KENTUCKY COURT OF APPEALS
Nos. 2026-CA-1068
Electronically Filed

STUDENT DOE 1, *et al.*, *Appellants*

v.

On Appeal from
Franklin Circuit Court
No. 26-CI-00587

COMMONWEALTH OF KENTUCKY, *et al.*, *Appellees*

RESPONSE TO RAP 20(C) and RAP 21 MOTION OF COMMONWEALTH OF KENTUCKY, COUNCIL ON POSTSECONDARY EDUCATION, DR. AARON THOMPSON, & MADISON SILVERT

Kentucky State University is "an 1890 land-grant university that is Kentucky's only public Historically Black College or University (HBCU)." KRS 164.7501(1). Policymakers recognize "the importance of a vibrant HBCU in the Commonwealth." McKenna Horsley, *New Polytechnic Mission for Kentucky State University Unveiled in State Senate*, Kentucky Lantern (Mar. 25, 2026), https://perma.cc/5CZL-4T5U (quoting Senator Chris McDaniel). Yet all agree that in recent years Kentucky State "has faced significant operational and financial struggles, as well as accreditation concerns." *Wigginton v. Kentucky*, No. 3:26-cv-035-CHB, 2026 WL 1864725, at *3 (E.D. Ky. June 29, 2026) (non-binding).

How to solve Kentucky State's troubles is a question for the General Assembly. Like all public universities, Kentucky State "is principally a creature

of the legislature," *See Univ. of Ky. v. Moore*, 599 S.W.3d 798, 806 (Ky. 2019), since the General Assembly provides both its mandate and its state budget. Fixing Kentucky State was not an easy task. One potential option was "defunding and closing" the school. Joe Sonka, *Senate Unveils Major Reforms for Kentucky State University in Bid to Avoid 'Closure'*, Louisville Pub. Media (Mar. 25, 2026), https://perma.cc/F8K4-NPAK. But the General Assembly chose SB 185 instead—"the product of work between [Kentucky State], the Council on Postsecondary Education[,] and lawmakers." Horsley, *supra*. The General Assembly passed it with broad, bipartisan support, and the Governor signed it.

Appellants are a group of Kentucky State students seeking to block the General Assembly's policy choices. They raised several constitutional claims about SB 185's passage and its substance and sought injunctive based on those claims. The Franklin Circuit Court (Judge Wingate) dismissed all of their claims on the merits. Appellants sought post-judgment injunctive relief under RAP 20(C)(1), and the circuit court denied that motion. Appellants now ask this Court for intermediate relief from that order under RAP 20(C)(2) and RAP 21.

Appellants plainly fail to demonstrate that relief is appropriate under either rule. For one, Appellants make only a cursory effort to show that they are injured by the status quo. They make vague reference to "injuries" and "harm" (at 1–2), but they offer no argument and point to no evidence supporting those references. That is woefully insufficient to show a need for relief in this posture.

Appellants also fail to present a substantial merits question. This state-court suit attempts to tag along with a related federal suit, and at least some of Appellants are unlikely to convince a court to hear only part of their divided claims. Same for whether the court can hear Appellants' case at all, since they failed to demonstrate constitutional standing. And beyond those prudential and jurisdictional walls lies more merits trouble. None of Appellants' attempts to invalidate SB 185 has constitutional merit. Finally, the equities, as always, support keeping the General Assembly's policy choices effective to avoid harm to the public. This Court thus has good reason to deny Appellants' request, several times over.

BACKGROUND

SB 185 was enacted so that Kentucky State University can continue to serve the Commonwealth's students. Kentucky State was on the brink of closure due to years of financial mismanagement, among other issues. *See* Sonka, *supra*. The General Assembly instead opted to create guardrails for Kentucky State's path out of its financial emergency. The bill passed 90–1 in the House and 37–0 in the Senate before it was signed by the Governor on April 13, 2026. It contained an emergency provision, so it has been effective since.

A brief overview of what led to SB 185 is worthwhile. The General Assembly in 2022 found "a significant lack of efficiency and effectiveness in the instructional and operational performance of Kentucky State University,"

suggesting "immediate appropriate corrective action." 2022 Ky. Acts ch. 183 § 1(1). It suggested reforms, even offering a management improvement plan, *id.* §§ 1–2, and it provided a $23 million loan to keep it afloat amid a shortfall, *id.* § 3(1). *See also* Monica Kast, *Bill to Give Kentucky State $23M to Cover Budget Shortfall Passes in House*, Lexington Herald-Leader (Feb. 17, 2022), https://perma.cc/AVG8-8SU3. It also appropriated $15 million to the Council on Postsecondary Education (CPE) to be distributed to Kentucky State if it followed the management improvement plan. 2022 Ky. Acts ch. 183 § 5.

