

Regulatory Analysis Form (Completed by Promulgating Agency)		INDEPENDENT REGULATORY REVIEW COMMISSION RECEIVED OCT 18 2022 Independent Regulatory Review Commission IRRC Number: 3339	
(All Comments submitted on this regulation will appear on IRRC's website)			
(1) Agency Pennsylvania Human Relations Commission (PHRC)			
(2) Agency Number: 52 Identification Number: 013			
(3) PA Code Cite: 16 Pa. Code §§ 41.201 – 41.207			
(4) Short Title: Protected Classes			
(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Damian DeStefano, Commission Counsel Email: dadestefan@pa.gov Phone: (717) 409-3910 Secondary Contact: Chad Dion Lassiter, Executive Director Email: cllassiter@pa.gov Phone: (215) 965-7713			
(6) Type of Rulemaking (check applicable box): <input type="checkbox"/> Proposed Regulation <input checked="" type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation		<input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General	
(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less) <p>In the proposed rulemaking, the Pennsylvania Human Relations Commission (PHRC) proposed to amend 16 Pa. Code Chapter 41 (preliminary provisions) by creating Subchapter D of Chapter 41. Subchapter D defines terms used in the Pennsylvania Human Relations Act (PHRA) and the Pennsylvania Fair Educational Opportunities Act (PFEOA). The terms being defined include sex, religious creed, and race.</p> <p>The final-form rulemaking also creates Subchapter D of Chapter 41 and maintains the same definitions for sex, religious creed, and race as contained in the proposed rulemaking.</p>			
(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation. <p>The authority for these regulations is the "Pennsylvania Human Relations Act" (PHRA), the Act of 1955, P.L. 744, No. 222, as amended June 25, 1997 by Act 34 of 1997 (43 P.S. § 957(d); 43 P.S. § 959(g)).</p>			

The authority for these regulations is also the “Pennsylvania Fair Educational Opportunities Act” (PFEOA), the Act of July 17, 1961, P.L. 776, *as amended* December 22, 1992 by Act 187 of 1992 (24 P.S. § 5006(6); 24 P.S. § 5007).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The proposed regulations are not mandated by any federal or state law, court order, or federal regulations, but are expressly authorized by the statutory authority referenced in (8) above.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The PHRA and the PFEOA grant the PHRC, as an independent agency, the power and duty to promulgate regulations to effectuate the provisions of the PHRA and the PFEOA. The PHRA and the PFEOA also require the PHRC to “establish rules of practice to govern, expedite and effectuate” the procedures outlined in the PHRA and the PFEOA and the PHRC’s actions under the PHRA and the PFEOA. 43 P.S. § 959(g). The PHRC recognizes that certain terms are not defined in the PHRA and the PFEOA. Given the lack of clarity as to the interpretation of the PHRA and the PFEOA, because certain terms are not explained, the PHRC recognizes a compelling public interest in clarifying their meaning.

All citizens of the Commonwealth of Pennsylvania are the primary beneficiaries of the proposed regulation. The proposed regulation is intended to define terms used in the PHRA and the PFEOA so that individuals, employees, students, and members of the public understand the protections provided by the PHRA and the PFEOA. By defining sex, religious creed, and race, individuals who are discriminated against will better understand how they are protected by these laws. These definitions will also provide employers, housing providers, public accommodations, schools, and all persons required to comply with the PHRA and the PFEOA with a better understanding of the requirements of the PHRA and the PFEOA and the way they must comply with these laws. The proposed regulation eliminates any confusion as to the way the terms sex, religious creed, or race may be interpreted when a complaint of discrimination is filed with the PHRC.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No provisions are more stringent than federal standards.

The proposed regulation provides a comprehensive definition pertaining to the protected class of sex, including pregnancy, childbirth, breastfeeding, sex assigned at birth, gender identity or expression, affectional or sexual orientation, and differences in sex development.

Title VII of the Civil Rights Act of 1964, 42 U.S.C.S. §§ 2000e – 2000e17 (hereinafter “Title VII”), provides a definition for sex which is consistent with part of the proposed regulation. Specifically, Title VII states that “[t]he terms ‘because of sex’ or ‘on the basis of sex’ include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes.” 42 U.S.C.S. § 2000e(k). Additionally, federal courts interpreting the term sex as used in Title VII and other comparable federal statutes have interpreted

the term sex in a manner consistent with the proposed regulation. In Bostock v. Clayton County, 140 S. Ct. 1731 (2020), the United States Supreme Court explained that discriminating against an individual for being homosexual or transgender is discrimination based on one's sex, as proscribed by Title VII. In Grimm v. Gloucester County School Board, 972 F.3d 586 (4th Cir. 2020), the Court applied the Bostock rationale when interpreting the term sex as used in Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a). The Court found that the term sex included protection based on one's gender identity. In addition, Pennsylvania state courts that have had the opportunity to interpret the PHRA held that the term sex includes pregnancy. See Anderson v. Upper Bucks County Area Vocational Technical School, 373 A.2d 126, 130 (Pa. Commw. Ct. 1976). Thus, with regard to sex discrimination, the proposed regulation is consistent with the protections provided by comparable federal statutes.

With regard to race discrimination, the proposed regulation provides a comprehensive definition for the term race, including ancestry, national origin, ethnic characteristics, interracial marriage or association, traits historically associated with race, persons of Hispanic national origin or ancestry, and persons of any other national origin or ancestry as specified in a PHRC complaint. While comparable federal statutes and regulations do not provide a comprehensive definition for the term race, federal courts interpreting the term race as used in Title VII and other comparable federal statutes have interpreted the term race in a manner consistent with part of the proposed regulation. In St. Francis College v. Al-Khazraji, 481 U.S. 604 (1987), the United States Supreme Court explained that the term race, with respect to claims of discrimination brought under 42 U.S.C. § 1981, includes protections based on one's ancestry or ethnic characteristics. St. Francis College, 481 U.S. at 613. In Parr v. Woodmen of the World Life Insurance Co., 791 F.2d 888, 892 (11th Cir. 1986), the Court explained that the term race includes discrimination based upon interracial marriage or association. Additionally, federal regulations for Title VII specify that the term race includes persons of Hispanic national origin or ancestry, including persons of Mexican, Puerto Rican, Central or South American, or other Spanish origin or culture. 29 CFR 1607.4(B). Thus, with regard to race discrimination, the proposed regulation is consistent with the protections provided by comparable federal statutes.

Additionally, the proposed regulation explains that the term race includes traits historically associated with race. The Commission recognizes that this definition of race has not been adopted by the few federal courts that have had the opportunity to consider this issue. See e.g., EEOC v. Catastrophe Management Solutions, 852 F.3d 1018, 1032-1033 (11th Cir. 2016) (holding that Title VII's protections against race discrimination do not extend to hairstyles culturally associated with race). However, the Commission has considered this issue and determined that the term race, as used in the PHRA and the PFEOA, should be interpreted as including hairstyles culturally associated with race. Given the Commission's understanding of the term race and the Commission's power and duty to promulgate regulations to effectuate the provisions of the PHRA and the PFEOA, the Commission defines race as including traits historically associated with race, including hair texture and protective hairstyles. This definition is consistent with other state anti-discrimination laws, including laws in New Jersey, New York, Connecticut, and California.

With regard to religious creed discrimination, the proposed regulation provides a comprehensive definition for the term religious creed which is consistent with the definition of religion in Title VII. Specifically, the proposed regulation explains that religious creed includes all aspects of religious observance and practice, as well as belief. This definition is consistent with the definition in Title VII which explains that "[t]he term 'religion' includes all aspects of religious observance and practice, as well as belief" 42 U.S.C.S. 2000e(j). Thus, with regard to religious creed discrimination, the proposed regulation is consistent with the protections provided by comparable federal statutes.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The proposed regulation for race discrimination is consistent with the definition of race as articulated in anti-discrimination laws in other states, including New Jersey, New York, Connecticut, and California. Thus, the proposed regulation provides the citizens of the Commonwealth of Pennsylvania with protections similar to the protections provided by anti-discrimination laws in other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed regulation will not affect any other regulations of the promulgating agency or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The PHRC consulted with stakeholders in the LGBTQ community regarding the proposed regulation for sex discrimination. The PHRC incorporated the feedback received into the language of the proposed regulation. The PHRC also consulted with the Governor's Office regarding the proposed regulation for sex discrimination and incorporated the feedback received into the proposed regulation.

The PHRC also consulted with the New York City Commission on Human Rights regarding the proposed regulation for race discrimination. The PHRC received information from the New York City Commission regarding their definition of race and incorporated that information into the proposed regulation.

The PHRC also held three listening sessions in Philadelphia, Harrisburg, and Pittsburgh. These sessions were held in August and September 2022. Many organizations were invited to attend and provide feedback to the Commission regarding the proposed regulation. The list of organizations who were invited to attend is included with the Commission's Comment and Response document.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

This regulation will affect employers, housing accommodation and commercial property entities, public accommodations, and educational institutions.

PHRC is unable to quantify the number of employers in Pennsylvania covered by the PHRA, which requires employment of four or more individuals. However, the number of employers covered by the PHRA will not be changed by the application of this regulation.

Housing providers such as landlords, property management companies, realtors, and community associations, are covered by the PHRA. PHRC is also unable to quantify the number of entities affected. Nevertheless, the number of entities affected will not be changed by the application of this regulation.

Entities that solicit the patronage of the general public, but are not by their nature distinctly private, are covered public accommodations pursuant to the definition of the PHRA. PHRC is also unable to quantify the number of public accommodations affected. Nevertheless, the number of entities affected will not be changed by the application of this regulation.

All persons already covered by the PHRA and PFE OA will be affected by the proposed regulations. However, the effect will be minimal, if not positive. The proposed regulation defines terms used in interpreting the PHRA and the PFE OA and clarifies some of the protections afforded by the law with respect to discrimination because of sex, religious creed, and race. Entities covered by the PHRA and the PFE OA and the individuals protected by these laws will have a greater understanding of how they must comply and the protections these laws afford. Regulated entities may require additional training, however, such training is already necessary to ensure compliance with the PHRA and parallel federal protections. In fact, clarifying that PHRA provisions should be interpreted similarly to parallel federal statutes would simplify training and enhance understanding of the requisite laws.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

This regulation will affect employers, housing accommodation and commercial property entities, public accommodations, and educational institutions. It is not possible for the PHRC to predict the number of entities affected. However, this regulation does not increase the quantity of entities covered by the PHRA.

(17) Identify the financial, economic, and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The PHRC anticipates no adverse financial, economic, or social impact on individuals, small businesses and labor communities or other public and private organizations. Regulated entities may require additional training, however, such training is already necessary to ensure compliance with the PHRA and parallel federal protections.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

PHRC is tasked with dealing comprehensively with the fundamental problem of eliminating discrimination. Any de minimis cost associated with implementing these regulations are clearly outweighed by its benefits.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed regulations are expected to be cost neutral for the regulated community. No new legal, accounting, or consulting procedures are required by the proposed regulations.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no fiscal impact to the local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no fiscal impact to the state government.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No legal, accounting, or consulting procedures or additional reporting, recordkeeping, or other paperwork is required to implement the proposed regulations.

(22a) Are forms required for implementation of the regulation?

No forms are required for the implementation of the proposed regulations.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Not applicable.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0

Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

There are no programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A	N/A	N/A	N/A	N/A

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses covered by the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

- (a) **Small businesses which employ four (4) or more individuals or independent contractors are covered by the PHRA and the proposed regulation. Small businesses which are open to, accept, or solicit the patronage of the general public and are public accommodations as defined by the PHRA are also covered by the proposed regulation. Small businesses which are housing providers as defined by the PHRA are also covered by the proposed regulation. The PHRC does not have access to the necessary data to estimate the number of employers, public accommodations, or housing providers that are small businesses. There are more than 2.4 million companies authorized to do business in Pennsylvania. The PHRA also**

covers housing providers and small businesses that are not required to be registered with the Pennsylvania Department of State.

- (b) There are no projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.**
- (c) The proposed regulation does not have an adverse impact on small businesses.**
- (d) There are no less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.**

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The proposed regulation defines sex, religious creed, and race. This regulation is proposed to clarify which individuals belong to these protected classes. Prior to the proposed regulation, those terms were not explained in the PHRA, the PFEOA, or the PHRC's existing regulations.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No other regulatory provisions were considered. The PHRA, the PFEOA, and the PHRC's existing regulations do not define sex, religious creed, or race. The purpose of the proposed regulation is to provide consistency and uniformity.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

As discussed in item 24, *supra*, PHRC anticipates no adverse impact on small businesses. The proposed regulation provides definitions for terms used in the PHRA and the PFEOA. The definitions provide greater clarity and understanding for discriminatory practices proscribed by the PHRA and the PFEOA but do not create any new burdens on small businesses. Therefore, no regulatory flexibility analysis was conducted.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable

data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Not applicable because data was not the basis for the proposed regulation.

(29) Include a schedule for review of the regulation including:

- | | |
|---|---|
| A. The length of the public comment period: | <u>30 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>Not applicable</u> |
| C. The expected date of delivery of the final-form regulation: | <u>4th quarter 2022</u> |
| D. The expected effective date of the final-form regulation: | <u>Within 60 days of publication of the final-form regulation in the Pennsylvania Bulletin</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Within 60 days of publication of the final-form regulation in the Pennsylvania Bulletin</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>Not applicable</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The proposed regulation will be reviewed periodically as appropriate to ensure continued effectiveness. Such review will occur when the PHRC prepares an annual report each year, as required by Section 7(k) of the PHRA, 43 P.S. § 957(k). Section 7(k) requires the PHRC to “describ[e] in detail the types of complaints received, the investigations, status of cases, Commission action which has been taken, how many were found to have probable cause, how many were resolved by public hearing and the length of time from initial complaint to final Commission resolution.” Section 7(k) also requires the PHRC to provide “recommendations for such further legislation, concerning abuses and discrimination because of race, color, familial status, religious creed, ancestry, national origin, age, sex, handicap or disability or the use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals.”

CDL-1


**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

RECEIVED

OCT 19 2022

Independent Regulatory
Review Commission

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Pennsylvania Human Relations Commission</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>52-13</u></p> <p>DATE OF ADOPTION: <u>10/6/2022</u></p> <p>BY: <u></u></p> <p>TITLE <u>Chairperson, M. Joel Bolstein</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>/s/ Samuel Rivera</u> Chief Counsel</p> <p>10/6/2022 DATE OF APPROVAL</p> <p>(Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
---	--	---

FINAL RULEMAKING
PENNSYLVANIA HUMAN RELATIONS COMMISSION
TITLE 16. COMMUNITY AFFAIRS
PART II. GOVERNOR'S OFFICE
Subpart A. HUMAN RELATIONS COMMISSION
CHAPTER 41. PRELIMINARY PROVISIONS
Subchapter D. PROTECTED CLASSES

The Pennsylvania Human Relations Commission ("Commission") promulgates these final Regulations in 16 Pa. Code Chapter 41, *Preliminary Provisions*, by creating a new subchapter, Subchapter D. *Protected Classes*. The Commission is promulgating these amendments under the authority of the "Pennsylvania Human Relations Act" ("PHRA"), the Act of 1955, P.L. 744, No. 222, *as amended* June 25, 1997 by Act 34 of 1997 (43 P.S. §957(d); 43 P.S. § 959(g)) and the "Pennsylvania Fair Educational Opportunities Act" ("PFEOA"), the Act of July 17, 1961, P.L. 776, *as amended* December 22, 1992 by Act 187 of 1992 (24 P.S. §5006(6); 24 P.S. §5007). The final regulations are set forth in Annex A.

Purpose of the Regulation

The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The PHRA specifically grants authority to the Commission to adopt, promulgate, amend and rescind rules and regulations to effectuate the policies and provisions of the PHRA and to formulate policies to effectuate the purposes of the PHRA. 43 P.S. §957(d), (e). The Pennsylvania Supreme Court, in PHRC v. Uniontown Area Sch. Dist., 313 A.2d 156 (Pa. 1973), explained that Sections 957(d) and (e) of the PHRA indicate the Legislature's intent to grant PHRC the authority issue legislative rules that define terms and interpret the provisions of the

PHRA. The Supreme Court noted that the power of an agency to promulgate legislative rules is so great that such rules can only be reversed by courts when “[w]hat has been ordered . . . appear[s] to be ‘so entirely at odds with fundamental principles . . . as to be the expression of a whim rather than an exercise of judgment.’” *Id.* at 169 *quoting American Telephone & Telegraph Co. v. United States*, 299 U.S. 232, 236-37 (1936). The final-form regulation creates a new subchapter, Subchapter D, to define the terms “sex,” “race,” and “religious creed,” as used in the PHRA and the PFOEA. The PHRA, the PFOEA, and the Commission’s existing regulations provide no definition and no guidance for these terms.

The new Subchapter D contains seven (7) sections. Section 41.201 enumerates the purpose of the Regulation. The Regulation ensures that all unlawful discriminatory practices and all unfair educational practices proscribed by the PHRA and the PFOEA are interpreted and applied consistently. Section 41.202 provides that the Regulation is to be liberally construed to accomplish the purposes of the PHRA and the PFOEA. Section 41.203 provides that the Regulation will be enforced in accordance with the PHRA, the PFOEA, and the existing regulations of the Commission. The Regulation ensures that all unlawful discriminatory practices and all unfair educational practices proscribed by the PHRA and the PFOEA are interpreted and applied consistently. It is essential that all investigations of discrimination conducted by the Commission are investigated consistently with this Rulemaking. Section 41.204 provides definitions for terms used in Subchapter D. Section 41.205 provides the manner in which the term religious creed, as used in the PHRA and the PFOEA, should be interpreted. Section 41.206 provides the manner in which the term sex, as used in the PHRA and the PFOEA, should be interpreted. Section 41.207

provides the manner in which the term race, as used in the PHRA and the PFEOA, should be interpreted.

Religious Creed Discrimination

The final Rulemaking provides clarity to ensure that the term religious creed, as used throughout the PHRA and the PFEOA – including in the provisions prohibiting discrimination in employment, housing, commercial property, public accommodations, and educational institutions – is interpreted consistently. The PHRA prohibits discrimination on the basis of religious creed in employment, housing, commercial property, public accommodations, and educational institutions. The PFEOA prohibits discrimination on the basis of religious creed in certain educational institutions.

In interpreting the PHRA, Pennsylvania courts have recognized that claims of religious creed discrimination may be brought under the PHRA as claims of disparate treatment, failure to accommodate a religious creed, and harassment. Brown Transport Corp. v. PHRC, 578 A.2d 555 (Pa. Commw. Ct. 1990) (overruled on other grounds in Hoy v. Angelone, 554 Pa. 134, 720 A.2d 745) (Pa. 1998); *see also* Winn v. Trans World Airlines, Inc., 484 A.2d 392, 400 n.9 (Pa. 1984). However, there is minimal case law in Pennsylvania which explains the manner in which the term religious creed, as used in the PHRA and the PFEOA, should be interpreted. Similar to the PHRA’s protections regarding religious creed discrimination in employment, Title VII of the Civil Rights Act of 1964, 42 U.S.C.S. §§ 2000e – 2000e17 (hereinafter “Title VII”), declares that it is “an unlawful employment practice for an employer to . . . otherwise discriminate against any individual . . . because of such individual’s . . . religion.” 42 U.S.C.S. 2000e-2(a)(1). In Knepp v. Colonial Metals Co., 2005 Pa. Dist. & Cnty. Dec. LEXIS 3, *15-17 (Court of Common Pleas of

Lancaster County, PA July 6, 2005), the Court relied upon federal court decisions interpreting Title VII to determine whether the plaintiff's asserted religious beliefs were sufficient to allege a claim of religious creed discrimination under the PHRA. Likewise, Pennsylvania courts have explained that although they are not bound by federal court decisions interpreting federal statutes similar to the PHRA, in interpreting the PHRA where no applicable state law exists, "it is appropriate to look to federal decisions involving similar federal statutes for guidance." McGlawn v. PHRC, 891 A.2d 757, 768 (Pa. Commw. Ct. 2006) *quoting* City of Pittsburgh Commission on Human Relations v. DeFelice, 782 A.2d 586, 592, n.8 (Pa. Commw. Ct. 2001); *see also* General Electric Corp. v. PHRC, 469 Pa. 292, 303, 365 A.2d 649, 654-655 (Pa. 1976).

Thus, the Commission turned to Title VII for guidance regarding the definition of religious creed, as Pennsylvania courts often do when interpreting the PHRA and the PFEOA. Title VII explains that "[t]he term 'religion' includes all aspects of religious observance and practice, as well as belief" 42 U.S.C.S. 2000e(j). The regulations adopted by the Equal Employment Opportunity Commission ("EEOC") explain that "religious practices include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views." 29 CFR § 1605.1. The EEOC regulations further provide that "the fact that no religious group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee or prospective employee." 29 CFR § 1605.1. The EEOC regulations also provide that "the phrase 'religious practice' as used in these Guidelines includes both religious observances and practices." 29 CFR § 1605.1. Due to the lack of judicial interpretation of religious creed under the PHRA, the Commission promulgated provision Section 41.205. The Commission

recognizes the “de minimis” standard regarding religious creed accommodations without undue hardship to an employer. This standard is consistent with the standard under Title VII¹.

The Commission also recognizes that persons who are covered by the provisions of the PHRA and the PFEOA may believe that enforcement of the PHRA or the PFEOA against them would violate their free exercise of religion. Thus, if a person covered by the provisions of the PHRA or the PFEOA believes that enforcement of the PHRA or the PFEOA against them would violate their free exercise of religion, those persons may avail themselves of the protections in the Pennsylvania’s Religious Freedom Protection Act (“RFPA”), 71 P.S. §§ 2401-2407, by following the procedures outlined in the RFPA. The RFPA provides the mechanism for asserting such claims.

Sex Discrimination

The final Rulemaking provides clarity to ensure that the term sex, as used throughout the PHRA and the PFEOA – including in the provisions prohibiting discrimination in employment, housing, commercial property, public accommodations, and educational institutions – is interpreted consistently. The PHRA prohibits discrimination on the basis of sex in employment, housing, commercial property, public accommodations, and educational institutions. The PFEOA prohibits discrimination on the basis of sex in certain educational institutions.

Similar to the PHRA’s protections regarding sex discrimination in employment, Title VII declares that it is “an unlawful employment practice for an employer to . . . otherwise discriminate against any individual . . . because of such individual’s . . . sex.” 42 U.S.C.S. § 2000e-2(a)(1). Additionally, similar to the protections regarding sex discrimination in educational institutions

¹ § 1605.2 Reasonable accommodation without undue hardship as required by Section 701(j) of title VII of the Civil Rights Act of 1964.

provided by the PHRA and the PFEOA, Title IX of the Civil Rights Act of 1972, 20 U.S.C.S. § 1681 (hereinafter “Title IX”), prohibits discrimination on the basis of sex in educational programs receiving federal financial assistance. Thus, while the PHRA and the PFEOA do not define the term sex, the Commission’s Rulemaking provides clarity regarding the definition of sex which is consistent with the manner in which the term sex, as used in Title VII and Title IX, has been interpreted by federal courts. The Commission’s Rulemaking is also consistent with the manner in which the term sex has been interpreted by state courts. The Commission previously issued guidance regarding the manner in which the term sex should be interpreted and the Commission is incorporating that guidance into the Rulemaking.

Title VII states that “[t]he terms ‘because of sex’ or ‘on the basis of sex’ include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes.” 42 U.S.C.S. § 2000e(k). The Regulation is also consistent with this Federal definition. The Regulation is also consistent with the manner in which the term sex has been interpreted by Pennsylvania courts. Pennsylvania courts have explained that “pregnancy based discrimination constitutes sex discrimination proscribed by Section 5(a) of the PHRA.” Anderson v. Upper Bucks County Area Vocational Technical School, 373 A.2d 126, 130 (Pa. Commw. Ct. 1976).

The Commission’s Rulemaking explains that the term sex includes sex assigned at birth, gender identity/expression, differences in sex development, and affectional/sexual orientation. This portion of the Rulemaking is consistent with the manner in which the term sex, as used in Title VII and Title IX, has been interpreted by federal courts, including the United States Supreme

Court. Courts are now broadly defining the term sex under Title IX, with respect to claims of sex discrimination in educational programs. Courts are also broadly defining the term sex under the PHRA, with respect to claims of sex discrimination in employment. Courts are also broadly defining the term sex with respect to claims of employment discrimination brought under the Equal Protection Clause. This Regulation ensures that the term sex, as used in the PHRA and the PFEOA, is interpreted consistently with the manner in which the term sex has been interpreted by state and federal courts. The Commission's Rulemaking also ensures that the term sex, as used throughout the PHRA and the PFEOA – including in the provisions prohibiting discrimination in employment, housing, commercial property, public accommodations, and educational institutions – is interpreted consistently.

