

Student Free Speech and Religious Liberty Rights

KRS 158.186 requires that school-based decision making councils receive copies of the below listed statutes:

KRS 158.181	KRS 158.182	KRS 158.183
KRS 158.184	KRS 158.185	KRS 158.186
KRS 158.187		

KRS 158.181 Legislative findings

(1) The General Assembly finds the following:

(a) Judicial decisions concerning religion, free speech, and public education are widely misunderstood and misapplied;

(b) Confusion surrounding these decisions has caused some to be less accommodating of the religious liberty and free speech rights of students than permitted under the First Amendment to the United States Constitution;

(c) Confusion surrounding these decisions has resulted in needless conflicts and litigation;

(d) The Supreme Court of the United States has ruled that the establishment clause of the First Amendment to the United States Constitution requires that public schools neither advance or inhibit religion. Public schools should be neutral in matters of faith and should treat religion with fairness and respect;

(e) Neutrality to religion does not require hostility to religion. The establishment clause does not prohibit reasonable accommodation of religion, nor does the clause prohibit appropriate teaching about religion;

(f) Accommodation of religion is required by the free speech and free exercise clauses of the First Amendment to the United States Constitution; and

(g) Setting forth the religious liberty rights of students in a statute would assist students and parents in the enforcement of the religious liberty rights of students and would provide impetus to efforts in public schools to accommodate religious belief in feasible cases.

(2) The purpose of KRS 158.181 to 158.187 is to create a safe harbor for schools desiring to avoid litigation and to allow the free speech and religious liberty rights of students to the extent permissible under the establishment clause.

KRS 158.182 Definitions for KRS 158.181 to 158.187

As used in KRS 158.181 to 158.187, unless the context requires otherwise:

(1) "Establishment clause" means the portion of the First Amendment to the United States Constitution that forbids laws respecting an establishment of religion;

(2) "Free exercise clause" means the portion of the First Amendment to the United States Constitution that forbids laws prohibiting the free exercise of religion;

(3) "Free speech clause" means the portion of the First Amendment to the United States Constitution that forbids laws abridging the freedom of speech;

(4) "Public school" means any school that is operated by the state, a political subdivision of the state, or a governmental agency within the state; and

(5) "Student" means an individual attending a public school.

KRS 158.183 Prohibited acts by students -- Rights of student -- Administrative remedies.

(1) A student shall have the right to carry out an activity described in any of paragraphs (a) to (d) of subsection (2) of this section, if the student does not:

(a) Infringe on the rights of the school to:

1. Maintain order and discipline;
2. Prevent disruption of the educational process; and
3. Determine educational curriculum and assignments;

(b) Harass other persons or coerce other persons to participate in the activity; or

(c) Otherwise infringe on the rights of other persons.

(2) Subject to the provisions of subsection (1) of this section, a student shall be permitted to voluntarily:

(a) Pray in a public school, vocally or silently, alone or with other students to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, or speak on nonreligious matters alone or with other students in the public school;

(b) Express religious viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious topics or subjects in the school;

(c) Speak to and attempt to discuss religious viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious viewpoints with other students. However, any student may demand that this speech or these attempts to share religious viewpoints not be directed at him or her;

(d) Distribute religious literature in a public school, subject to reasonable time, place, and manner restrictions to the same extent and under the same circumstances as a student is permitted to distribute literature on nonreligious topics or subjects in the school; and

(e) Be absent, in accordance with attendance policy, from a public school to observe religious holidays and participate in other religious practices to the same extent and under the same circumstances as a student is permitted to be absent from a public school for nonreligious purposes.

(3) No action may be maintained under KRS 158.181 to 158.187 unless the student has exhausted the following administrative remedies;

(a) The student or the student's parent or guardian shall state his or her complaint to the school's principal. The principal shall investigate and take appropriate action to ensure the rights of the student are resolved within seven (7) days of the date of the complaint;

(b) If the concerns are not resolved, then the student or the student's parent or guardian shall make a complaint in writing to the superintendent with the specific facts of the alleged violation;

(c) The superintendent shall investigate and take appropriate action to ensure that the rights of the student are resolved within thirty (30) days of the date of the written complaint; and

(d) Only after the superintendent's investigation and action may a student or the student's parent or legal guardian pursue any other legal action.

KRS 158.184 Construction favoring establishment clause, religious liberty, and free speech.

(1) Nothing in KRS 158.181 to 158.187 shall be construed to affect, interpret, or in any way address the establishment clause.

(2) The specification of religious liberty or free speech rights in KRS 158.181 to 158.187 shall not be construed to exclude or limit religious liberty or free speech rights otherwise protected by federal, state, or local law.

KRS 158.185 Construction prohibiting school employee from leading, directing, or encouraging religious or anti-religious activity in violation of establishment clause.

Nothing in KRS 158.181 to 158.187 shall be construed to support, encourage, or permit a teacher, administrator, or other employee of the public schools to lead, direct, or encourage any religious or anti-religious activity in violation of the portion of the First Amendment of the United States Constitution prohibiting laws respecting an establishment of religion.

KRS 158.186 Copies of law to local school board and school-based decision making council.

The Department of Education shall send copies of KRS 158.181 to 158.187 to each local school board and school-based decision making council in Kentucky on an annual basis.

KRS 158.187 Short title for KRS 158.181 to 158.187.

KRS 158.181 to 158.187 may be cited as the Nicole Hadley, Jessica James, and Kayce Steger Act.