

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 305 Session of 2015

INTRODUCED BY COHEN, FRANKEL, BISHOP, BOYLE, V. BROWN, BROWNLEE, CONKLIN, FREEMAN, KINSEY, McNEILL, MURT, O'BRIEN, READSHAW, ROEBUCK, SCHLOSSBERG, SCHWEYER, THOMAS AND McCARTER, FEBRUARY 3, 2015

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 3, 2015

AN ACT

1 Amending the act of July 17, 1961 (P.L.776, No.341), entitled
 2 "An act declaring the policy of the Commonwealth with regard
 3 to discriminatory practices in educational institutions based
 4 upon race, religion, color, ancestry, national origin or sex;
 5 prohibiting such discriminatory practices; providing for
 6 procedure and enforcement; providing for judicial review;
 7 providing for administration by the Pennsylvania Human
 8 Relations Commission in the Department of Labor and Industry;
 9 and defining its functions, powers and duties hereunder.
 10 (Title amended Dec. 29, 1972, P.L.1682, No.360)," further
 11 providing for findings and declaration of policy, for unfair
 12 educational practices, for powers and duties of the
 13 Pennsylvania Human Relations Commission and for construction.

14 The General Assembly of the Commonwealth of Pennsylvania
 15 hereby enacts as follows:

16 Section 1. Sections 2(a), (b) and (c), 4(a)(1), (2) and (3)
 17 and (a.1)(1), (2) and (3), 6(4) and 9(a) and (c) of the act July
 18 17, 1961 (P.L.776, No.341), known as the Pennsylvania Fair
 19 Educational Opportunities Act, amended December 22, 1992
 20 (P.L.1688, No.187), are amended to read:

21 Section 2. Findings and Declaration of Policy.--(a) It is
 22 hereby declared to be the policy of this Commonwealth that all

1 persons shall have equal opportunities for education regardless
2 of their race, religion, color, ancestry, sexual orientation,
3 gender identity or expression, age, national origin, sex,
4 handicap or disability.

5 (b) Equality of educational opportunities requires that
6 students, otherwise qualified, be admitted to certain
7 educational institutions without regard to race, religion,
8 color, ancestry, sexual orientation, gender identity or
9 expression, age, national origin, sex, handicap or disability.

10 (c) It is recognized that there is a fundamental American
11 right for members of various religious faiths to establish and
12 maintain educational institutions exclusively or primarily for
13 students of their own religious faith. In such institutions
14 students, otherwise qualified, should have equal opportunity to
15 attend therein without discrimination because of race, color,
16 ancestry, sexual orientation, gender identity or expression,
17 age, national origin, handicap or disability or, except as
18 provided in section 9, sex.

19 * * *

20 Section 4. Unfair Educational Practices.--(a) Except as
21 provided in section 9, it shall be an unfair educational
22 practice for an educational institution--

23 (1) To exclude or limit, or otherwise discriminate, because
24 of race, religion, color, ancestry, sexual orientation, gender
25 identity or expression, age, national origin, sex, handicap or
26 disability, against any student or students seeking admission as
27 students to such institutions: Provided, That it shall not be
28 unfair educational practice for any educational institution to
29 use criteria other than race, religion, color, ancestry, sexual
30 orientation, gender identity or expression, age, national

1 origin, sex, handicap or disability in the admission of
2 students.

3 (2) To make any written or oral inquiry prior to admission
4 concerning or designed to elicit information as to the race,
5 religion, color, ancestry, sexual orientation, gender identity
6 or expression, age, national origin, sex, handicap or disability
7 of a student seeking admission to such institution.

8 (3) To expel, suspend, punish, deny facilities or otherwise
9 discriminate against any student because of race, religion,
10 color, ancestry, sexual orientation, gender identity or
11 expression, age, national origin, sex, handicap or disability.

12 * * *

13 (a.1) Except as provided in section 9, it shall be an unfair
14 educational practice for a religious educational institution--

15 (1) To exclude or limit, or otherwise discriminate, because
16 of race, color, ancestry, sexual orientation, gender identity or
17 expression, age, national origin, sex, handicap or disability,
18 against any student or students seeking admission as students to
19 such institutions: Provided, That it shall not be unfair
20 educational practice for any religious educational institution
21 to use criteria other than race, color, ancestry, sexual
22 orientation, gender identity or expression, age, national
23 origin, sex, handicap or disability in the admission of
24 students.