Race Discrimination

The final Rulemaking provides clarity to ensure that the term race, as used throughout the PHRA and the PFEOA – including in the provisions prohibiting discrimination in employment, housing, commercial property, public accommodations, and educational institutions – is interpreted consistently. The PHRA prohibits discrimination on the basis of race in employment, housing, commercial property, public accommodations, and educational institutions. The PFEOA prohibits discrimination on the basis of race in certain educational institutions. Similar to the PHRA's protections regarding race discrimination in employment, Title VII declares that it is "an unlawful employment practice for an employer to . . . otherwise discriminate against any individual . . . because of such individual's race." 42 U.S.C.S. § 2000e-2(a)(1).

Although Pennsylvania courts have addressed claims of race discrimination under the PHRA, they have not yet had an opportunity to address the manner in which the term race, as used

in the PHRA and the PFEOA, should be interpreted. Thus, the Commission turned to Title VII for guidance regarding the definition of race, as Pennsylvania courts often do when interpreting the PHRA and the PFEOA. The Commission's Rulemaking explains that the term race includes ancestry, national origin, and ethnic characteristics. The Rulemaking also explains that the term race includes interracial marriage or association. This explanation for race discrimination is consistent with the manner in which the term race has been interpreted by federal courts interpreting similar federal statutes. Additionally, the Rulemaking specifies that race includes persons of Hispanic national origin or ancestry, including persons of Mexican, Puerto Rican, Central or South American, or other Spanish origin or culture. This explanation is consistent with federal regulations relating to the term race. *See* 29 CFR 1607.4(B) (explaining Hispanic includes persons of Mexican, Puerto Rican, Central or South American, or other Spanish origin or culture). Thus, the Commission's Rulemaking provides clarity that the term race, as used in the PHRA and the PFEOA, should be interpreted consistent with the interpretation of the term race by federal courts interpreting similar federal statutes. The Commission's Rulemaking also ensures that the term race, as used throughout the PHRA and the PFEOA – including in the provisions prohibiting discrimination in employment, housing, commercial property, public accommodations, and educational institutions – is interpreted consistently.

The PHRA and the PFEOA, passed by the Legislature, explicitly authorize the Commission to “adopt, promulgate, amend and rescind rules and regulations to effectuate the policies and provisions of the” PHRA and the PFEOA. 43 P.S. § 957(d) and (e); 24 P.S. § 5006(6). The PHRA and the PFEOA also require the Commission to “establish rules of practice to govern, expedite

and effectuate the foregoing procedure and its own actions thereunder.” 43 P.S. § 959(g); 24 P.S. § 5007. The PHRA and the PFEOA specifically prohibit discrimination on the basis of religious creed, sex, and race. However, neither statute provides a definition for those terms nor do the Commission’s existing regulations provide a definition for those terms. The Commission promulgates this Rulemaking consistent with its authority at 43 P.S. § 957(d) and 24 P.S. § 5006(6) to explain the manner in which the terms sex, race, and religious creed, as used in the PHRA and the PFEOA, should be interpreted.

The Commission’s Rulemaking provides clarity and consistency regarding how the terms religious creed, sex, and race, as used throughout the PHRA and the PFEOA – including in the provisions prohibiting discrimination in employment, housing, commercial property, public accommodations, and educational institutions – should be interpreted. The Commission recognizes that the PHRA has different provisions prohibiting discrimination in employment, housing accommodations and commercial property, and public accommodations, including educational institutions. The Commission also recognizes that the PFEOA has its own provisions prohibiting discrimination in certain educational institutions. However, every provision regarding discrimination in employment, housing accommodations and commercial property, and public accommodations, including educational institutions, prohibit discrimination because of religious creed, sex, and race. The terms “religious creed,” “sex,” and “race” should not have different interpretations between the acts, or among differing sections of each act. Given that the Commission enforces two statutes which prohibit discrimination in employment, housing accommodations and commercial property, and public accommodations, including educational institutions, because of religious creed, sex, and race, the Commission’s Regulation provides the

guidance necessary to ensure that the terms religious creed, sex, and race are interpreted consistently throughout the PHRA and the PFEOA.

Fiscal Impact

There is no fiscal impact.

Effective Date

This Rulemaking will be effective sixty (60) days after publication of the final-form regulation in the *Pennsylvania Bulletin*.



Comment and Response Document

For Proposed Regulation #52-13, IRRC # 3339 – 16 Pa. Code §§ 41.201 – 41.207 – Protected Classes

The Pennsylvania Human Relations Commission (“PHRC”) proposes to amend 16 Pa. Code Chapter 41, by creating a new subchapter, Subchapter D, to define terms “sex”, “religious creed”, and “race” referenced in the Pennsylvania Human Relations Act (“PHRA”) and the Pennsylvania Fair Educational Opportunities Act (“PFEOA”).

October 2022

**Pennsylvania Human Relations Commission
333 Market Street, 8th Floor
Harrisburg, PA 17101
717-787-4410
www.phrc.pa.gov**

Introduction

The Pennsylvania Human Relations Commission published proposed Regulation #52-13 (IRRC #3339) in the April 9, 2022 *Pennsylvania Bulletin*. The Regulation proposes to amend 16 Pa. Code Chapter 41, Subchapter D, to define the terms “sex,” “religious creed,” and “race” referenced in the Pennsylvania Human Relations Act (“PHRA”) and the Pennsylvania Fair Educational Opportunities Act (“PFEOA”). The public comment period on proposed Regulation #52-13 concluded on May 10, 2022.

This Comment and Response document summarizes the 77 comments submitted to the Commission by individuals and organizations during the public comment period and expresses the Commission’s responses to those comments. A list of commenters is provided in the Contents.

The Proposed Regulation does not indicate any prejudgment on the part of the Commission regarding any of the myriad of scenarios that could result in complaints filed under the PHRA or PFEOA. Regulation #52-13 clarifies terms in that the Commission is open to all arguments from all respective parties of the issues being adjudicated. Any complaints filed as a result of this Regulation being issued will be handled on a case-by-case basis, the same as any other complaint filed with the Commission.

Abbreviations and Acronyms

Commission	Pennsylvania Human Relations Commission
PFEOA	Pennsylvania Fair Educational Opportunities Act
PHRA	Pennsylvania Human Relations Act
RFPA	Pennsylvania’s Religious Freedom Protection Act

Contents

A. IRRC Comments

B. Legislative Comments

1. Senator Tartaglione
2. Senator Scott F. Martin
3. Representative Seth Grove
4. Representative Paul Schemel
5. Representative Brian Smith
6. Representative Barbara Gleim
7. Representative Curt Sonney
8. Representative Dan Frankel

C. Public Comments from Organizations

1. Independence Law Center
2. Pennsylvania Catholic Conference
3. Pennsylvania Chamber of Business and Industry
4. Erie Gay News
5. Trans Advocacy Pennsylvania (TAP)
6. Pennsylvania Commission on LGBTQ Affairs
7. Rainbow Rose Center
8. Campaign for Our Shared Future (COSF)
9. Housing Equality Center of Pennsylvania
10. Community Justice Project
11. Anti-Defamation League
12. Women's Law Project

D. Public Comments from Members of the Public

1. William Torbeck
2. Barb Young
3. Adam Gallek
4. Ann Novajovsky
5. Beth Shank
6. Bryan Dittlow
7. Carl Helman
8. Caroline Lewis
9. Dara Bourassa
10. Dave and Heather Helmuth
11. David McDougal
12. Tom Beggs
13. Jimmy Wade
14. Denise R. Weiss
15. Ed Miller
16. Erin Tuke
17. Christopher Smith (Form Letter A 1782-1949; 1-948; 949-1454)
18. Ashley Fortier (Form Letter B 14-61; B 8-13)
19. Gail Hull
20. Janet Haiedet
21. John Soden

22. Kenneth Boland
23. Illya S.
24. Barb Young
25. Susan M. Haskins
26. Frederick Salek
27. Beth Shank
28. Vicki Zurbrick
29. Sara Ferah
30. Susan Nirella
31. M. Jansen
32. Nancy Stiffler
33. Patricia Waters
34. Mel Horst
35. Nancy T. (Nancy Thomas)
36. Ken Forbes
37. Jon B. (Marian Barnett)
38. Ronna Wasik
39. Sara Morton
40. Linda Wilson
41. Lisa Shoemaker
42. Lisa Costigan
43. Michael Hellman
44. Virginia Fitzsimmons
45. M.V.
46. Susan G. Mowrer
47. Patrice Smith
48. Linda Dukes
49. Sandra Farcht (Form Letter D 748-767)
50. Howard Robin
51. Gail Patterson
52. Linda Campanella
53. Jack Harbaugh
54. Dennis and Lois Steffy
55. Kevin Seeker
56. Jeffrey Graver (Form Letter C 1-242)
57. David and Tonya Stoner

A. IRRC COMMENTS

Comment 1: Statutory Authority; and Legislative Intent.

IRRC commented "it is clear that there are divergent views regarding this proposal. Most significant are whether the PHRC has the authority to define the aforementioned terms in such a way that arguably creates new substantive rights not provided for in the PHRA and PFOA, and whether such definitions conform to the intent of the General Assembly. We will review the PHRC's response to each of the commentators in our determination of whether the regulation is in the public interest."

Response:

PHRC's response to the commentators is below. As PHRC explains below, Sections 957(d) and (e) of the PHRA allow PHRC to promulgate regulations to effectuate the provisions of the PHRA. PHRC proposed these regulations to effectuate the provisions of the PHRA – race, religious creed, and sex. The Pennsylvania Supreme Court, in PHRC v. Uniontown Area Sch. Dist., 313 A.2d 156 (Pa. 1973), explained that Sections 957(d) and (e) of the PHRA provide PHRC with the authority to define terms interpreting the provisions of the PHRA. The Supreme Court noted that the power of an agency to promulgate legislative rules is so great that such rules can only be reversed by courts when "[w]hat has been ordered . . . appear[s] to be 'so entirely at odds with fundamental principles . . . as to be the expression of a whim rather than an exercise of judgment.'" *Id.* at 169 *quoting American Telephone & Telegraph Co. v. United States*, 299 U.S. 232, 236-37 (1936). The Court further explained the intent of the Legislature was clear – the intent was for PHRC to have such authority. Uniontown, 313 A.2d at 170. The Court further explained that because Section 7(k) of the PHRA provides the Legislature with a mechanism to pass upon the policies of the Commission, and the Legislature failed to do so, PHRC had the authority to act. Uniontown, 313 A.2d at 170. Similar to the situation in Uniontown, PHRC provided the Legislature with information about their policies and the ability to pass upon their policies in their 2018, 2019, and 2020 annual reports. Despite the ability of the Legislature to pass upon the policies of the Commission, the Legislature has not done so. Given the lack of action on the part of the Legislature, the Commission's power and duty to promulgate regulations and formulate policies remains in effect.

Comment 2: Whether the regulation represents a policy decision of such a substantial nature that it requires legislative review.

IRRC commented "we ask the PHRC to explain why it is appropriate to adopt these provisions through the rulemaking process instead of the legislative process."

Response:

The Legislature did not retain sole authority to promulgate policies relevant to the PHRA. Rather, the Legislature delegated to PHRC the authority to enforce the PHRA, to develop policies, and to promulgate regulations interpreting the provisions of the PHRA. The proposed and final-form regulations are consistent with the statutory authority granted to PHRC. While the Legislature retains the authority to pass upon the policies of PHRC,

and the Legislature was made aware of PHRC's policies in PHRC's 2018, 2019, and 2020 annual reports, the Legislature has not done so. Thus, if the Legislature intended to limit or curtail PHRC's authority with respect to these policies and the proposed regulation, they could have done so. Absent any action by the Legislature, PHRC retains the authority to promulgate regulations, as articulated in Sections 957(d) and (e) of the PHRA.

Comment 3: Possible conflict with or duplication of statutes or existing regulations; Clarity and lack of ambiguity.

IRRC noted that the Pennsylvania Chamber of Business and Industry commented that "employers frequently report that they are often frustrated attempting to simultaneously administer federal and state laws that share similar purposes but deviate in details which complicates compliance efforts." IRRC also noted that the proposed regulation appears to broaden the definition of 'religious creed' to mirror the definition in Title VII of the Civil Rights Act of 1964 and that the change in definition will subject smaller employers to additional obligations without knowing what those may be. IRRC noted that they "will review the PHRC's response to this commentator's concern in our determination of whether the regulation is in the public interest."

Response:

PHRC's intent was for the same standard to be used under the PHRA and Title VII with respect to religious creed discrimination. PHRC recognizes that the proposed regulation did not include a standard for religious accommodations and Pennsylvania case law has yet to establish such a standard. With these considerations, PHRC modified the final-form regulation with respect to religious creed discrimination so that the final-form regulation clearly articulates that the *de minimis* standard used in cases filed under Title VII should also be applied to cases filed under the PHRA. The final-form regulation now provides a uniform standard for requests for religious creed accommodations under the PHRA. With a uniform standard in the final-form regulation, all employers and persons required to comply with the PHRA are provided with the information necessary to understand their obligations under the PHRA. For employment cases, this standard is the same as under Title VII which will alleviate any burden on employers in Pennsylvania to have to meet two different standards under Title VII and the PHRA. Rather, employers in Pennsylvania are now made aware that they should comply with the same standard for requests for religious creed accommodations as they are currently required to comply with under Title VII. For smaller employers who were not previously required to comply with Title VII because of the number of employees they employ, such employers have always been required to comply with the PHRA regarding requests for religious creed accommodations. The final-form regulation now provides these smaller employers with clarity regarding the standard they must meet for requests for religious creed accommodations under the PHRA. Thus, because the PHRA is silent regarding the standards for religious creed accommodations under the PHRA, the final-form regulation provides clarity to smaller employers and all persons covered by the PHRA regarding the standards for religious creed accommodations.

Comment 4: Communication with the regulated community. – Reasonableness; Compliance with provisions of the Regulatory Review Act.

IRRC recommended "that the PHRC meet with the regulated community, from all sectors of employment, prior to submitting a final-form regulation to discuss their concerns and build consensus where possible."

Response:

PHRC sought input from the regulated community and all persons covered by the PHRA with three public comment sessions in August and September 2022. The first session was held in Pittsburgh, PA on August 24, 2022. The second session was held in Harrisburg, PA on August 30, 2022. The third session was held in Philadelphia, PA on September 8, 2022. PHRC invited the chamber of commerce for each county in Pennsylvania. PHRC also invited a wide variety of organizations who may have an interest in the proposed regulations. A list of the organizations who were invited is attached at Appendix 1. PHRC also advertised the listening sessions on its website so that all persons who visited the PHRC website were made aware of their ability to provide feedback to PHRC on the proposed regulations. PHRC received some additional feedback during these sessions.

Comment 5: Implementation procedures and timetables for compliance by the public and private sectors.

IRRC noted that "the Pennsylvania Chamber of Business and Industry suggests that the final version of this rulemaking's effective date be extended to at least 60 days from the date of publication as a final-form regulation."

Response:

PHRC responded to the Pennsylvania Chamber of Business and Industry at Section C.3 below. PHRC also implemented the suggestion for a 60-day effective date. The final-form regulation is now effective 60 days from the date of publication as a final-form regulation.

Comment 6: Compliance with the RRA and the regulations of IRRC.

IRRC asks PHRC to provide additional information for RAF questions 15 and 16. IRRC also asks PHRC to provide additional information for RAF questions 17, 18, 24, and 27, if appropriate.

Response:

PHRC provided additional information to RAF questions 15, 16, 17, 18, and 24. PHRC reviewed its response to RAF question 27 and determined that no additional information was required.

Comment 7: Section 41.202(b). Construction. – Implementation procedures; Clarity and lack of ambiguity; Need.

IRRC noted that this section states “that the new definitions ‘shall be interpreted consistently with other Federal and State laws and regulations except when to do so would result in a narrow interpretation of the PHRA or the PFEOA.’” IRRC also explained that there are differences between federal and state laws as to how some of these issues are analyzed. IRRC questioned how members of the regulated community would know which standard and interpretation to apply and asked “PHRC to explain how members of the regulated community can consistently interpret these provisions in such a way that would ensure that they are in compliance with the law. We also ask the PHRC to explain the need for this section altogether.”

Response:

PHRC thanks IRRC for this comment. PHRC reviewed this section and determined that the language at 41.202(b) should be removed so that there is no inconsistency with the manner in which the PHRA is interpreted. The final-form regulation reflects this change.

Comment 8: Non-regulatory language. – Clarity; and Implementation procedures.

IRRC noted that the phrases they emphasized “do not set binding norms and lack clarity.” IRRC highlighted the following sections:

Section 41.205(b) “**sincerely held with the strength of traditional religious views;**”

Section 41.206(a)(5)(i) “**stereotypically associated** with the person’s sex assigned at birth;”

Section 41.206(a)(5)(ii) “gender identity is **sincerely held as part of a person’s** core identity;”

Section 41.207(a)(3) “**traits historically associated** with race;” and

Sections 41.205(c), 41.206(c), and 41.207(c) “**this section is not intended to be exhaustive.**”

IRRC also noted that “consistent implementation of these provisions by the PHRA and compliance by the regulated community could be difficult. We ask the PHRA to review the final-form regulation to ensure the use of regulatory language, setting clear compliance standards for the regulated community to meet.”

Response:

For the phrase “sincerely held with the strength of traditional religious views,” PHRC relies upon 29 CFR 1605.1 which defines religious practices “to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.” This standard was developed by the United States Supreme Court in United States v. Seeger, 380 U.S. 163 (1965) and Welsh v. United States, 398 U.S. 333 (1970). Pennsylvania courts look to Federal case law on similar anti-discrimination statutes when interpreting the PHRA. Thus, PHRC looked to the Federal regulations and Federal case law in developing the definition for religious beliefs.

For the phrase "stereotypically associated with the person's sex assigned at birth," the United States Supreme Court has long-held that sex discrimination under Title VII prohibits discrimination based upon sex stereotypes. See Price Waterhouse v. Hopkins, 490 U.S. 228 (1989); Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998). PHRC relies upon the explanations of sex stereotypes, as articulated by the United States Supreme Court, for the definition of gender identity or expression as it relates to sex stereotypes.

For the phrase "sincerely held as part of a person's core identity," PHRC changed the definition of gender identity or expression in the final-form regulation and defined core identity. Given the changes in the final-form regulation, the definition for gender identity or expression is clear and sets a binding standard for compliance.

For the phrase "traits historically associated with race," PHRC removed the term historically and defined ethnic characteristics. Given the changes in the final-form regulation, the definition for race is clear and sets a binding standard for compliance.

For the phrase "this section is not intended to be exhaustive," PHRC removed this section in the final-form regulation.

Comment 9: Section 41.204. Definitions. – Clarity.

IRRC noted that "the terms '*core identity*,' '*intersex*,' '*interracial marriage or association*,' '*national origin or ethnic characteristics*,' and '*sex assigned at birth*' appear in the body of [the] regulation, but are not defined in this section. We ask PHRC to define these terms in the final-form regulation or explain why it is unnecessary to do so."

Response:

PHRC reviewed the final-form regulation and provided a definition for the terms core identity, intersex, ethnic characteristics, and sex assigned at birth. PHRC determined that the terms national origin and interracial marriage or association do not need to be defined in the final-form regulation, for the reasons that follow.

PHRC did not provide a definition for national origin because national origin is an enumerated protected class under the PHRA and the PFEOA, just as race, sex, and religious creed are enumerated protected classes under the PHRA and the PFEOA. The proposed and final-form regulations focus on providing explanations for the enumerated protected classes of race, sex, and religious creed. The remaining protected classes under the PHRA and the PFEOA may be addressed in future regulations promulgated by PHRC.

PHRC did not provide a definition for the term interracial marriage or association because case law has explained that the necessary degree of association is not precise but is decided on a case-by-case basis. See Thompson v. North American Stainless, LP, 562 U.S. 170, 175 (2011) (holding that a close family member will almost always meet the standard and a mere acquaintance will almost never do so, but beyond that they are reluctant to generalize); Parr v. Woodmen of the World Life Insurance Company, 791 F.2d 888 (11th Cir. 1986) (holding that "where a plaintiff claims discrimination based upon an

interracial marriage or association, he alleges, by definition that he has been discriminated against because of *his* race").

Comment 10: Section 41.207. Race discrimination. – Clarity. Subsections (a) and (b).

IRRC recommended "that Sections 41.207(a)(4) and (5) and 41.207(b)(4) and (5) be made consistent with Sections 41.207(a)(1) and (b)(1) by including ethnicity or ethnic characteristics."

Response:

PHRC thanks IRRC for their comment. The final-form regulation has been reformatted and updated. Sections 41.207(a)(4) and (5), Sections 41.207(b)(4) and (5), and Sections 41.207(a)(1) and (b)(1) were reformatted and consolidated into Sections 41.207(a) and (d). Sections 41.207(a) and (d) are now consistent with each other as they both contain the term ethnic characteristics.

B. Legislative Comments

Comment 1: **Senator Christine Tartaglione**
Senator Nikil Saval
Senator Sharif Street
Senator Art Haywood
Senator Vincent Hughes
Senator Anthony Williams
Senator John Kane
Senator Steven Santarsiero
Senator Judy Schwank
Senator Maria Collett

Senator Amanda Cappelletti
Senator Lisa Boscola
Senator Carolyn Comitta
Senator Marty Flynn
Senator Timothy Kearney
Senator Lindsey Williams
Senator Wayne Fontana
Senator Jay Costa
Senator Katie Muth
Senator James Brewster

The Senators expressed their strong support for the proposed regulation. The Senators explained that Section 7(d) of the PHRA provides the PHRC with the power and duty "to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of the PHRA." The Senators also explain that the Legislature understood, when it passed the PHRA, that PHRC would actively develop policy that addresses evolving issues and that PHRC has the power to clarify terms it needs to use daily to administer the statutes. The Senators further explain that "clarifying definitions left open by the legislature are core functions of executive agencies." They further explain that "by following the formal rulemaking process through the Independent Regulatory Review Commission (IRRC), PHRC is establishing a standard, substantive rule that will govern policy and reduce the need to continually revisit the issue with each individual case."

Response:

PHRC thanks the Senators for their strong support for the proposed regulation.

PHRC agrees that Section 7(d) of the PHRA provides the PHRC with the power and duty to promulgate the proposed regulation. Pennsylvania Courts have long held that the PHRA provides PHRC with such power and duty. Specifically, in Uniontown Area School District v. PHRC, 455 Pa. 52, 313 A.2d 156, 168-170 (Pa. 1973), the Pennsylvania Supreme Court concluded the PHRA empowered the PHRC with legislative rulemaking authority. The Supreme Court noted that the power of an agency to promulgate legislative rules is so great that such rules can only be reversed by courts when "[w]hat has been ordered . . . appear[s] to be 'so entirely at odds with fundamental principles . . . as to be the expression of a whim rather than an exercise of judgment.'" *Id.* at 169 *quoting American Telephone & Telegraph Co. v. United States*, 299 U.S. 232, 236-37 (1936). The Court recognized that the provisions of the PHRA "evidence to us a legislative intent to empower the Commission to do a good deal more than merely interpret the Act." *Id.* at 170. The Commission can "'adopt, promulgate and rescind rules and regulations to effectuate the policies and provisions of [the] act' and can 'formulate policies to effectuate the purposes of [the] act.'" *Id.* at 168 *quoting* 43 P.S. § 957(d) and (e). The Court further recognized that "one of the declared purposes of the Human Relations Act is 'to assure equal opportunities to all individuals and to safeguard their rights at places of public accommodation.'" *Id.* at 170 *quoting* 43 P.S. § 952(b). The Court also recognized that the "wisdom or unwisdom of the Commission's definition is no business of [theirs], the Legislature having by section 7(k), *supra*, placed upon the Commission the duty to make

an annual report of its activities and thus having enabled itself to pass upon the policies of the Commission." Uniontown, 313 A.2d at 170. The Court also acknowledged that the Commission provided such information to the Legislature in their annual report. Uniontown, 313 A.2d at 170. Likewise, the Commission has provided the Legislature with information regarding the proposed regulations in their annual reports, including in their 2018, 2019, and 2020 annual reports. Thus, just as in Uniontown, the Commission has provided the Legislature with the ability to pass upon the policies of the Commission by providing the Legislature with information regarding the proposed regulations in their annual reports. Despite the ability of the Legislature to pass upon the policies of the Commission, the Legislature has not done so. Given the lack of action on the part of the Legislature, the Commission's power and duty to promulgate regulations and formulate policies remains in effect.

