

STUDENTS' CIVIL RIGHTS ENFORCEMENT INITIATIVE

Students' Civil Rights Act (Core Bill)

This template is the “core bill” of this model legislation because it creates a baseline infrastructure that states need to enforce students’ civil rights through an independent state agency.

Section 1. Short Title

This Act shall be known and may be cited as the Students’ Civil Rights Act.

Section 2. Legislative Findings and Purpose

(a) Findings.

The Legislature finds that:

- (1) Equal opportunity and access to education is a fundamental right [\[under the Constitution of this State\]](#);
- (2) Ensuring equal access to education programs, services, and activities is essential to [\[fulfilling this constitutional mandate,\]](#) advancing the State’s longstanding commitment to educational equity and nondiscrimination, promoting academic achievement and workforce readiness, and closing opportunity gaps;
- (3) A student’s ability to learn and to meet high academic standards and a school’s ability to educate its students are compromised by incidents of discrimination, including harassment and retaliation;
- (4) Research and data show that Black, Native American, and Latino students, immigrant students, students with disabilities, LGBTQI+ students, students experiencing homelessness, and other historically marginalized students are more likely than their peers to experience discrimination that forecloses equal educational opportunity;

- (5) [STATE] has a strong constitutional tradition of protecting individual rights, including the guarantees of equality of rights and access to opportunity, due process of law, and security of persons;
- (6) It is the policy of the State to afford all students in educational institutions within the State an environment free of discrimination, including harassment and retaliation;
- (7) It is in the interest of the State to codify and build on existing civil rights protections and nondiscrimination requirements applicable to educational institutions, to affirm the right of each student to equal education opportunity and to establish clear obligations for educational institutions concerning prevention and prompt remediation of discrimination, including harassment and retaliation; and
- (8) Providing state-level education civil rights oversight, enforcement mechanisms, and remedies, including a state agency dedicated to civil rights oversight and enforcement and a uniform complaint process administered by such agency, complements federal safeguards, promotes timely and local resolution of concerns, and ensures that all students have reliable and accessible avenues for addressing violations of their rights.

(b) Purpose.

The purposes of this Act are to:

- (1) Codify comprehensive civil rights protections for all students in the State and uphold the State's constitutional obligation to provide [LANGUAGE FROM STATE CONSTITUTION OR CASE LAW INTERPRETING THE STATE CONSTITUTIONAL RIGHT TO EDUCATION];
- (2) Affirm the State's commitment to equal educational opportunity and nondiscrimination for all students, particularly those who are or have historically been foreclosed from equal educational opportunity or otherwise marginalized;
- (3) Foster safety and inclusivity in schools within the State, ensuring that all students are educated in environments that allow them to participate fully and meaningfully in education programs;
- (4) Prevent and prohibit conduct that jeopardizes safety and inclusivity in schools and that is inconsistent with a school's educational mission;
- (5) Authorize [STATE CIVIL RIGHTS AGENCY] to enforce a prohibition against discrimination, including harassment and retaliation, in educational institutions based on protected classes, as enumerated in [SUBSECTION (I) OF SECTION 3 OF THIS ACT OR RELEVANT STATE LAW];
- (6) Establish the powers, duties, and limitations of the authority of [STATE CIVIL RIGHTS AGENCY] to enforce the prohibition against educational discrimination;

- (7) Create clear, consistent statewide standards and procedures that align, at minimum, with legally binding federal requirements while providing independent state protections;
- (8) Establish a private right of action to enforce the prohibition against educational discrimination;
- (9) Establish the powers, duties, and limitations of the authority of [STATE CIVIL RIGHTS AGENCY] to provide training to [STATE EDUCATIONAL AGENCY (“SEA”) AND OTHER RELEVANT STATE EDUCATION AGENCIES], [LOCAL EDUCATIONAL AGENCIES (“LEAs”)], students, families, and communities on ensuring compliance with the nondiscrimination provisions of [THIS ACT];
- (10) Establish the powers, duties, and limitations of the authority of [STATE CIVIL RIGHTS AGENCY] to collect and publicly report education civil rights data to evaluate education civil rights enforcement and provide technical assistance and related programs targeted at prevention of discrimination in educational institutions within the state.

Section 3. Definitions

For purposes of this Act—

- (a) “Complainant” means a person who reports or files a complaint alleging discrimination under this Act.
- (b) “Days” means calendar days unless otherwise specified as “business days.”
- (c) “Disability” means—
 - (A) A physical or mental impairment that substantially limits one or more of an individual’s major life activities;
 - (B) A record of having a physical or mental impairment that substantially limits one or more of an individual’s major life activities; or
 - (C) Being regarded as having a physical or mental impairment that substantially limits one or more of an individual’s major life activities.
- (d) “Disparate impact” occurs when a policy, practice, method of administration, or action that appears neutral on its face causes a disproportionate adverse effect to one or more groups, regardless of the neutrality of that policy, practice, method of administration, or action.
- (e) “Educational institution” —

(1) Means a public or nonpublic—

- (A) Preschool;
- (B) Prekindergarten program;
- (C) Elementary school;
- (D) Secondary school;
- (E) Institution of postsecondary education;
- (F) Institution of higher education;
- (G) Institution of vocational education;
- (H) Institution of professional education;
- (I) Institution operated by a local education agency (including, but not limited to, school districts or county offices of education);
- (J) An entity that receives direct or indirect financial assistance from the state to provide any education program or activity; or
- (K) Other educational program with an organized course of study that leads to the award of a certificate, diploma, or degree; and

(2) Includes—

- (A) The [SEA] and any governing body responsible for the administration of any school or program described under paragraph (1) of this subsection; and
- (B) In the case of an educational institution composed of more than one school, college, or department which are administratively separate units, each such school, college, or department.

(f) Harassment.

