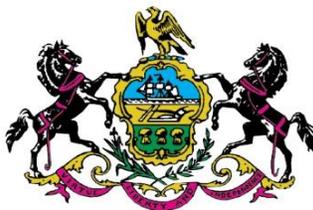


2ND DISTRICT
CHRISTINE M. TARTAGLIONE

SENATE BOX 203002
THE STATE CAPITOL
HARRISBURG, PA 17120-3002
717-787-1141
FAX: 717-787-7439

1061 BRIDGE STREET
PHILADELPHIA, PA 19124
215-533-0440
FAX: 215-560-2627

400 WEST ALLEGHENY AVENUE
PHILADELPHIA, PA 19133
215-291-4653
FAX: 215-425-5301



Senate of Pennsylvania

May 6, 2022

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Commissioners,

We write to express our strong support for Proposed Regulations #52-13 (Protected Classes Under the PHRA and PFOEA), which was published in the PA Bulletin on April 9, 2022.

The Pennsylvania Human Relations Act (PHRA) already prohibits discrimination in the areas of employment, housing, and public accommodations based on an individual's race, color, religion, ancestry, national origin, sex, education status, handicap, or disability. Under Section 7(d) of the PHRA, the Pennsylvania Human Relations Commission (PHRC) has the powers and duties "to adopt, promulgate, amend, and rescind rules and regulations to effectuate the policies and provisions of the PHRA." The legislature understood when it passed PHRA that PHRC would actively develop policy that addresses evolving issues. PHRC has the power to clarify terms it needs to use daily to administer the statutes, in this case PHRA, that the legislature charged it to administer. The legislature provided the Commission with the flexibility to institute policies and to develop regulations based on the input of the community it serves to devise terms most relevant at the time of administration.

These proposed regulations will more appropriately align the definitions of sex, race, and religious creed with Federal court cases so that all Pennsylvanians are afforded the protections they deserve. Additionally, by more accurately defining sex, race and religious creed, these proposed regulations incorporate language to better ensure that discrimination based on an individual's sex, race, or religious creed does not occur.

We applaud the PHRC for using their statutory authority to address these gaps in protections for millions of Pennsylvanians. Members of Pennsylvania's LGBTQ community still face discrimination in employment, housing, and public accommodations due to the lack of clear definitions. Currently, there are 21 states, along with the District of Columbia, that extend similar protections to members of the LGBTQ community. Disturbingly, Pennsylvania is the only Mid-Atlantic or northeastern state that does not explicitly prohibit discrimination against members of the LGBTQ community. The lack of uniform statewide protections has led to a patchwork of



local protections with 70 of the Commonwealth's more than 2,500 political subdivisions providing protections, which often can change from community to community. The Proposed Regulations make explicit what was already clear in the purpose of the PHRA – that discrimination against the LGBTQ community is prohibited by law.

Moreover, the PHRC's actions will protect LGBTQ employees of small employers from discrimination, protections they currently lack under federal and state law. While the U.S. Supreme Court's June 2020 decision in *Bostock v. Clayton County* applied federal civil rights protections to LGBTQ people in matters of employment, the federal law in question only applies to businesses with 15 or more employees. In part, proposed Regulations #52-13 would extend these protections to all businesses with 5 or more employees, significantly narrowing the number of workplaces that do not have these protections. According to recent Bureau of Labor Statistics (BLS) data, these proposed regulations will expand protections to thousands of people in over 60,000 workplaces.

The Proposed Regulations also provide much-needed protection for Pennsylvanians facing racial discrimination based on their hair. A recent statement from the Kensington Soccer Club highlights the lack of protections for various hair styles and textures. This sort of discrimination runs rampant in many industries without recourse. The PHRC has addressed this insidious form of racial discrimination with the proposed regulations. The PHRC is also using the statutory authority given to it by PHRA to better protect religious practice and expression by including "moral or ethical beliefs... sincerely held with the strength of traditional religious views" in the definition of religious creed.

Finally, by applying these protections in the Pennsylvania Fair Educational Opportunities Act, the PHRC is ensuring that Pennsylvanians in certain secondary and post-secondary educational institutions will not face discrimination based on the proposed definitions of sex, race, or religious creed. Thus, the regulations will provide robust legal protections for Pennsylvanians in public spaces, places of employment, and educational institutions.

Clarifying definitions left open by the legislature are core functions of executive agencies. 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. We appreciate and support the PHRC's efforts to prioritize these protected classes by using its authority under PHRA to revise the definitions of sex, race, or religious creed.

Sincerely,



Senator Christine Tartaglione, 2nd District



Senator Nikil Saval, 1st District



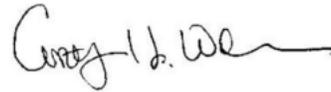
Senator Sharif Street, 3rd District



Senator Art Haywood, 4th District



Senator Vincent Hughes, 7th District



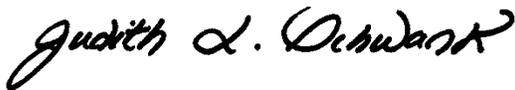
Senator Anthony Williams, 8th District



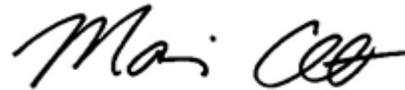
Senator John Kane, 9th District



Senator Steven Santarsiero, 10th District



Senator Judy Schwank, 11th District



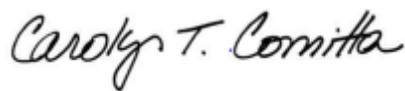
Senator Maria Collett, 12th District



Senator Amanda Cappelletti, 17th District



Senator Lisa Boscola, 18th District



Senator Carolyn Comitta, 19th District



Senator Marty Flynn, 22nd District



Senator Timothy Kearney, 26th District



Senator Lindsey Williams, 38th District

A handwritten signature in black ink that reads "Wayne Fontana". The signature is written in a cursive style with a large initial 'W'.

Senator Wayne Fontana, 42nd District

A handwritten signature in black ink that reads "Jay Costa". The signature is written in a cursive style with a large initial 'J'.

Senator Jay Costa, 43rd District

A handwritten signature in black ink that reads "Katie Muth". The signature is written in a cursive style with a large initial 'K'.

Senator Katie Muth, 44th District

A handwritten signature in black ink that reads "Jim Brewster". The signature is written in a cursive style with a large initial 'J'.

Senator James Brewster, 45th District