

*The General Assembly of Pennsylvania*

*House Bill No. \_\_\_\_\_ Session of 2001*

*Senate Bill No. \_\_\_\_\_ Session of 2001*

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Introduced by:

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Referred to:

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**AN ACT**

1 Amending the act of July 17, 1961, P.L. 776, as amended, entitled the PENNSYLVANIA FAIR  
2 EDUCATIONAL OPPORTUNITIES ACT, declaring the policy of the Commonwealth with regard to  
3 discriminatory practices in educational institutions based upon race, class, religion, color, ancestry, national  
4 origin, sex, sexual orientation, gender identity or expression; prohibiting such discriminatory practices;  
5 providing for procedure and enforcement; providing for judicial review; providing for administration by the  
6 Pennsylvania Human Relations Commission in the Department of Labor and Industry, and defining its  
7 functions, powers and duties hereunder, prohibiting discrimination against persons with handicaps or  
8 disabilities.

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

10 **SECTION 1.** Section 2 ( a ), ( b ), and ( c ); Section 3; Section 4 ( a ) (1), (2), and (3);  
11 Section 4 ( a.1 ) (1), (2), (3) ; Section 6 (4); Section 9 (a) and ( c ) of the Act of July 17, 1961,  
12 P.L. 776) known as the PENNSYLVANIA FAIR EDUCATIONAL OPPORTUNITIES ACT,  
13 are amended to read:

14 **SECTION 2.** Findings and Declaration of Policy.

15 (a) It is hereby declared to be the policy of this Commonwealth that all persons shall have equal  
16 opportunities for education regardless of their race, class, religion, color, ancestry, national origin, sex, sexual  
17 orientation, gender identity or expression, handicap or disability.

18 (b) Equality of educational opportunities requires that students, otherwise qualified, be admitted to

1 certain educational institutions without regard to race, class, religion, color, ancestry, national origin, sex,  
2 sexual orientation, gender identity or expression, handicap or disability.

3 (c) It is recognized that there is a fundamental American right for members of various religious faiths to  
4 establish and maintain educational institutions exclusively or primarily for students of their own  
5 religious faith. In such institutions students, otherwise qualified, should have equal opportunity to attend  
6 therein without discrimination because of race, class, color, ancestry, national origin, sexual orientation,  
7 gender identity or expression, handicap or disability or, except as provided in Section 9, sex.

8 (d) This act shall be deemed an exercise of the police power of the Commonwealth for the protection  
9 of the public welfare, prosperity, health and peace of the people of the Commonwealth.

10 **SECTION 3.** Definitions. As used in this act:

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12. (9) The term sexual orientation shall mean a person's actual or perceived heterosexuality,  
13 homosexuality, or bisexuality. The term gender identity shall mean a person's self-identification  
14 as male or female, distinguished from the person's biological sex. Sex shall be defined as the  
15 gender of a person, as perceived, presumed, or assumed by others, including those who are  
16 changing or who have changed their gender identification.

17 **SECTION 4.** Unfair Educational Practices

18 (a) Except as provided in section 9, it shall be an unfair educational practice for an educational institution

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

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

1 (3) To expel, suspend, punish, deny facilities or otherwise discriminate against any student

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

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

7 (1) To exclude or limit, or otherwise discriminate, because of race, class, color, ancestry, national  
8 origin, sex, sexual orientation, gender identity or expression, handicap or disability, against any student  
9 or students seeking admission as students to such institutions: Provided, That it shall not be unfair  
10 educational practice for any religious educational institution to use criteria other than race, class, color,  
11 ancestry, national origin, sex, sexual orientation, gender identity or expression, handicap or disability in  
12 the admission of students.

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

16 (3) To expel, suspend, punish, deny facilities or otherwise discriminate against any student  
17 because of race, class, color, ancestry, national origin, sex, sexual orientation, gender identity or  
18 expression, handicap or disability.

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20 **SECTION 6.** Powers and Duties of the Commission

21 Without in anywise detracting from, or in derogation or diminution of the duties of the Commission  
22 as set forth in the Act of October 27, 1955, P.L. 744, known as the "Pennsylvania Human Relations  
23 Act," said Commission is hereby vested with the following powers and duties -

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25 (4) To formulate, recommend and carry out a comprehensive program designed to eliminate and  
26 prevent prejudice and discrimination in educational institutions, based upon race, class, religion, color,  
27 ancestry, national origin, sex, sexual orientation, gender identity or expression, handicap or disability

1 except religious discrimination in religious or denominational institutions and except, as to sex, as

2 provided in Section 9.

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4 **SECTION 9.** Construction

5 (a) The provisions of this act shall be construed liberally for the accomplishment of the  
6 purposes thereof and any law inconsistent with any provisions hereof shall not apply.

7 Nothing contained in this act shall be deemed to repeal any of the provisions of any law of  
8 this Commonwealth relating to discrimination because of race, class, religion, color, ancestry,  
9 national origin, sex, sexual orientation, gender identity or expression, handicap or disability.

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11 (c) Except as provided in Section 7.1, nothing contained in this act shall be deemed to  
12 repeal or supersede any of the provisions of any existing or hereafter adopted municipal  
13 ordinance, municipal charter or of any law of this Commonwealth relating to  
14 discrimination because of race, class, color, ancestry, age, sex, sexual orientation, gender  
15 identity or expression, religion, national origin or handicap or disability. As to acts declared unlawful by  
16 Section 4, the procedure provided in Section 7.1 shall, when invoked, be exclusive. Any  
17 final determination under Section 7.1 shall exclude any other action, civil or criminal,  
18 based on the same grievance without resorting to the procedure provided in this act, and  
19 such complainant may not subsequently resort to the procedure in this act. In the event of a  
20 conflict between the interpretation of a provision of this act and the interpretation of a  
21 similar provision contained in any municipal ordinance, the interpretation of the provision  
22 in this act shall apply to the municipal ordinance. ###