

## Student Free Speech and Religious Liberty Rights

**KRS 158.186** states the following: *The Department of Education shall send electronic or paper copies of KRS 158.183 and 158.195 to each local school board, school-based decision making council, and certified employee in Kentucky on an annual basis.*

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### **158.183 Prohibited acts by students -- Rights of student -- Duties of local board of education -- Administrative remedies.**

(1) Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky, a student shall have the right to carry out an activity described in any of paragraphs (a) to (j) 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) Consistent with the Constitutions of the United States of America and the Commonwealth of Kentucky, and subject to the provisions of subsection (1) of this section, a student shall be permitted to voluntarily:

- (a) Pray or engage in religious activities 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, speak on, or engage in nonreligious matters alone or with other students in the public school;
- (b) Express religious or political viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious or nonpolitical topics or subjects in the school;
- (c) Express religious or political viewpoints in classroom, homework, artwork, and other written and oral assignments free from discrimination or penalty based on the religious or political content of the submissions;
- (d) Speak to and attempt to discuss religious or political 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 or nonpolitical viewpoints with other students. However, any student may demand that this speech or these attempts to share religious or political viewpoints not be directed at him or her;
- (e) Distribute religious or political 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 or nonpolitical topics or subjects in the school;
- (f) Display religious messages on items of clothing to the same extent that a student is permitted to display nonreligious messages on items of clothing;

(g) Access public secondary school facilities during noninstructional time as a member of a religious student organization for activities that may include prayer, Bible reading, or other worship exercises to the same extent that members of nonreligious student organizations are permitted access during noninstructional time;

(h) Use school media, including the public address system, the school newspaper, and school bulletin boards, to announce student religious meetings to the same extent that a student is permitted to use school media to announce student nonreligious meetings;

(i) Meet as a member of a religious student group during noninstructional time in the school day to the same extent that members of nonreligious student groups are permitted to meet, including before and after the school day; and

(j) 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) Consistent with its obligations to respect the rights secured by the Constitutions of the United States of America and the Commonwealth of Kentucky, a local board of education shall ensure that:

- (a)
  1. The selection of students to speak at official events is made without regard to the religious or political viewpoint of the student speaker;
  2. The prepared remarks of the student are not altered before delivery, except in a viewpoint-neutral manner, unless requested by the student. However, student speakers shall not engage in speech that is obscene, vulgar, offensively lewd, or indecent; and
  3. If the content of the student's speech is such that a reasonable observer may perceive affirmative school sponsorship or endorsement of the student speaker's religious or political viewpoint, the school shall communicate, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the school;
- (b) Religious and political organizations are allowed equal access to public forums on the same basis as nonreligious and nonpolitical organizations; and
- (c) No recognized religious or political student organization is hindered or discriminated against in the ordering of its internal affairs, selection of leaders and members, defining of doctrines and principles, and resolving of organizational disputes in the furtherance of its mission, or in its determination that only persons committed to its mission should conduct these activities.

(4) Consistent with its obligations to respect the rights secured by the Constitutions of the United States of America and the Commonwealth of Kentucky, a local board of education shall permit public schools in the district to sponsor artistic or theatrical programs that advance students' knowledge of society's cultural and religious heritage, as well as provide opportunities for students to study and perform a wide range of music, literature, poetry, and drama.

(5) 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.

**Effective:** June 29, 2017

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**158.195 Reading and posting in public schools of texts and documents on American history and heritage.**

Local boards may allow any teacher or administrator in a public school district of the Commonwealth to read or post in a public school building, classroom, or event any excerpts or portions of: the national motto; the national anthem; the pledge of allegiance; the preamble to the Kentucky Constitution; the Declaration of Independence; the Mayflower Compact; the writings, speeches, documents, and proclamations of the founding fathers and presidents of the United States; United States Supreme Court decisions; and acts of the United States Congress including the published text of the Congressional Record. There shall be no content-based censorship of American history or heritage in the Commonwealth based on religious references in these writings, documents, and records.

**Effective:** July 14, 1992