Comment 2: Senator Scott F. Martin
Majority Leader Kim Ward
Senator Ryan Aument
Senator Scott Hutchinson
Senator Judy Ward
Senator Kristin Phillips-Hill

Senator Gene Yaw
Senator Patrick Stefano
Senator Michele Brooks
Senator Chris Gebhard
Senator Joe Pittman

The Senators state that the proposed regulation "operates in contrast to the intent of the legislature, lacks prescribed statutory authority, and ultimately garners our disapproval."

With regard to legislative intent, the Senators explain that this is the second time PHRC altered the meaning of the statute by agency action rather than through legislative process, first with guidance in 2018 and now with the proposed regulation. The Senators also assert that PHRC is attempting to utilize Bostock v. Clayton County, 140 S. Ct. 1731 (2020), to bypass the General Assembly even though Bostock only applies to employers under Title VII and does not extend beyond Title VII. The Senators also assert that while employers and employees are bound by Title VII, neither the PHRC nor the General Assembly are subject to the interpretation of the term sex discrimination under the holding in Bostock. The Senators also assert that changes to these definitions fall under the jurisdiction of the legislature. In support of this assertion, the Senators state that the Legislature introduced legislation on these issues (but did not vote on them) and Governor Wolf has made statements in support of such legislation. The Senators also assert that any changes to statutory definitions, in this case sex discrimination, is a policy choice with deep legal ramifications and belongs under the jurisdiction of the Legislature and the Legislature alone. The Senators also explain that although the General Assembly has not yet made these policy decisions, that should not be interpreted as an abdication of responsibility or a signal to a bureaucratic agency to pick up the task. Finally, the Senators assert that PHRC is attempting to circumvent the constitutional power and responsibility of the General Assembly.

With regard to statutory authority, the Senators assert that PHRC improperly cites to Sections 7(d) and 9(g) of the PHRA and Sections 6(6) and 7 of the PFEOA as providing PHRC with the authority to promulgate the proposed regulation. The Senators state that (1) neither of these sections allow an unelected and unaccountable agency to bypass the legislative process and expand the law through regulation and (2) the courts have historically agreed with such a proposition. The Senators explain that in Hommrich v.

Commonwealth of PA, PUC, 231 A.3d 1027 (Pa. Commw. Ct. 2020), Commonwealth Court explained that although the General Assembly sometimes confers broad discretionary power to administrative agencies, such power cannot be inconsistent with the provisions of existing statutes nor is such power granted carte blanche. The Senators further assert that the proposed regulation would establish substantive changes otherwise reserved to the jurisdiction of the General Assembly. The Senators further assert that the decision of the Pennsylvania Supreme Court, in PHRC v. St. Joe Minerals Corporation, Zinc Smelting Division, 382 A.2d 731 (Pa. 1978), stands for the proposition that without the Legislature's specific inclusion of language granting the authority to the PHRC, PHRC lacks the authority to act. The Senators further assert that the proposed regulation "is simply too broad and comprehensive to be considered another regulation not subject to the strict and scrupulous legislative process that changes of this magnitude are historically tested against." The Senators conclude by explaining that they agree with Representative Seth Grove's comment that "the PHRC may not only be acting without statutory authority or sufficient legislative intent, but also promulgating regulations that would disrupt the proper separation of powers between the branches of Pennsylvania's government."

Response:

While PHRC understands the concerns raised by the Senators, and thanks the Senators for submitting their comments, PHRC finds that the express language in the PHRA and the PFOA provides PHRC with the authority to promulgate the proposed regulation. In reaching this determination, PHRC relies upon Uniontown Area School District v. PHRC, 455 Pa. 52 (Pa. 1973) and Slippery Rock Area Sch. Dist. v. Unemployment Comp. Bd. of Review, 983 A.2d 1231 (Pa. 2009).

In Uniontown, the Pennsylvania Supreme Court recognized that the PHRA "empowers the Commission to do a good deal more than merely interpret the Act." Uniontown Area School District, 455 Pa. at 78. Rather, the language in the PHRA signifies the Legislature's intent to empower the Commission to adopt legislative rules and regulations and formulate policies to effectuate the provisions of the PHRA. Id. The Supreme Court noted that the power of an agency enabled by the legislature to promulgate legislative rules is so great that such rules can only be reversed by courts when "[w]hat has been ordered . . . appear[s] to be 'so entirely at odds with fundamental principles . . . as to be the expression of a whim rather than an exercise of judgment.'" Id. at 169 *quoting American Telephone & Telegraph Co. v. United States*, 299 U.S. 232, 236-37 (1936). Given this authority, the Court found that the Commission's law-making power permitted the Commission to adopt a definition for *de facto* segregation and racial imbalance even though (1) there was no language in the PHRA supportive of the definition; (2) the Court could not say that the General Assembly intended such a definition when enacting the PHRA; and (3) the Legislature failed to provide standards in the PHRA for defining *de facto* segregation. Id. at 62, 75-76, 78. Even with these deficits, the Court explained that "the Legislature in section 7 of the Human Relations Act . . . did empower the Commission to supply such a definition" and, as such, the Commission's definition was "within the legislative powers conferred by section 7 of the Act." Id. at 75-76, 79.

Thus, contrary to the Senators' assertion that the PHRC is altering the meaning of the statute by agency action, rather than through the legislative process, the PHRC is instead using its statutory authority to explain terms used in the PHRA and the PFOA. These explanations are provided so that the regulated public is aware of the manner in which they must comply with the PHRA and the PFOA. These explanations are similar

to the manner in which PHRC promulgated the definition of *de facto* segregation, which definition was upheld by the Pennsylvania Supreme Court as being within the authority granted to the PHRC. Uniontown, 455 Pa. 52. The power to explain the terms of the PHRA is well within the scope of the legislative rulemaking authority granted to PHRC by the Legislature and is an expression of sound judgment within PHRC's area of regulatory expertise.

Additionally, PHRC is not relying upon Bostock v. Clayton County for any authority to promulgate the proposed regulations. The authority PHRC relies upon for promulgating the proposed regulation is derived directly from the mandate of the PHRA and the PFEOA, granted to PHRC by the Pennsylvania General Assembly. PHRC merely relies upon Bostock to illustrate that state law (PHRA and PFEOA) should be interpreted consistently with Federal law (Title VII). Furthermore, the Senators acknowledge that they have been made aware of the Commission's interpretation of the term sex as far back as 2018 when PHRC issued its first guidance regarding sex discrimination. Thus, consistent with Uniontown, PHRC provided the Legislature with the ability to pass upon the policies of the Commission by providing the Legislature with information regarding their interpretation of the PHRA and the PFEOA. Despite the ability of the Legislature to pass upon the policies of the Commission, the Legislature has not done so. Given the lack of action on the part of the Legislature, the Commission's power and duty to promulgate regulations and formulate policies remains in effect.

With regard to the Senators' assertion that changes to these definitions fall under the jurisdiction of the legislature, the PHRC finds that such a proposition is inapposite for the proposed regulation. First, PHRC has not changed any definitions. Rather, the PHRA and the PFEOA fail to provide definitions for the terms sex, race, and religious creed. The proposed regulation provides guidance regarding those terms where the PHRA and the PFEOA are silent. Thus, contrary to the Senators' assertion that the power granted to an administrative agency "cannot be inconsistent with the provisions of existing statutes," there is no inconsistency with respect to the PHRA and the proposed regulations. Where the PHRA fails to provide definitions for terms in the statute, the proposed regulations provide the clarity needed for such terms and are authorized by a specific grant of authority in the PHRA.

Second, while Pennsylvania Courts have found that some regulatory definitions exceed the authority granted to administrative agencies, see e.g. Hommrich, such finding was made when the administrative agencies were not provided with the broad powers of legislative rulemaking. Unlike the situation in Hommrich, where the agency at issue was delegated with a very narrow mandate, the Pennsylvania Supreme Court has already recognized that the Legislature granted PHRC with broad powers to promulgate regulations and formulate policies that interpret the provisions of the PHRA and the PFEOA. Uniontown, 455 Pa. 52. Thus, the Legislature did not retain policy-making powers solely for themselves under the PHRA and the PFEOA. Rather, the Legislature also provided the PHRC with policy-making powers under the express provisions of the PHRA and the PFEOA. Although the Senators assert that "PHRC is attempting to circumvent the constitutional power and responsibility of the General Assembly," the Senators have not and cannot provide support for this assertion because the Legislature expressly provided the PHRC with the authority to promulgate the proposed regulations. Where the Legislature provides an express grant of authority to an administrative agency, while retaining their authority to legislate on the same issues, an agency cannot be said to have "circumvented the constitutional power and responsibility of the General

Assembly" when such agency acts upon the express authority granted to them. PHRC recognizes that, although the Legislature delegated policy-making authority to PHRC, the Legislature also retains the power to promulgate legislation. While the Legislature has thus far failed to act with respect to legislation on these issues, the Legislature still retains the power to do so in the future. Thus, PHRC has not circumvented the constitutional power and responsibility of the General Assembly because PHRC is acting within the authority delegated to them and the General Assembly retains the power and responsibility to promulgate legislation as they deem it necessary to do so.

Finally, the Senators rely upon St. Joe Minerals Corporation for the proposition that if the PHRA lacks specific language granting PHRC the authority to promulgate the proposed regulation, PHRC does not have the authority to do so. However, St. Joe Minerals Corporation is inapposite to the PHRC's authority to promulgate the proposed regulation. In St. Joe Minerals Corporation, PHRC's conduct – enforcing interrogatories – was not specifically included in the PHRA. The Court explained that because interrogatories are not enumerated as a power and duty, the PHRC was not permitted to enforce them. For the proposed regulation, PHRC's conduct – promulgating the proposed regulation – is specifically provided for in the PHRA. The PHRA provides PHRC with the power and duty to promulgate regulations to effectuate the provisions of the PHRA. 43 P.S. § 957(d) and (e). The PHRA and the PFOA do not have definitions or explanations for the protected classes of race, sex, and religious creed. Given the lack of statutory definitions for these terms and the need to provide clarity to the regulated community regarding the meaning of these terms, PHRC acted upon their power and duty to promulgate regulations to effectuate the provisions of the PHRA – the terms race, sex, and religious creed. Thus, while interrogatories were not specifically included in the PHRA as a power and duty of the PHRC, and thus could not be enforced by PHRC, the PHRA specifically included the power and duty to promulgate regulations to effectuate the provisions of the PHRA. As such, the holding in St. Joe Minerals Corporation does not support the proposition that PHRC does not have the authority to promulgate the proposed regulations.

Comment 3: Representative Seth Grove

Representative Grove asserts that PHRC does not have the statutory authority to promulgate these regulations and the changes do not reflect the intent of the General Assembly.

With respect to statutory authority, Representative Grove argues that the authority to effectuate policies and provisions and to establish rules of practice do not allow an agency to expand the law through regulation. Representative Grove cites to several statements made by the Court in Hommrich. Notably, Representative Grove cites to Hommrich for the principle that sometimes the General Assembly confers broad power to administrative agencies to "define by regulation terms otherwise undefined by the statute." Representative Grove also recognized that, in Uniontown, the Supreme Court of Pennsylvania held that Sections 957(d) and (e) of the PHRA allowed the PHRC to promulgate a regulation that defined *de facto* segregation even though such term is undefined in the PHRA. Relying upon St. Joe Minerals Corporation, Representative Grove agrees with the Pennsylvania Catholic Conference that PHRC exceeds their statutory authority with the proposed regulation.

Representative Grove acknowledges that regulations can address confusion or gaps in clarity. However, he asserts that the proposed regulation is so broad and contains such sweeping changes that it is difficult to gauge whether these regulations meet that purpose or simply seek to circumvent and exceed the law. Representative Grove also asserts that there is no clear direction in either the PHRA or the PFEOA that these terms should be defined in this manner. Given this lack of legislative guidance, Representative Grove asserts that PHRC does not have the statutory authority to promulgate this regulation.

With respect to Legislative Intent, Representative Grove asserts that PHRC is bypassing the General Assembly through promulgation of this regulation. He also asserts that PHRC cites to Bostock as superseding any legislative intent and that neither PHRC nor the General Assembly are subject to any particular interpretation of the term sex. Representative Grove further asserts that the policy choice of whether Pennsylvania should extend the definition of sex discrimination in such a manner remains just that: a policy choice which is squarely and exclusively the prerogative of the General Assembly to pursue. Representative Grove further asserts that the expanded definitions of race and religious creed discrimination are likewise policy decisions to be properly made by the General Assembly and are not related to the Bostock decision or any other new, binding court precedent. Representative Grove also cites to SEPTA v. City of Philadelphia, referenced by the Pennsylvania Catholic Conference, as standing for the proposition that only the General Assembly has the power to provide legal protections to persons who suffer discrimination on the basis of their gender identity or sexual orientation. Representative Grove additionally asserts that without the General Assembly's action on these issues, PHRC is attempting to circumvent the constitutional power and responsibility of the General Assembly. He also asserts that PHRC may be acting without statutory authority or sufficient legislative intent by promulgating regulations that would disrupt the proper separation of powers between the branches of Pennsylvania's government.

Response:

While PHRC understands the concerns raised by Representative Grove, and thanks him for submitting his comments, PHRC finds that the express language in the PHRA and the PFEOA provides PHRC with the authority to promulgate the proposed regulation. In reaching this determination, PHRC relies upon Uniontown Area School District v. PHRC, 455 Pa. 52 (Pa. 1973) and Slippery Rock Area Sch. Dist. v. Unemployment Comp. Bd. of Review, 983 A.2d 1231 (Pa. 2009).

While Representative Grove asserts that Hommrich stands for the proposition that an agency may not expand the law through regulation, this assertion is not applicable to the present regulations. PHRC has not expanded the PHRA or the PFEOA through the proposed regulation. Rather, PHRC has provided definitions for statutory terms – race, sex, and religious creed. The Court in Hommrich specifically stated that sometimes the General Assembly confers broad power to administrative agencies to “define by regulation terms otherwise undefined by the statute.” The Pennsylvania Supreme Court, in Uniontown, recognized that the General Assembly conferred such broad power to PHRC, with Sections 957(d) and (e) of the PHRA, to define terms which were otherwise undefined in the PHRA and the PFEOA. Furthermore, while PHRC maintains that the proposed regulation does not create new substantive rights, even if the definitions of race, sex, and religious creed are deemed to create new substantive rights not provided for in the PHRA and the PFEOA, the Pennsylvania Supreme Court has held that “the creation of new rights

and duties is properly an attribute of a binding legislative regulation.” Slippery Rock Area Sch. Dist. v. Unemployment Comp. Bd. of Rev., 603 Pa. 374, 384, 983 A.2d 1231, 1238 (2009).

Regarding Representative Grove's assertion that there is no clear direction in either the PHRA or the PFEOA that these terms should be defined in this manner and, given this lack of legislative guidance, PHRC does not have the statutory authority to promulgate this regulation, Representative Grove's assertion is not supported by applicable Pennsylvania case law. Specifically, in Uniontown the Pennsylvania Supreme Court recognized that the PHRA “empowers the Commission to do a good deal more than merely interpret the Act.” Uniontown Area School District, 455 Pa. at 78. The PHRA empowers the Commission to adopt regulations and formulate policies to effectuate the provisions of the PHRA. Id. Given this authority, the Court found that the Commission's law-making power permitted the Commission to adopt a definition for *de facto* segregation and racial imbalance even though (1) there was no language in the PHRA supportive of the definition; (2) the Court could not say that the General Assembly intended such a definition when enacting the PHRA; and (3) the Legislature failed to provide standards in the PHRA for defining *de facto* segregation. Id. at 62, 75-76, 78. Even with these deficits, the Court explained that “the Legislature in section 7 of the Human Relations Act . . . did empower the Commission to supply such a definition” and, as such, the Commission's definition was “within the legislative powers conferred by section 7 of the Act.” Id. at 75-76, 79. Just as PHRC had statutory authority to define *de facto* segregation, as explained by the Pennsylvania Supreme Court in Uniontown, PHRC has statutory authority to promulgate the proposed regulation.

Regarding Representative Grove's assertion that PHRC cites to Bostock as superseding any legislative intent, PHRC has not cited to Bostock for any such purpose. Rather, PHRC merely relies upon Bostock to illustrate that state law (PHRA and PFEOA) should be interpreted consistently with Federal law (Title VII).

Regarding Representative Grove's assertion that the expanded definitions of race, sex, and religious creed are policy decisions properly made by the General Assembly, PHRC's analysis of this issue is articulated at Section A.2 – Response to IRRC and Section B.2 – Response to Senator Martin.

Regarding Representative Grove's assertion as to the applicability of SEPTA v. City of Philadelphia to the proposed regulation, PHRC's analysis of the applicability of SEPTA v. City of Philadelphia is articulated at Section C.2 – Response to Pennsylvania Catholic Conference.

Regarding Representative Grove's assertion that PHRC is attempting to circumvent the constitutional power and responsibility of the General Assembly, PHRC's analysis of this issue is articulated at Section B.2 – Response to Senator Martin.

Comment 4: Representative Paul Schemel

Representative Schemel reiterates the comments made by Representative Seth Grove.

Response:

The Commission thanks Representative Schemel for his comments. The Commission's substantive response to Representative Schemel's comments is located at Section B.3 – Response to Representative Seth Grove.

Comment 5: Representative Brian Smith

Representative Smith reiterates the comments made by Representative Seth Grove.

Response:

The Commission thanks Representative Smith for his comments. The Commission's substantive response to Representative Smith's comments is located at Section B.3 – Response to Representative Seth Grove.

Comment 6: Representative Barbara Gleim

Representative Gleim reiterates the comments made by Representative Seth Grove.

Response:

The Commission thanks Representative Gleim for her comments. The Commission's substantive response to Representative Gleim's comments is located at Section B.3 – Response to Representative Seth Grove.

Comment 7: Representative Curt Sonney

Representative Sonney expresses his agreement with the analysis provided by Representative Seth Grove in that it is difficult to gauge whether this regulation clarifies the law or seeks to circumvent and exceed the law as enacted. He further explains that "there is no dispute that the Commission has the authority to address confusion and gaps in clarity in the PHRA and the PFEOA; however, the definitions proposed by the Commission are overly broad interpretations." In support of this assertion, Representative Sonney explains that the definitions explicitly state that they are not exhaustive. Representative Sonney also asserts that the Commission has no statutory authority to predict the General Assembly's intent or meaning of these terms and the proposed regulation does not conform to the legislative intent of the General Assembly. Representative Sonney further asserts that the Commission cited to Bostock as basically superseding the legislative intent of the General Assembly even though Bostock's holding was limited to employment discrimination claims under Title VII.

Response:

The Commission thanks Representative Sonney for his comments. Regarding Representative Sonney's agreement with Representative Grove's comments, the Commission's substantive response to Representative Grove's comments is located at

Section B.3 – Response to Representative Seth Grove. Regarding Representative Sonney's assertion that the definitions are overly broad interpretations because they state that they are not exhaustive, PHRC removed that language from the final-form regulation.

Regarding Representative Sonney's assertion that the Commission has no statutory authority to predict the General Assembly's intent or meaning of these terms, PHRC finds that the PHRA specifically provides PHRC with the authority to promulgate the proposed and final-form regulations. Specifically, Sections 957(d) and (e) of the PHRA provide PHRC with the power and duty to promulgate regulations to effectuate the provisions of the PHRA and to formulate policies to effectuate the purposes of the PHRA. In interpreting these sections, the Pennsylvania Supreme Court recognized that the PHRA "empowers the Commission to do a good deal more than merely interpret the Act." Uniontown Area School District, 455 Pa. at 78. Rather, the PHRA empowers the Commission to adopt regulations and formulate policies to effectuate the provisions of the PHRA. Id. Given this authority, the Court found that the Commission's law-making power permitted the Commission to adopt a definition for *de facto* segregation and racial imbalance even though (1) there was no language in the PHRA supportive of the definition; (2) the Court could not say that the General Assembly intended such a definition when enacting the PHRA; and (3) the Legislature failed to provide standards in the PHRA for defining *de facto* segregation. Id. at 62, 75-76, 78. Even with these deficits, the Court explained that "the Legislature in section 7 of the Human Relations Act . . . did empower the Commission to supply such a definition" and, as such, the Commission's definition was "within the legislative powers conferred by section 7 of the Act." Id. at 75-76, 79. Similar to the issue in Uniontown, PHRC has the statutory authority to promulgate the proposed and final-form regulations even if the General Assembly's intent or meaning for these terms cannot be determined from the language of the PHRA. Rather, because the General Assembly granted PHRC with such broad statutory power to promulgate regulations, PHRC is permitted to adopt regulations interpreting and explaining provisions in the PHRA and the PFEOA where the General Assembly has failed to provide explanations.

Regarding Representative Sonney's assertion that PHRC cited to Bostock as superseding the legislative intent of the General Assembly, PHRC does not rely upon Bostock for any authority to promulgate the proposed regulations. The authority PHRC relies upon for promulgating the proposed regulation is derived directly from the mandate of the PHRA and the PFEOA. PHRC merely relies upon Bostock to illustrate that state law (PHRA and PFEOA) should be interpreted consistently with Federal law (Title VII).

Comment 8: Representative Dan Frankel

Representative Frankel expressed his support for the proposed regulation and his strong endorsement for codifying the definition of sex. Representative Frankel expressed that the protections secured by this regulation have broad support from the public, the business community, and from elected leaders. Representative Frankel also explained that the proposed regulation merely codifies the existing implementation of the PHRA as explained in PHRC's 2018 guidance on sex discrimination. Representative Frankel also explained that, since its implementation in 2018, these protections have not appeared to cause any crisis for small businesses or religious organizations. Representative Frankel also recognized that the proposed regulation retains religious protections as does Pennsylvania's Religious Freedom Protection Act, which provides the opportunity for

adjudication of competing rights. Representative Frankel asserts that Pennsylvania individuals deserve full discriminatory protections based on sex that have been provided for by the United States Supreme Court and by existing practice in Pennsylvania. Representative Frankel is grateful for PHRC promulgating these regulations to codify this definition of sex.

Response:

The PHRC thanks Representative Frankel for his support for the proposed regulation and his strong endorsement of codifying the definition of sex.

C. Public Comments from Organizations

Comment 1: Independence Law Center

The Independence Law Center asserts that PHRC lacks the statutory authority to promulgate these regulations. They also assert that redefining sex leads to significant harms as businesses may be required to engage in conduct which conflicts with their right to free speech and their right to free exercise of religion. The Independence Law Center also asserts that including gender identity in the definition of sex would negatively impact privacy facilities, such as bathrooms, locker rooms, and showers, and that entities should be permitted to deny such use on the basis of sex since a sex-based distinction in these settings has long been permissible. The Independence Law Center also asserts that the proposed regulation prohibits religious employers from hiring those who share their mission through a commitment to the elements of their particular religious faith.

Response:

While PHRC understands the concerns raised by the Independence Law Center, and thanks the Independence Law Center for submitting their comments, PHRC finds that the express language in the PHRA and the PFEOA provides PHRC with the authority to promulgate the proposed regulation. In reaching this determination, PHRC relies upon Uniontown Area School District v. PHRC, 455 Pa. 52 (Pa. 1973) and Slippery Rock Area Sch. Dist. v. Unemployment Comp. Bd. of Review, 983 A.2d 1231 (Pa. 2009). PHRC describes this statutory authority in greater detail at Section B.2 – Response to Senator Martin.

With respect to the Independence Law Center's assertion that the proposed regulation conflicts with businesses right to free speech or their right to free exercise of religion, PHRC acknowledges that a regulation cannot supersede a constitutional protection. However, the proposed regulation does not impact any constitutional protections. The proposed regulation merely provides explanations for terms contained in the PHRA and the PFEOA which are not defined. Additionally, to the extent an entity covered under the PHRA or the PFEOA believes that PHRC's enforcement of the PHRA or the PFEOA violates their religious freedoms, such entity may avail themselves of the protections contained in Pennsylvania's Religious Freedom Protection Act.

With respect to the Independence Law Center's assertion that including gender identity in the definition of sex would negatively impact privacy facilities, such an assertion is premature. PHRC cannot prejudge any issue that may come before the agency. If a complainant files a complaint regarding this issue, or if a respondent asserts a defense regarding this issue, PHRC will analyze such issue on a case-by-case basis to determine whether the conduct alleged in the complaint violates the PHRA or the PFEOA.

