

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2537 Session of
2014

INTRODUCED BY COHEN, K. BOYLE, V. BROWN, BROWNLEE, CLAY, DAVIS,
FLECK, FRANKEL, KINSEY, McCARTER, McGEEHAN, McNEILL, O'BRIEN,
PAINTER, READSHAW, SCHLOSSBERG AND THOMAS, OCTOBER 6, 2014

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 6, 2014

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 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
23 persons shall have equal opportunities for education regardless

1 of their race, religion, color, ancestry, sexual orientation,
2 gender identity or expression, age, national origin, sex,
3 handicap or disability.

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

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

18 * * *

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

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

1 students.

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

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

11 * * *

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

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

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

29 (3) To expel, suspend, punish, deny facilities or otherwise
30 discriminate against any student because of race, color,

1 ancestry, sexual orientation, gender identity or expression,
2 age, national origin, sex, handicap or disability.

3 * * *

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

10 * * *

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

18 * * *

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

1 shall anything herein contained prevent any educational
2 institution which is State-owned, State-related or State-aided
3 from requiring each applicant for admission to state in the
4 application for admission such applicant's sex to supplement and
5 implement the institution's facts for planning purposes but only
6 for such planning purposes and not for any discriminatory
7 purposes. For the purpose of this section the term "State-owned"
8 institution means the institutions comprising the State System
9 of Higher Education; the term "State-related" institutions means
10 the University of Pittsburgh, Temple University, Lincoln
11 University and the Pennsylvania State University; the term
12 "State-aided" institution means the Delaware Valley College of
13 Science and Agriculture, Drexel University, Hahnemann
14 University, Thomas Jefferson University, the Medical College of
15 Pennsylvania, University of Pennsylvania, Pennsylvania College
16 of Podiatric Medicine, Pennsylvania College of Optometry,
17 Philadelphia College of Osteopathic Medicine, Philadelphia
18 College of Textiles and Science, and University of the Arts.

19 * * *

20 (c) Except as provided in section 7.1, nothing contained in
21 this act shall be deemed to repeal or supersede any of the
22 provisions of any existing or hereafter adopted municipal
23 ordinance, municipal charter or of any law of this Commonwealth
24 relating to discrimination because of race, color, ancestry,
25 sexual orientation, gender identity or expression, age, sex,
26 religion, national origin or handicap or disability. As to acts
27 declared unlawful by section 4, the procedure provided in
28 section 7.1 shall, when invoked, be exclusive. Any final
29 determination under section 7.1 shall exclude any other action,
30 civil or criminal, based on the same grievance without resorting

1 to the procedure provided in this act, and such complainant may
2 not subsequently resort to the procedure in this act. In the
3 event of a conflict between the interpretation of a provision of
4 this act and the interpretation of a similar provision contained
5 in any municipal ordinance, the interpretation of the provision
6 in this act shall apply to the municipal ordinance.

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