(1) “Harassment” means—

- (A) Any unwelcome verbal, visual, written, electronic, and/or physical conduct on the basis of a person’s actual or perceived protected class or a person’s association with another person’s actual or perceived protected class, as enumerated in [SUBSECTION (I) OF SECTION 3 OF THIS

ACT OR RELEVANT STATE LAW], including unwelcome conduct of a sexual nature, that is objectively offensive and unreasonably alters a person's ability to participate in or receive any aid, benefit, service, or opportunity from an educational institution's programs or activities, including by creating an intimidating, hostile, or offensive environment, regardless of whether the conduct is severe or pervasive;

- (B) An agent, employee, or other person authorized by the educational institution to provide an aid, benefit, service, or opportunity under the educational institution's programs or activities, explicitly or impliedly conditioning the provision of, or threatening a detriment to, such aid, benefit, service, or opportunity on a person's participation in sexual conduct, regardless of whether the person submits to or rejects such conduct; or
- (C) Sexual assault, domestic violence, dating violence, or stalking, as defined at [20 U.S.C. § 1092(f) or insert definitions from state's education or other civil (not criminal) code].

(2) Liability, notice, and affirmative defense.

- (A) Subject to subparagraph (C) of this paragraph, an educational institution is liable for harassment against a person who participates in or receives any aid, benefit, service, or opportunity from such program or activity, or who attempts to do so, regardless of where the harassment occurs, if:

(i) *Harassment enabled or assisted by institutional authority.*

(I) The harasser is an agent, employee, or other person authorized by the educational institution to provide any aid, benefit, service, or opportunity under the educational institution program or activity (including but not limited to a vendor, contractor, school board member, volunteer, or guest speaker); and

(II) The harassment is enabled or assisted by the authority exercised as an agent, employee, or other authorized person of the educational institution; or

(ii) *Harassment not enabled or assisted by institutional authority.*

(I) The harasser is not an agent, employee, or other authorized person of the educational institution; or the harassment is not enabled or assisted by the authority exercised as an agent, employee, or other authorized person of the educational institution; and

- (II) The educational institution receives notice of the harassment.
- (B) *Notice of harassment.* An educational institution receives notice of harassment if an agent, employee, or other authorized person of the educational institution (including but not limited to a vendor, contractor, school board member, volunteer, or guest speaker) knew, or in the exercise of reasonable care should have known, about the harassment and—
 - (i)
 - (I) Has the authority to take action to redress the harassment;
 - (II) Has the responsibility to report to an administrator harassment or similar misconduct by others; or
 - (III) Receives a report of such harassment from a person who could reasonably believe that the agent, employee, or other authorized person is as described in paragraph (I) or (II); and
 - (ii) The agent's, employee's, or other authorized person's communications are not privileged or confidential under federal, State, or local law.
- (C) *Affirmative defense for harassment not enabled by institutional authority.* An educational institution is not liable for harassment under subsection (2)(A)(ii) only if the educational institution demonstrates that it exercised reasonable care as required by subparagraphs (i) through (v) below, regardless of whether further harassment occurred after the educational institution received notice of the initial harassment:
 - (i) Establishing, adequately publicizing, and enforcing a comprehensive harassment prevention policy; an annual training for all students and all employees on harassment; and a harassment complaint procedure that is likely to provide redress and to avoid harm without exposing the person subjected to such harassment to unreasonable risk, effort, or expense;
 - (ii) Providing supportive measures that preserve and restore the complainant's equal access to the educational institution's program or activity, regardless of whether the complainant requests an investigation;
 - (iii) If requested by the complainant (or the complainant's parent or guardian, if the complainant is a minor), or otherwise necessary to protect the complainant or other persons in such program or activity from a significant ongoing threat of harm, undertaking a prompt, thorough, and impartial investigation of such harassment;

(iv) If the complainant and respondent (or the parent or guardian of each person, if such person is a minor) each received written notice of their rights and obligations and each gave voluntary informed written consent, facilitating a process in accordance with restorative justice as defined in [\[insert state's education code provision defining restorative justice\]](#), provided that incident did not involve harassment of a student by an employee, agent, or other person authorized by the educational institution to provide any aid, benefit, service, or opportunity under the educational institution's program or activity (including but not limited to a vendor, contractor, school board member, volunteer, or guest speaker); and

(v) Taking other necessary, prompt, and appropriate corrective action designed to stop such harassment, prevent its recurrence, and remedy its effects.

- (g) “Pattern or practice” means evidence that shows an educational institution may be taking actions that are discriminatory on a regular basis or that the educational institution has a general policy of discriminating, even if the policy is not always followed or does not affect a large number of people.
- (h) “Person” means any individual, including but not limited to, a current student, an applicant or prospective student, a parent or guardian of a current or prospective student, a school or district employee, a state educational agency employee, contractors, unpaid volunteers, and school board members.
- (i) “Protected class” means a category of individuals legally safeguarded from discrimination, including harassment and retaliation, under federal or state law and includes, for purposes of this Act, actual or perceived race, color, national origin, ethnicity, ancestry, immigration or citizenship status, religion, sex (including sexual orientation, gender identity or expression, transgender status, sex characteristics, including intersex traits, sex stereotypes, and pregnancy, or related conditions, including childbirth, termination of pregnancy, or lactation), parental status, disability, age, and homeless status.*
- (j) “Respondent” means a person or educational institution alleged to have engaged in discrimination and includes a person or educational institution identified during an investigation of a complaint and joined as an additional or substitute respondent.
- (k) “Retaliation” means an adverse action that is taken in response to an actual, perceived, or expected protected activity and includes—

- (1) Disciplining or taking another form of adverse action against a person for reporting or filing a complaint of discrimination or for otherwise opposing what they reasonably believe to be discrimination;
- (2) Disciplining or taking another form of adverse action against a party or witness for participating in an educational institution's investigation of alleged discrimination;
- (3) Disciplining a party or witness for a "false report" of discrimination solely because the school has decided there is insufficient evidence for a finding of responsibility or because the respondent is found not responsible;
- (4) Disciplining a complainant or witness for disclosing a possible code of conduct violation that is related to a reported incident of discrimination or for a code of conduct violation discovered during an investigation into a reported incident of discrimination, including the use of intoxicating substances, reasonable actions taken to defend against discrimination, or actions taken to avoid contact with the respondent, unless the possible code of conduct violation may have endangered the health or safety of others;
- (5) Disciplining a party or witness for disclosing in good faith consensual sexual activity related to a reported incident of discrimination, or for other consensual sexual activity discovered during an investigation into a reported incident of discrimination, even if the educational institution's code of conduct otherwise prohibits such consensual sexual activity;
- (6) Disciplining a complainant or witness for a complaint of alleged misconduct that the school knew or should have known was filed by a respondent or other person for the purpose of retaliation;
- (7) Requiring a complainant or witness to leave an education program (e.g., take a leave of absence, transfer, enroll in an alternative education program) because the complainant reports discrimination, including harassment; or
- (8) Requiring a complainant to enter a confidentiality agreement as a prerequisite to obtain supportive measures, participate in an investigation or informal resolution, or assert any other rights under federal or state civil rights laws; or disciplining a complainant or witness for violating an impermissible confidentiality agreement; unless otherwise permitted by federal or state law.