Despite those efforts, accreditation issues followed. Kentucky State was placed on Warning by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) in December 2023. *See Kentucky State University's SACSCOC Accreditation Update*, Ky. State Univ. (Jan. 20, 2026), https://perma.cc/P4HZ-NV99. The Governor then replaced Kentucky State's board, which hired a new president and restructured the management team. *Id.* SACSCOC kept Kentucky State's accreditation status as Probation for Good Cause. *Id.* SB 185 sought to chart a course back to good standing without further turmoil.

SB 185 made Kentucky State a "residential polytechnic institution that focuses on highly technical, industry-based applied learning and offers liberal studies and polytechnic programs that are aligned with the workforce needs of the Commonwealth and consistent with the historical mission of an HBCU."

KRS 164.7501(1). The law declared "a state of financial exigency" for five years, requiring CPE to oversee Kentucky State's financial decisions. KRS 164.7501(2)–(3). It also directed Kentucky State to limit its academic area of studies, with CPE approval, and to create "teach-out" plans to wind down closed programs. KRS 164.7503. And in addition to heightened admission requirements, KRS 164.7507(1), the law requires that students who have owed the school more than $1,000 for over 60 days "shall not be admitted or readmitted," KRS 164.7507(2), and governs how the school collects debts, KRS 164.7509.

About one month after SB 185 became law, on May 11, 2026, a group of seven Kentucky State students and five alumni first challenged SB 185 in federal court under federal law and the Kentucky Constitution. *See Wigginton*, 2026 WL 1864725, at *4. That court recently denied a temporary restraining order. *Id.* at *25.[1] Eleven days later, seven pseudonymous Kentucky State students represented by the same attorneys filed this state-court lawsuit. They sought declaratory and injunctive relief barring enforcement and implementation of SB 185. Their complaint was paired with a motion for a temporary injunction.

After the circuit court twice denied temporary relief, Appellants filed a RAP 20(B) and 20(D) motion in this Court on July 6, 2026. It denied RAP 20(D)

[1] A preliminary-injunction hearing is scheduled for November 2026.

relief on July 8, 2026, and Appellants did not appeal that ruling. *See* Order Denying Emergency Motion, No. 2026-CA-0834 (Ky. App. July 8, 2026). It later denied the RAP 20(B) motion. Order Denying Interlocutory Relief, No. 2026-CA-0834 (Ky. App. Aug. 18, 2026). Plaintiffs did appeal that ruling, but the Supreme Court declined to exercise its discretion under RAP 20(F) because Appellants failed to demonstrate extraordinary cause. Order Denying Interlocutory Relief, No. 2026-SC-0360 (Ky. Aug. 21, 2026).

In the meantime, the circuit court dismissed Appellants' case in parts. It first dismissed Governor Beshear and several executive-branch defendants on June 30, 2026. Appellants appealed that ruling in No. 2026-CA-0946 on July 30, 2026. They did not seek to transfer that appeal. Next, on August 24, 2026, the circuit court dismissed the remaining defendants, including the Commonwealth. Appellants appealed that same day in No. 2026-CA-1068. Appellants simultaneously asked this Court to hear those two appeals together, expedite them, and recommend transfer of the first appeal to the Supreme Court.

With the case final in circuit court, Appellants also sought emergency relief in several ways. One was a combined "protective motion for relief under RAP 20(B)" and RAP 20(D) motion filed on August 25, 2026, in No. 2026-CA-1071. The Court of Appeals denied the RAP 20(D) motion, *see* Order Denying Emergency Motion, No. 2026-CA-1071 (Ky. App. Aug. 26, 2026), and Appellants are seeking the Supreme Court's review of that ruling in No. 2026-

SC-0384. Relevant here, the other way Appellants sought relief was an emergency motion in circuit court under RAP 20(C), which was a prerequisite to seeking the same relief in this Court. The circuit court denied that request, so Appellants filed these RAP 20(C) and RAP 21 motions.

ARGUMENT

RAP 20(C)(1) allows a party to ask a circuit court to issue an injunction pending appeal from a judgment denying permanent injunctive relief. If the circuit court denies that request, that party can then seek review from this Court under RAP 20(C)(2). This Court can grant RAP 20(C) relief only if the circuit court abused its discretion. *Maupin v. Stansbury*, 575 S.W.2d 695, 698 (Ky. App. 1978). That happens "when its decision 'was arbitrary, unreasonable, unfair, or unsupported by sound legal principles.'" *Cameron v. EMW Women's Surgical Ctr., P.S.C.*, 664 S.W.3d 633, 659 (Ky. 2023) (citation omitted).