With respect to the Independence Law Center's assertion that the proposed regulation prohibits religious employers from hiring those who share their commitment to the elements of their religious faith, such assertion is misplaced. The PHRA specifically provides that religious associations may hire individuals who share their religious beliefs. See 43 P.S. § 954(b). The proposed regulation does not alter that provision of the PHRA in any manner. Additionally, religious entities who believe that PHRC's enforcement of

the PHRA or the PFEOA violates their religious freedom may avail themselves of the protections contained in Pennsylvania's Religious Freedom Protection Act.

Comment 2: Pennsylvania Catholic Conference

The Pennsylvania Catholic Conference asserts that PHRC lacks statutory authority to propose these regulations and explains that Section 957(k) of the PHRA only authorizes PHRC to make recommendations to the Legislature regarding legislation concerning discrimination. They further assert that the PHRA does not permit the PHRC to create new classes of or bases of discrimination.

The Pennsylvania Catholic Conference, citing to PHRC v. Mars Community Boys Baseball Association, 410 A.2d 1246 (Pa. 1980), further asserts that the Pennsylvania Supreme Court "has already definitively held that the Pennsylvania Human Relations Commission does not have the authority or jurisdiction to redress discrimination on grounds which have not been specifically established by the General Assembly." The Pennsylvania Catholic Conference, citing to PHRC v. St. Joe Minerals Corporation, Zinc Smelting Division, 382 A.2d 731 (Pa. 1978), also asserts that the Pennsylvania Supreme Court "has ruled that the Commission has no such power to act outside the legislatively established boundaries." Relying upon St. Joe Minerals Corporation, the Pennsylvania Catholic Conference asserts that PHRC is acting "outside the legislative intent of the PHRA" and cannot "enact the proposed regulations without specific authorization from the General Assembly."

The Pennsylvania Catholic Conference also asserts that PHRC's reliance on Bostock is misplaced because Bostock only addressed employment issues and PHRC is attempting to use employment case law to apply to housing and public accommodations. The Pennsylvania Catholic Conference relies upon a single concurring opinion in SEPTA v. City of Philadelphia, 159 A.3d 443, for the proposition that "the General Assembly did not intend that sexual orientation and gender identity [would] be protected classes in the PHRA." The Pennsylvania Catholic Conference also asserts that the proposed regulation on sex discrimination (1) conflicts with the existing protections for bona fide occupational qualifications; (2) will have an adverse impact on small businesses and religious entities; and (3) does not protect religious freedoms. The Pennsylvania Catholic Conference concludes by objecting to the proposed regulations and asserting that the General Assembly should act to avoid a constitutional controversy by amending the PHRA itself and ensuring that any amendment includes strong religious protections.

Response:

While the PHRC understands the concerns raised by the Pennsylvania Catholic Conference, and thanks the Pennsylvania Catholic Conference for submitting their comments, the PHRC finds that the express language in the PHRA and the PFEOA provides the PHRC with the authority to promulgate the proposed regulation. In reaching this determination, PHRC relies upon Uniontown Area School District v. PHRC, 455 Pa. 52 (Pa. 1973) and Slippery Rock Area Sch. Dist. v. Unemployment Comp. Bd. of Review, 983 A.2d 1231 (Pa. 2009).

With respect to the argument that PHRC lacks statutory authority to propose these regulations, the citation to Section 957(k) is misplaced. PHRC is relying upon the authority

provided to them at Sections 957(d) and (e) of the PHRA in promulgating the proposed and final-form regulations. As explained at Sections B.1 – Response and B.2 – Response above, Sections 957(d) and (e) of the PHRA clearly provide PHRC with the power and duty to promulgate these regulations.

With respect to the application of Mars Community Boys Baseball Association and St. Joe Minerals Corporation to the proposed regulations, the issue in Mars Community Boys Baseball Association was whether PHRC has the authority to address sex discrimination when sex was not included as a protected class under the public accommodations provisions of the PHRA but was included under the employment and housing provisions of the PHRA. Unlike the issue in Mars Community Boys Baseball Association, the proposed regulation does not address protected classes that are not included in the PHRA. Rather, the proposed regulation explains three protected classes that are specifically *included* in the PHRA – race, sex, and religious creed. As such, the proposed regulation redresses discrimination on grounds which have been specifically established by the General Assembly in that the proposed regulation provides clarity and consistency as to the manner in which complaints may be filed with PHRC on the grounds and bases already provided for in the PHRA. Furthermore, as explained above at Section B.2 – Response, St. Joe Minerals Corporation is inapposite to the PHRC's authority to promulgate the proposed regulation. In St. Joe Minerals Corporation, PHRC's conduct – enforcing interrogatories – was not specifically included in the PHRA. The Court explained that because interrogatories are not enumerated as a power and duty, PHRC was not permitted to enforce them. For the proposed regulation, PHRC's conduct – promulgating the proposed regulation – is specifically provided for in the PHRA. The PHRA provides the PHRC with the power and duty to promulgate regulations to effectuate the provisions of the PHRA. 43 P.S. § 957(d) and (e). The PHRA and the PFEOA do not have definitions or explanations for the protected classes of race, sex, and religious creed. Given the lack of statutory definitions for these terms and the need to provide clarity to the regulated community regarding the meaning of these terms, PHRC acted upon their power and duty to promulgate regulations to effectuate the provisions of the PHRA – the terms race, sex, and religious creed. Thus, while interrogatories were not specifically included in the PHRA as a power and duty of PHRC, and thus could not be enforced by PHRC, the PHRA specifically included the power and duty to promulgate regulations to effectuate the provisions of the PHRA. As such, the holding in St. Joe Minerals Corporation does not support the proposition that PHRC does not have the authority to promulgate the proposed regulations.

With respect to the application of Bostock to the proposed regulations, PHRC is not relying upon Bostock for any authority regarding the proposed regulation. Rather, as explained in Section B.2 – Response above, PHRC merely relies upon Bostock to illustrate that state law (PHRA and PFEOA) should be interpreted consistently with Federal law (Title VII).

With respect to the single concurring opinion in SEPTA v. City of Philadelphia, 159 A.3d 443, which the Pennsylvania Catholic Conference relies upon for the proposition that “the General Assembly did not intend that sexual orientation and gender identity [would] be protected classes in the PHRA,” the Pennsylvania Supreme Court has not made that determination. Rather, the issue in SEPTA v. City of Philadelphia was whether SEPTA was exempted from the jurisdiction of the City of Philadelphia via the Philadelphia Commission on Human Relations and the provisions of the Philadelphia Fair Practices Ordinance. 159 A.3d at 444. The majority opinion in SEPTA v. City of Philadelphia made

no determination regarding the General Assembly's intent with respect to sexual orientation or gender identity under the PHRA because that was not the issue before the Court. Thus, one off-hand comment by one Justice in a concurring opinion in a case that decided the jurisdiction of the City of Philadelphia over SEPTA, does not establish the Pennsylvania Supreme Court's determination as to the intent of the General Assembly with respect to sex discrimination under the PHRA. Nevertheless, the United States Supreme Court's holding in Bostock makes it clear that sexual orientation and gender identity are not new protected classes, but instead are subsets of one protected class already enumerated within Title VII—that of sex. The Supreme Court's reasoning is sound and there is no logical reason why the same interpretation should not apply to the PHRA.

With respect to the Pennsylvania Catholic Conference's assertion that the proposed regulation conflicts with existing protections for bona fide occupational qualifications, such assertion is misplaced. The PHRA provides protections for bona fide occupational qualifications at 43 P.S. § 955(a). The proposed and final-form regulations do not alter the bona fide occupational qualifications standard in the PHRA. Furthermore, the PHRA also contains a specific provision regarding abortions at 43 P.S. § 955.2. The proposed and final-form regulations do not impact Section 955.2 in any manner.

With respect to the Pennsylvania Catholic Conference's assertion that the proposed regulation will have an adverse impact on small businesses and religious entities and does not sufficiently protect religious freedoms, PHRC is constrained to provide greater protections to small businesses and religious entities than are already provided for in the PHRA. The PHRA articulates the small businesses who are required to comply with the PHRA. The PHRA also articulates the protections afforded to religious entities under the PHRA. PHRC cannot change those provisions or provide greater protections than are already provided for in the PHRA. Additionally, the General Assembly has recognized the rights of religious entities and the mechanism by which religious entities can enforce those rights with Pennsylvania's Religious Freedom Protection Act (RFPA), 71 P.S. §§ 2401-2407. Again, PHRC cannot change the provisions of the RFPA nor can PHRC provide guidance regarding RFPA in the proposed or final-form regulations because the RFPA does not provide any state agencies with the authority to promulgate regulations with respect to the RFPA. Given the statutory language of the RFPA, PHRC recognizes that religious entities may avail themselves of the protections afforded by the RFPA and PHRC stands ready to respond to such claims, but PHRC is not authorized to provide any greater protections than those found in the PHRA or the RFPA.

With respect to the Pennsylvania Catholic Conference's assertion that the General Assembly should act to avoid a constitutional controversy by amending the PHRA itself and ensuring that any amendment includes strong religious protections, PHRC finds no constitutional controversy with the proposed regulations. As explained at Section B.2 – Response above, PHRC has not circumvented the constitutional power and responsibility of the General Assembly because (1) PHRC is acting within the authority delegated to them and (2) the General Assembly retains the power and responsibility to promulgate legislation as they deem it necessary to do so.

Comment 3: Pennsylvania Chamber of Business and Industry

The Pennsylvania Chamber of Business and Industry supports the intent of the proposed regulation. However, they caution that effective public policy can and should

prohibit discrimination while acknowledging and attempting to limit unintended consequences.

The Pennsylvania Chamber of Business and Industry also expressed disappointment that employer input was not sought as these proposed regulations were being developed. They suggested that PHRC should also consider consulting with other stakeholders such as local fair employment practice agencies.

The Pennsylvania Chamber of Business and Industry heard from employers and PA Chamber members who generally agree with the intent of the proposed regulations. However, concerns were raised that the proposed regulation could create inconsistencies with federal law regarding religious creed accommodations. The Pennsylvania Chamber of Business urged PHRC to help ensure employer compliance by emphasizing clarity and congruence with comparable federal law and providing additional guidance where necessary and appropriate. The Pennsylvania Chamber of Business also asked PHRC to work with the business community on education and awareness and establishing an implementation timeframe. They also suggested that PHRC should work with the employer community to develop and execute an educational campaign to ensure employers are aware of the changes. They also suggested that the final-form regulations should have an effective date of 60 days to allow the PHRC to launch the awareness campaign and provide employers time to review existing policies

Response:

PHRC thanks the Pennsylvania Chamber of Business and Industry for their comments and suggestions. PHRC's intent was for the same standard to be used under the PHRA and Title VII with respect to religious creed discrimination. PHRC recognizes that the proposed regulation did not include a standard for religious creed accommodations and Pennsylvania case law has yet to establish such a standard. With these considerations, PHRC modified the final-form regulation with respect to religious creed discrimination so that the final-form regulation clearly articulates that the *de minimis* standard used in cases filed under Title VII should also be applied to cases filed under the PHRA. The final-form regulation now provides a uniform standard for requests for religious creed accommodations under the PHRA.

PHRC also implemented the suggestion that PHRC meet with employers, local fair employment practices agencies, and others affected by the proposed regulations by holding three listening sessions, as explained above at Section A.4 – Response, above. PHRC also implemented the suggestion that the final-form regulation be effective 60 days after publication so that employers and others who are required to comply with the final-form regulation have sufficient time to train their staff. If any assistance is needed from PHRC for training on the final-form regulation, PHRC stands ready to provide such assistance.

Comment 4: Erie Gay News

Erie Gay News expressed support for this important and needed regulatory clarification. Erie Gay News explained that Pennsylvania desperately needs the terms to be defined as provided in the proposed regulation.

Response:

Thank you for your support for the proposed regulation.

Comment 5: Trans Advocacy Pennsylvania (TAP)

TAP expressed support for the proposed regulatory changes. TAP also noted that in Bostock v. Clayton County and several companion cases, the Supreme Court of the United States held that the term sex covers sexual orientation and gender identity. TAP also explained that the proposed regulation will help to ensure that no person in the Commonwealth of Pennsylvania will suffer or endure discrimination in housing, employment, medical care, education, or access to public accommodations. TAP congratulated the PHRC on this effort and stands ready to assist the PHRC in such manner as PHRC deems appropriate.

Response:

Thank you for your support for the proposed regulation.

Comment 6: Pennsylvania Commission on LGBTQ Affairs

The Aging Workgroup of the Pennsylvania Commission on LGBTQ Affairs state their strong support for the proposed regulations and thank PHRC for their action on this matter and their commitment to protecting LGBTQ elders from discrimination. They explain that defining sex to include sex assigned at birth, gender identity/expression, differences in sex development, and affectional/sexual orientation will add greater clarity to the Commonwealth's current non-discrimination laws and will strengthen the non-discrimination protections afforded to LGBTQ Pennsylvanians. They further explain that these updates will make Pennsylvania law consistent with Federal law, as articulated in the United States Supreme Court decision, Bostock v. Clayton County, in which the majority stated "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex." The proposed changes are also consistent with public attitudes towards issues of LGBTQ non-discrimination protection and studies that found that a majority of Pennsylvanians and people nationally support these non-discrimination provisions for LGBT people. As advocates for LGBTQ older adults, they see the utmost importance of protecting older Pennsylvanians from all forms of discrimination. It is essential that the services they need, homecare, nursing homes, social services, medical care, long-term care are accessible to member of their LGBTQ older adult communities

Response:

Thank you for your support for the proposed regulation. Your observations regarding the impact of the proposed regulation on the LGBTQ older adult community in Pennsylvania are important in understanding the need for the proposed regulation in Pennsylvania.

Comment 7: Rainbow Rose Center

The Rainbow Rose Center expressed their full support for the proposed regulatory changes to the PHRA and thanks and congratulates the PHRC Commissioners. The Rainbow Rose Center also states that they are ready to assist PHRC in any manner PHRC deems appropriate. The Rainbow Rose Center also explained that the proposed regulations are in line with the Supreme Court decision in Bostock – discrimination on the basis of sexual orientation or gender identity is necessarily also discrimination because of sex. The Rainbow Rose Center also explained that through the new regulations, the Commonwealth's LGBTQIA+ community will be protected from discrimination in housing, employment, medical care, education, and access to public accommodations

Response:

Thank you for your support for the proposed regulation.

Comment 8: Campaign for Our Shared Future (COSF)

COSF strongly supports protecting all LGBTQ+ persons from discrimination throughout the Commonwealth under the PHRA and the PFEOA. COSF also explains that adopting the proposed regulations would help protect 74,000+ youth who live in Pennsylvania from discrimination and unfair educational practices.

Response:

Thank you for your support for the proposed regulation.

Comment 9: Housing Equality Center of Pennsylvania

The Housing Equality Center of Pennsylvania expressed their support for the proposed regulation and explained that the proposed regulation will clarify the terms sex, religious creed, and race. They further explained that clear definitions for the protected classes of sex, race, and religious creed will serve the entities who are obligated to comply with the PHRA and the PFEOA and the individuals that they are intended to protect.

Response:

Thank you for your support for the proposed regulation.

Comment 10: Community Justice Project
Community Legal Services
Fair Housing Partnership of Greater Pittsburgh
Fair Housing Rights Center in Southeastern Pennsylvania
Housing Equality Center of Pennsylvania
Pennsylvania Coalition Against Domestic Violence
Philadelphia Legal Assistance
Pittsburgh Commission on Human Relations
Ashley Butler
Women Against Abuse

Women's Law Project

These organizations commended PHRC on their decision to establish clear definitions for the terms religious creed, sex, and race. They believe the definitions will promote clarity and consistency in PHRC enforcement actions and will ensure that these terms are construed in a manner that will further the Commission's objective of stamping out illegal discrimination across the Commonwealth.

These organizations also suggest that for the definition of sex, PHRC should include protections for individuals who face discrimination based on their status as survivors of domestic violence. They also explain that a disproportionate number of domestic violence survivors are female. They also explain that courts have stated that discrimination against domestic violence survivors can constitute sex discrimination because domestic violence victims tend to overwhelmingly be women.

Response:

PHRC thanks these organizations for their support for the proposed regulation and for their suggestion regarding the definition of sex discrimination. PHRC is aware that courts have recognized disparate impact and disparate treatment claims of sex discrimination for victims of domestic violence. However, PHRC is not aware of any Federal or state anti-discrimination statutes or regulations which define sex as including victims of domestic violence. Given this information, PHRC needs to conduct greater outreach with the regulated community and with those whose rights are protected by the PHRA to determine the efficacy of defining sex as including survivors of domestic violence.

Comment 11: Anti-Defamation League

The Anti-Defamation League expressed their support for the proposed regulation. They recognized that neither the PHRA nor the PFEOA define the terms sex, race, and religious creed and that the proposed regulation provides much-needed clarity and guidance to ensure that these protected classes are interpreted consistently in Pennsylvania. The Anti-Defamation League is pleased to see that the proposed regulation will ensure that religious creed is interpreted in a manner consistent with Title VII and its implementing regulations. The Anti-Defamation League also welcomed the protections for sex discrimination in the proposed regulation and commented that the proposed regulation defines sex consistently with the manner in which sex has been interpreted by Pennsylvania courts. They also recognized that the proposed regulation interprets sex consistently with the manner in which federal courts have interpreted the term sex as used in Title VII and Title IX. The Anti-Defamation League is also pleased that the proposed regulation defines race in a manner consistent with Title VII and 42 U.S.C. § 1981 and ensures protections for the diverse and insidious ways in which discrimination on the basis of race can manifest.

Response:

Thank you for your support for the proposed regulation.

Comment 12: Women's Law Project

The Women's Law Project expressed their support for the proposed regulation and agreed with the positive response and proposed recommendations articulated by the Community Justice Project. The Women's Law Project writes separately to provide an additional recommendation – that the final-form regulation contain a definition for “related medical conditions” to ensure that all pregnancy-related medical conditions, including those that occur before conception, are covered, such as the use of assisted reproductive technology (ART). The Women's Law Project explains that the rate of reliance on ART has steadily increased since its first successful use decades ago. They also explain that workers undergoing ART have faced employment discrimination despite being similarly situated to their pregnant and postpartum counterparts. The Women's Law Project also suggests that the existing definition of pregnancy, at 16 Pa. Code § 41.101, be removed as inconsistent.

Response:

PHRC thanks the Women's Law Project for their support for the proposed regulation and for their suggestion regarding the definition of sex discrimination. PHRC incorporated the suggestion made by the Women's Law Project in the final-form regulation. The final-form regulation now includes a definition for pregnancy. This definition recognizes that pregnancy includes all aspects associated with pregnancy, such as the use of ART, childbirth, breastfeeding, and the postpartum period. This definition also recognizes that pregnancy includes medical conditions related to all aspects of pregnancy. As such, the final-form regulation provides clarity regarding sex discrimination with respect to pregnancy. While PHRC recognizes that the definition for pregnancy at 16 Pa. Code § 41.101 is limited to the state of being in gestation, that definition only applies to Chapter 41, Subchapter C – it does not apply to the proposed or final-form regulations contained in Chapter 41, Subchapter D. However, PHRC intends to update their existing regulations and will seek public comment on the best way to update protections for sex discrimination within the existing regulations.

D. Public Comments from Members of the Public

1. Comment: William Torbeck

Comment: Commentor raises various concerns that the Regulation would cause unfairness in women's sports, create privacy concerns in bathrooms and locker rooms, lead to increased sexual assaults, and infringe on religious freedoms.

Response: The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. This Regulation provides notice and standards regarding discriminatory practices. To the extent the Regulations affects school sports, the Commission ensures due process by considering facts specific to each case. One of the core functions of the Commission is to ensure due process and adjudicate claims of discrimination. Further, The Commission does not condone any criminal conduct. The commentor's conclusory statement that the Regulation will lead to an increase in criminal activity is without evidence and misplaced. Further, school districts would continue to develop their own respective bathroom and locker room policies. The Regulation was drafted to ensure that the religious protections found in the PHRA¹, PFEOA², Commission regulations³, and any related caselaw continue to be preserved. Also, the Regulation does not infringe upon the viable religious protections afforded by the Religious Freedom Protection Act⁴. Thank you for your comment.

2. Comment: Barb Young

Comment: People in the LGBTQ world need protection. They are people and deserve to be treated as such.

Response: Thank you for your comment.

3. Comment: Adam Gallek

Comment: As a member of a protected class, I don't want the government telling private business how to run their private business.

Response: The PHRA's purpose is to afford anti-discrimination protections for all Pennsylvanians. The Commission's purpose is to eradicate discrimination in business practices and the Regulation does not tell private businesses how to run their business. Thank you for your comment.

4. Comment: Ann Novajovsky

Comment: The Regulation will put many ministries and Christian schools in jeopardy by forcing them to hire individuals who do not agree with their respective religious beliefs.

¹ 43 P.S. §§ 954(b) and (l), 955(a), (h)(10), 955.1, and 955.2.

² 24 P.S. §§ 5002(c), 5003(1) and (2), 5004(a.1)(1)-(7) and (c), 5006(1)-(5).

³ 16 Pa. Code §§ 45.13(a)(1)-(2) and (c), 45.174(a) and (b), 47.11(a) and (b), 47.41, 47.51, 47.71-74, 51.1-51.61.

⁴ 2002 Pa. ALS 214, 2002 Pa. Laws 214, 2001 Pa. SB 1421, 2002 Pa. ALS 214, 2002 Pa. Laws 214, 2001 Pa. SB 1421

Response: The Regulation was drafted to ensure that the religious protections found in the PHRA⁵, PFEOA⁶, Commission regulations⁷, and any related caselaw continue to be preserved. Also, the Regulation does not infringe upon the viable religious protections afforded by the Religious Freedom Protection Act⁸. Thank you for your comment.

5. **Comment: Beth Shank**

Comment: I am in favor of regulations but would extend the employer requirement from four (4) employees to any employer.

Response: The Regulation remains consistent with the employer classifications found in the PHRA, PFEOA. Thank you for your comment.

6. **Comment: Bryan Ditlow**

Comment: Commentor doesn't understand why a law can't be used for all races and believes the Regulation creates division among citizens.

Response: This PHRA and the PFEOA do protect all races from discrimination. Eradicating discrimination does not lead to a division in races. Thank you for your comment.

7. **Commentor: Carl Helman**

Comment: Commentor believes the definitions in the proposed Regulation are vague, subjective, and does not see a public need for the Regulation.

Response: The Commission is tasked to eradicate discrimination. The tailored provisions of the Regulation reinforce the protections afforded by the PHRA and the PHRC's ability to adjudicate claims related to race, sex, and religious creed. Thank you for your comment.

8. **Comment: Caroline Lewis**

Comment: Commentor supports the Regulation and believes that the Regulation should extend to small businesses throughout PA.

Response: The PHRA applies to businesses that employ four (4) or more employees and/or businesses that offer public accommodations. Thank you for your comment.

⁵ 43 P.S. §§ 954(b) and (l), 955(a), (h)(10), 955.1, and 955.2.

⁶ 24 P.S. §§ 5002(c), 5003(1) and (2), 5004(a.1)(1)-(7) and (c), 5006(1)-(5).

⁷ 16 Pa. Code §§ 45.13(a)(1)-(2) and (c), 45.174(a) and (b), 47.11(a) and (b), 47.41, 47.51, 47.71-74, 51.1-51.61.

⁸ 2002 Pa. ALS 214, 2002 Pa. Laws 214, 2001 Pa. SB 1421, 2002 Pa. ALS 214, 2002 Pa. Laws 214, 2001 Pa. SB 1421

9. Comment: Dara Bourassa

Comment: Commentor supports the Regulation as an advocate for older LGBTQ adults who require these protections.

Response: Thank you for your comment.

10. Comment: Dave and Heather Helmuth

Comment: Commentors believe the proposed Regulation would force schools to violate the privacy of their students in restrooms and locker rooms, force doctors to conduct unnecessary surgeries, and put ministries and Christian schools in jeopardy by forcing them to hire individuals who do not agree with respective religious beliefs.

Response: The Commission disagrees. The proposed Regulation provides notice and standards regarding discriminatory practices. School districts would continue to develop their own respective restroom and locker room policies. The Commission disagrees that the Regulation will force doctors or members of the medical profession to conduct unnecessary surgeries. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Regulation was drafted to ensure that religious protections found in the PHRA⁹, PFEOA¹⁰, Commission regulations¹¹, and any related caselaw continue to be preserved. Also, the Regulation does not infringe upon the viable religious protections afforded by the Religious Freedom Protection Act¹². Thank you for your comment.

11. Comment: David McDougal

Comment: Commentor is a gay, older, adult citizen and active member of the Western Pennsylvania Persad Center. Commentor supports the proposed Regulations.

Response: Thank you for your comment.