Section 4. Nondiscrimination Provision

- (a) No student, including, but not limited to an applicant or prospective student, or parent or guardian of a current or prospective student, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination within any program or

activity of an educational institution on the basis of a person's actual or perceived protected class or a person's association with another person's actual or perceived protected class.*

(b) Discrimination includes, but is not limited to, the following actions on the basis of a person's protected class or perceived protected class, or a person's association with another person's actual or perceived protected class, as enumerated in subsection (i) of Section 3 of this Act:

- (1) Exclusion, including refusal to enroll or admit or removal from enrollment rolls;
- (2) Expulsion, suspension, assignment to an alternative school or program, disciplinary transfer, or other disciplinary removals;
- (3) Denial of benefits, including denial of access to facilities, denial of advising on or placement in gifted and talented education or advanced courses, and withholding of privileges;
- (4) Harassment, as defined in Section 3(f) of this Act;
- (5) Retaliation, as defined in Section 3(k) of this Act;
- (6) A policy or practice that results in a disparate impact, as defined in Section 3(d) of this Act, unless it is shown that—
 - (A) The challenged policy or practice is necessary to achieve the substantial, legitimate, nondiscriminatory goals of such policy or practice that causes a disproportionate adverse effect; and
 - (B) There is no less discriminatory alternative policy or practice that can reasonably achieve the substantial, legitimate, nondiscriminatory goals of such policy or practice that causes a disproportionate adverse effect; and
- (7) Any contractual or other arrangement made by an educational institution that uses criteria or methods of administration that have the effect of subjecting a person to discrimination or that results in defeating or substantially impairing accomplishment of the objectives of a program or an activity of the educational institution;
- (8) Failure to provide special education and/or related services to students with disabilities in public elementary and secondary schools and aids, benefits, and services to students with disabilities in private elementary and secondary schools;
- (9) Failure to provide aids, benefits, and services to students with disabilities at the postsecondary level;

- (10) Failure to provide reasonable accommodations for students' religious beliefs or to pregnant or parenting students; and
- (11) Failure to provide equal access to educational opportunities for students identified as English Learners.

(c) This section applies to educational institutions, as defined in Section 3(e).

(d) This section does not apply—

- (1) With respect to discrimination on the basis of sex, admissions at a public educational institution of undergraduate higher education that traditionally and continually from its establishment has limited admission to students of only one sex, pursuant to permissible exceptions under Title IX of the Education Amendments of 1972 and other relevant federal, state, and local laws;
- (2) With respect to discrimination on the basis of religion, the following actions by a nonpublic educational institution that is controlled by a religious institution—
 - (A) Providing instruction on the religious beliefs of the religion with which the program or school is affiliated;
 - (B) Declining to provide instruction in beliefs that are different from the religion with which the program or school is affiliated;
 - (C) Requiring student attendance at religious events customary in the religion with which the program or school is affiliated;
 - (D) Limiting admissions to or having a preference in admissions for a student of certain religious beliefs or a student who is a member or is part of a family that is a member of the religious institution affiliated with the program or school, if the program or school has had the limitation or preference continually since the date on which the program or school was established; or
 - (E) Granting tuition discounts for a student of certain religious beliefs or who is a member or is part of a family that is a member of the religious institution affiliated with the program or school.

(e) An educational institution shall include in its student handbook an age-appropriate and plain-language description of the following statement:

“It is legally required and the policy of the State of [NAME] that all educational institutions operate in compliance with Section 4 of the Students’ Civil Rights Act [AND OTHER STATE NONDISCRIMINATION CODE PROVISION], which prohibits discrimination, including harassment and retaliation, against any person

on the basis of [the list of protected classes in Section 3(i) of this Act OR insert state's list of protected classes].

Learn more at [\[insert short, direct hyperlink to school's webpage on its nondiscrimination policies and procedures\]](#).”

- (f) The [SEA], [OTHER STATE EDUCATION AGENCIES], and [OTHER BODIES THAT OVERSEE POST-SECONDARY EDUCATION] shall create a model of the following, and an educational institution shall adapt and include such model in its student handbook:
- (1) Descriptions of various forms of discrimination based on protected class, including examples;
 - (2) An internal process for filing a complaint with the educational institution regarding an alleged violation of its nondiscrimination policy, as described in subsection (e) of this Section;
 - (3) An overview of an educational institution's policies and practices to prevent and respond to discrimination;
 - (4) Potential remedies for a violation of the policy described in subsection (e) of this Section;
 - (5) A prohibition on retaliation for making a report or complaint, threatening to make a report or complaint, participating in a complaint process, or otherwise opposing possible discrimination under [THIS ACT];
 - (6) The legal recourse available through [STATE CIVIL RIGHTS AGENCY] and through federal agencies; and
 - (7) Directions on how to contact [STATE CIVIL RIGHTS AGENCY] to file a complaint for alleged violations of [THIS ACT] or receive technical assistance, training, or other information.
- (g) The policy described in this Section shall be posted in a prominent and accessible location and distributed in such a manner as to ensure notice of the policy to all employees. If the educational institution maintains a website or has an employee intranet and/or handbook, the website, intranet, or handbook shall be considered a prominent and accessible location for the purpose of this subsection.
- (h) The policy described in this Section shall be published on the educational institution's website, if one exists. A summary of the policy in accessible, age-appropriate language shall be distributed annually to students and to the parents or guardians of minor students. Educational institutions shall provide a summary of the policy in the parent's or guardian's heritage or primary language and, at minimum, information on how to receive translation or interpretive services to understand the full policy. For the annual

distribution of the summary, inclusion of the summary in a student handbook is deemed compliant.