To show "a clear abuse of discretion," Appellants "bear[] an enormous burden." *Commonwealth ex rel. Conway v. Thompson*, 300 S.W.3d 152, 162 (Ky. 2009) (citations omitted). That's because injunctive relief is rightly rare. *See Maupin*, 575 S.W.2d at 697 ("[T]he injunction is an extraordinary remedy."). To receive it, Appellants had to convince the trial court (1) that they have "shown a probability of irreparable injury," (2) that their claims present "a substantial question as to the merits," and (3) that "the equities are in favor of issuance." *Id.* at 699; *see also Pollitt*, 552 S.W.3d at 73. Appellants cannot satisfy any of those factors here, so

they are not entitled to RAP 20(C) relief. And RAP 21 relief is foreclosed for similar reasons. That rule requires a showing of "immediate and irreparable injury." RAP 21(A)(1). Because Appellants' motion fails under RAP 20(C), it also fails under RAP 21.

I. Appellants cannot demonstrate irreparable injury.

The Court can start and end with Appellants' lack of irreparable injury. The showing is "a mandatory prerequisite to the issuance of any injunction." *Maupin*, 575 S.W.2d at 699. And as part of it, Plaintiffs "must allege possible abrogation of a concrete *personal* right." *Cameron v. EMW Women's Surgical Ctr., P.S.C.*, 664 S.W.3d at 660. Put another way, Appellants must show an "urgent necessity for immediate relief" because they are "now suffering or will suffer such serious and irreparable injury that even a favorable final judgment will not give [them] adequate relief." *Oscar Ewing, Inc. v. Melton*, 309 S.W.2d 760, 761 (Ky. 1958).

Appellants make no effort to meet this burden. In the introduction to their short motion, they refer (at 1–2) to "injuries" and "harm." But the Court and the appellees are left to guess at what specific harms Appellants claim warrants extraordinary relief here. That alone is reason to deny Appellants' request.

Their motion in circuit court had a one-paragraph "Irreparable Injury and Equities" section (at 7–8), changed to a one-paragraph "The Balance of Equities Favors Preservation" section (at 6) in this motion. Below, Appellants in one

sentence alleged injuries (connected to no specific Appellant) related to continued attendance at Kentucky State. That is insufficient on its face, as it presumes that Appellants have a right to attend Kentucky State under their preferred conditions and payment terms, such that preventing attendance under those circumstances is irreparable harm. But that's not how universities, which are funded in part by tuition, function. With or without SB 185, self-selected conditions and payment terms have never been an option. And even if Appellants can claim immediate injury at all, they would be financial ones that do not give rise to irreparable injury. "[M]ere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough." *Norsworthy v. Ky. Bd. of Med. Licensure*, 330 S.W.3d 58, 62 (Ky. 2009). The claims raised earlier in this case involve those types of injuries.

If the Appellants' failure to allege injury and the facial insufficiency were not enough to deny the pending motions, the facts on the ground must be. As Kentucky State explains in its response (at 16), Appellants "are currently enrolled at KSU and financially cleared under KSU's policies." This Court has no reason to find the injury the RAPs require, so it should deny the motions.

III. Appellants' case lacks merit.

Turn to the merits next. They provide an independent reason to deny Appellants' request. Appellants' case presents a variety of doubts: prudential (Appellants' state-court case should not compete with a pre-existing, ongoing

federal-court case); jurisdictional (Appellants have not made an adequate showing of constitutional standing); and constitutional (Appellants' constitutional claims lack merit). The Commonwealth takes each merits problem in turn.

A. Appellants cannot bring parallel cases in state and federal courts.

The Court can begin by asking whether a state court should be hearing Appellants' claims in the first place. Recall that several Appellants are also parties to a federal lawsuit challenging SB 185 under both federal and state laws. That makes it unlikely that a state court should hear the later-filed claims brought by the overlapping plaintiffs.