12. Comment: Tom Beggs

Comment: Commentor inquired as to whether the proposed Regulation would subject churches to certain hiring requirements or if there would be a religious exception for churches under the proposed Regulation.

Response: The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for

⁹ 43 P.S. §§ 954(b) and (l), 955(a), (h)(10), 955.1, and 955.2.

¹⁰ 24 P.S. §§ 5002(c), 5003(1) and (2), 5004(a.1)(1)-(7) and (c), 5006(1)-(5).

¹¹ 16 Pa. Code §§ 45.13(a)(1)-(2) and (c), 45.174(a) and (b), 47.11(a) and (b), 47.41, 47.51, 47.71-74, 51.1-51.61.

¹² 2002 Pa. ALS 214, 2002 Pa. Laws 214, 2001 Pa. SB 1421, 2002 Pa. ALS 214, 2002 Pa. Laws 214, 2001 Pa. SB 1421

religious protections in the Religious Freedom Protection Act. Thank you for your comment.

13. Comment: Jimmy Wade

Comment: Commentor believes that this matter is reserved for the Legislature and the language of the Regulation contains subjective and ideological beliefs after only consulting with LGBTQ groups.

Response: The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Legislature vested in the Commission maximum flexibility to remedy and eradicate the evils of discrimination. PHRC v. Chester School District, 233 A. 2d 290, 294 (Pa. 1967); PHRA §12(a), 43 P.S. §962(a). The Legislative mandate that the provisions of the Act be "construed liberally" serves to reinforce this view. PHRC v. Alto-Reste Park Cemetery Association, 306 A.2d 881, 886 (Pa. 1974). When the legislature statutorily invests an agency with certain functions, duties and responsibilities, the agency has a legislatively conferred interest in such matters. Commonwealth v. Beam, 788 A.2d 357, 361 (Pa. 2002). The PHRA specifically grants the authority to the Commission: (d) To adopt, promulgate, amend and rescind rules and regulations to effectuate the policies and provisions of this act, and (e) To formulate policies to effectuate the purposes of this act and make recommendations to agencies and officers of the Commonwealth or political subdivisions of government or board, department, commission or school district thereof to effectuate such policies. 43 P.S. §959 (d), (e). Further, each provision of the Regulation is particularly crafted by researching case law, statutes, ordinances, regulations, and guidance material. The PHRC conducted listening sessions across the Commonwealth and provided a public comment period to receive feedback from as many interested and affected parties as possible. Thank you for your comment.

14. Comment: Denise R. Weiss

Comment: Commentor is concerned that the Commission consulted with other states, the LGBTQ community, the Governor's Office, other human relations commissions, but did not reach out to the public at large.

Response: The Commission appreciates the comment. As this comment was received during the public comment period, this demonstrates the Commission has reached out to the public seeking feedback on the proposed Regulation. The PHRC took additional steps in holding listening sessions in Pittsburgh, Philadelphia, and Harrisburg and encouraged all Pennsylvanians to participate and provide any feedback or comments. The PHRC invited over three hundred (300) businesses, religious organizations, and schools to listen to any additional feedback or comments. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

15. Comment: Ed Miller

Comment: Commentor is an advocate for older LGBTQ adults and sees the utmost importance of protecting older Pennsylvanians from all forms of discrimination. No older adult should face the prospect of being harassed, marginalized, or mistreated. It is essential that services are fully accessible to members of our LGBTQ older adult communities without the threat of discrimination.

Response: Thank you for your comment.

16. Comment: Erin Tuke

Comment: Commentor suggests that the proposed Regulation broadens the term "sex" which is contrary to her religious beliefs.

Response: The Commission is tasked to deal comprehensively with issue of discrimination on the basis of "sex". The Commission appreciates and respects the commentor's religious beliefs. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Thank you for your comment.

17. Comment: Christopher Smith (Form Letter A 1782-1949; 1-948; 949-1454)

Comment: Commentor requests that the proposed Regulation be rejected because it broadens the definition of "sex," will be used to open locker rooms, will force doctors to conduct unnecessary surgeries, and will infringe on religious entities ability to hire those who agree with the religious entities' beliefs. The Commentor believes the Regulation should instead be decided by duly elected lawmakers.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

18. Comment: Ashley Fortier (Form Letter B 14-61; B 8-13)

Comment: Commentor supports the Regulation and requests the Commission urgently ensure the passage of the Regulation.

Response: Thank you for your comment.

19. Comment: Gail Hull

Comment: I am writing in support of the new regulation.

Response: Thank you for your comment.

20. Comment: Janet Haiedet

Comment: Commentor is a LGBTQ+ senior citizen who is physically challenged and supports the Regulation.

Response: Thank you for your comment.

21. Comment: John Soden

Comment: Commentor requests that the proposed Regulation be rejected because it broadens the definition of "sex", will be used to open locker rooms, will force doctors to conduct unnecessary surgeries, and will infringe on religious entities' ability to hire those who agree with the religious entities' beliefs. This regulation should instead be decided by duly elected lawmakers.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

22. Comment: Kenneth Boland

Comment: Commentor requests that the proposed Regulation be rejected because it broadens the definition of "sex," infringes on personally held religious beliefs, and negatively affects the religious protections for religious ministries and schools.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Regulation is drafted to ensure that

the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Thank you for your comment.

23. Comment: Illya S.

Comment: Commentor believes that the Regulation will increase litigation against small businesses and encourage small businesses to hire from family and friends instead of an individual who identifies as LGBTQ+.

Response: The Commission seeks to eradicate discrimination on the basis of sex and this Regulation will help support small businesses by providing the necessary guidance in their business policies and practices. Thank you for your comment.

24. Comment: Barb Young

Comment: Commentor supports the Regulation and believes individuals in the LGBTQ+ community need this protection.

Response: Thank you for your comment.

25. Comment: Susan M. Haskins

Comment: Commentor supports the Regulation and believes it should apply to private enterprises as well.

Response: The PHRA does extend to public accommodations and does cover private employers of four (4) or more employees. Thank you for your comment.

26. Comment: Frederick Salek

Comment: Commentor believes the Regulation is a burden on parties which will lead to additional litigation in areas such as to who can use a restroom or who can participate in interscholastic sports, as well as infringe on religious liberties. Commentor believes the PHRC proceeded with little input and these issues should be resolved by local municipalities.

Response: The PHRC has received public comments regarding the proposed Regulation in which this comment was received. The PHRC went a step further and held Listening Sessions after sending out over 300+ targeted letters seeking input from various business, religious, and school entities. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Thank you for your comment.

27. Comment: Beth Shank

Comment: I am in favor of the Regulation not to discriminate against our LGBTQ friends, families, and neighbors. I would extend the protections from employers with four (4) employees to employers with (1) employee.

Response: Thank you for the comment.

28. Comment: Vicki Zurbrick

Comment: Commentor raises various concerns that the Regulation would cause unfairness in women's sports, will be used to open locker rooms, will force doctors to conduct unnecessary surgeries, and will infringe on religious entities' ability to hire those who agree with the religious entities' beliefs. The matters in the Regulation should be handled by duly elected lawmakers.

Response: The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. This Regulation provides notice and standards regarding discriminatory practices. To the extent the Regulation affects school sports, the Commission ensures due process by considering facts specific to each case. One of the core functions of the Commission is to ensure due process and adjudicate claims of discrimination. Further, the Commission does not condone any criminal conduct. The commentor's conclusory statement the Regulation will lead to an increase in criminal activity is without evidence and misplaced. Further, school districts would continue to develop their own respective bathroom and locker room policies. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

29. Comment: Sara Ferah

Comment: Commentor provided suggestions for further clarification of proposed terms within the Regulation.

Response: The Commission drafted the Regulation pursuant to the standards for regulatory language after input from various stakeholders. Thank you for your comment.

30. Comment: Susan Nirella

Comment: Commentor requests that the proposed Regulation be rejected because it broadens the definition of "sex", will be used to open locker rooms, will force doctors to

conduct unnecessary surgeries, and will infringe on religious entities' ability to hire those who agree with the religious entities' beliefs. The Commentor believes the Regulation should instead be decided by duly elected lawmakers.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

31. Comment: M. Jansen

Comment: Commentor believes the definitions in the proposed Regulation are vague and subjective and, does not see a public need for the Regulation. The only stakeholders consulted for this proposed regulation, as shown by the PHRC's own documentation, are LGBTQ groups.

Response: The Commission is tasked to eradicate discrimination. The PHRC has received public comments regarding the proposed Regulation for which this comment was received. The PHRC also held Listening Sessions after sending out over 300+ targeted letters seeking input from various business, religious, and school entities. The tailored provisions of the Regulation define the protections afforded by the PHRA and the PFEOA and PHRC's ability to adjudicate claims based on race, sex, and religious creed. Thank you for your comment.

32. Comment: Nancy Stiffler

Comment: Commentor is a lifelong resident of Pennsylvania and opposes the Regulation. Commentor believes these matters are reserved for the Legislature.

Response: The PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

33. Comment: Patricia Waters

Comment: Commentor rejects the Regulation and believes this Regulation is politically motivated.

Response: The Commission is a non-political organization. There is an equal number of Republican and Democratic Commissioners, and the Agency does not engage in politics

when drafting regulations. The Commission respects the political views of the Commentor. Thank you for your comment.

34. Comment: Mel Horst

Comment: Commentor opposes the Regulation.

Response: Thank you for your comment.

35. Comment: Nancy T. (Nancy Thomas)

Comment: Commentor believes these matters should not be dealt with by the PHRC but by the Legislature.

Response: The PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

36. Comment: Ken Forbes

Comment: Commentor believes the subject matter of the Regulation should be handled by the Legislature.

Response: The PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

37. Comment: Jon B. (Marian Barnett)

Comment: Commentor does not see a need for the Regulation, and it is being forced on Pennsylvanians.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. Thank you for your comment.

38. Comment: Ronna Wasik

Comment: Commentor requests that the proposed Regulation be rejected because it broadens the definition of "sex", will be used to open locker rooms, will force doctors to conduct unnecessary surgeries, and will infringe on religious entities' ability to hire those who agree with the religious entities' beliefs. The Commentor believes the Regulation should instead be decided by duly elected lawmakers.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

39. Comment: Sara Morton

Comment: The Commentor is 80 years old and spent a lifetime hiding the way they feel. The Commentor supports the Regulation, and it will benefit the community.

Response: Thank you for your comment.

40. Comment: Linda Wilson

Comment: Commentor requests that the proposed Regulation is rejected because it broadens the definition of "sex", will be used to open locker rooms, will force doctors to conduct unnecessary surgeries, and will infringe on religious entities' ability to hire those who agree with the religious entities' beliefs. The Commentor believes the Regulation should instead be decided by duly elected lawmakers.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. Further, businesses and public accommodations would continue to individually develop respective restroom and locker room policies. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

41. Comment: Lisa Shoemaker

Comment: Commentor is opposed to the Regulation.

Response: Thank you for your comment.

42. Comment: Lisa Costigan

Comment: Commentor believes that the subject matter of the Regulation should be handled by the Legislature.

Response: The PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

43. Comment: Michael Hellman

Comment: Commentor is a gay citizen of Pennsylvania and supports the Regulation.

Response: Thank you for your comment.

44. Comment: Virginia Fitzsimmons

Comment: Commentor requests that the proposed Regulation is rejected because it broadens the definition of "sex", will be used to open locker rooms, will force doctors to conduct unnecessary surgeries, and will infringe on religious entities' ability to hire those who agree with the religious entities' beliefs. The Commentor believes the Regulation should instead be decided by duly elected lawmakers.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. Further, businesses and public accommodations would continue to develop respective restroom and locker room policies. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

45. Comment: M.V.

Comment: Commentor raises various concerns that the Regulation creates privacy concerns in restrooms and locker rooms, broadens the definition of "sex," forces doctors to conduct unnecessary surgeries, and infringes on religious entities' beliefs. The Commentor believes the Regulation should be decided by the Legislature.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the

basic and fundamental problem of discrimination. Further, businesses and public accommodations would continue to develop respective restroom and locker room policies. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

46. Comment: Susan G. Mowrer

Comment: Commentor is opposed to the Regulation and is concerned by the number of persons, groups, or entities that will be required to comply with the regulation compared to the number of stakeholders that were consulted when promulgating the Regulation.

Response: The Commission has received public comments regarding the proposed Regulation for which this comment was received. The PHRC also held listening sessions after sending out over 300+ targeted letters seeking input from various business, religious, and school entities. The tailored provisions of the Regulation define the protections afforded by the PHRA and the PFEOA and PHRC's ability to adjudicate claims based on race, sex, and religious creed. Thank you for your comment.

47. Comment: Patrice Smith

Comment: Commentor suggests that the proposed Regulation broadens the term "sex" which is contrary to her religious beliefs.

Response: The Commission is tasked to deal comprehensively with issue of discrimination on the basis of "sex." The Commission appreciates and respects commentors' religious beliefs. The Regulation is drafted to ensure that the religious protections found in the PHRA¹³, PFEOA¹⁴, Commission regulations¹⁵, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided for religious protections in the Religious Freedom Protection Act. Thank you for your comment.

48. Comment: Linda Dukes

Comment: Commentor requests that the proposed Regulation is rejected because it broadens the definition of "sex," will be used to open locker rooms, will force doctors to

¹³ 43 P.S. §§ 954(b) and (l), 955(a), (h)(10), 955.1, and 955.2.

¹⁴ 24 P.S. §§ 5002(c), 5003(1) and (2), 5004(a.1)(1)-(7) and (c), 5006(1)-(5).

¹⁵ 16 Pa. Code §§ 45.13(a)(1)-(2) and (c), 45.174(a) and (b), 47.11(a) and (b), 47.41, 47.51, 47.71-74, 51.1-51.61.

conduct unnecessary surgeries, and will infringe on religious entities' ability to hire those who agree with the religious entities' beliefs. The Commentor believes the Regulation should instead be decided by duly elected lawmakers.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The proposed Regulation has also been drafted to ensure that the religious protections found in the PHRA¹⁶, PFEOA¹⁷, Commission regulations¹⁸, and any related caselaw continue to be preserved along with the protections afforded by the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

49. Comment: Sandra Farcht (Form Letter D 748-767)

Comment: Commentor requests that the proposed Regulation is rejected because it broadens the definition of "sex," will be used to open locker rooms, will force doctors to conduct unnecessary surgeries, and will infringe on religious entities' ability to hire those who agree with the religious entities' beliefs. The Commentor believes the Regulation should instead be decided by duly elected lawmakers.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The proposed Regulation have been drafted to ensure that the religious protections found in the PHRA¹⁹, PFEOA²⁰, Commission regulations²¹, and any related caselaw continue to be preserved along with the protections afforded by the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

50. Comment: Howard Robin

Comment: Commentor suggests that the proposed Regulation broadens the term "sex" in a way that is contrary to her religious beliefs.

Response: The Commission is tasked to deal comprehensively with issue of discrimination on the basis of "sex." The Commission appreciates and respects commentors' religious beliefs. The Regulation is drafted to ensure that the religious

¹⁶ 43 P.S. §§ 954(b) and (l), 955(a), (h)(10), 955.1, and 955.2.

¹⁷ 24 P.S. §§ 5002(c), 5003(1) and (2), 5004(a.1)(1)-(7) and (c), 5006(1)-(5).

¹⁸ 16 Pa. Code §§ 45.13(a)(1)-(2) and (c), 45.174(a) and (b), 47.11(a) and (b), 47.41, 47.51, 47.71-74, 51.1-51.61.

¹⁹ 43 P.S. §§ 954(b) and (l), 955(a), (h)(10), 955.1, and 955.2.

²⁰ 24 P.S. §§ 5002(c), 5003(1) and (2), 5004(a.1)(1)-(7) and (c), 5006(1)-(5).

²¹ 16 Pa. Code §§ 45.13(a)(1)-(2) and (c), 45.174(a) and (b), 47.11(a) and (b), 47.41, 47.51, 47.71-74, 51.1-51.61.

protections found in the PHRA²², PFEOA²³, Commission regulations²⁴, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided in the Religious Freedom Protection Act. Thank you for your comment.

51. Comment: Gail Patterson

Comment: Commentor suggests that the proposed Regulation broadens the term "sex" in a way that is contrary to her religious beliefs.

Response: The Commission is tasked to deal comprehensively with issue of discrimination on the basis of "sex." The Commission appreciates and respects commentors' religious beliefs. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided in the Religious Freedom Protection Act. Thank you for your comment.

52. Comment: Linda Campanella

Comment: Commentor raises various concerns that the Regulation creates privacy concerns in restrooms and locker rooms, broadens the definition of "sex," forces doctors to conduct unnecessary surgeries, and infringes on religious entities' beliefs. The Commentor believes the Regulation should be decided by Legislature.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. Further, businesses, public accommodations would continue to individually develop respective restroom and locker room policies. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

53. Comment: Jack Harbaugh

²² 43 P.S. §§ 954(b) and (l), 955(a), (h)(10), 955.1, and 955.2.

²³ 24 P.S. §§ 5002(c), 5003(1) and (2), 5004(a.1)(1)-(7) and (c), 5006(1)-(5).

²⁴ 16 Pa. Code §§ 45.13(a)(1)-(2) and (c), 45.174(a) and (b), 47.11(a) and (b), 47.41, 47.51, 47.71-74, 51.1-51.61.

Comment: Commentor raises various concerns that the Regulation creates privacy concerns in restrooms and locker rooms, broadens the definition of "sex" against the Commentor's religious beliefs, forces doctors to conduct unnecessary surgeries, and infringes on religious entities' beliefs. The Commentor believes the Regulation should be decided by Legislature.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination, including discrimination on the basis of "sex." The Commission appreciates and respects commentors' religious beliefs. Further, businesses and public accommodations would continue to individually develop respective restroom and locker room policies. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

54. Comment: Dennis and Lois Steffy

Comment: Commentor raises various concerns that the Regulation creates privacy concerns in restrooms and locker rooms, broadens the definition of "sex," forces doctors to conduct unnecessary surgeries, and infringes on religious entities' beliefs. The Commentor believes the Regulation should be decided by Legislature.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. Further, businesses and public accommodations would continue to individually develop respective restroom and locker room policies. The Commission disagrees that the Regulation will force doctors or members of medical profession to conduct unnecessary surgeries. The Regulation is drafted to ensure that the religious protections found in the PHRA, PFEOA, Commission regulations, and any related caselaw continue to be viable protections for religious institutions that could be subject to enforcement actions. Additionally, the proposed Regulation is further subject to the limitations provided in the Religious Freedom Protection Act. Further, the PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

55. Comment: Kevin Seeker

Comment: Commentor is an owner/operator of a small business and supports the Regulation.

Response: Thank you for your comment.

56. Comment: Jeffrey Graver (Form Letter C 1-242)

Comment: Commentor supports the regulation regarding the definition of discrimination on the basis of "sex."

Response: Thank you for your comment.

57. Comment: David and Tonya Stoner

Comment: Commentors believe that the subject matter of the Regulation should be handled by the Legislature.

Response: The proposed Regulation provides notice and standards regarding discriminatory practices. The Commission is tasked to deal comprehensively with the basic and fundamental problem of discrimination. The PHRA specifically grants the authority to the Commission to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of this act. 43 P.S. §959 (d). Thank you for your comment.

APPENDIX 1

Organizations to Invite to Comment on Proposed Regulation #52-13

1

African-American Chamber of Commerce

1617 JFK Blvd, Suite 889

Philadelphia, PA 19103

The African American Chamber of Commerce - PA, NJ, DE (aachamber.com)

2

Pennsylvania Library Association

220 Cumberland Parkway, Suite 10

Mechanicsburg, PA 17055

Pennsylvania Library Association (palibraries.org)

3

Pennsylvania's State System of Higher Education

2300 Vartan Way, Suite 207

Harrisburg, PA 17110

Our Universities | PA State System of Higher Education (passhe.edu)

4

County Commissioners Association of Pennsylvania

PO Box 60769

Harrisburg, PA 17106-0769

Home - County Commissioners Association of Pennsylvania CCAP (pacounties.org)

5

Pennsylvania Municipal Authorities Association

1000 N. Front Street, Suite 401

Wormleysburg, PA 17043

Home Page | Municipal Authorities

6

Pennsylvania Municipal League

414 N. Second Street

Harrisburg, PA 17101

The Pennsylvania Municipal League (pml.org)

7

Pennsylvania School Boards Association

400 Bent Creek Boulevard

Mechanicsburg, PA 17050-1873

PSBA – Stronger Schools. Stronger Pennsylvania

8

Pennsylvania State Association of Boroughs

2941 N. Front Street

Harrisburg, PA 17110

PA State Association of Boroughs

9

Pennsylvania State Association of Township Commissioners

414 N. Second Street

Harrisburg, PA 17101

[PSATC Overview - The Pennsylvania Municipal League \(pml.org\)](#)

10

Pennsylvania State Association of Township Supervisors

4855 Woodland Drive

Enola, PA 17025

[Home - PSATS Main](#)

11

Pennsylvania Youth Congress

413 Walnut Street

Harrisburg, PA 17101

[Pennsylvania LGBTQ Organization Directory – The Pennsylvania Youth Congress \(payouthcongress.org\)](#)

12

Pennsylvania Equality Project

639 Russell Ave

Meadville, PA 16335

[Home | PA Equality Project](#)

13

Alder Health Services

100 N. Cameron Street, Suite 201

Harrisburg, PA 17101

Alder Health Services

313 West Liberty Street, Suite 371

Lancaster, PA 17603

[Home : Alder Health Services](#)

14

PERSAD Center

5301 Butler Street, Suite 100

Pittsburgh, PA 15201

[LGBTQ Mental Health | Persad Center | Pittsburgh](#)

PERSAD Center

The Center on Strawberry

59 E. Strawberry Alley

Washington, PA 15301

15

The Mazzoni Center

1348 Bainbridge Street

Philadelphia, PA 19147

[Mazzoni Center | Our health. Our lives. Our community.](#)

The Mazzoni Center

1201 Locust Street
Philadelphia, PA 19107

16
Erie Mayor's LGBTQ+ Advisory Council
Chief of Staff Renée M. Lamis
rlamis@erie.pa.us
[LGBTQ+ Council – Erie, PA](#)

17
Philadelphia Office of LGBTQ Affairs
City Hall
Room 110
Philadelphia, PA 19107
[Office of LGBT Affairs | Homepage | City of Philadelphia](#)

18
Pennsylvania Association of Realtors
500 North 12th Street
Lemoyne, PA 17043
[Home - Pennsylvania Association of Realtors® \(parealtors.org\)](#)

19
Independence Business Alliance
230 S. Broad Street, 17th Floor
Philadelphia, PA 19102
[Home - Independence Business Alliance \(thinkiba.com\)](#)

20
Keystone Business Alliance
PO Box 135
Harrisburg, PA 17108
[Keystone Business Alliance - Home \(wildapricot.org\)](#)

21
LGBT Business Council of the Greater Lehigh Valley
840 Hamilton Street, Suite 205
Allentown, PA 18101
[LGBT Business of the Year \(lehighvalleychamber.org\)](#)

22
Montgomery County LGBT Business Council
1776 at Ambler Yards
300 Brookside Ave
Building 4, Suite 125
Ambler, PA 19002
[Montco LGBT Business Council - \(montcolgbtbc.org\)](#)

23

Three Rivers Business Alliances

1735 E. Carson Street, Suite 403

Pittsburgh, PA 15203

[Three Rivers Business Alliance - Home \(3rba.com\)](#)

24

Attic Youth Center

255 S. 16th Street

Philadelphia, PA 19102

[The Attic Youth Center - A safe space where it's OK2BU!](#)

25

Bradbury-Sullivan LGBT Community Center

522 West Maple Street

at Bayard Rustin Way

Allentown, PA 18101

[Bradbury-Sullivan LGBT Community Center \(bradburysullivancenter.org\)](#)

26

Washington County Gay Straight Alliance, Inc.