- (i) An educational institution shall preserve for a period of at least 10 years any records, documents, and data dealing with, or pertaining to, discrimination and shall make such records, documents, and data available at all times for the inspection of [SEA, OTHER RELEVANT STATE EDUCATION AGENCIES, POST-SECONDARY EDUCATION BODIES, STATE CIVIL RIGHTS AGENCY], and the public.
- (j) In the event any law of the [STATE] or the United States prescribes stronger protections against discrimination, as defined by subsection (b) of this Section, educational institutions shall be subject to the law prescribing stronger protections.
- (k) Implementation plans. Each [LEA] must design a three-year plan to implement [THIS ACT] and submit annual updates to the plan to the [STATE CIVIL RIGHTS AGENCY] and [SEA OR OTHER RELEVANT STATE EDUCATION AGENCIES].
 - (1) Each implementation plan must include—
 - (A) The identity, by name and title, of all persons and advisory groups involved in the development of the plan;
 - (B) The identity of the person(s), by name and title, designated to coordinate the educational institution's compliance with the nondiscrimination policy;
 - (C) The date of adoption of the plan by the educational institution;
 - (D) A copy of all policies and procedures implemented by the [LEA] to carry out the requirements of [THIS ACT];
 - (E) A description of the process used to review all policies and procedures identified in this Section to ensure compliance with [THIS ACT]; and
 - (F) A description of the procedures used to regularly notify students, employees, parents/guardians, and the public of the policies and procedures identified in this Section.
 - (2) Each annual update to an [LEA's] implementation plan shall include all additions, deletions, and other modifications to its current implementation plan and an evaluation of each of the strategies to ensure equal access to educational opportunities.

Section 5. Conferral of Education Civil Rights Enforcement Jurisdiction on State Civil Rights Agency

- (a) [STATE CIVIL RIGHTS AGENCY] is hereby established {under the administration of [STATE OFFICE OR AGENCY]}.*
- (b) [STATE CIVIL RIGHTS AGENCY] has jurisdiction over enforcement of the prohibitions on discrimination in educational institutions in this State.
- (c) [STATE CIVIL RIGHTS AGENCY] has concurrent jurisdiction [WITH OTHER STATE OR LOCAL AGENCIES OR OFFICE(S)] over enforcement of the prohibitions on discrimination in educational institutions in this State.*
- (d) The [Director of STATE CIVIL RIGHTS AGENCY] shall be appointed by the [Governor] from a list of three candidates recommended by the Education Civil Rights Community Advisory Board and subject to confirmation by the [STATE SENATE OR OTHER RELEVANT STATE BODY].*
- (e) [STATE CIVIL RIGHTS AGENCY] is authorized and directed to:
 - (1) Issue regulations, guidance, and orders of general applicability that are consistent with and for the implementation of [THIS ACT];
 - (2) Investigate individual and systemic complaints of discrimination and take enforcement actions to remedy violations of [THIS ACT] as necessary, pursuant to Section 6 of [THIS ACT];
 - (3) Issue administrative subpoenas, enforceable by the State Attorney General's Office, for documents, evidence, and other information needed to take enforcement actions pursuant to [THIS ACT], when necessary and only after good faith attempts to otherwise procure the documents, evidence, and other information from the educational institution;
 - (4) Collect and publicly report data annually, including, but not limited to, data regarding alleged discrimination and complaint resolutions, as required under federal law and [THIS ACT], pursuant to subsections (g) and (h) of this Section [and Section ## on Data Collection, Reporting, and Evaluation];*
 - (5) Provide training and technical assistance to the [SEA, OTHER RELEVANT STATE EDUCATION AGENCIES, AND POST-SECONDARY EDUCATION BODIES] and educational institutions to prevent and address discrimination, [pursuant to Section ## on Guidance and Requirements for Training];
 - (6) Provide educational materials and trainings for students, parents, educational surrogate parents, guardians ad litem, and other community members;

- (7) [OPTIONAL – insert references to other selected model bill sections];*
- (8) Enter into contracts with public or private entities or persons and make payments as necessary to effectuate the provisions of [THIS ACT]; and
- (9) Issue research and publish reports of investigations to support the State’s effort to minimize or eliminate discrimination in educational institutions within the State.
- (f) [DIRECTOR] may select, appoint, and employ such officers and employees, including investigators and staff attorneys, within the limits of any appropriations made for [STATE CIVIL RIGHTS AGENCY’S] operation and as may be necessary to carry out the functions of [STATE CIVIL RIGHTS AGENCY].
- (g) [STATE CIVIL RIGHTS AGENCY] shall make an annual report to the [GOVERNOR, SEA, & OTHER RELEVANT STATE OFFICES AND ACTORS] summarizing the compliance and enforcement activities of [STATE CIVIL RIGHTS AGENCY] and identifying significant civil rights or compliance problems for which [STATE CIVIL RIGHTS AGENCY] has made recommendations for corrective action and as to which adequate progress is and is not being made. The report shall also include a summary of technical assistance, community engagement, and public education conducted by the [STATE CIVIL RIGHTS AGENCY]. This report shall also be made accessible to the public within 30 days of its release to the [GOVERNOR, SEA, & OTHER RELEVANT STATE OFFICES AND ACTORS].
- (h) [STATE CIVIL RIGHTS AGENCY] Data collection. [STATE CIVIL RIGHTS AGENCY] shall collect or coordinate the collection of data necessary to ensure compliance with the provisions in subsection (g) of this Section as well as its obligations pursuant to [THIS ACT].
- (1) [STATE CIVIL RIGHTS AGENCY] shall collect, disaggregate, cross-tabulate, and publish data about complaints alleging discrimination filed with [STATE CIVIL RIGHTS AGENCY] each year.
- i. This section does not authorize or require [STATE CIVIL RIGHTS AGENCY] to provide information that is confidential pursuant to a federal, state, or local law or under any privilege that may be lawfully asserted by a complainant, educational institution, witness, or [STATE CIVIL RIGHTS AGENCY].
 - ii. Publication of disaggregated and cross-tabulated data shall not be required under subsection (h)(1) of this Section to the extent that such publication would reveal personally identifiable information about an individual complainant or otherwise violate federal, state, or local privacy laws.