The doctrine that makes the overlapping Appellants' state claims doubtful is called the claim-splitting doctrine. It bars certain claims that could have been brought in a prior action. *Coomer v. CSX Transp. Inc.*, 319 S.W.3d 366, 370 (Ky. 2010). "The rule . . . is an equitable rule, limiting all causes of action arising out of a single 'transaction' to a single procedure." *Id.* (cleaned up). The doctrine's purpose is to require parties to "'bring forward their whole case' and . . . not try it piecemeal." *Id.* (citation omitted). Thus, claim splitting "applies not only to the points upon which the court was required by the parties to form an opinion and pronounce judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have

brought forward at the time." *Id.* (citation omitted). And the key inquiry is "whether they both arise from the same transactional nucleus of facts." *Id.*

For the Appellants who are plaintiffs in both cases, the Court should hold that this doctrine likely bars proceeding in state court. The parties are the same (as a review of the document filed under seal will show), and they seek an order enjoining those same defendants from enforcing SB 185. In fact, while Appellants below argued that the claim-splitting doctrine shouldn't apply here, they never disputed that their claims "arise from the same transactional nucleus of facts" as their companion federal case. *Coomer*, 319 S.W.3d at 370. That's because Appellants' claims here are entirely premised on the "same transactional nucleus of facts"—the enactment of SB 185—as their companion federal case. *Id.* And the whole point of the claim-splitting doctrine is to force plaintiffs to "'bring forward their whole case' and . . . not try it piecemeal." *Coomer*, 319 S.W.3d at 370. That's exactly what the Appellants with overlapping claims seek to do here. Indeed, the upshot of the overlapping Appellants' approach is that a state and federal court will race to reach the same ultimate remedial question—whether SB 185 should be enforced. The doctrine is meant to prevent just that. Those overlapping Appellants are unlikely to succeed on the merits because of this claim-splitting problem.[2]

[2] To the extent that the Court perceives a conflict between reaching the correct claim-splitting outcome and allowing the trial court's pseudonymity order to

B. Appellants have not demonstrated constitutional standing.

Even if Appellants' case is properly before a Kentucky state court, they still must demonstrate constitutional standing to bring it. To sue, a plaintiff "must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief"—the three-part showing of injury, causation, and redressability. *Commonwealth Cabinet for Health & Fam. Servs., Dep't for Medicaid Servs. v. Sexton by & through Appalachian Reg'l Healthcare, Inc.*, 566 S.W.3d 185, 196 (Ky. 2018) (citation omitted). Standing doctrine guards courts' limited time and resources against lawsuits meant "to usurp the powers of the political branches." *City of Pikeville v. Ky. Concealed Carry Coal., Inc.*, 671 S.W.3d 258, 263 (Ky. 2023) (citation omitted) (cleaned up). It is a fundamental requirement: if Appellants "do[] not have the requisite standing to sue, then the circuit court *cannot* hear the case." *Sexton*, 566 S.W.3d at 196.

---

stand, it should err on the side of getting the law right. Pseudonymity is appropriate only when "a plaintiff's privacy interest substantially outweighs the presumption of open judicial proceedings." *Doe 1 v. Flores*, 661 S.W.3d 1, 6 (Ky. App. 2022) (citation omitted). That test is sometimes, but not always, satisfied when a civil-rights plaintiff is a child or when open proceedings will require a plaintiff to reveal "information 'of the utmost intimacy.'" *Id.* (citation omitted). Nothing in the record supports the trial court's order allowing Appellants to proceed using pseudonyms here. Appellants sought to use pseudonyms to protect themselves from retaliation, apparently from defendants (who are of course aware of Appellants' identities). But pseudonymity is about whether the *general public*, not parties to the case, should be prevented from learning a party's identity.

Appellants' must show (1) an injury (2) caused by the defendant and (3) redressable by the court. *Sexton*, 566 S.W.3d at 196. At bottom, "an injury in fact" is "an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." *Ward*, 653 S.W.3d at 51 (citation omitted). So the injury must "be real and not abstract" and must be personal to Appellants. *Pikeville*, 671 S.W.3d at 264 (citation omitted). More simply, to show standing, Appellants must "sufficiently answer the question: 'What's it to you?'" *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021) (citation omitted).

Appellants have not made the required showing. Throughout this litigation, their sole claim to constitutional standing was based on the threat of disenrollment due to past-due payments. But Kentucky State is right (at 26) that its "affirmative proof that such harm did not occur to the Student Does . . . is dispositive" of that argument. Appellants also fall short on causation and redressability. As noted above, Kentucky State could refuse to re-enroll a student with a similar past-due balance whether SB 185 is law or not. If a non-paying is injured, the cause of that injury is the nonpayment, not the consequences. That fact goes to redressability, too. Even if the Court enjoins SB 185, Kentucky State could impose identical consequences under its own policies and procedures, which are not challenged in this case. Appellants' sole standing argument is insufficient to show likely success.

