

1 AN ACT relating to freedom of student speech at public postsecondary education
2 institutions.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) For the purposes of this section:*

7 *(a) "Expressive activity" includes but is not limited to:*

8 *1. Peacefully assembling, protesting, or speaking;*

9 *2. Distributing literature;*

10 *3. Carrying a sign; or*

11 *4. Circulating a petition; and*

12 *(b) "Institution" means an institution in the postsecondary education system.*

13 *(2) Consistent with its obligations to respect the rights secured by the Constitutions*
14 *of the United States and the Commonwealth of Kentucky, an institution shall not*
15 *restrict the right to free expression.*

16 *(3) Outdoor areas of an institution's campus shall be deemed traditional public*
17 *forums.*

18 *(4) An institution may maintain and enforce reasonable time, place, and manner*
19 *restrictions on an expressive activity in an outdoor area of the institution's*
20 *campus, if the restrictions:*

21 *(a) Are narrowly tailored;*

22 *(b) Are based on published, content-neutral, and viewpoint-neutral criteria;*
23 *and*

24 *(c) Provide for ample alternative means of expression.*

25 *(5) Any restrictions implemented consistent with subsection (4) of this section shall*
26 *allow any person to:*

27 *(a) Spontaneously and contemporaneously assemble and distribute literature;*

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and

(b) Freely engage in noncommercial expressive activity in an outdoor area of the institution's campus if the person's conduct is lawful and does not materially and substantially disrupt the functioning of the institution, subject to the requirements of subsection (4) of this section.

(6) Nothing in this section shall be interpreted as limiting the right of student expressive activity elsewhere on campus.

(7) The following persons may bring an action in a state court of competent jurisdiction to enjoin a violation of this section or to recover compensatory damages, reasonable court costs, or reasonable attorney fees:

(a) The Attorney General; or

(b) Persons claiming that their expressive rights, as described in this section, were violated.

(8) In an action brought under subsection (7) of this section, if the court finds a violation, the court shall:

(a) Award the aggrieved person no less than five hundred dollars (\$500) for the initial violation and an additional fifty dollars (\$50) for each day the violation has remained ongoing; and

(b) Award a prevailing plaintiff compensatory damages and reasonable court costs or attorney fees.

(9) (a) An action under this section shall not be brought more than one (1) year after the day on which the cause of action occurred.

(b) For purposes of calculating the one (1) year limitation, each day that a violation continues after the initial cause of action, and each day that a policy of the institution remains in effect in violation of this section, shall be considered an occurrence and will be the day from which the year is calculated.

- 1 ➔Section 2. This Act shall be known and may be cited as the Campus Free
- 2 Expression Act.