Section 6. Complaint & Enforcement Procedures

- (a) Any person or interested organizations representing the interests of students alleging discrimination in violation of Section 4 of [this ACT] may file a complaint with:
 - (1) [STATE CIVIL RIGHTS AGENCY]; or
 - (2) [ANY OTHER AGENCY BEING GIVEN CONCURRENT JURISDICTION BY THIS LEGISLATION].
- (b) The complaint shall:
 - (1) Be in writing;
 - (2) Specify:
 - (A) The name and address of educational institution alleged to have committed the discrimination; and
 - (B) A description of the alleged discrimination, including, at a minimum, the approximate dates or time period of the alleged discrimination;
 - (C) The name and contact information of the person filing the complaint and, if different from the person filing the complaint, the name and contact information of the person or persons alleging to have been discriminated against; and
 - (3) Contain any other information required by [STATE CIVIL RIGHTS AGENCY], as designated by regulation; and
 - (4) Be signed, including electronically, by the complainant or the complainant's authorized representative.
- (c) Except as provided in subsection (d) this Section, a complaint shall be filed within two years after the date on which the alleged discrimination occurred.*
 - (1) If the alleged discrimination is part of a series of acts, the two years begins when the last act in the series of acts is committed.
 - (2) If the complaint alleges systemic discrimination due to the impact of a facially neutral policy, practice, method of administration, or action, the two years begins when the complainant became aware of systemic discrimination.
 - (3) A complaint filed with a federal court, state court, or [LOCAL CIVIL RIGHTS OR HUMAN RELATIONS COMMISSION] within two years after the date on which the alleged discrimination, or the last act in a series of discriminatory acts

occurred, pursuant to subsection (c)(1) of this Section, shall be deemed to have complied with subsection (c).

- (4) If a person entitled to bring a civil action is an unemancipated minor at the time the cause of action accrues, the period of minority shall not be deemed a portion of the time period within which the action must be commenced. Such person shall have the same time for commencing an action after attaining majority as is allowed to others by the provisions of paragraph (c).
- (d) [STATE CIVIL RIGHTS AGENCY] may waive the two-year deadline to file a complaint if:
- (1) The complainant could not reasonably be expected to know within the two-year period that the act was or series of acts were discriminatory, and the complainant filed the charge within 90 days after the complainant could reasonably have become aware of the alleged discrimination;
 - (2) The complainant filed a complaint alleging the same or similar allegation based on the same operative facts within the two-year period with another federal, state, or local civil rights or human relations enforcement agency, federal court, or state court and filed a complaint with [STATE CIVIL RIGHTS AGENCY] within 90 days after the other agency had completed its investigation or, in the case of a court, the case is concluded without a decision on the merits or settlement of the complaint allegations. For the purposes of this subsection, a court dismissing an action with prejudice is a decision on the merits;
 - (3) The complainant was unable to file a complaint within the two-year period because of the complainant's incapacitating illness or other incapacitating circumstances during the period, and the charge is filed within 90 days after the period of incapacitation ended; or
 - (4) Unique circumstances generated by [STATE CIVIL RIGHTS AGENCY'S OR OTHER RELEVANT AGENCY'S] action have adversely affected the complainant, and the charge is filed in accordance with a deadline established by [STATE CIVIL RIGHTS AGENCY].
- (e) A parent, guardian, or third party may file a complaint with [STATE CIVIL RIGHTS AGENCY] under this section on behalf of:
- (1) A minor; or
 - (2) A student with a disability who has reached the age of 18 years, who remains enrolled in a secondary education program, and whose rights remain with a parent or guardian under the federal Individuals with Disabilities Education Act.

- (f) A complainant may retain representation in the form of an advocate or attorney throughout the complaint process, including, but not limited to, while filing the complaint, engaging in mediation, participating in [STATE CIVIL RIGHTS AGENCY'S] investigation, and filing an appeal.
- (g) [STATE CIVIL RIGHTS AGENCY], on its own motion, may issue a complaint in its name in the same manner as if the complaint had been filed by a person, if:
 - (1) [STATE CIVIL RIGHTS AGENCY] has received reliable information that an educational institution has been or is engaged in discrimination; and*
 - (2) After a preliminary investigation by [STATE CIVIL RIGHTS AGENCY], [STATE CIVIL RIGHTS AGENCY] determines that the circumstances warrant the filing of an agency-initiated complaint.
- (h) If [OTHER STATE AGENCY] receives information that a person was excluded from participation in, denied the benefits of, or subjected to discrimination within any program or activity of an educational institution on the basis of a protected class, [OTHER STATE AGENCY] shall refer any information received about the alleged discrimination to [STATE CIVIL RIGHTS AGENCY] for investigation no later than 90 days after receiving the information.
- (i) On their own motion, [STATE CIVIL RIGHTS AGENCY], [OTHER RELEVANT STATE AGENCIES], [OR THE STATE ATTORNEY GENERAL] may make, sign, and file a complaint alleging discrimination in cases where the [STATE CIVIL RIGHTS AGENCY], [OTHER RELEVANT STATE AGENCIES], [OR THE STATE ATTORNEY GENERAL] determines that the alleged discrimination imposes a significant societal or community impact.
- (j) [STATE CIVIL RIGHTS AGENCY] may proceed with complaint processing, mediation, and enforcement of [THIS ACT] even if [STATE AGENCY WITH CONCURRENT JURISDICTION] decides not to proceed on a given complaint.*
- (k) No later than 15 days after receipt of a complaint under subsection (b) of this Section, [STATE CIVIL RIGHTS AGENCY] shall provide notice of the complaint to:
 - (1) The educational institution that is the subject of the complaint; and
 - (2) [OTHER RELEVANT STATE OR LOCAL ENTITY OR ENTITIES].*
- (l) Upon receiving notice of a complaint filed against it, an educational institution is entitled to an opportunity to resolve the matter if it—
 - (1) Makes a good faith effort to complete an investigation;