C. Appellants' constitutional claims are unlikely to succeed.

In this posture, Appellants must also demonstrate a "substantial probability" that they "will ultimately prevail on the merits." *Norsworthy*, 330 S.W.3d at 63. Doing so requires Appellants to overcome the "presumption of validity" courts give Kentucky statutes. *Hayes v. State Prop. & Bldgs. Comm'n*, 731 S.W.2d 797, 799 (Ky. 1987). That requires showing that SB 185 "clearly offends the limitations . . . of the Constitution," *Cameron v. EMW Women's Surgical Ctr., P.S.C.*, 664 S.W.3d at 661 (citation omitted), and identifying a "clear, complete[,] and unmistakable" violation, *Ky. Indus. Util. Customers, Inc. v. Ky. Utils. Co.*, 983 S.W.2d 493, 499 (Ky. 1998).

Appellants raise six constitutional claims in their motion. But Appellants have not shown any "potential for success" in overcoming the presumption of validity, *see Cameron v. Beshear*, 628 S.W.3d at 73, so they are not entitled to relief. Indeed, the Court could reject their merits arguments on the basis that all Appellants offer is a cursory description of their claims, not an attempt to substantiate them. In a 6-page motion, Appellants devote under 3 pages to whether they can actually succeed in the end. That is enough to reject their motion, but the Commonwealth explains below why their merits arguments nonetheless fail to justify an injunction.

1. Appellants first claim (at 2–3 and 4–5) that SB 185's passage was inconsistent with Sections 46 and 51 of the Kentucky Constitution.

Section 46 requires every bill to "be read at length on three different days in each House, but the second and third readings may be dispensed with by a majority of all the members elected to the House in which the bill is pending." There are multiple ways "by which a bill may be 'read' in compliance with § 46." *Bevin v. Commonwealth ex rel. Beshear*, 563 S.W.3d 74, 90 (Ky. 2018).

Bevin is the lodestar for judging compliance with Section 46. There, the Senate read a bill on three days with its original title and language. *Id.* at 79. The bill was titled "An Act relating to the local provision of wastewater services." *Id.* When the bill moved to the House, it was read twice more with the original title and language. *Id.* But then the House adopted a committee substitute, which removed all the original text and replaced it with 291 pages about public employee pensions. *Id.* at 80. The House did not change the title. *Id.* After adopting the new language, the House read the bill by its title only and passed it. *Id.* The title was not changed to "An Act relating to retirement" until after final passage in the House. *Id.*

The Supreme Court held that this procedure did not comport with the "three readings" requirement of Section 46. *Id.* at 94. Although *Bevin* did not establish a bright-line rule for compliance with Section 46, *id.* at 90, 91, the decision made clear that the title and the text of the bill are key. As long as "the revised text is some variation of the original text and remains consistent with the theme reflected in the title of the bill," then "legislators may amend the text of a

bill between its readings without running afoul of § 46." *Id.* at 91; *see also O'Bryan v. Zip Express*, 636 S.W.3d 457, 463–64 (Ky. 2021); *R.L.P. v. Commonwealth*, 733 S.W.3d 265, 288–91 (Ky. 2026) (applying *Bevin* to reject a Section 46 challenge to the law creating KRS Chapter 202C).

Put simply, SB 185 is nothing like the bill in *Bevin*, which began as a bill concerning wastewater services and ended as one concerning pensions. Here, the bill began as a bill related to budget recommendations generally and ended as a bill related to budget recommendations specific to Kentucky State.

SB 185's original title was "AN ACT relating to branch budget recommendations." This is directly relevant to the General Assembly's provision of funds for KSU's survival. The 2026–2028 Executive Branch budget recommendation provided data on the KSU Fiscal Stabilization Program, which was established in 2022 in House Bill 250. That bill appropriated funding to Kentucky State to avert a fiscal crisis and provided strategic operating funds to KSU to be distributed by CPE. The act also required CPE to provide ongoing oversight of KSU's progress toward the goals outlined in its management improvement plan. *See* Office of State Budget Director, 2026–2028 Executive Budget 294, *available at* https://perma.cc/PKZ9-P67J (last accessed June 11, 2026). The budget recommendation also included resources from the "General Fund in the amount of $10,381,000 in each fiscal year for Kentucky State

University's land grant program. These General Fund dollars are used to match federal funds." *Id.* at 306.

Senators were concerned about Kentucky State's survival and whether it would be revivable at all. Throughout the legislative process, legislators worked closely with the Kentucky State administration and CPE officials to develop a solution. The Senators were familiar with SB 185's contents as it moved through the legislative process in their chamber and, though the substance changed, they knew that, consistent with the bill's title, the bill was directly related to responding to Kentucky State's financial and management condition, as referred to in the Executive Branch budget recommendation.

