

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 *(1) As used in this section, unless the context requires otherwise:*

6 *(a) "Divisive concept" means a concept that:*

- 7 *1. One (1) race or sex is inherently superior or inferior to another race*
8 *or sex;*
- 9 *2. An individual, by virtue of the individual's race or sex, is inherently*
10 *privileged, racist, sexist, or oppressive, whether consciously or*
11 *subconsciously;*
- 12 *3. An individual should be discriminated against or receive adverse*
13 *treatment because of the individual's race or sex;*
- 14 *4. An individual's moral character is determined by the individual's race*
15 *or sex;*
- 16 *5. An individual, by virtue of the individual's race or sex, bears*
17 *responsibility for actions committed in the past by other members of*
18 *the same race or sex;*
- 19 *6. An individual should feel discomfort, guilt, anguish, or another form*
20 *of psychological distress solely because of the individual's race or sex;*
- 21 *7. A meritocracy is inherently racist or sexist, or designed by a particular*
22 *race or sex to oppress another race or sex;*
- 23 *8. The Commonwealth of Kentucky or the United States of America is*
24 *fundamentally or irredeemably racist or sexist;*
- 25 *9. Promotes or advocates the violent overthrow of the United States*
26 *government;*
- 27 *10. Promotes division between, or resentment of, a race, sex, religion,*

1 creed, nonviolent political affiliation, social class, or class of people;

2 11. Ascribes character traits, values, moral or ethical codes, privileges, or
3 beliefs to a race or sex, or to an individual because of the individual's
4 race or sex;

5 12. The rule of law does not exist, but instead is a series of power
6 relationships and struggles among racial or other groups;

7 13. All Americans are not created equal and are not endowed by their
8 Creator with certain unalienable rights, including, life, liberty, and the
9 pursuit of happiness;

10 14. Governments should deny to any person within the government's
11 jurisdiction the equal protection of the law;

12 15. Includes race or sex stereotyping; or

13 16. Includes race or sex scapegoating;

14 (b) "Race or sex scapegoating" means assigning fault, blame, or bias to a race
15 or sex, or to members of a race or sex, because of their race or sex, and
16 includes any claim that, consciously or subconsciously, and by virtue of a
17 person's race or sex, members of a race are inherently racist or inclined to
18 oppress others, or that members of a sex are inherently sexist or inclined to
19 oppress others;

20 (c) "Race or sex stereotyping" means ascribing character traits, values, moral
21 or ethical codes, privileges, status, or beliefs to a race or sex, or to an
22 individual because of his or her race or sex; and

23 (d) "Training" includes non-credit classes, seminars, workshops, trainings,
24 and orientations.

25 (2) (a) A student or employee of a public postsecondary education institution or an
26 applicant for admission or employment at a public postsecondary education
27 institution shall not:

- 1 1. Be penalized, discriminated against, or receive any adverse treatment
2 due to the individual's refusal to support, believe, endorse, embrace,
3 confess, act upon, or otherwise assent to one (1) or more divisive
4 concepts; or
- 5 2. Be required to endorse a specific ideology or political viewpoint to be
6 eligible for hiring, contract renewal, tenure, promotion, or graduation,
7 and institutions shall not ask the ideological or political viewpoint of a
8 student, job applicant, job candidate, employee, or candidate for
9 promotion or tenure.
- 10 (b) A public postsecondary education institution shall not solicit or require an
11 applicant for admission or employment to describe the applicant's attitude
12 or actions in support of or in opposition to specific ideologies, beliefs,
13 affiliations, ideals, or principles.
- 14 (c) A public postsecondary education institution shall not:
- 15 1. Conduct any mandatory training of students or employees if the
16 training includes one (1) or more divisive concepts;
- 17 2. Use training programs or training materials for students or employees
18 if the program or material includes one (1) or more divisive concepts;
19 or
- 20 3. Use state-appropriated funds to incentivize, beyond payment of regular
21 salary or other regular compensation, a faculty member to incorporate
22 one (1) or more divisive concepts into academic curricula.
- 23 (3) (a) Any person aggrieved by a violation of any policy adopted or required to
24 have been adopted pursuant to subsection (2) of this section shall have a
25 cause of action against the public postsecondary education institution, or
26 any of its agents acting in their official capacities, for damages arising from
27 the violation, including reasonable attorney's fees and litigation costs.

- 1 (b) A claim brought pursuant to this subsection may be asserted in any court of
2 competent jurisdiction within one (1) year of the date the cause of action
3 accrued. The cause of action shall be deemed to have accrued at the point in
4 time the violation ceases or is cured by the institution.
- 5 (c) Excluding reasonable attorney's fees and litigation costs, any prevailing
6 claimant shall be awarded no less than one thousand dollars (\$1,000) but
7 no more than one hundred thousand dollars (\$100,000) cumulatively per
8 action. If multiple claimants prevail and the damages awarded would
9 exceed one hundred thousand dollars (\$100,000), the court shall divide one
10 hundred thousand dollars (\$100,000) amongst all prevailing claimants
11 equally.
- 12 (d) Sovereign, governmental, and qualified immunity are waived for any claim
13 arising from a violation of subsection (2) of this section.
- 14 (4) If a public postsecondary education institution employs or contracts an individual
15 whose primary duties include diversity initiatives, then the individual's duties
16 shall include efforts to strengthen and increase intellectual diversity among the
17 students and faculty of the public postsecondary education institution at which
18 they are employed.
- 19 (5) Nothing in this section shall be interpreted to:
- 20 (a) Prohibit public postsecondary education institutions from training students
21 or employees on the nondiscrimination requirements of federal or state law;
- 22 (b) Infringe on the rights of freedom of speech protected by the First
23 Amendment to the United States Constitution or KRS 164.348;
- 24 (c) Infringe on the rights of academic freedom of faculty in public
25 postsecondary education institutions;
- 26 (d) Require an employee of a public postsecondary education institution to:
- 27 1. Violate any federal or state law, rule, or regulation; or

1 2. Fail to comply with any applicable academic accreditation
2 requirement;

3 (e) Prohibit an individual providing training from responding to questions
4 regarding one (1) or more divisive concepts, so long as the response does
5 not endorse or advocate for divisive concepts; or

6 (f) Prohibit public postsecondary education institutions from promoting
7 diversity, equity, and inclusion, provided, that such efforts are consistent
8 with the provisions of this section.

9 ➔Section 2. During the 2025 and 2027 academic years, each public
10 postsecondary education institution shall conduct a survey of the institution's students and
11 employees to assess the campus climate with regard to diversity of thought and the
12 respondents' comfort level in speaking freely on campus, regardless of political affiliation
13 or ideology. Each institution shall publish the results of the respective survey on a
14 publicly accessible webpage of the institution's website by July 1, 2025 and July 1, 2027.