Center on Strawberry

59 E. Strawberry Ave

Washington, PA 15301

[LGBTQA+ Support & Resources in Washington PA | Washington County Gay Straight Alliance \(wcgsa.org\)](#)

27

LGBT Center of Central Pennsylvania

PO Box 5629

Harrisburg, PA 17110

[Home New \(centralpalgbtcenter.org\)](#)

28

LGBT Center of Greater Reading

640 Centre Avenue

Reading, PA 19601

[Home | LGBT Center of Greater Reading \(lgbtcenterofreading.com\)](#)

29

Pittsburgh Equality Center

5401 Centre Avenue

Suite 103

Pittsburgh, PA 15232

[Home - PGH Equality Center](#)

30

SAGA Community Center

350 S. York Road

Hatboro, PA 19040

[SAGA Community Center | Montgomery and Bucks County PA \(sagahatboro.com\)](http://sagahatboro.com)

31

Upper Delaware GLBT Center-Triversity

201 West Harford Street

PO Box 1295

Milford, PA 18337

[Contact - TriVersity \(triversitycenter.org\)](http://triversitycenter.org)

32

William Way LGBT Community Center

1315 Spruce Street

Philadelphia, PA 19107

[William Way Community Center \(waygay.org\)](http://waygay.org)

33

Centre LGBTQA Support Network

PO Box 1008

State College, PA 16801

[Centre LGBTQA Support Network \(squarespace.com\)](http://squarespace.com)

34

Colours Organization

1211 Chestnut Street, Suite 910

Philadelphia, PA 19107

[Colours Organization](#)

35

Delaware Valley Legacy Fund

1835 Market Street, Suite 2410

Philadelphia, PA 19103

[HOME | dvlf](#)

36

Eastern PA Trans Equity Project

Corinne.goodwin@patransequity.org

[Eastern PA Trans Equity Project](#)

37

Equality Forum

mlazin@equalityforum.com

[Home | Equality Forum](#)

38

Pennsylvania Utility Law Project

118 Locust Street

Harrisburg, PA 17101

Locations and Contact Information – RHLS

39

Galaei

118 Fountain Street
Philadelphia, PA 19122
[GALAEI \(galaeiqtbipoc.org\)](http://GALAEI(galaeiqtbipoc.org))

40

Greater Erie Alliance for Equality

PO Box 522
Erie, PA 16512
[Home - Greater Erie Alliance](#)

41

The Fair Housing Council of the Capital Region, Inc.

2100 North 6th Street
Harrisburg, PA 17110
[Home - PaFairHousing.org](http://Home-PaFairHousing.org)

42

Fair Housing Law Center

10 West Cherry Avenue
Washington, PA 15301
[Fair Housing Law Center | Housing and Shelter - Housing Discrimination and Fair Housing |](#)
[PALawHELP.org - Your Online Guide to Legal Information and Legal Services in Pennsylvania](#)

43

LBT Women of Erie

eriebeans@yahoo.com

44

LGBT Elder Initiative

1315 Spruce Street
Philadelphia, PA 19107
[LGBT EI | Successful Aging at Every Age \(lgbtellderinitiative.org\)](http://LGBT_EI_|_Successful_Aging_at_Every_Age_(lgbtellderinitiative.org))

45

LGBT Equality Alliance of Chester County

14 Gay Street, 1st Floor
Phoenixville, PA 19460
[LGBT Equality Alliance \(lgbteachesco.org\)](http://LGBT_Equality_Alliance_(lgbteachesco.org))

46

NEPA Rainbow Alliance

PO Box 1044
Wilkes-Barre, PA 18703
[Rainbow Alliance | Support a Cause | DiscoverNEPA](#)

47

NWPA Pride Alliance, Inc.
PO Box 11448
Erie, PA 16514
[LGBTQIA+ Community - NWPA Pride Alliance](#)

48

Out & Equal – Philadelphia Chapter
hello@outandequal.org
[Out & Equal | Workplace Advocates \(outandequal.org\)](#)

49

Philadelphia Asian and Queer
phillypaq@gmail.com
[Philly Asian Queer](#)

50

Philadelphia Family Pride
PO Box 31848
Philadelphia, PA 19104
[Philadelphia Family Pride - Home](#)

51

Pocono Action Lambda Society
PMB # 241
221 Skyline Drive, Suite 208
East Stroudsburg, PA 18301
[Welcome to PALS! Pocono Action Lambda Society of NE Pennsylvania \(palsnepa.org\)](#)

52

SisterSpace
PO Box 22476
Philadelphia, PA 19110
[SisterSpace of the Delaware Valley – SisterSpace](#)

53

SisTers PGH
2014 Monongahela Ave
Swissvale, PA 15218
[Sisters PGH](#)

54

Bucks County Human Relations Council
PO Box 235
Richboro, PA 18954
info@BCHumanRelations.org
[Local Human Relations Councils – Bucks County Human Relations Council \(bchumanrelations.org\)](#)

55

The Association of LGBTQ Journalists – Philadelphia Chapter
2120 L Street, NW
Suite 850
Washington, DC 20037
[Philadelphia Chapter - NLGJA](#)

56

TransCentral PA
info@transcentralpa.org
[Welcome! \(transcentralpa.org\)](#)

57

TransFamily of NWPA
TransFamilyNWPABOD@gmail.com
[TransFamily of NWPA \(transfamilynwpa.org\)](http://transfamilynwpa.org)

58

Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102
[Community Legal Services - Philadelphia | Free Legal Help \(clsphila.org\)](#)

Community Legal Services
1410 W. Erie Avenue
Philadelphia, PA 19140

Community Legal Services
1339 Chestnut Street, 6th Floor
Philadelphia, PA 19103

59

Fair Housing Partnership of Greater Pittsburgh, Inc.
2840 Liberty Avenue, Suite 205
Pittsburgh, PA 15222
[Fair Housing Partnership \(fhp.org\)](http://fhp.org)

60

Fair Housing Rights Center in Southeastern Pennsylvania
444 N. 3rd Street, Suite 110
Philadelphia, PA 19123
[FHRC – Building Strong Communities \(fairhousingrights.org\)](http://fairhousingrights.org)

61

Pennsylvania Coalition Against Domestic Violence
3605 Vartan Way, Suite 101
Harrisburg, PA 17110
[PCADV - Pennsylvania Coalition Against Domestic Violence](#)

62

Philadelphia Legal Assistance

718 Arch Street, Suite 300N

Philadelphia, PA 19106

[Philadelphia Legal Assistance \(philalegal.org\)](http://philalegal.org)

63

Pennsylvania Association of Housing and Redevelopment Agencies

P.O. Box J

New Florence, PA 15944

[The Pennsylvania Association of Housing and Redevelopment Agencies \(pahra.org\)](http://pahra.org)

64

Women Against Abuse

100 South Broad Street, Suite 1341

Philadelphia, PA 19102

[Home | Women Against Abuse](#)

65

American Civil Liberties Union of Pennsylvania

PO Box 60173

Philadelphia, PA 19102

[Pennsylvania | American Civil Liberties Union \(aclu.org\)](http://aclu.org)

66

Pennsylvania Pharmacists Association

508 North Third Street

Harrisburg, PA 17101

[Pennsylvania Pharmacists Association \(papharmacists.com\)](http://papharmacists.com)

67

The Chamber of Commerce for Greater Philadelphia

200 S. Broad Street, Suite 700

Philadelphia, PA 19102

[The Chamber of Commerce for Greater Philadelphia – At the Heart of Good Business \(chamberphl.com\)](http://chamberphl.com)

68

The Montgomery County Chamber of Commerce

101 Bill Smith Boulevard

King of Prussia, PA 19406

[Home - Montgomery County Chamber of Commerce](#)

69

Central Bucks Chamber of Commerce

252 W. Swamp Road, Suite 23

Doylestown, PA 18901

[Central Bucks Chamber of Commerce in Doylestown, Bucks County, Pennsylvania \(PA\)](#)

70

Lower Bucks County Chamber of Commerce

409 Hood Boulevard

Fairless Hills, PA 19030
[Lower Bucks County Chamber of Commerce \(lbccc.org\)](http://lbccc.org)

71
Upper Bucks Chamber of Commerce
21 N. Main Street
Quakertown, PA 18951
[Upper Bucks Chamber of Commerce | Quakertown, PA 18951 \(ubcc.org\)](http://ubcc.org)

72
Delaware County Chamber of Commerce
1001 Baltimore Pike, Suite 9 LL
Springfield, PA 19064
[Delaware County Chamber of Commerce - Delaware County Chamber of Commerce | Springfield, PA \(delcochamber.org\)](http://delcochamber.org)

73
Chester County Chamber of Business & Industry
1600 Paoli Pike
Malvern, PA 19355
[Chester County Chamber of Business and Industry | Malvern, PA : Chester County Chamber of Business and Industry \(chescochamber.org\)](http://chescochamber.org)

74
The Chamber of Gettysburg & Adams County
1382 Biglerville Road
Gettysburg, PA 17325
[The Chamber of Gettysburg & Adams County — Gettysburg Adams Chamber of Commerce • \(gettysburg-chamber.org\)](http://gettysburg-chamber.org)

75
Allegheny Valley Chamber of Commerce
1 Acee Drive, Suite 2
Natrona Heights, PA 15065
[Allegheny Valley Chamber of Commerce | alleghenyvalleychamber.com](http://alleghenyvalleychamber.com)

76
Allegheny Conference on Community Development
11 Stanwix Street, 17th Floor
Pittsburgh, PA 15222
[Allegheny Conference — Home](#)

77
Greater Pittsburgh Chamber of Commerce
11 Stanwix Street, 17th Floor
Pittsburgh, PA 15222
[Greater Pittsburgh Chamber of Commerce — Home](#)

78
North Side | Shore Chamber of Commerce
809 Middle Street
Pittsburgh, PA 15212
northsidechamberofcommerce.com

79

Armstrong County Industrial Development Council

402 Market Street
Kittanning, PA 16201

[Armstrong County Industrial Development Council \(armstrongidc.org\)](http://armstrongidc.org)

80

Beaver County Chamber of Commerce

525 Third St., 2nd Floor
Beaver, PA 15009

[Home - Beaver County Chamber of Commerce, PA](#)

81

Bedford County Chamber of Commerce

203 South Juliana Street
Bedford, PA 15522

[Home - Bedford County Chamber of Commerce](#)

82

Greater Reading Chamber Alliance

606 Court Street
Reading, PA 19601

[Welcome to Greater Reading Chamber & Economic Development Corporation - Greater Reading Chamber Alliance](#)

83

Northeast Berks Chamber of Commerce

110 W. Main Street
P.O. Box 209

Kutztown, PA 19530

[Chamber of Commerce for the North East Berks County Area - Northeast Berks Chamber of Commerce](#)

84

Blair County Chamber of Commerce

3900 Industrial Park Drive, Suite 12
Altoona, PA 16602

[Home \(blairchamber.com\)](http://blairchamber.com)

85

Bradford Area Chamber of Commerce

121 Main Street
Bradford, PA 16701

[BRADFORD AREA CHAMBER OF COMMERCE - Home](#)

86

Butler County Chamber of Commerce

2525 Rochester Road
Cranberry Township, PA 16066

[Contact - Butler County Chamber of Commerce](#)

87

Cambria Regional Chamber

245 Market Street, Suite 100
Johnstown, PA 15901

Cambria Regional Chamber-Business advocate & community development (crchamber.com)

88

Cameron County Chamber of Commerce

34 East Fourth Street

Emporium, PA 15834

Chamber/Emporium/Cameron County Chamber of Commerce & Artisan Center

89

Greater Lehigh Valley Chamber of Commerce

840 Hamilton Street, Suite 205

Allentown, PA 18101

Carbon Chamber & Economic Development Corporation | Lehigh Valley Chamber

Greater Lehigh Valley Chamber of Commerce

74 West Broad Street, Suite 240

Bethlehem, PA 18018

Greater Lehigh Valley Chamber of Commerce

158 A Northampton Street

Easton, PA 18042

Greater Lehigh Valley Chamber of Commerce

Mauch Chunk Trust Building

7 East Point Road

Albrightsville, PA 18210

Greater Lehigh Valley Chamber of Commerce

Coopersburg Borough Hall

5 North Main Street

Coopersburg, PA 18036

Greater Lehigh Valley Chamber of Commerce

191 Main Street, Suite 205

Emmaus, PA 18049

Greater Lehigh Valley Chamber of Commerce

685 Main Street

Hellertown, PA 18055

Greater Lehigh Valley Chamber of Commerce

137 South Street

Lehighton, PA 18235

Greater Lehigh Valley Chamber of Commerce

3700 Old Philadelphia Pike

Bethlehem, PA 18015

Greater Lehigh Valley Chamber of Commerce

18 South Main Street

Nazareth, PA 18064

Greater Lehigh Valley Chamber of Commerce

Heidelberg Township Building

6272 Route 309

New Tripoli, PA 18066

Greater Lehigh Valley Chamber of Commerce (Northampton)

1637 Main Street
Northampton, PA 18067

Greater Lehigh Valley Chamber of Commerce
1004 W. Main Street
Stroudsburg, PA 18360

Greater Lehigh Valley Chamber of Commerce
Berkshire Hathaway Prudential Benjamin Real Estate
4327 Route 309
Schnecksville, PA 18078

Greater Lehigh Valley Chamber of Commerce
Slatington Library
650 Main Street
Slatington, PA 18080

Greater Lehigh Valley Chamber of Commerce
881 Third St., Suite B10
Whitehall, PA 18052

Greater Lehigh Valley Chamber of Commerce
CareerLink Building
555 Union Boulevard
Allentown, PA 18109

90
Chamber of Business & Industry of Centre County
131 S. Fraser Street, Suite 1
State College, PA 16801
[Home \(cbicc.org\)](http://cbicc.org)

91
Clarion Area Chamber of Business & Industry
650 Main Street
Clarion, PA 16214
[Clarion Chamber of Business & Industry | Clarion PA – The Clarion Chamber of Business & Industry is a voluntary partnership of business and professional people working together to build a healthy economy and to improve the quality of life in our community.](#)

92
Greater Clearfield Chamber of Commerce
218 S. Second Street
Clearfield, PA 16830
[HOME | clearfield-chamber \(clearfieldchamber.com\)](http://clearfield-chamber.com)

93
Clinton County Chamber of Commerce
212 North Jay Street
Lock Haven, PA 17745
[Chamber of Commerce | Clinton County Economic Partnership \(clintoncountyinfo.com\)](http://clintoncountyinfo.com)

94
The Columbia Montour Chamber of Commerce
238 Market Street
Bloomsburg, PA 17815
[Home - Columbia Montour Chamber of Commerce](#)

95

Meadville-Western Crawford County Chamber of Commerce

908 Diamond Park

Meadville, PA 16335

[Home - Meadville-Western Crawford County Chamber of Commerce, PA \(meadvillechamber.com\)](http://meadvillechamber.com)

96

Carlisle Area Chamber of Commerce

801 S. Hanover Street

Carlisle, PA 17013

[Home - Carlisle Area Chamber of Commerce \(carlislechamber.org\)](http://carlislechamber.org)

97

Mechanicsburg Chamber of Commerce

6 W. Strawberry Avenue

Mechanicsburg, PA 17055

98

Shippensburg Area Chamber of Commerce

68 W. King Street

Shippensburg, PA 17257

99

West Shore Chamber of Commerce

4211 Trindle Road

Camp Hill, PA 17011

100

Harrisburg Regional Chamber & CREDC

3211 N. Front Street, Suite 201

Harrisburg, PA 17110

[Harrisburg Regional Chamber & CREDC](#)

101

Hershey PA Chamber of Commerce

150 W. Chocolate Avenue

Hershey, PA 17033

[Become a Hershey Partnership Member | PA Chamber of Commerce](#)

102

Middletown Pennsylvania Chamber of Commerce

60 West Emaus Street

Middletown, PA 17057

103

Millersburg Pennsylvania Chamber of Commerce

PO Box 172

Millersburg, PA 17061

104

Ridgway-Elk County Chamber of Commerce

300 Main Street

Ridgway, PA 15853

[Ridgway Elk-County Chamber of Commerce \(ridgwaychamber.com\)](http://ridgwaychamber.com)

105

Erie Regional Chamber and Growth Partnership

1128 State Street, Suite 300

Erie, PA 16501

[Erie, PA Chamber of Commerce - Erie Regional Chamber & Growth Partnership \(eriepa.com\)](#)

106

Fayette Chamber of Commerce

65 West Main Street, Suite 107

Uniontown, PA 15401

[FAYETTE COUNTY CHAMBER OF COMMERCE | UNIONTOWN, PA 15401-3345 - Fayette County Chamber of Commerce | Uniontown, PA 15401-3345 \(fayettechamber.com\)](#)

107

Greater Connellsville Chamber of Commerce

100 South Arch Street

Connellsville, PA 15425

[Greater Connellsville Chamber of Commerce - Home](#)

108

Forest County Business Alliance

PO Box 528

Marienville, PA 16239

[Home - Forest County Business Alliance \(fcbusinessalliance.com\)](#)

109

Franklin Area Chamber of Commerce

1255 Liberty Street

Franklin, PA 16323

[Home - Franklin Area Chamber of Commerce, PA](#)

110

Fulton County Chamber of Commerce & Tourism

PO Box 141

McConnellsburg, PA 17233

[Fulton County Chamber of Commerce & Tourism | \(fultoncountypa.com\)](#)

111

Greene County Chamber of Commerce

3157 Mt. Morris Road, Suite 103

Waynesburg, PA 15370

[Home - Greene County Chamber of Commerce \(greenechamber.org\)](#)

112

Huntingdon County Chamber of Commerce

500 Allegheny Street

Huntingdon, PA 16652

[Home - Huntingdon County Chamber of Commerce \(huntingdonchamber.com\)](#)

113

Indiana County Chamber of Commerce

1019 Philadelphia Street

Indiana, PA 15701

[Indiana County Chamber Of Commerce](#)

114

Brookville Area Chamber of Commerce (Jefferson)
100 Franklin Avenue
Brookville, PA 15825
[Chamber of Commerce, Local Business - Brookville, Pennsylvania \(brookvillechamber.com\)](http://brookvillechamber.com)

115
Juniata River Valley Chamber of Commerce (Juniata and Mifflin)
Historic Courthouse
One West Market Street
Lewistown, PA 17044
[Juniata River Valley Chamber of Commerce – Get Connected! \(jrvchamber.com\)](http://jrvchamber.com)

116
Greater Scranton Chamber of Commerce (Lackawanna)
P.O. Box 431
222 Mulberry Street
Scranton, PA 18501

117
The Greater Carbondale Chamber of Commerce
27 North Main Street
Carbondale, PA 18407
[The Greater Carbondale Chamber Of Commerce - Your Chamber](#)

118
Lancaster Chamber
115 E. King Street
Lancaster, PA 17602
[Home - Lancaster Chamber of Commerce](#)

119
Northern Lancaster County Chamber of Commerce
P.O. Box 723
Ephrata, PA 17522
[The Northern Lancaster County Chamber of Commerce \(northernlanasterchamber.org\)](http://northernlanasterchamber.org)

120
Southern Lancaster County Chamber of Commerce
220 W. State Street
PO Box 24
Quarryville, PA 17566
[The Southern Lancaster Chamber of Commerce | Home](#)

121
Lawrence County Regional Chamber of Commerce
325 East Washington Street
New Castle, PA 16101
[Home - Lawrence County Regional Chamber of Commerce - PA, PA](#)

122
Lebanon Valley Chamber of Commerce
989 Quentin Road, Suite 1
Lebanon, PA 17042
[Lebanon Valley PA Chamber of Commerce \(lvchamber.org\)](http://lvchamber.org)

123

Back Mountain Chamber (Luzerne)

105 Lt. Michael Cleary Drive

Dallas, PA 18612

[Home - Back Mountain Chamber](#)

124

Greater Hazelton Chamber of Commerce

8 West Broad Street

Mezzanine, Suite 1490

Hazleton, PA 18201

[Greater Hazleton Chamber of Commerce](#)

125

Greater Pittston Chamber of Commerce

104 Kennedy Boulevard

Pittston, PA 18640

[Home - Greater Pittston Chamber of Commerce, PA](#)

126

Williamsport Lycoming Chamber of Commerce

102 W. Fourth Street

Williamsport, PA 17701

[WLCC – Williamsport/ Lycoming Chamber of Commerce](#)

127

Bradford Area Chamber of Commerce (McKean)

121 Main Street

Bradford, PA 16701

[BRADFORD AREA CHAMBER OF COMMERCE - Home](#)

128

Mercer Area Chamber of Commerce

143 North Diamond Street

Mercer, PA 16137

[Mercer Area Chamber of Commerce in Mercer, Pennsylvania](#)

129

Pocono Chamber of Commerce (Monroe)

1004 W. Main Street

Stroudsburg, PA 18360

[Home - Pocono Chamber of Commerce | Stroudsburg PA](#)

130

Central PA Chamber of Commerce (Columbia, Montour, Northumberland, Snyder, Union)

30 Lawton Lane

Milton, PA 17847

[Central PA Chamber of Commerce – Central PA Chamber of Commerce](#)

131

Perry County Chamber of Commerce

PO Box 663

New Bloomfield, PA 17068

[Home - Perry County Chamber of Commerce - PA, PA](#)

132

Pike County Chamber of Commerce

Milford Community House

201 Broad Street, Suite 2

Milford, PA 18337

[Home - Pike County Chamber of Commerce - PA \(pikechamber.com\)](#)

133

Coudersport Area Chamber of Commerce (Potter/Tioga)

2053 Route 660

Wellsboro, PA 16901

[Coudersport Area Chamber of Commerce | Visit Potter-Tioga Pennsylvania \(visitpottertioga.com\)](#)

134

Schuylkill Chamber of Commerce

Union Station

1 Progress Circle

Suite 201

Pottsville, PA 17901

[Home - Schuylkill Chamber of Commerce](#)

135

The Chamber Somerset County

601 N. Center Avenue

Somerset, PA 15501

[Somerset County Pennsylvania Chamber of Commerce – Non-profit corporation dedicated to promoting this region as a superior locale in which to live, work, vacation and conduct business](#)

[\(somersectcountychamber.com\)](#)

136

Sullivan County PA Chamber of Commerce

202 S. Turnpike Street

Dushore, PA 18614

[Sullivan County PA Chamber of Commerce | 202 S. Turnpike Street, Dushore Pa 18614 | \(272\) 202-0123](#)

137

Montrose Area Chamber of Commerce (Susquehanna)

PO Box 423

Montrose, PA 18801

[Home - Montrose Area Chamber of Commerce, PA](#)

138

Tioga County Development Corporation

33 Pearl Street

Wellsboro, PA 16901

[Economic Development | Develop Tioga | United States](#)

139

Venango Area Chamber of Commerce

24 Seneca Street

PO Box 376

Oil City, PA 16301

[Venango Area Chamber of Commerce \(venangochamber.org\)](#)

140

Warren County Chamber of Business & Industry

308 Market Street

Warren, PA 16365

WCCBI – Warren County Chamber of Business & Industry

141

Washington County Chamber of Commerce

375 Southpointe Boulevard, Suite 240

Canonsburg, PA 15317

Washington County Chamber of Commerce - Washington County Chamber of Commerce

(washcochamber.com)

142

Greater Honesdale Partnership (Wayne)

32 Commercial Street, Suite 3

Honesdale, PA 18431

Home - Greater Honesdale Partnership (visithonesdalepa.com)

143

Westmoreland County Chamber of Commerce

241 Tollgate Hill Road

Greensburg, PA 15601

Westmoreland County Chamber of Commerce | Greensburg, PA - Home (westmorelandchamber.com)

144

Wyoming County Chamber of Commerce

PO Box 568

Tunkhannock, PA 18657

Home - Wyoming County Chamber of Commerce (wyccc.com)

145

Greater Wyoming Valley Chamber of Commerce

7 South Main Street

3rd Floor, Suite 4

Wilkes-Barre, PA 18701

Home - Greater Wyoming Valley Chamber of Commerce

146

York County Economic Alliance

144 Roosevelt Avenue

York, PA 17401

Home | York County Economic Alliance (yceapa.org)

147

Hanover Area Chamber of Commerce

40 York Street, Suite 2

Hanover, PA 17331

Hanover Area Chamber of Commerce (hanoverchamber.com)

148

Pennsylvania Institute of Certified Public Accountants

Ten Penn Center

1801 Market Street, Suite 2400

Philadelphia, PA 19103

PICPA - Pennsylvania Institute of Certified Public Accountants

149

Pennsylvania Society of Tax & Accounting Professionals

20 Erford Road, Suite 200A

Lemoyne, PA 17043

[Pennsylvania Society of Tax & Accounting Professionals \(pstap.org\)](http://pstap.org)

150

American Institute of Architects Pennsylvania

240 North Third Street, 12th Floor

Harrisburg, PA 17101

[AIA Pennsylvania – Designed for Architects. \(aiapa.org\)](http://aiapa.org)

151

Pennsylvania Auctioneers Association

P.O. Box 686

Gilbertsville, PA 19525

[Home \(paauktioners.org\)](http://paauktioners.org)

152

Coalition of Pennsylvania Real Estate Appraisers

CPREA c/o MidAtlantic Valuation Group

489 Devon Park Drive, Suite 309

Wayne, PA 19087

[Coalition of Pennsylvania Real Estate Appraisers — Promoting Responsible Real Estate Valuation \(cprea.org\)](http://cprea.org)