The Senate was aware that SB 185 was the vehicle for the Kentucky State bill related to its budget concerns. No Senator objected to the bill because of its title, and the Senate approved a title amendment to more accurately reflect the content of the bill before sending it to the House. Then, the House read SB 185 three times under the amended title, adopted a committee substitute, and passed it. SB 185 then returned to the Senate, where it was read again under its final title before securing final passage.[3] Accordingly, the title was germane to the substance of the bill at the time the Senate considered the bill, and the three

[3] The bill, with its final title, was read three times in the Senate: once when the title amendment was adopted before sending the bill to the House; a second time as the Senate voted to concur in the House Committee Substitute; and a third time as the Senate voted to give final passage to the bill.

readings of SB 185 in that chamber satisfied the constitutional requirements under Sections 46 and 51. Appellants have not presented a substantial question as to this claim.

2. Appellants next claim (at 3–4) the General Assembly did not comply with KRS 6.350 when it passed SB 185. But the circuit court was correct to hold that the Plaintiffs may not challenge the constitutionality of SB 185 based on legislative procedural rules—nor may the Court evaluate a statute's validity on such grounds.

First, "[t]he General Assembly itself is the final arbiter of its own rules." *Bevin*, 563 S.W.3d at 79 n.3. The Supreme Court instructs courts to refrain from determining whether legislative rules were violated because "[p]roper respect for a coordinate branch of the government" requires striking down a statute *only where* a constitutional violation is clear. *Id.* (citation omitted). So Appellants may not assert violations of legislative rules to enjoin SB 185.

Second, "[KRS 6.350] is procedural in nature and has no constitutional implications." *Bd. of Trustees of Jud. Form Ret. Sys. v. Att'y Gen.*, 132 S.W.3d 770, 776–77 (Ky. 2003). The General Assembly is authorized "to establish rules governing its own proceedings," and "[s]o long as those rules do not violate some other provision of the Constitution, it is not within [a court's] prerogative to approve, disapprove, or enforce them." *Id.* at 777 (citation omitted); *see* Ky. Const. § 39. Indeed, "the judiciary cannot compel the legislature to act in

accordance with its own procedural rules." *Id.* (citation omitted). "The result is the same *even when the procedural rule is, as here, codified in a statute*." *Id.* (citation omitted; emphasis added). Accordingly, any alleged failure to comply with KRS 6.350 or House or Senate Rules is not a basis for voiding SB 185.

Still, even if noncompliance with KRS 6.350 could invalidate a statute, SB 185 does not trigger KRS 6.350's requirements. Appellants based their KRS 6.350 claim on a very attenuated and remote possibility that SB 185 may, at some point in the future, affect a nominal amount of teachers who may or may not participate in state retirement systems. SB 185 authorizes KSU's president "to terminate employment of any university employee . . . upon thirty (30) days' notice for the entire duration of the financial exigency" and only requires KSU to retain "the faculty and staff to support the enrollment target of at least one thousand (1,000) in-person students and the programs maintained" by KSU. KRS 164.804(5).

SB 185 does not regulate or seek to regulate state retirement plans. It is merely speculative that state retirement plans will be affected, and even if they are, it would be incidental at best. SB 185 will not result in mass terminations of state-employed teachers throughout the Commonwealth; it merely authorizes termination of some staff at KSU. SB 185 is not the sweeping legislation affecting state retirement systems that KRS 6.350, Senate Rule 52, and House Rule 52 contemplate, or as Appellants characterized it below. Any alleged violations of

KRS 6.350, Senate Rule 52, or House Rule 52 do not speak to SB 185's validity and are not grounds for invalidating a statute. Even if they could, SB 185 still did not trigger, let alone violate, any of these rules.

3. Appellants' claim (at 5) that SB 185's emergency clause was invalid should also fail. Section 55 of the Kentucky Constitution provides that acts, not including general appropriation bills, are to take effect 90 days after adjournment "except in cases of emergency, when, by the concurrence of a majority of the members . . . an act may become a law when approved by the Governor; but the reasons for the emergency that justifies this action must be set out at length in the" House and Senate journals.

Appellants claimed below that SB 185 did not, at its third reading, contain an emergency title. But Section 55 does not require emergency language to be included in the bill title—it only requires a majority vote. Nor can Appellants prevail in a demand for "certified House and Senate journal entries" to prove compliance. That's because "when the reason for declaring an emergency is sufficiently expressed in the legislation itself, the requirement that it be recited in the journal is satisfied." *Zuckerman v. Bevin*, 565 S.W.3d 580, 604 (Ky. 2018) (citing *Am. Ins. Ass'n v. Geary*, 635 S.W.2d 306, 307 (Ky. 1982)). SB 185 § 7 provides, "Whereas [KSU] is in a state of financial exigency that needs to be remedied, an emergency is declared to exist. . . ." Accordingly, SB 185's emergency provision

is valid under Section 55. Appellants present no substantial question regarding this claim.