25 (2) To make any written or oral inquiry prior to admission
26 concerning or designed to elicit information as to the race,
27 color, ancestry, sexual orientation, gender identity or
28 expression, age, national origin, sex, handicap or disability of
29 a student seeking admission to such institution.

30 (3) To expel, suspend, punish, deny facilities or otherwise

1 discriminate against any student because of race, color,
2 ancestry, sexual orientation, gender identity or expression,
3 age, national origin, sex, handicap or disability.

4 * * *

5 Section 6. Powers and Duties of the Commission.--Without in
6 anywise detracting from, or in derogation or diminution of the
7 duties of the commission as set forth in the act of October 27,
8 1955 (P.L.744), known as the "Pennsylvania Human Relations Act,"
9 said commission is hereby vested with the following powers and
10 duties--

11 * * *

12 (4) To formulate, recommend and carry out a comprehensive
13 program designed to eliminate and prevent prejudice and
14 discrimination in educational institutions, based upon race,
15 religion, color, ancestry, sexual orientation, gender identity
16 or expression, age, national origin, sex, handicap or disability
17 except religious discrimination in religious or denominational
18 institutions and except, as to sex, as provided in section 9.

19 * * *

20 Section 9. Construction.--(a) The provisions of this act
21 shall be construed liberally for the accomplishment of the
22 purposes thereof and any law inconsistent with any provisions
23 hereof shall not apply. Nothing contained in this act shall be
24 deemed to repeal any of the provisions of any law of this
25 Commonwealth relating to discrimination because of race,
26 religion, color, ancestry, sexual orientation, gender identity
27 or expression, age, national origin, sex, handicap or
28 disability. This act shall not be construed to prohibit any
29 educational institution which is neither State-owned nor State-
30 related, nor State-aided, from drawing its enrollment entirely

1 from members of one sex or from the sexes in any proportion, nor
2 shall anything herein contained prevent any educational
3 institution which is State-owned, State-related or State-aided
4 from requiring each applicant for admission to state in the
5 application for admission such applicant's sex to supplement and
6 implement the institution's facts for planning purposes but only
7 for such planning purposes and not for any discriminatory
8 purposes. For the purpose of this section the term "State-owned"
9 institution means the institutions comprising the State System
10 of Higher Education; the term "State-related" institutions means
11 the University of Pittsburgh, Temple University, Lincoln
12 University and the Pennsylvania State University; the term
13 "State-aided" institution means [the Delaware Valley College of
14 Science and Agriculture, Drexel University, Hahnemann
15 University, Thomas Jefferson University, the Medical College of
16 Pennsylvania, University of Pennsylvania, Pennsylvania College
17 of Podiatric Medicine, Pennsylvania College of Optometry,
18 Philadelphia College of Osteopathic Medicine, Philadelphia
19 College of Textiles and Science, and University of the Arts] a
20 post-secondary educational institution that receives a direct
21 Commonwealth appropriation.

22 * * *

23 (c) Except as provided in section 7.1, nothing contained in
24 this act shall be deemed to repeal or supersede any of the
25 provisions of any existing or hereafter adopted municipal
26 ordinance, municipal charter or of any law of this Commonwealth
27 relating to discrimination because of race, color, ancestry,
28 sexual orientation, gender identity or expression, age, sex,
29 religion, national origin or handicap or disability. As to acts
30 declared unlawful by section 4, the procedure provided in

1 section 7.1 shall, when invoked, be exclusive. Any final
2 determination under section 7.1 shall exclude any other action,
3 civil or criminal, based on the same grievance without resorting
4 to the procedure provided in this act, and such complainant may
5 not subsequently resort to the procedure in this act. In the
6 event of a conflict between the interpretation of a provision of
7 this act and the interpretation of a similar provision contained
8 in any municipal ordinance, the interpretation of the provision
9 in this act shall apply to the municipal ordinance.

10 Section 2. This act shall take effect in 60 days.