153

American Society of Appraisers – Philadelphia Chapter

70208 Delaire Landing Road,

Philadelphia, PA 19114

[American Society of Appraisers - Philadelphia Chapter \(asaphila.com\)](http://asaphila.com)

154

Realtors Association of Metropolitan Pittsburgh

1427 West Liberty Avenue

Pittsburgh, PA 15226

[Appraisal – Realtors Association of Metropolitan Pittsburgh \(realtorspgh.com\)](http://realtorspgh.com)

155

Appraisal Institute – Western Pennsylvania Chapter

1427 West Liberty Avenue

Pittsburgh, PA 15226

[Appraisal Institute – Professionals Providing Real Estate Solutions \(wpaai.org\)](http://wpaai.org)

156

Pennsylvania Chiropractic Association

1335 North Front Street

Harrisburg, PA 17102

[Home - The Pennsylvania Chiropractic Association \(pennchiro.org\)](http://pennchiro.org)

157

Pennsylvania Society of Professional Engineers

908 N. Second Street

Harrisburg, PA 17102

[PSPE - Pennsylvania Society of Professional Engineers](http://pspe.org)

158

The Pennsylvania Society of Land Surveyors

10340 Democracy Lane, Suite 300

Fairfax, VA 22030

[HOME](#) | [Pennsylvania Society of Land Surveyors](#) | [Irwin](#) ([psls.org](#))

159

Pennsylvania Funeral Directors Association

7441 Allentown Boulevard

Harrisburg, PA 17112

[Home](#) ([pfda.org](#))

160

PA-DE Chapter of the American Society of Landscape Architects

908 North Second Street

Harrisburg, PA 19102

[Pennsylvania-Delaware Chapter of the American Society of Landscape Architects](#) ([padeasla.org](#))

161

Pennsylvania Medical Society

400 Winding Creek Boulevard

Mechanicsburg, PA 17050

[PAMED](#) - [Home page](#) | [PAMED](#) ([pamedsoc.org](#))

162

Pennsylvania State Nurses Association

3605 Vartan Way, Suite 203

Harrisburg, PA 17110

[Home PSNA](#) | [PSNA](#)

163

Pennsylvania Health Care Association

315 North Second Street

Harrisburg, PA 17101

[Home](#) | [PHCA](#)

164

American Physical Therapy Association - Pennsylvania

2400 Ardmore Boulevard, Suite 302

Pittsburgh, PA 15221

[Home](#) ([aptapa.org](#))

165

Pennsylvania Podiatric Medical Association

757 Poplar Church Road

Camp Hill, PA 17011

[Pennsylvania Podiatric Medical Association](#) ([ppma.org](#))

166

Pennsylvania Psychological Association

5925 Stevenson Ave, Suite H

Harrisburg, PA 17112

[Pennsylvania Psychological Association](#) ([papsy.org](#))

167

National Association of Social Workers – Pennsylvania Chapter

1000 Bent Creek Boulevard, Suite 40
Mechanicsburg, PA 17050
[National Association of Social Workers - Pennsylvania Chapter \(nasw-pa.org\)](http://nasw-pa.org)

168
Pennsylvania Society for Clinical Social Work
PO Box 147
Darby, PA 19023
[Welcome to PSCSW - Pennsylvania Society for Clinical Social Work](#)

169
Pennsylvania Speech-Language-Hearing Association
700 McKnight Park Drive, Suite 708
Pittsburgh, PA 15237
[PSHA – Pennsylvania Speech-Language-Hearing Association](#)

170
Pennsylvania Automotive Association
1925 North Front Street
Harrisburg, PA 17102
[Home | PAA - Pennsylvania Automotive Association](#)

171
Pennsylvania Veterinary Medical Association
8574 Paxton Street
Hummelstown, PA 17036
[PVMA | Pennsylvania Veterinary Medical Association \(pavma.org\)](#)

172
Pennsylvania Bar Association
100 South Street
Harrisburg, PA 17101
[Pennsylvania Bar Association > Home \(pabar.org\)](#)

173
Philadelphia Bar Association
1101 Market Street, 11th Floor
Philadelphia, PA 19107
[Welcome \(philadelphiabar.org\)](#)

175
Dauphin County Bar Association
213 North Front Street
Harrisburg, PA 17101
[Dauphin County Bar Association \(dcba-pa.org\)](#)

176
Allegheny County Bar Association
400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
[Allegheny County Bar Association - Pittsburgh, Pennsylvania \(acba.org\)](#)

177

Lancaster Bar Association

28 East Orange Street
Lancaster, PA 17602

Lancaster Bar

178

Erie County Bar Association

429 West 6th Street
Erie, PA 16507

Welcome to The Erie County Bar Association - Erie County Bar Association (eriebar.com)

179

Pennsylvania Small Business Development Centers

Kutztown University
15200 Kutztown Road
Kutztown, PA 19530

Pennsylvania Small Business Development Centers (PASBDC) - Free Small Business Consulting with Pennsylvania SBDC

180

MidAtlantic Employers' Association

234 Mall Blvd., Suite G-50
King of Prussia, PA 19406

Your Human Resource Partner | MidAtlantic Employers' Association (meainfo.org)

181

Pennsylvania Workforce Development Association

205 House Avenue, Suite 101
Camp Hill, PA 17011

Home - Pennsylvania Workforce Development Association (pawork.org)

182

Pennsylvania Industrial Resource Center Network

75 Young Street
Hanover Industrial Estates
Hanover Township, PA 18703

PA IRC Network – PA Made – a stronger economy through manufacturing

183

Team Pennsylvania Foundation

240 N. 3rd Street, 2nd Floor
Harrisburg, PA 17101

Team PA Foundation

184

Philadelphia Works

One Penn Center
1617 JFK Boulevard, 13th Floor
Philadelphia, PA 19103

185

MontcoWorks

Human Services Center
1430 DeKalb Street, 5th Floor
Norristown, PA 19401

MontcoWorks | Montgomery County, PA - Official Website (montcopa.org)

186

Pennsylvania Women Work

Centre City Tower Building
650 Smithfield Street, Suite 520
Pittsburgh, PA 15222

[Pennsylvania Women Work - Home \(pawomenwork.org\)](http://pawomenwork.org)

187

National Federation of Independent Business

Pennsylvania Small Business Association

225 State St., Suite B
Harrisburg, PA 17101

[NFIB in Pennsylvania, Small Business Association](#)

188

Greater Philadelphia Hispanic Chamber of Commerce

141 E. Hunting Park Avenue
Philadelphia, PA 19124

[Philadelphia Hispanic Chamber of Commerce | Philadelphia, PA 19124 - Home \(philahispanicchamber.org\)](#)

189

The Manufacturing Alliance of Philadelphia

PO Box 3199
Maple Glenn, PA 19002

[Manufacturing online – Manufacturing Partners](#)

190

U.S. Small Business Administration – Philadelphia District

660 American Ave, Suite 301
King of Prussia, PA 19406

[Philadelphia | U.S. Small Business Administration \(sba.gov\)](http://sba.gov)

191

U.S. Small Business Administration – Philadelphia District

2601 N. Third St., Suite 503
Harrisburg, PA 17110

192

U.S. Small Business Administration – Philadelphia District

7 N. Wilkes-Barre Blvd., Suite 4M
Wilkes-Barre, PA 18702

193

U.S. Small Business Administration – Pittsburgh District

411 7th Ave, Suite 1450
Pittsburgh, PA 15219

[Pittsburgh | U.S. Small Business Administration \(sba.gov\)](http://sba.gov)

194

Pennsylvania Manufacturers' Association

225 State Street
Harrisburg, PA 17101

[Pennsylvania Manufacturers' Association | \(pamanufacturers.org\)](http://pamanufacturers.org)

195

Pennsylvania Apartment Association

One Bala Plaza, Suite 515

Bala Cynwyd, PA 19004

[Home | PAA \(paahq.com\)](#)

196

Apartment Association of Northwestern Pennsylvania, Inc.

1127 West 38th Street

Erie, PA 16508

[Apartment Association of NW PA - Welcome - Apartment Association of NW PA \(aptassoc.com\)](#)

197

Pennsylvania Residential Owners Association

2205 Strawberry Square

Harrisburg, PA 17101

[Pennsylvania Residential Owners Association - PROA \(proassoc.org\)](#)

198

Landlord Association of Pennsylvania

1414 Millard St

Bethlehem, PA 18018

[The Landlord Association of Pennsylvania \(landlordassocpa.com\)](#)

199

ACRE of Pittsburgh

PO BOX 98070

Pittsburgh, PA 15227

[default page \(acrepggh.org\)](#)

200

Pennsylvania Housing Law Project

Regional Housing Legal Services

100 5th Avenue, Suite 911

Pittsburgh, PA 15222

201

Tenant Union Representative Network

100 South Broad Street, Suite 800

Philadelphia, PA 19110

[TURN: Tenant Union Representative Network - Home \(rturn.net\)](#)

202

Pennsylvania Housing Law Project

Regional Housing Legal Services

2 S. Easton Rd

Glenside, PA 19038

[PA Housing Law Project – RHLS](#)

203

Pennsylvania Restaurant & Lodging Association

100 State Street

Harrisburg, PA 17101

[Pennsylvania Restaurant & Lodging Association | Harrisburg, PA 17101 \(prla.org\)](#)

204

Pennsylvania Association of Bed & Breakfast Inns

150 Hickorytown Road

Carlisle, PA 17015

[Pennsylvania Bed and Breakfast Inns & Farmstays | PABBI \(painns.com\)](#)

205

Pennsylvania Amusement Parks and Attractions

391 Knoebels Blvd

Elysburg, PA 17824

[Pennsylvania Amusement Parks and Attractions | Association for Pennsylvania's Attractions, Amusement Parks and Industry Suppliers \(paamusementparks.com\)](#)

206

Pennsylvania Bus Association

P.O. Box 597

Easton, PA 18044

[Home \(pabus.org\)](#)

207

Pennsylvania Campground Owners Association

415 Taylor Drive, Suite 302

East Stroudsburg, PA 18301

[Pennsylvania Campground Owners Association - PA Campgrounds, Camping Resorts & RV Parks \(paoutdoorlodging.com\)](#)

208

Citizens for the Arts in Pennsylvania

P.O. Box 1469

Altoona, PA 16601

[Citizens for the Arts in PA - Home](#)

209

National Association of Theatres Owners of Pennsylvania

183 Market St

P.O. Box 4

Pillow, PA 17080

[NATO of Pennsylvania – Advancing the Moviegoing Experience \(natopa.com\)](#)

210

Pennsylvania Federation of Museums and Historical Organizations

300 North Street, Room 504

Harrisburg, PA 17120

[Home - \(pamuseums.org\)](#)

211

Pennsylvania Golf Course Owners and Operators Association

P.O. Box 200

Scranton, PA 18504

[Pennsylvania Golf Course Owners Association \(golfinpa.com\)](#)

212

Pennsylvania Ski Areas Association

P.O. Box 27

White Haven, PA 18661

[Ski PA - PSAA - About PSAA](#)

213

Pennsylvania Recreation and Park Society

2131 Sandy Drive

State College, PA 16803

[PRPS Home](#)

214

Pennsylvania Winery Association

228 Walnut Street

PO Box 347

Harrisburg, PA 17108

[Pennsylvania Wines | Best PA Wineries, Wine Trails, Events](#)

215

Pennsylvania Retailers' Association

224 Pine Street

Harrisburg, PA 17101

[Pennsylvania Retailers' Association \(paretailers.org\)](#)

216

Pennsylvania Food Merchants Associations

1029 Mumma Rd

Wormleysburg, PA 17043

[Pennsylvania Food Merchants Association - Home | Pennsylvania Food Merchants Association |](#)

[Wormleysburg, PA \(pfma.org\)](#)

**Local Human Relations Commissions to Invite to Comment on
Proposed Regulation #52-13**

1

Abington Township Human Relations Commission

HRC@AbingtonPA.gov

[Human Relations Commission | Abington Township, PA \(abingtonpa.gov\)](#)

2

Allegheny County Human Relations Commission

920 City-County Building

414 Grant Street

Pittsburgh, PA 15219

[Commissions | Human Relations | Allegheny County](#)

3

City of Allentown Human Relations Commission

Allentown City Hall

435 Hamilton Street

Allentown, PA 18101

[Human Relations Commission \(allentownpa.gov\)](#)

4

Ambler Borough Human Relations Commission

Ambler Borough Hall

131 Rosemary Avenue

Ambler, PA 19002

[Human Relations Commission \(boroughofambler.com\)](#)

5

Bethlehem Human Relations Commission

10 East Church Street

Bethlehem, PA 18018

HRC@bethlehem-pa.gov

[Home - Bethlehem Human Relations Commission \(bethlehemhrc.org\)](#)

6

Bloomsburg Human Relations Commission

Town Hall

301 E. Second Street

Bloomsburg, PA 17815

[Human Relations Commission | Town of Bloomsburg, PA \(bloomsburgpa.org\)](#)

7

Bridgeport Borough Human Relations Commission

63 West 4th Street

Bridgeport, PA 19405

[Human Relations Commission | Bridgeport PA \(bridgeportborough.org\)](#)

8

Bristol Borough Human Relations Commission

250 Pond Street

Bristol, PA 19007

[Bristol Borough Boards](#)

9

Camp Hill Borough Human Relations Commission

2145 Walnut Street

Camp Hill, PA 17011

[Welcome to Camp Hill Borough, PA](#)

10

Borough of Carlisle Human Relations Commission

53 W. South Street

Carlisle, PA 17013

[Carlisle, PA \(carlislepa.org\)](#)

11

Cheltenham Township Human Relations Commission

8230 Old York Road

Elkins Park, PA 19027

[Human Relations Commission - Cheltenham PA \(cheltenhamtownship.org\)](#)

12

Conshohocken Borough Human Relations Commission

400 Fayette Street

Conshohocken, PA 19428

[Human Relations Commission | Borough of Conshohocken \(conshohockenpa.gov\)](#)

13

Crafton Borough Equal Opportunity Board

100 Stotz Avenue

Pittsburgh, PA 15205

[Crafton Borough](#)

14

Dickson City Borough Human Relations Commission

901 Enterprise Street

Dickson City, PA 18519

[Home - Dickson City Borough \(dicksoncity-pa.gov\)](#)

15

Dormont Borough Human Relations Commission

1444 Hillsdale Avenue

Pittsburgh, PA 15216

[Borough of Dormont | Home](#)

16

Downingtown Borough Human Relations Commission

Municipal Government Center

4 – 10 W. Lancaster Avenue

Downingtown, PA 19335

[Downingtown PA |](#)

17

Doylestown Borough Human Relations Commission

10 Doyle Street

Doylestown, PA 18901

[Human Relations Commission | The Borough of Doylestown \(doylestownborough.net\)](#)

18

City of Easton Human Relations Commission

123 S. 3rd Street
Easton, PA 18042
City Hall | Easton PA (easton-pa.com)

19
East Norriton Township Human Relations Commission
2501 Stanbridge Street
East Norriton, PA 19401
Human Relations Commission - East Norriton Township, Pennsylvania (eastnorritontwp.org)

20
Erie County Human Relations Commission
Renaissance Center
1001 State Street, Suite 812
Erie, PA 16501
Human Relations Commission - Erie County, PA (eriecountypa.gov)

21
Etna Borough Human Relations Commission
437 Butler Street
Pittsburgh, PA 15223
Etna Human Relations Commission (etnaborough.org)

22
Gettysburg Borough Human Relations Commission
Gettysburg Municipal Building
59 E. High Street
Gettysburg, PA 17325

23
City of Harrisburg Human Relations Commission
10 N. 2nd Street, Suite 303
Harrisburg, PA 17101
Human Relations Commission - City of Harrisburg (harrisburgpa.gov)

24
Hatboro Borough Human Relations Commission
414 S. York Road
Hatboro, PA 19040
Home - Borough of Hatboro (myhatboro.org)

25
Haverford Township Human Relations Commission
Township Building
1014 Darby Road
Havertown, PA 19083
Boards & Commissions | The Township of Haverford, PA (haverfordtownship.org)

26
Huntingdon Borough Human Relations Commission
530 Washington Street
PO Box 592
Huntingdon, PA 16652
Borough of Huntingdon (huntingdonboro.com)

27

Jenkintown Borough Human Relations Commission

700 Summit Avenue

Jenkintown, PA 19046

[Officials and Committees - Jenkintown Borough](#)

28

Kennett Square Human Relations Commission

120 Marshall Street

Kennett Square, PA 19348

[Borough of Kennett Square](#)

29

Lancaster City Human Relations Commission

PO Box 993

Lancaster, PA 17608

[Lancaster City Human Relations Commission | City of Lancaster, PA \(cityoflancasterpa.com\)](#)

30

Lansdale Borough Human Relations Commission

One Vine Street, Suite 201

Lansdale, PA 19446

[Human Relations Commission | Lansdale Borough, PA - Official Website](#)

31

Lansdowne Borough Human Relations Commission

12 E. Baltimore Avenue

Lansdowne, PA 19050

[Human Relations Commission | Lansdowne Borough, PA](#)

32

Lower Gwynedd Township Human Relations Commission

1130 N. Bethlehem Pike

Spring House, PA 19477

[Boards & Commissions | Lower Gwynedd Township](#)

33

Lower Merion Township Human Relations Commission

75 E. Lancaster Avenue

Ardmore, PA 19003

[Human Relations Commission | Lower Merion Township, PA](#)

34

Middletown Human Relations Commission

3 Municipal Way

Langhorne, PA 19047

[Human Relations Commission | Middletown Township | Bucks County | PA \(middletownbucks.org\)](#)

35

Monessen Human Relations Commission

575 Donner Avenue

Monessen, PA 15062

[Boards – Welcome to City of Monessen](#)

36

Montgomery Township Human Relations Commission

1001 Stump Road
Montgomeryville, PA 18936
[Human Relations Commission / Montgomery Township, PA \(montgomerytwp.org\)](http://montgomerytwp.org)

37

Mt. Lebanon Community Relations Board

710 Washington Road
Pittsburgh, PA 15228
[Community Relations Board | Mt. Lebanon, PA - Official Website \(mtlebanon.org\)](http://mtlebanon.org)

38

Narberth Human Relations Commission

100 Conway Avenue
Narberth, PA 19072
[Narberth Borough – The official website for the Borough of Narberth, Montgomery County, Pennsylvania \(narberthpa.gov\)](http://narberthpa.gov)

39

Newtown Borough Human Relations Commission

23 North State Street
Newtown, PA 18940
[Welcome to the Borough of Newtown Pennsylvania - Boards & Committees](#)

40

Newtown Township Human Relations Commission

100 Municipal Drive
Newtown, PA 18940
[Human Relations Commission – Newtown Township: Bucks County, Pennsylvania \(newtownpa.gov\)](http://newtownpa.gov)

41

New Hope Borough Human Relations Commission

123 New Street
New Hope, PA 18938
[Human Relations Commission | New Hope Borough, PA](#)

42

Norristown Human Relations Commission

235 E. Airy Street
Norristown, PA 19401
[Human Relations Commission | Norristown, PA](#)

43

North Wales Borough Human Relations Commission

300 School Street
North Wales, PA 19454
[Human Relations Commission – Borough of North Wales \(northwalesborough.org\)](http://northwalesborough.org)

44

Philadelphia Commission on Human Relations

601 Walnut Street, Suite 300 South
Philadelphia, PA 19106
[Philadelphia Commission on Human Relations | Homepage | City of Philadelphia](#)

45

Phoenixville Human Relations Commission

351 Bridge Street
Phoenixville, PA 19460
Human Relations Commission | Phoenixville Borough, PA

46

Pittsburgh Commission on Human Relations

414 Grant Street

Pittsburgh, PA 15219

Commission on Human Relations - AFFH Taskforce, Commission Meetings, Our Staff, Education and Resources, Contact the PghCHR (pittsburghpa.gov)

47

Pittston Human Relations Commission

35 Broad Street

Pittston, PA 18640

Human Relations Commission - City of Pittston (pittstoncity.org)

48

Plymouth Township Human Relations Commission

700 Belvoir Road

Plymouth Meeting, PA 19462

Human Relations Commission – Plymouth Township

49

Reading Human Relations Commission

815 Washington Street

Reading, PA 19601

Kimberly.Talbot@readingpa.gov

Human Relations Commission (readingpa.gov)

50

Ross Equal Opportunity Board

1000 Ross Municipal Drive

Pittsburgh, PA 15237

Equal Opportunity Board | Ross Township, PA

51

Royersford Borough Human Relations Board

300 Main Street

Royersford, PA 19468

Human Relations Board - Royersford Borough

52

Scranton Human Relations Commission

340 N. Washington Avenue

Scranton, PA 18503

Human Relations Commission – City of Scranton (scrantonpa.gov)

53

Sharpsburg Borough Human Rights Commission

1611 Main Street

Pittsburgh, PA 15215

Sharpsburg Borough, Pennsylvania | United States

54

Shippensburg Borough Human Relations Commission

111 N. Fayette Street

PO Box 129

Shippensburg, PA 17257

[Shippensburg Borough News](#)

55

Springfield Township Human Relations Commission

50 Powell Road

Springfield, PA 19064

[Home](#) | [Springfield \(springfielddelco.org\)](#)

56

State College Human Relations Commission

243 S. Allen Street

State College, PA 16801

[Human Relations Commission](#) | [State College, PA - Official Website \(statecollegepa.us\)](#)

57

Stroudsburg Borough Human Relations Commission

700 Sarah Street

Stroudsburg, PA 18360

[Boards and Commissions Human Relations Commission \(stroudsburgboro.com\)](#)

58

Susquehanna Township Human Relations Commission

1900 Linglestown Road

Harrisburg, PA 17110

[Human Relations Commission](#) | [Susquehanna PA \(susquehannatwp.com\)](#)

59

Swarthmore Borough Human Relations Commission

121 Park Avenue

Swarthmore, PA 19081

[Human Relations Commission](#) | [Swarthmore Borough, PA - Official Website \(swarthmorepa.org\)](#)

60

Upper Dublin Township Human Relations Commission

370 Commerce Drive

Fort Washington, PA 19034

[Human Relations Commission](#) | [Upper Dublin Township](#)

61

Upper Gwynedd Township Human Relations Commission

1 Parkside Place

North Wales, PA 19454

[Human Relations Commission](#) | [Upper Gwynedd PA](#)

62

Upper Merion Township Human Relations Commission

175 West Valley Forge Road

King of Prussia, PA 19406

[Human Relations Commission – Upper Merion Township \(umtownship.org\)](#)

63

Upper Moreland Township Human Relations Commission

117 Park Avenue

Willow Grove, PA 19090

[Human Relations Commission | Upper Moreland Township, PA](#)

64

West Chester Borough Human Relations Commission

401 East Gay Street

West Chester, PA 19380

[Human Relations Commission | West Chester Borough, PA - Official Website \(west-chester.com\)](#)

65

West Conshohocken Borough Human Relations Commission

112 Ford Street

West Conshohocken, PA 19428

[West Conshohocken Borough](#)

66

West Norriton Township Human Relations Commission

1630 W. Marshall Street

Jeffersonville, PA 19403

[Human Relations Commission | West Norriton Township, PA - Official Website \(westnorritontwp.org\)](#)

67

Whitemarsh Township Human Relations Commission

616 Germantown Pike

Lafayette Hill, PA 19444

[Human Relations Commission | Whitemarsh Township, PA - Official Website \(whitemarshtwp.org\)](#)

68

Whitpain Township Human Relations Commission

960 Wentz Road

Blue Bell, PA 19422

[Human Relations Commission | Whitpain Township, PA](#)

69

Wilkes-Barre Human Relations Commission

40 East Market Street

Wilkes-Barre, PA 18711

[Human Relations Commission | wilkesbarrepa \(wilkes-barre.city\)](#)

70

Yardley Borough Human Relations Commission

56 South Main Street

Yardley, PA 19067

[Elected Officials, Boards & Committees — Yardley Borough](#)

71

City of York Human Relations Commission

101 S. George Street

York, PA 17401

[Human Relations Commission - City of York, Pennsylvania \(yorkcity.org\)](#)

ANNEX A
TITLE 16. COMMUNITY AFFAIRS
PART II. GOVERNOR'S OFFICE
Subpart A. HUMAN RELATIONS COMMISSION
CHAPTER 41. PRELIMINARY PROVISIONS
Subchapter D. PROTECTED CLASSES

§ 41.201 Purpose.