4. Appellants also spend a single paragraph arguing (at 5) that SB 185 is unconstitutional special legislation because it applies only to Kentucky State. Section 59 begins with a prohibition: "The General Assembly shall not pass local or special acts concerning any of the following subjects, or for any of the following purposes . . . ." Ky. Const. § 59. It then lists 28 "subjects" or "purposes"—none of which Appellants raise here—followed by a catch-all that "[i]n all other cases where a general law can be made applicable, no special law shall be enacted." *Id.* That catch-all means that when none of those 28 "subjects" or "purposes" is implicated, and a "general law" *cannot* "be made applicable," a special law is permissible. Appellants are unlikely to succeed on their claim that SB 185 conflicts with that text.

In determining whether a statute is impermissible special legislation, Kentucky courts now look to whether there "is any articulable natural and distinctive reason for the class distinctions drawn by the legislature." *Coleman v. Jefferson Cnty. Bd. of Educ.*, 733 S.W.3d 302, 310 (Ky. 2025). "Of course, this inquiry must be made with reference to the underlying legislative purposes and objectives." *Id.*

SB 185 readily meets that test. The General Assembly enacted it to address severe mismanagement of Kentucky State that left it in a precarious situation.

No other public postsecondary institution in Kentucky faces the unique circumstances and challenges that Kentucky State faces. The General Assembly assessed those unique circumstances and enacted SB 185 to adequately address a very specific situation. SB 185 could not have been made applicable to all public postsecondary institutions in Kentucky. It contains provisions germane to Kentucky State, not to every other public university in the state. To pass SB 185 on a statewide scale to assist only one university would be to arbitrarily and unnecessarily impose a new law on schools that do not need it. So, even if the General Assembly drew some distinction between universities, it has permissibly done so because the distinction—application to only KSU—is directly tied to the underlying legislative purpose of preserving KSU as a public postsecondary institution.

That's why it's likely that Section 59's catch-all provision must permit legislation like SB 185 targeted at a single school. Appellants failed to show that a law like SB 185 could be made general. A useful analog is the state biennial budget. Sections 27, 28, and 230 combine to give the General Assembly the sole power to make "appropriations . . . by law." That often results in creating and funding specific entities in specific places across the Commonwealth. Consider just a few examples: the Kentucky Center for the Arts, which exists in Jefferson County, KRS 153.420; the Eastern Kentucky Exposition Center, in Pike County, KRS 154.40-020; and the Kentucky Horse Park, in Fayette County, KRS

154.280. At its core, SB 185 is a legislative act creating a governmental entity and directing how it should be operated and funded.

Indeed, legislation affecting only one school is not a new practice, nor has it ever been impermissible special legislation. For example, KRS 164.131 regulates the University of Kentucky's Board of Trustees. Note it does not regulate university boards on a statewide scale. KRS 164.321 regulates the Board of Regents for Eastern Kentucky, Morehead State, Murray State, Western Kentucky, Kentucky State, and Northern Kentucky Universities, as well as the Kentucky Community and Technical College System. These schools have distinctly different needs and roles from the University of Kentucky, thus different legislation regulates them. That does not make the legislation impermissible—it makes it well-tailored to the needs of Kentucky postsecondary universities and students.

The approach Appellants offer would strip the General Assembly of its fundamental power to decide what public universities to create and fund. But they have identified no caselaw wielding Section 59(29) as such a heavy bludgeon to the General Assembly's law-making authority. It's easy to see why: outlawing such fundamental decisions would expand a century-old constitutional provision beyond its plain terms. The better approach is to acknowledge that public-policy decisions like the ones made in SB 185 are, practically speaking, unable to apply

statewide. So Appellants are unlikely to succeed in convincing a court to take the unprecedented step they suggest.

5. Appellants next claim (at 5) that SB 185 is an unconstitutionally arbitrary exercise of legislative power, arguing that the potential for disputed charges rises to a constitutional concern. But their argument is merely another way to package a policy objection to establishing financial guardrails at Kentucky State, and they have made no effort to show that the General Assembly was not rational in making that policy choice. Appellants have not presented a substantial question on the substance of a Section 2 claim, so their argument that SB 185 is arbitrary in violation of Section 2 of the Kentucky Constitution fails.