- (2) Makes a good faith effort to address the alleged harm to the person(s) experiencing discrimination;
 - (3) Makes a good faith effort to implement measures to prevent the alleged incident's recurrence, including curing any deficiency in the educational institution's policies or practices that gave rise to the complaint; and
 - (4) Reports to [STATE CIVIL RIGHTS AGENCY] whether it has cured any deficiency, describing the specific actions the educational institution has taken to cure the deficiency.
- (m) If, within 30 days of when [STATE CIVIL RIGHTS AGENCY] provided notice of the complaint to the educational institution and after conferring with the complainant, [STATE CIVIL RIGHTS AGENCY] determines that the educational institution—
- (1) Has resolved the matter, [STATE CIVIL RIGHTS AGENCY] shall dismiss the complaint and monitor the educational institution's measures to prevent the alleged discrimination's recurrence for at least 180 days, unless otherwise agreed to by [STATE CIVIL RIGHTS AGENCY] and the educational institution, in accordance with procedures created through regulation by [STATE CIVIL RIGHTS AGENCY];
 - (2) Has not resolved the matter but is acting in good faith to comply with subsection (l) of this Section, [STATE CIVIL RIGHTS AGENCY] shall continue to allow the educational institution the opportunity to resolve the matter until the matter is resolved or until such circumstances or such timeline as designated by [STATE CIVIL RIGHTS AGENCY] through regulation; or
 - (3) Has not resolved the matter and is not acting in good faith to comply with subsection (l) of this Section, [STATE CIVIL RIGHTS AGENCY] shall proceed with mediation pursuant to subsections (o) and (p) of this Section or with investigation of the complaint pursuant to subsection (q) of this Section.
- (n) If the educational institution chooses to forgo its opportunity to resolve the matter, the educational institution shall submit a response to [STATE CIVIL RIGHTS AGENCY] within 30 days after receiving a notice of complaint under subsection (k) of this Section.
- (o) [STATE CIVIL RIGHTS AGENCY] shall attempt to mediate and establish an agreement between the complainant and educational institution to remedy and eliminate the alleged discrimination within 30 days of the following:
- (1) [STATE CIVIL RIGHTS AGENCY]'s determination pursuant to subsection (m)(3) of this Section; or
 - (2) Receiving the educational institution's response to forgo its opportunity to resolve the matter, pursuant to subsection (n) of this Section.

(p) Mediation pursuant to subsection (o) of this Section—

- (1) Shall be conducted by a neutral mediator, as selected through a process designated by [STATE CIVIL RIGHTS AGENCY] through regulation; and
- (2) May be declined by either or both parties, following a process designated by [STATE CIVIL RIGHTS AGENCY] through regulation.

(q) If mediation results in an agreement between the parties pursuant to subsection (o) of this Section, [STATE CIVIL RIGHTS AGENCY] shall, within 30 days of when the agreement is made, issue to both parties a written statement of the mediation findings and agreement, including the timeline within which any agreed actions must be taken.

- (1) If the educational institution fails to comply with the agreement, the complainant may seek enforcement from a state court, where a court may order relief in accordance with subsection (f)(2) through (f)(5) of Section 7; or
- (2) [STATE CIVIL RIGHTS AGENCY] may seek enforcement pursuant to subsection (v) of this Section.

(r) If the parties decline to participate in mediation or a mediation agreement is not reached under subsection (o) of this Section, [STATE CIVIL RIGHTS AGENCY] shall initiate a formal investigation of the complaint, pursuant to a process designated by [STATE CIVIL RIGHTS AGENCY] through regulation. [STATE CIVIL RIGHTS AGENCY] shall issue a decision on the complaint to both parties, to be shared with the parties and published no later than 90 days after the investigation is initiated, unless the investigation period is extended upon agreement of the parties or for good cause as designated by [STATE CIVIL RIGHTS AGENCY] through regulation.

(1) A decision issued under subsection (r) of this Section shall:

- (A) Be in writing;
- (B) Contain the findings of fact and conclusions of law determined by [STATE CIVIL RIGHTS AGENCY];
- (C) Specify any required actions to remedy or eliminate any discrimination found to have occurred based on a preponderance of the evidence, specifying the timeline within which the actions must be taken, and which would include the following:
 - i. Requiring the educational institution to agree to take corrective action through a resolution agreement [OR OTHER AGREEMENT, DESIGNATED BY STATE CIVIL RIGHTS AGENCY REGULATION], including, but not limited to,

corrective actions, such as adopting or revising policies, forms, and procedures, terminating or making changes to a specific program where violations were found, instituting an affirmative remedial program in accordance with federal and state law, undergoing or hosting training, publicly disseminating information, or receiving technical assistance;

- ii. Requiring the educational institution to provide the aggrieved student(s) with access to the missed educational or extracurricular activity, full access to the educational service, or the meaningful equivalent in the aid, benefit, or service that was denied;
- iii. Requiring the educational institution to provide the aggrieved student(s) with compensatory education or other individualized remedial services; or
- iv. Requiring the educational institution to reimburse the aggrieved student(s) or the student's parent(s) or legal guardian(s) for any reasonable costs incurred in obtaining a comparable educational or extracurricular activity, receiving full access to comparable educational services, or receiving comparable aid, benefits, or services.

(D) Notify the parties of the right to appeal a determination by [STATE CIVIL RIGHTS AGENCY] to the [RELEVANT STATE OFFICE] and of the standards and procedures for making the appeal, as designated by [STATE CIVIL RIGHTS AGENCY] regulation.

(2) In conducting its investigation of the complaint, [STATE CIVIL RIGHTS AGENCY] may—

- (A) Consider the record or outcome of a factually and legally sufficient resolution process conducted by the educational institution on the allegation(s) at issue in the complaint; and
- (B) Request from the educational institution and review confidential records and information, in compliance with federal, state, and local privacy laws. If the educational institution fails to produce the requested records or information in the manner and timeline specified by [STATE CIVIL RIGHTS AGENCY], [STATE CIVIL RIGHTS AGENCY] may subpoena the production of the requested records or information, pursuant to Section 5, subsection (e)(3) of this Act.

(3) [STATE CIVIL RIGHTS AGENCY] may seek enforcement pursuant to subsection (v) of this Section if the educational institution otherwise fails to

cooperate with [STATE CIVIL RIGHTS AGENCY]'s investigation of the complaint.