This subpart ensures that all unlawful discriminatory practices proscribed by the Pennsylvania Human Relations Act and all unfair educational practices proscribed by the Pennsylvania Fair Educational Opportunities Act are interpreted and applied consistently. This subpart also ensures that all complaints filed with the Pennsylvania Human Relations Commission are investigated consistent with the rules outlined herein.

§ 41.202 Construction.

[(a)] This subpart shall be construed liberally for the accomplishment of the purposes of the Pennsylvania Human Relations Act and the Pennsylvania Fair Educational Opportunities Act.

[(b)] This subpart shall be interpreted consistently with other Federal and State laws and regulations except when to do so would result in a narrow interpretation of the Pennsylvania Human Relations Act or the Pennsylvania Fair Educational Opportunities Act.]

§ 41.203. Enforcement.

This subpart shall be subject to and enforced in accordance with the Pennsylvania Human Relations Act, the Pennsylvania Fair Educational Opportunities Act, 16 Pa. Code Chapter 42 (relating to special rules of administrative practice and procedure) and 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

§ 41.204. Definitions.

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

Affectional or sexual orientation – male, female, or nonbinary heterosexuality, homosexuality, bisexuality, or asexuality by inclination, practice, identity, or expression, having a history thereof, or being perceived, presumed, or identified by others as having such an orientation.

Asexuality – the lack of sexual attraction to others, or low or absent interest in or desire for sexual or romantic activity.

Bisexuality – affectional, emotional, or physical attraction or behavior which is directed towards persons of either gender.

Complaint – a complaint filed with the Pennsylvania Human Relations Commission pursuant to the PHRA or the PFEOA.

Complainant – any person, including the PHRC or the Attorney General, who files a complaint with the PHRC pursuant to the PHRA or the PFEOA.

Core identity – attributes that make a person unique as an individual such as fundamental beliefs and values, personal characteristics, and physical or mental attributes.

Ethnic characteristics – physical characteristics such as skin and hair color, body size, and facial features typical of persons of a particular cultural or social background; linguistic characteristics such as language or dialect; behavioral or cultural characteristics such as religion or customs; environmental characteristics such as living in the same area or region.

Gender identity or expression – having or being perceived as having a gender-related identity, appearance, expression, or behavior, which may or may not be stereotypically associated with the person's sex assigned at birth. Gender identity or expression may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is part of a person's core identity.

Heterosexuality – affectional, emotional, or physical attraction or behavior which is primarily directed towards persons of the other gender.

Homosexuality – affectional, emotional, or physical attraction or behavior which is primarily directed towards persons of the same gender.

Intersex – describes a person born with sex characteristics that are not typical for male or female bodies. Sex characteristics are physical features relating to sex, including chromosomes, genitals, hormones, and other reproductive anatomy.

Person – has the same meaning as Section 4(a) of the PHRA (43 P.S. § 954(a)).

PFEOA – the Pennsylvania Fair Educational Opportunities Act (24 P.S. §§ 5001-5010).

PHRA – the Pennsylvania Human Relations Act (43 P.S. §§ 951-963).

PHRC – the Pennsylvania Human Relations Commission.

Pregnancy – includes the use of assisted reproductive technology; the state of being in gestation; childbirth; breastfeeding; the postpartum period after childbirth; and medical conditions related to pregnancy.

Religious Beliefs – include (1) moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views and (2) the beliefs a complainant professes without regard to whether a religious group espouses such beliefs.

Respondent – the person against whom a complaint was filed with the PHRC pursuant to the PHRA or the PFEOA.

Sex assigned at birth – the assignment and classification of individuals at birth, including but not limited to male, female, or intersex.

Traits associated with race – includes, but is not limited to, hair texture and protective hairstyles, such as braids, locks, and twists.

§ 41.205. Religious creed discrimination.

- (a) The term religious creed, as used in the PHRA and the PFEOA, includes all aspects of religious observance, practice, [as well as] or belief.
- (b) **The term religious creed, as used in the PHRA and the PFEOA, includes the failure to provide a reasonable accommodation for a religious observance or practice.** [Religious beliefs include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views. The fact that no group espouses such beliefs or the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of a complainant.]
- (c) **An employer, housing provider, public accommodation, or person covered under the PHRA may assert an undue hardship defense to the request for a reasonable accommodation.** [This section is not intended to be exhaustive. However, the term religious creed, as used in the PHRA and the PFEOA, should be interpreted consistent with this section.]
- (d) **Undue hardship may be established by showing that the requested accommodation poses more than a de minimis cost or burden on the employer, housing provider, public accommodation, or person covered under the PHRA.**

§ 41.206. Sex discrimination.

The term sex, as used in the PHRA and the PFEOA, includes:

- (a) **Pregnancy;** [The term sex, when used in connection with the unlawful discriminatory practices proscribed by the PHRA, includes, but is not limited to, the following:
- (1) Pregnancy, including medical conditions related to pregnancy.
 - (2) Childbirth, including medical conditions related to childbirth.
 - (3) Breastfeeding, including medical conditions related to breastfeeding.
 - (4) Sex assigned at birth, including, but not limited to, male, female, or intersex.
 - (5) A person's gender, including a person's gender identity or gender expression.
 - (i) Gender identity or expression means having or being perceived as having a gender-related identity, appearance, expression, or behavior, which may or may not be stereotypically associated with the person's sex assigned at birth.
 - (ii) Gender identity or expression may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity.
 - (6) Affectional or sexual orientation, including heterosexuality, homosexuality, bisexuality, and asexuality.
 - (i) Affectional or sexual orientation means male, female, or nonbinary heterosexuality, homosexuality, bisexuality, or asexuality by inclination, practice, identity, or expression, having a history thereof, or being perceived, presumed, or identified by others as having such an orientation.
 - (ii) Heterosexuality means affectional, emotional, or physical attraction or behavior which is primarily directed towards persons of the other gender.
 - (iii) Homosexuality means affectional, emotional, or physical attraction or behavior which is primarily directed towards persons of the same gender.

- (iv) Bisexuality means affectional, emotional, or physical attraction or behavior which is directed towards persons of either gender.
 - (v) Asexuality means the lack of sexual attraction to others, or low or absent interest in or desire for sexual or romantic activity.
- (7) Differences of sex development, variations of sex characteristics, or other intersex characteristics.]
- (b) **Sex assigned at birth;** [The term sex, when used in connection with the unfair educational practices proscribed by the PFEOA, includes, but is not limited to, the following:
 - (1) Pregnancy, including medical conditions related to pregnancy.
 - (2) Childbirth, including medical conditions related to childbirth.
 - (3) Breastfeeding, including medical conditions related to breastfeeding.
 - (4) Sex assigned at birth, including, but not limited to, male, female, or intersex.
 - (5) A person's gender, including a person's gender identity or gender expression.
 - (i) Gender identity or expression means having or being perceived as having a gender-related identity, appearance, expression, or behavior, which may or may not be stereotypically associated with the person's sex assigned at birth.
 - (ii) Gender identity or expression may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity.
 - (6) Affectional or sexual orientation, including heterosexuality, homosexuality, bisexuality, and asexuality.
 - (i) Affectional or sexual orientation means male, female, or nonbinary heterosexuality, homosexuality, bisexuality, or asexuality by inclination, practice, identity, or expression, having a history thereof, or being perceived, presumed, or identified by others as having such an orientation.
 - (ii) Heterosexuality means affectional, emotional, or physical attraction or behavior which is primarily directed towards persons of the other gender.

- (iii) Homosexuality means affectional, emotional, or physical attraction or behavior which is primarily directed towards persons of the same gender.
 - (iv) Bisexuality means affectional, emotional, or physical attraction or behavior which is directed towards persons of either gender.
 - (v) Asexuality means the lack of sexual attraction to others, or low or absent interest in or desire for sexual or romantic activity.
- (7) Differences of sex development, variations of sex characteristics, or other intersex characteristics.]
- (c) **Gender, including a person's gender identity or gender expression.** [This section is not intended to be exhaustive. However, the term sex, as used in the PHRA and the PFEOA, should be interpreted consistent with this section.]
- (d) **Affectional or sexual orientation, including heterosexuality, homosexuality, bisexuality, and asexuality.**
- (e) **Differences of sex development, variations of sex characteristics, or other intersex characteristics.**

§ 41.207. Race discrimination.

The term race, as used in the PHRA and the PFEOA, includes:

- (a) **Ancestry, national origin, or ethnic characteristics;** [The term race, when used in connection with the unlawful discriminatory practices proscribed by the PHRA, includes, but is not limited to, the following:
 - (1) Ancestry, national origin, or ethnic characteristics;
 - (2) Interracial marriage or association;
 - (3) Traits historically associated with race, including, but not limited to:
 - (i) Hair texture;
 - (ii) Protective hairstyles, such as braids, locks, and twists;
 - (4) Persons of Hispanic national origin or ancestry, including, but not limited to, persons of Mexican, Puerto Rican, Central or South American, or other Spanish origin or culture.

- (5) Persons of any other national origin or ancestry as specified by a complainant in a complaint.]
- (b) **Interracial marriage or association;** [The term race, when used in connection with the unfair educational practices proscribed by the Pennsylvania Fair Educational Opportunities Act, includes, but is not limited to, the following:
 - (1) Ancestry, national origin, or ethnic characteristics;
 - (2) Interracial marriage or association;
 - (3) Traits historically associated with race, including, but not limited to:
 - (i) Hair texture;
 - (ii) Protective hairstyles, such as braids, locks, and twists;
 - (4) Persons of Hispanic national origin or ancestry, including, but not limited to, persons of Mexican, Puerto Rican, Central or South American, or other Spanish origin or culture.
 - (5) Persons of any other national origin or ancestry as specified by a complainant in a complaint.]
- (c) **Traits associated with race;** [This section is not intended to be exhaustive. However, the term race, as used in the PHRA and the PFEOA, should be interpreted consistent with this section.]
- (d) **Hispanic ancestry, national origin, or ethnic characteristics, including, but not limited to, persons of Mexican, Puerto Rican, Central or South American, or other Spanish origin or culture.**



**COMMONWEALTH OF PENNSYLVANIA
HUMAN RELATIONS COMMISSION**

October 17, 2022

Via Electronic Mail

David Sumner, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Final Regulation – Pennsylvania Human Relations Commission,
16 Pa. Code §§ 41.201-41.207 – Protected Classes

Dear Mr. Sumner:

Enclosed in a copy of a final rulemaking package of the Pennsylvania Human Relations Commission pertaining to protected classes under the PHRA and the PFEOA.

PHRC will be pleased to provide any information the Independent Regulatory Review Commission may require during the course of its review of the rulemaking.

Thank you for your consideration.

Sincerely,

/s/ Lisa M. Knight

Lisa M. Knight
Commission Counsel

Enclosures

From: Himebaugh, Nicholas A.
To: Knight, Lisa
Cc: DeStefano, Damian
Subject: Re: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA
Date: Tuesday, October 18, 2022 1:22:01 PM
Attachments: 52-013-final form reg package to IRRC-formatted.pdf

Received

Nicholas Himebaugh
Committee Executive Director
House Democratic State Government Committee
C: 484-686-3281

RECEIVED

OCT 19 2022

**Independent Human Rights
Review Commission**

Confidentiality Notice:

This e-mail is intended only for the personal and confidential use of the individual to whom it is addressed and may contain information that is privileged, confidential and protected by law. If you are not the intended recipient, you are hereby notified that any use or disclosure of this information is strictly prohibited. If you have received this message in error, please notify the sender immediately by reply e-mail and delete the original message. Your compliance is appreciated.

On Oct 18, 2022, at 12:32 PM, Knight, Lisa <liknight@pa.gov> wrote:

Good Afternoon,

The Pennsylvania Human Relations Commission delivered Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes) yesterday, October 17, 2022. However, upon notification from IRRC, the Final-Form Regulation package that was delivered on October 17, 2022 did not have Annex A formatted properly. By way of this email, the Pennsylvania Human Relations Commission is re-delivering Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes) with Annex A properly formatted. PHRC appreciates your acceptance of this Final-Form Regulation through electronic delivery.

Please provide written confirmation that this Final-Form Regulation was received by responding to this email. PHRC will re-deliver the Final-Form Regulation to IRRC today, October 18, 2022, upon receipt of your written confirmation.

Thank you for your consideration.

Lisa

From: [Michael Totino](#)
To: [Knight, Lisa](#)
Cc: [DeStefano, Damian](#)
Subject: RE: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFEQA
Date: Tuesday, October 18, 2022 1:41:35 PM

I can accept delivery electronically today, October 18, 2022.

Thanks
Michael

RECEIVED

OCT 19 2022

From: Knight, Lisa <liknight@pa.gov>
Sent: Tuesday, October 18, 2022 12:32 PM
To: Michael Totino <Mtotino@pahousegop.com>
Cc: DeStefano, Damian <dadestefan@pa.gov>
Subject: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFEQA

**Independent Regulatory
Review Commission**

Good Afternoon,

The Pennsylvania Human Relations Commission delivered Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes) yesterday, October 17, 2022. However, upon notification from IRRC, the Final-Form Regulation package that was delivered on October 17, 2022 did not have Annex A formatted properly. By way of this email, the Pennsylvania Human Relations Commission is re-delivering Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes) with Annex A properly formatted. PHRC appreciates your acceptance of this Final-Form Regulation through electronic delivery.

Please provide written confirmation that this Final-Form Regulation was received by responding to this email. PHRC will re-deliver the Final-Form Regulation to IRRC today, October 18, 2022, upon receipt of your written confirmation.

Thank you for your consideration.

Lisa

Lisa M. Knight | Commission Counsel
PA Human Relations Commission
110 North 8th Street | Suite 501
Philadelphia, PA 19107
Phone: 215.965.7702 | Fax: 215.560.3682
www.phrc.pa.gov

Discrimination is illegal in PA. Get the facts about equal opportunity at www.phrc.state.pa.us.

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this information in error, please contact the sender and delete the message and material from all computers.

From: [Kratz, Eric](#)
To: [Knight, Lisa](#)
Cc: [DeStefano, Damian](#)
Subject: RE: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA
Date: Tuesday, October 18, 2022 2:08:13 PM

Lisa,

Confirming receipt of this regulation.

Best,
Eric

Eric Kratz

Executive Director | Senate Labor and Industry Committee

Senator Camera Bartolotta

19 East Wing | Harrisburg, PA 17120

Phone: 717.783.6832

ekratz@pasen.gov

www.senatorbartolotta.com



RECEIVED

OCT 19 2022

Independent Regulatory
Review Commission

From: Knight, Lisa <liknight@pa.gov>
Sent: Tuesday, October 18, 2022 12:32 PM
To: Kratz, Eric <ekratz@pasen.gov>
Cc: DeStefano, Damian <dadestefan@pa.gov>
Subject: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA

⦿ CAUTION : External Email ⦿

Good Afternoon,

The Pennsylvania Human Relations Commission delivered Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes) yesterday, October 17, 2022. However, upon notification from IRRC, the Final-Form Regulation package that was delivered on October 17, 2022 did not have Annex A formatted properly. By way of this email, the Pennsylvania Human Relations Commission is re-delivering Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes) with Annex A properly formatted. PHRC appreciates your acceptance of this Final-Form Regulation through electronic delivery.

Please provide written confirmation that this Final-Form Regulation was received by responding to this email. PHRC will re-deliver the Final-Form Regulation to IRRC today, October 18, 2022, upon receipt of your written confirmation.

Thank you for your consideration.

From: [Benton, Kathy](#)
To: [Knight, Lisa](#)
Cc: [DeStefano, Damian](#)
Subject: Re: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA
Date: Tuesday, October 18, 2022 3:14:23 PM

Received thank you

Get [Outlook for iOS](#)

RECEIVED

OCT 19 2022

Independent Regulatory
Review Commission

From: Knight, Lisa <liknight@pa.gov>
Sent: Tuesday, October 18, 2022 3:05:06 PM
To: Benton, Kathy <Kathy.Benton@pasenate.com>
Cc: DeStefano, Damian <dadestefan@pa.gov>
Subject: RE: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA

■ EXTERNAL EMAIL ■

Good Afternoon,

I am following-up to confirm receipt of the delivery of the final-form regulation. PHRC needs to submit the confirmation of receipt to IRRC today.

Thanks,

Lisa

Lisa M. Knight | Commission Counsel
PA Human Relations Commission
110 North 8th Street | Suite 501
Philadelphia, PA 19107
Phone: 215.965.7702 | Fax: 215.560.3682
www.phrc.pa.gov

Discrimination is illegal in PA. Get the facts about equal opportunity at www.phrc.state.pa.us.

From: Knight, Lisa
Sent: Tuesday, October 18, 2022 12:32 PM
To: Kathy.Benton@pasenate.com
Cc: DeStefano, Damian <dadestefan@pa.gov>
Subject: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA

Good Afternoon,

The Pennsylvania Human Relations Commission delivered Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes) yesterday, October 17, 2022. However, upon notification from IRRC, the Final-Form Regulation package that was delivered on October 17, 2022 did not have Annex A formatted properly. By way of this email, the Pennsylvania Human Relations

Commission is re-delivering Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes) with Annex A properly formatted. PHRC appreciates your acceptance of this Final-Form Regulation through electronic delivery.

Please provide written confirmation that this Final-Form Regulation was received by responding to this email. PHRC will re-deliver the Final-Form Regulation to IRRC today, October 18, 2022, upon receipt of your written confirmation.

Thank you for your consideration.

Lisa

Lisa M. Knight | Commission Counsel
PA Human Relations Commission
110 North 8th Street | Suite 501
Philadelphia, PA 19107
Phone: 215.965.7702 | Fax: 215.560.3682
www.phrc.pa.gov

Discrimination is illegal in PA. Get the facts about equal opportunity at www.phrc.state.pa.us.

This message and any attachment may contain privileged or confidential information intended solely for the use of the person to whom it is addressed. If the reader is not the intended recipient then be advised that forwarding, communicating, disseminating, copying or using this message or its attachments is strictly prohibited. If you receive this message in error, please notify the sender immediately and delete the information without saving any copies.

From: Himebaugh, Nicholas A.
To: Knight, Lisa
Cc: DeStefano, Damian
Subject: Re: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA
Date: Monday, October 17, 2022 3:06:27 PM

Confirmed on our end

Nicholas Himebaugh
Committee Executive Director
House Democratic State Government Committee
C: 484-686-3281

RECEIVED

OCT 19 2022

Independent Regulatory
Review Commission

Confidentiality Notice:

This e-mail is intended only for the personal and confidential use of the individual to whom it is addressed and may contain information that is privileged, confidential and protected by law. If you are not the intended recipient, you are hereby notified that any use or disclosure of this information is strictly prohibited. If you have received this message in error, please notify the sender immediately by reply e-mail and delete the original message. Your compliance is appreciated.

On Oct 17, 2022, at 3:05 PM, Knight, Lisa <liknight@pa.gov> wrote:

Good Afternoon,

I am following-up to confirm receipt of the delivery of the final-form regulation. PHRC needs to submit the confirmation of receipt to IRRC today.

Thanks,

Lisa

Lisa M. Knight | Commission Counsel
PA Human Relations Commission
110 North 8th Street | Suite 501
Philadelphia, PA 19107
Phone: 215.965.7702 | Fax: 215.560.3682
www.phrc.pa.gov

Discrimination is illegal in PA. Get the facts about equal opportunity at
www.phrc.state.pa.us.

From: Knight, Lisa
Sent: Monday, October 17, 2022 12:42 PM

To: nhimebaugh@pahouse.net

Cc: DeStefano, Damian <dadestefan@pa.gov>

Subject: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFEOA

Importance: High

Good Afternoon,

By way of this email, the Pennsylvania Human Relations Commission is delivering Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes). The Pennsylvania Human Relations Commission appreciates your acceptance of this Final-Form Regulation through electronic delivery.

Please provide written confirmation that this Final-Form Regulation was received by responding to this email. PHRC will deliver the Final-Form Regulation to IRRC today, October 17, 2022, upon receipt of your written confirmation.

Thank you for your consideration.

Lisa

Lisa M. Knight | Commission Counsel
PA Human Relations Commission
110 North 8th Street | Suite 501
Philadelphia, PA 19107
Phone: 215.965.7702 | Fax: 215.560.3682
www.phrc.pa.gov

Discrimination is illegal in PA. Get the facts about equal opportunity at www.phrc.state.pa.us.

From: [Benton, Kathy](#)
To: [Knight, Lisa](#)
Cc: [DeStefano, Damian](#)
Subject: RE: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA
Date: Monday, October 17, 2022 12:58:43 PM

Received. Thank you!

RECEIVED

OCT 19 2022

From: Knight, Lisa <liknight@pa.gov>
Sent: Monday, October 17, 2022 12:43 PM
To: Benton, Kathy <Kathy.Benton@pasenate.com>
Cc: DeStefano, Damian <dadestefan@pa.gov>
Subject: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA
Importance: High

**Independent Regulatory
Review Commission**

■ EXTERNAL EMAIL ■

Good Afternoon,

By way of this email, the Pennsylvania Human Relations Commission is delivering Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes). The Pennsylvania Human Relations Commission appreciates your acceptance of this Final-Form Regulation through electronic delivery.

Please provide written confirmation that this Final-Form Regulation was received by responding to this email. PHRC will deliver the Final-Form Regulation to IRRC today, October 17, 2022, upon receipt of your written confirmation.

Thank you for your consideration.

Lisa

Lisa M. Knight | Commission Counsel
PA Human Relations Commission
110 North 8th Street | Suite 501
Philadelphia, PA 19107
Phone: 215.965.7702 | Fax: 215.560.3682
www.phrc.pa.gov

Discrimination is illegal in PA. Get the facts about equal opportunity at www.phrc.state.pa.us.

This message and any attachment may contain privileged or confidential information intended solely for the use of the person to whom it is addressed. If the reader is not the intended recipient then be advised that forwarding, communicating, disseminating, copying or using this message or its attachments is strictly prohibited. If you receive this message in error, please notify the sender immediately and delete the information without saving any copies.

From: [Kratz, Eric](#)
To: [Knight, Lisa](#)
Cc: [DeStefano, Damian](#)
Subject: RE: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA
Date: Monday, October 17, 2022 12:55:34 PM

Lisa,

This email will confirm my receipt of this regulation.

Best,
Eric

Eric Kratz

Executive Director | Senate Labor and Industry Committee

Senator Camera Bartolotta

19 East Wing | Harrisburg, PA 17120

Phone: 717.783.6832 | Cell: 717-215-1259

ekratz@pasen.gov

www.senatorbartolotta.com



RECEIVED

OCT 19 2022

INDEPENDENT LEGISLATIVE
REVIEW COMMISSION

From: Knight, Lisa <liknight@pa.gov>
Sent: Monday, October 17, 2022 12:43 PM
To: Kratz, Eric <ekratz@pasen.gov>
Cc: DeStefano, Damian <dadestefan@pa.gov>
Subject: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFOA
Importance: High

© CAUTION : External Email ©

Good Afternoon,

By way of this email, the Pennsylvania Human Relations Commission is delivering Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes). The Pennsylvania Human Relations Commission appreciates your acceptance of this Final-Form Regulation through electronic delivery.

Please provide written confirmation that this Final-Form Regulation was received by responding to this email. PHRC will deliver the Final-Form Regulation to IRRC today, October 17, 2022, upon receipt of your written confirmation.

Thank you for your consideration.

Lisa

From: [Micheale Totino](#)
To: [Knight, Lisa](#)
Cc: [DeStefano, Damian](#)
Subject: RE: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFEOA
Date: Monday, October 17, 2022 12:45:52 PM

Lisa:

I accept electronic delivery of this final-form regulation today, Monday, October 17, 2022.

Thank you.

Sincerely,
Micheale

Micheale A. Totino
Counsel & Executive Director
State Government Committee
Rm 131 Ryan Office Building
Pennsylvania House of Representatives
717-260-6485

RECEIVED

OCT 19 2022

**Independent Regulatory
Review Commission**

From: Knight, Lisa <liknight@pa.gov>
Sent: Monday, October 17, 2022 12:42 PM
To: Micheale Totino <Mtoto@pahousegop.com>
Cc: DeStefano, Damian <dadestefan@pa.gov>
Subject: Final-Form Regulation #52-13 - Protected Classes Under the PHRA and PFEOA
Importance: High

Good Afternoon,

By way of this email, the Pennsylvania Human Relations Commission is delivering Final-Form Regulation #52-13 (16 Pa. Code Sections 41.201 – 41.207 – Protected Classes). The Pennsylvania Human Relations Commission appreciates your acceptance of this Final-Form Regulation through electronic delivery.

Please provide written confirmation that this Final-Form Regulation was received by responding to this email. PHRC will deliver the Final-Form Regulation to IRRC today, October 17, 2022, upon receipt of your written confirmation.

Thank you for your consideration.

Lisa