

## **What to do if a student threatens to file a formal complaint or sue**

Although SB 1 prohibits the University as an institution from providing anything that would be regarded as DEI training or from endorsing any topics deemed “controversial” under the law,<sup>1</sup> it does not prevent faculty from covering controversial topics in their courses and even endorsing controversial claims that reflect the disciplinary consensus of disciplinary experts in the field.<sup>2</sup>

Engaging in good faith efforts to foster intellectual diversity and responding effectively to students who question or challenge the consensus of disciplinary experts in your class will minimize the likelihood that you will be accused of violating SB 1. (See [Promoting Intellectual Diversity While Preserving Academic Freedom](#).)

However, many students are unlikely to be aware that SB 1 contains provisions protecting a faculty member’s exercise of academic freedom. Nothing can completely shield you from facing student allegations that you have violated SB 1 and at least some faculty will face situations in which a student threatens to file a formal complaint or sue based on some aspect of course content, assignments, or exams.

This document contains information and advice on the following topics:

- [What should I do if a student threatens to file a formal complaint or sue?](#)
- [What happens if a formal complaint is filed?](#)
- [What happens if a lawsuit is filed?](#)

### **What should I do if a student threatens to file a formal complaint or sue?**

- Inform the student that the University has created a website for SB 1 compliance and provide them with the URL: <https://www.kent.edu/senate-bill-1-compliance>.
- Encourage the student to contact your academic unit administrator (chair, director, dean of a college without departments/schools) or campus dean for more information about the formal complaint process.
- Contact your academic administrator and inform them about the situation.
- Contact KSUFA ([office@ksufa.org](mailto:office@ksufa.org), 330-673-9118).

The University has developed a formal complaint process for complaints relating to SB 1 that will be overseen by the Office of Equal Opportunity and Compliance (EOC). The University’s SB 1 Compliance webpage includes a section (see <https://www.kent.edu/concerns>) that specifically addresses student concerns about compliance and reporting of allegations of non-compliance.

It is KSUFA’s understanding that Faculty Senate will be developing a statement about the complaint process that can be included on syllabi and which you will be able to direct any students threatening to file a formal complaint or sue. In the meantime, direct the student to the University’s [SB 1 compliance webpage](#) and [SB 1 concerns webpage](#).

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<sup>1</sup> See especially ORC 3345.0217.

<sup>2</sup> See ORC 3345.0217.B.5, ORC 3345.0217.B.7, and ORC 3345.0217.D.1.

Remember that a student has a right to file a formal complaint even if you think that the complaint is without merit. SB 1 makes clear that: “Each state institution of higher education shall respond to complaints from any student, student group, or faculty member about an alleged violation of the prohibitions and requirements included in the policy adopted under this section using the process established under division (C) of section 3345.0215 of the Revised Code.”<sup>3</sup>

### **What happens if a formal complaint is filed?**

Both the student complainant and the faculty respondent will have due process rights if a formal complaint is filed. Throughout the process the faculty member can request and receive assistance from KSUFA.

Generally, the Office of Equal Opportunity and Compliance (EOC) will evaluate and conduct an initial review of the complaint to determine whether it falls within the scope of the university's policies and whether a formal investigation is warranted. If a complaint has been filed anonymously and lacks enough relevant information, the complaint may not proceed, and it may be closed with a finding of “no finding.” Further, if the complaint does not meet the eligibility criteria to be filed under the university’s Senate Bill 1 policy, if applicable, the complaint may be routed to another university process for review and evaluation as required by law and/or university policy.

If the EOC office determines that the allegations merit further inquiry, a formal investigation will be initiated. During this process, the assigned investigator will act as a neutral factfinder—conducting interviews, reviewing documentation, and gathering other relevant evidence. Both the complainant and the respondent will have the opportunity to submit a list of witnesses, provide supporting evidence, and review and respond to evidence gathered during the investigation. KSUFA can observe and advise faculty who are being investigated. However, the KSUFA representative cannot answer questions or otherwise respond for the faculty member.

At the conclusion of the investigation, the EOC office will determine whether there is sufficient evidence to support a finding that university policy including provisions impacted by Senate Bill 1 has been violated. If the evidence does not support such a finding, the case will be closed with a designation of “no finding.” The faculty member accused of violating SB1, the Faculty Affairs Office, the appropriate Dean, and the appropriate Academic Unit Administrator will receive a copy of the investigative report. An investigative report will be issued in both instances, whether a faculty member is found responsible or not. The EOC office will retain investigation records in accordance with university policy, and the University remains obligated to report aggregate data about complaints and outcomes to the State.

If a violation is substantiated, the EOC office may issue recommendations for appropriate corrective or disciplinary action to the appointing authority for consideration. At that point, the faculty member will have additional, contractually guaranteed due process rights under either the TT CBA Article VII: Sanctions for Cause (for TT faculty) or the FTNTT CBA Article VII: Disciplinary Provision. **It is KSUFA’s duty to represent any member of the TT or FTNTT**

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<sup>3</sup> See ORC 3345.0217.C.

**bargaining unit (whether or not you are a dues paying member of KSUFA) who may be facing potential disciplinary actions for any reason.** Even if you aren't a member of our bargaining unit (e.g. you are a graduate student instructor, adjunct, staff member, or faculty member in the College of Podiatric Medicine), we may be able to help.

### **What happens if a lawsuit is filed?**

Although utilization of the formal complaint process may minimize the likelihood that a student will actually file a lawsuit, nothing can prevent that from happening. **If you are sued for actions taken under the scope of your employment as a faculty member, the University is obligated to defend you.** Contact the Office of University Counsel as soon as you learn that you have been served with a lawsuit.

If there has already been a formal complaint filed and there was a finding of no finding in the investigative report, then the actions should clearly fall under the scope of your employment as a faculty member with academic freedom.

If a student sues before filing a formal complaint, the University may have to initiate an investigation to see whether the content the student found objectionable falls within the scope of the faculty member's academic freedom. If it does, University will have to defend you.