- (s) If [STATE CIVIL RIGHTS AGENCY] finds that an educational institution violated the nondiscrimination principles as outlined in Section 4 of this Act, a decision issued under subsection (r) of this Section may require the following actions, in addition to those listed in subsection (r)(1)(C) of this Section, from this non-exhaustive list:
 - (1) Place the educational institution under monitoring by [STATE CIVIL RIGHTS AGENCY] for a period of time, as specified by [STATE CIVIL RIGHTS AGENCY], with appropriate sanctions by [STATE CIVIL RIGHTS AGENCY] until such time as compliance is achieved or assured;
 - (2) Revoke the educational institution's license to operate its program or part thereof, where noncompliance has been found, until such time as compliance is achieved or assured, provided that the educational institution is offered reasonable notice and opportunity for a hearing;
 - (3) Impose a civil penalty on the educational institution of not to exceed [#####] for each violation, provided that the educational institution is offered reasonable notice and opportunity for a hearing;
 - (4) Refer the matter to the State Attorney General for additional investigation of pattern or practice discrimination; and*
 - (5) Require the educational institution to adopt or enact additional remedies as [STATE CIVIL RIGHTS AGENCY] deems appropriate or as designated by [STATE CIVIL RIGHTS AGENCY] regulation.
- (t) [STATE CIVIL RIGHTS AGENCY] may consult with [SEA] when monitoring an elementary or secondary school's compliance with any orders under subsection (s) of this Section, and [SEA] may work with [STATE CIVIL RIGHTS AGENCY] upon [STATE CIVIL RIGHTS AGENCY'S] request. [STATE CIVIL RIGHTS AGENCY] and [SEA] may enter into an agreement to carry out any actions ordered under subsection (s) of this Section.
- (u) A complainant alleging that an educational institution did not remedy or eliminate the discrimination as agreed or required by [STATE CIVIL RIGHTS AGENCY] may reopen a complaint made under this section without:
 - (1) Filing a new complaint; or
 - (2) Engaging in mediation.
- (v) If [STATE CIVIL RIGHTS AGENCY] finds that an educational institution did not remedy or eliminate the discrimination as agreed to or required by [STATE CIVIL

RIGHTS AGENCY] by the required date of compliance agreed upon or provided for in the finding of violation or mediation agreement, [STATE CIVIL RIGHTS AGENCY] may issue an updated written decision to both parties—

- (1) Requiring the [COMPTROLLER] to withhold funding from the educational institution's program or part thereof, where noncompliance has been found, in an amount determined by [STATE CIVIL RIGHTS AGENCY], in accordance with regulations by [STATE CIVIL RIGHTS AGENCY], provided that the educational institution—
 - (A) Is provided reasonable notice and opportunity for a hearing; and
 - (B) May challenge a decision to withhold funding as arbitrary and capricious before a state court of competent jurisdiction; or
 - (2) Referring the matter to the State Attorney General for specific enforcement.
- (w) [STATE CIVIL RIGHTS AGENCY] may dismiss an allegation in a complaint or the entire complaint, if—
- (1) Based on all of the facts provided by the complainant, the [STATE CIVIL RIGHTS AGENCY] cannot reasonably conclude the educational institution has violated [THIS ACT];
 - (2) The allegation or complaint is not timely filed with the [STATE CIVIL RIGHTS AGENCY];
 - (3) The complaint is filed against a person or entity that is not an educational institution;
 - (4) The death of the complainant makes it impossible to fully investigate the allegation;
 - (5) The death of the complainant forecloses the possibility of individual relief;
 - (6) The same or similar allegation or complaint, based on the same facts, has already been resolved by [STATE CIVIL RIGHTS AGENCY];
 - (7) The complainant withdraws the complaint containing the allegation;
 - (8) The allegation or complaint is moot or unripe;
 - (9) [STATE CIVIL RIGHTS AGENCY's] ability to complete an investigation is substantially impaired by the complainant's refusal to provide information that is reasonably accessible to the complainant and is necessary for investigation of the complaint. [STATE CIVIL RIGHTS AGENCY] shall include documentation in

the case file of its efforts to contact the complainant by phone, in writing, or via email to request the necessary information and of the complainant's refusal to provide the information;

- (10) [STATE CIVIL RIGHTS AGENCY's] ability to complete an investigation is substantially impaired by the complainant's failure to timely respond to [STATE CIVIL RIGHTS AGENCY's] communications. [STATE CIVIL RIGHTS AGENCY] shall include documentation in the case file of its unsuccessful efforts to contact the complainant by phone or in writing to request the necessary information; or
 - (11) The allegation or complaint alleges a violation for which no relief under this Act is available.
- (x) A complainant or educational institution may appeal to the [RELEVANT STATE OFFICE], based on a standard for appeal as designated by [STATE CIVIL RIGHTS AGENCY] through regulation:
- (1) Within 10 business days after receiving a decision issued by [STATE CIVIL RIGHTS AGENCY] pursuant to subsection (r) of this Section; or
 - (2) If [STATE CIVIL RIGHTS AGENCY] fails to issue a decision as required under subsection (r) of this Section, within 10 business days after the date by which the decision should have been issued.
- (y) An appeal hearing shall be held with an administrative law judge in the county where the alleged discrimination occurred, unless the parties agree to participate in a virtual hearing or a hearing based on the record.
- (z) After reviewing all the evidence, the administrative law judge shall issue a decision and order stating the judge's findings of fact and conclusions of law. If the administrative law judge finds that the educational institution has engaged in discrimination, the administrative law judge shall issue and cause to be served on the educational institution an order requiring the educational institution to—
- (1) Cease and desist from engaging in the discrimination; and
 - (2) Take remedial action to effectuate the purposes of this subtitle.
- (aa) If, after reviewing all the evidence, the administrative law judge does not find that the educational institution has engaged in discrimination, the administrative law judge's finding will be considered a final determination on the matter at issue in the complaint, and no further administrative relief will be available.
- (bb) Within 90 days of the passage of this Act, [STATE CIVIL RIGHTS AGENCY] shall adopt regulations to establish—