6. Nor have Appellants presented a substantial question about their two-sentence allegation (at 5–6) that SB 185 violates Section 19 of the Kentucky Constitution. They claim that Section 3(2) of SB 185 violates Section 19 because "it changes the legal consequences of current students' existing accounts, registration, housing, financial-aid, course-enrollment, and degree-pathway relationships." In determining whether legislation violates Section 19, Kentucky courts consider (1) whether the legislation substantially impairs a contractual relationship, (2) if so, whether there is a "significant and legitimate public purpose behind the regulation, such as the remedying of a broad and general social or economic problem," and (3) if the government is a party, whether the impairment is a legitimate exercise of the state's power and based upon

reasonable conditions. *Maze v. Bd. of Dir. for Com. Postsecondary Educ. Prepaid Tuition Tr. Fund*, 559 S.W.3d 354, 369 (Ky. 2018) (citation omitted).

Appellants do not present facts indicating that any contracts with Kentucky State have been impaired. Nor does SB 185 purport to effect such impairment. Even if they had, there is a "significant and legitimate purpose" behind SB 185 to ensure Kentucky State continues to exist as a postsecondary institution. By saving Kentucky State from closure, SB 185 preserves students' ability to contract with Kentucky State. Appellants have failed to state a substantial question as to their claim under Section 19 of the Kentucky Constitution.

***

Appellants have not demonstrated a substantial question on the merits of their claims, so the Court should deny this motion.

IV. The equities do not favor relief.

The Court can also deny Appellants' request because the equities disfavor judicial intervention now. Courts weighing the equities "should consider such things as possible detriment to the public interest, harm to the defendant, and whether the injunction will merely preserve the status quo." *Maupin*, 575 S.W.2d at 699. Put differently, "the trial court must find that an injunction will not be inequitable, *i.e.* will not unduly harm other parties or disserve the public." *Beshear v. Goodwood Brewing Co.*, 635 S.W.3d 788, 795 (Ky. 2021) (citation omitted).

Appellants do not even argue that their proposed relief supports the status quo. That's because the status quo today is that SB 185 is the law. Because it contained an emergency clause, it became the law when the Governor signed it. Ky Const. § 55. And because it is in effect, Kentucky State is in the process of implementing the legislative fixes it enacted. Appellants' requested relief would stop those efforts in their tracks.

When the intervention proposed would interfere with the General Assembly's policy choices, courts should disfavor intervention. "The fact that a statute is enacted constitutes the legislature's implied finding that the public will be harmed if the statute is not enforced." *Cameron v. Beshear*, 628 S.W.3d at 78 (cleaned up) (citation omitted). Indeed, "the public interest strongly favors adherence to" SB 185. *Id.*; *see also id.* at 73 ("[E]quitable considerations support enforcing a legislative body's policy choices."). Kentucky State is meant to meet "the workforce needs of the Commonwealth" and stay true to "the historical mission of an HBCU." KRS 164.7501(1). And SB 185 includes a path for it to meet that mission despite the "state of financial exigency." KRS 164.7501(2). Intermediate relief can only serve to delay those efforts, so Kentucky courts have been right to deny such relief throughout this case.

CONCLUSION

The Court should deny Appellants' RAP 20(C) and RAP 21 motions.

Respectfully submitted by,

RUSSELL COLEMAN
Attorney General of Kentucky

/s/ Jacob M. Abrahamson
MATTHEW F. KUHN (No. 94241)
Solicitor General
JOHN H. HEYBURN (No. 100756)
Principal Deputy Solicitor General
JACOB M. ABRAHAMSON (No. 99238)
Deputy Solicitor General

Office of the Attorney General
1024 Capital Center Drive
Frankfort, Kentucky 40601
(502) 696-5300
Matt.Kuhn@ky.gov
Jack.Heyburn@ky.gov
Jacob.Abrahamson@ky.gov

CERTIFICATE OF SERVICE

I certify that a copy of this response was served on September 4, 2026, by U.S. mail upon James M. Morris, Sharon K. Morris, Tyler J. Morris, Sr., Morris & Morris, P.S.C., 217 North Upper Street, Lexington, Kentucky 40507; Courtney R. Samford, Donald C. Morgan, Seth T. Church, Dinsmore & Shohl LLP, 100 West Main Street, Suite 900, Lexington, Kentucky 40507; S. Travis Mayo, Sam Flynn, Laura C. Tipton, Office of the Governor, 501 High Street, Second Floor, Frankfort, Kentucky 40601; Catherine A. Poole, Bethany Atkins Rice, Office of Legal Services for Revenue, P.O. Box 423, Frankfort, Kentucky 40602; Barbara K. Dickens, Shan J. Dutta, Office of Legal Service, Finance and Administration Cabinet, 200 Mero Street, Fifth Floor, Frankfort, Kentucky 40601.

/s/ Jacob M. Abrahamson
Deputy Solicitor General