 also file a civil action against the Council on Postsecondary Education for injunctive
15 relief, declaratory relief, and reasonable attorney's fees and litigation costs. Sovereign and
16 governmental immunity are waived for any claim filed under this section. The remedies
17 identified in this section shall be in addition to, and not in lieu of, any other remedies
18 available in law or equity.

19 ➔Section 14. (1) No later than August 30, 2024, the president of each public
20 postsecondary education institution shall submit to the Legislative Research Commission,
21 for referral to the Interim Joint Committee on Education, six separate reports, as follows:

22 (a) One report shall contain the name, job title, office of employment, and
23 compensation of each individual who was employed by the institution at any time
24 between January 1, 2019, and December 31, 2019, who:

25 1. Held a job or position whose title or description included the word "diversity,"
26 "equity," "equality," or "inclusion";

27 2. Was employed by an office, division, or other agency whose name or title

1 included the word "diversity," "equity," "equality," or "inclusion"; or

2 3. Held a job or position whose responsibilities included developing,
3 implementing, or promoting:

4 a. Diversity, equity, and inclusion initiatives, as defined in Section 1 of this Act;
5 or

6 b. Discriminatory concepts, as defined in Section 1 of this Act;

7 (b) One report shall contain the name, job title, office of employment, and
8 compensation of each individual who was employed by the institution at any time
9 between January 1, 2020, and December 31, 2020, who:

10 1. Held a job or position whose title or description included the word "diversity,"
11 "equity," "equality," or "inclusion";

12 2. Was employed by an office, division, or other agency whose name or title
13 included the word "diversity," "equity," "equality," or "inclusion"; or

14 3. Held a job or position whose responsibilities included developing,
15 implementing, or promoting:

16 a. Diversity, equity, and inclusion initiatives, as defined in Section 1 of this Act;
17 or

18 b. Discriminatory concepts, as defined in Section 1 of this Act;

19 (c) One report shall contain the name, job title, office of employment, and
20 compensation of each individual who was employed by the institution at any time
21 between January 1, 2021, and December 31, 2021, who:

22 1. Held a job or position whose title or description included the word "diversity,"
23 "equity," "equality," or "inclusion";

24 2. Was employed by an office, division, or other agency whose name or title
25 included the word "diversity," "equity," "equality," or "inclusion"; or

26 3. Held a job or position whose responsibilities included developing,
27 implementing, or promoting:

1 a. Diversity, equity, and inclusion initiatives, as defined in Section 1 of this Act;
2 or

3 b. Discriminatory concepts, as defined in Section 1 of this Act;

4 (d) One report shall contain the name, job title, office of employment, and
5 compensation of each individual who was employed by the institution at any time
6 between January 1, 2022, and December 31, 2022, who:

7 1. Held a job or position whose title or description included the word "diversity,"
8 "equity," "equality," or "inclusion";

9 2. Was employed by an office, division, or other agency whose name or title
10 included the word "diversity," "equity," "equality," or "inclusion"; or

11 3. Held a job or position whose responsibilities included developing,
12 implementing, or promoting:

13 a. Diversity, equity, and inclusion initiatives, as defined in Section 1 of this Act;
14 or

15 b. Discriminatory concepts, as defined in Section 1 of this Act;

16 (e) One report shall contain the name, job title, office of employment, and
17 compensation of each individual who was employed by the institution at any time
18 between January 1, 2023, and December 31, 2023, who:

19 1. Held a job or position whose title or description included the word "diversity,"
20 "equity," "equality," or "inclusion";

21 2. Was employed by an office, division, or other agency whose name or title
22 included the word "diversity," "equity," "equality," or "inclusion"; or

23 3. Held a job or position whose responsibilities included developing,
24 implementing, or promoting:

25 a. Diversity, equity, and inclusion initiatives, as defined in Section 1 of this Act;
26 or

27 b. Discriminatory concepts, as defined in Section 1 of this Act; and

1 (f) One report shall contain the name, job title, office of employment, and
2 compensation of each individual who was employed by the institution at any time
3 between January 1, 2024, and the date of the report, who:

4 1. Held a job or position whose title or description included the word "diversity,"
5 "equity," "equality," or "inclusion";

6 2. Was employed by an office, division, or other agency whose name or title
7 included the word "diversity," "equity," "equality," or "inclusion"; or

8 3. Held a job or position whose responsibilities included developing,
9 implementing, or promoting:

10 a. Diversity, equity, and inclusion initiatives, as defined in Section 1 of this Act;

11 or

12 b. Discriminatory concepts, as defined in Section 1 of this Act;

13 (2) Each report required by subsection (1) of this section shall not be combined
14 with any other report when submitted to the Legislative Research Commission.

15 ➔Section 15. Whereas the General Assembly is committed to honoring the
16 constitutional promise of equal protection under the law, regardless of color, creed, race,
17 national origin, sex, age, marital status, familial status, disability, religion, and national
18 origin, an emergency is declared to exist, this Act take effect upon its passage and
19 approval by the Governor or upon its otherwise becoming a law.