- (1) Uniform and timely methods of complaint resolution, accounting for a timeline that shall not exceed a total of 180 days from the filing of a complaint to a final decision by [STATE CIVIL RIGHTS AGENCY], unless otherwise agreed to by the parties. Such methods shall include, but not be limited to, rules providing for the process of filing a complaint, rules providing for engaging in mediation, whether written consent to investigate an allegation is required, and rules for any other relief available prior to the conclusion of a finding of noncompliance;
 - (2) Uniform and timely methods of [STATE CIVIL RIGHTS AGENCY] enforcement after a finding of noncompliance; and
 - (3) The definition of any term not specifically defined in this Act.
- (cc) As necessary, [STATE CIVIL RIGHTS AGENCY] may continue to adopt regulations relating to procedures for complaint processing, mediation, and enforcement as well as regulations needed to otherwise carry out the requirements of [THIS ACT].
 - (dd) [STATE CIVIL RIGHTS AGENCY] shall receive deference on interpretations of whether an act constitutes discrimination as defined by [THIS ACT].
 - (ee) [STATE CIVIL RIGHTS AGENCY] shall defer to the [STATE EDUCATION AGENCY OR OTHER RELEVANT STATE AGENCY] on the authority of the [STATE EDUCATION AGENCY OR OTHER RELEVANT STATE AGENCY] under [RELEVANT STATE LAW].*

Section 7. Private Right of Action & Court-Ordered Remedies

- (a) In addition to a complaint made with [STATE CIVIL RIGHTS AGENCY] under Section 6 of [THIS ACT], any person alleging discrimination as defined by Section 4 of [THIS ACT] may bring a civil action.
- (b) Beginning 30 days after [STATE CIVIL RIGHTS AGENCY] adopts initial regulations under Section 6 of [THIS ACT], if a complaint for discrimination has been brought before [STATE CIVIL RIGHTS AGENCY] pursuant to Section 6 of [THIS ACT], [STATE CIVIL RIGHTS AGENCY] may elect to bring a civil action on [STATE CIVIL RIGHTS AGENCY's] own behalf if:
 - (1) [STATE CIVIL RIGHTS AGENCY] has found, based on a preponderance of the evidence, that the educational institution has engaged or is engaging in discrimination; and

- (2) There is a failure to reach an agreement to remedy and eliminate the discrimination.
- (c) If [STATE CIVIL RIGHTS AGENCY] elects to bring a civil action on [STATE CIVIL RIGHTS AGENCY's] own behalf, [STATE CIVIL RIGHTS AGENCY] shall give notice of the election to all complainants and educational institutions.
- (d) A civil action under this Section shall be filed in the county where the alleged discrimination occurred.
- (e) The filing of a civil action under this Section by or on behalf of the complainant automatically pauses any proceeding before [STATE CIVIL RIGHTS AGENCY] based on the underlying complaint, allowing the complainant to later pursue administrative remedies if the civil proceedings are not decided on the merits.
- (f) Court-Ordered Remedies. If the court finds that discrimination occurred, the court shall enjoin the defendant from engaging in the discrimination and order appropriate affirmative relief. The court may provide the following additional remedies:
 - (1) Award compensatory damages, including for emotional distress;
 - (2) Order punitive damages, if:
 - (A) The defendant is not a governmental unit or political subdivision; and
 - (B) The court finds that the defendant has engaged or is engaging in discrimination with actual malice; and
 - (3) Order reasonable attorney's fees and court costs;
 - (4) Order any other equitable relief that the court considers appropriate; and
 - (5) Require ongoing oversight of the defendant to ensure full implementation of the court's orders and ongoing monitoring by a court-appointed monitor to ensure compliance is sustained.

Section 8. Anti-SLAPP Protection

*SELECT ONE OF THE THREE BELOW OPTIONS AND REFER TO THE TOOLKIT FOR MORE INFORMATION**

OPTION 1 – If the state’s anti-SLAPP law protects good-faith statements that are made: (1) in a petition (i.e., in a legislative, judicial, executive, administrative, or other governmental proceeding) or (2) on a matter of public concern, amend the anti-SLAPP law to:

- (a) Define [“**matter of public concern**” or equivalent key term] to include discrimination as defined in Section 4 of this Act.]

OPTION 2 – If the state’s anti-SLAPP law protects good-faith statements only when made in a petition (i.e., in a legislative, judicial, executive, administrative, or other governmental proceeding), amend the anti-SLAPP law to:

- (a) Protect the exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the United States Constitution or [CITATION TO STATE CONSTITUTION] on a matter of public concern; and
- (b) Define [“**matter of public concern**” or equivalent key term] to include discrimination as defined in Section 4 of this Act.]

OPTION 3 – If the state does not have an anti-SLAPP law, amend the state’s judicial code with the below language:

Any person who reports discrimination, as defined in Section 4 of [the Student’s Civil Rights Act], without malice to an educational institution, [STATE CIVIL RIGHTS AGENCY], or a law enforcement officer, acts in compliance with [THIS ACT], or otherwise initiates, testifies, participates, or assists in any formal or informal proceeding under [THIS ACT], shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating, or assisting in such formal or informal proceeding.

Section 9. Funding and Appropriations

The Legislature shall appropriate funds necessary to implement [THIS ACT].*

Section 10. Effect on Other Legal Requirements

- (a) Nothing in [THIS ACT] shall preclude or limit any right or cause of action provided under any local, state, or federal ordinance, law, or regulation, including but not limited to any remedies or rights available under the Individuals With Disabilities Education Act, Title VI of the Civil Rights Law of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990.

Section 11. Severability

- (a) The provisions of [THIS ACT] shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence, or provision of [THIS ACT] to be invalid, or its applicability to any government agency, person, or circumstance is declared invalid, the remainder of [THIS ACT] and its relevant applicability shall not be affected. The provisions of [THIS ACT] shall be liberally construed to give effect to the purposes thereof.

Section 12. Effective Date

This Act shall take effect immediately following enactment.

Throughout the model, you may see this symbol: *

This symbol indicates that the language provided is purely an option for you to use based on your state's needs or that there may be additional strategies to consider while drafting.

When you see the “*” symbol while reviewing this core bill, check out the **Part 1: Students' Civil Rights Act (Core Bill)** toolkit document to learn more.