

No. 360

AN ACT

HB 1000

Amending the act of July 17, 1961 (P.L.776), entitled "An act declaring the policy of the Commonwealth with regard to discriminatory practices in educational institutions based upon race, religion, color, ancestry or national origin; prohibiting such discriminatory practices; providing for procedure and enforcement; providing for judicial review; providing for administration by the Pennsylvania Human Relations Commission in the Department of Labor and Industry; and defining its functions, powers and duties hereunder," prohibiting discrimination because of sex with certain exceptions; and further formulating duties of the commission.

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

Section 1. The title, section 2 and subsection (a) of section 4, act of July 17, 1961 (P.L.776), known as the "Pennsylvania Fair Educational Opportunities Act," are amended to read:

AN ACT

Declaring the policy of the Commonwealth with regard to discriminatory practices in educational institutions based upon race, religion, color, ancestry [or], national origin *or sex*; prohibiting such discriminatory practices; providing for procedure and enforcement; providing for judicial review; providing for administration by the Pennsylvania Human Relations Commission in the Department of Labor and Industry; and defining its functions, powers and duties hereunder.

Section 2. Findings and Declaration of Policy.—(a) It is hereby declared to be the policy of this Commonwealth that all persons shall have equal opportunities for education regardless of their race, religion, color, ancestry [or], national origin *or sex*.

(b) Equality of educational opportunities requires that students, otherwise qualified, be admitted to *certain* educational institutions without regard to race, religion, color, ancestry [or], national origin *or sex*.

(c) It is recognized that there is a fundamental American right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith. In such institutions students, otherwise qualified, should have equal opportunity to attend therein without discrimination because of race, color, ancestry [or], national origin *or, except as provided in section 9, sex*.

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

Section 4. Unfair Educational Practices.—(a) **[It] Except as provided in section 9, it** shall be an unfair educational practice for an educational institution—

(1) To exclude or limit, or otherwise discriminate, because of race, religion, color, ancestry **[or]**, national origin *or sex*, against any student or students seeking admission as students to such institutions: Provided, That it shall not be unfair educational practice for any educational institution to use criteria other than race, religion, color, ancestry **[or]**, national origin *or sex* in the admission of students.

(2) To make any written or oral inquiry prior to admission concerning or designed to elicit information as to the race, religion, color, ancestry **[or]**, national origin *or sex* of a student seeking admission to such institution.

(3) To expel, suspend, punish, deny facilities or otherwise discriminate against any student because of race, religion, color, ancestry **[or]**, national origin *or sex*.

(4) To penalize or discriminate against any individual because he has initiated, testified, participated or assisted in any proceedings under this act.

(5) To fail to preserve for a period of three years any records, documents and data dealing with, or pertaining to, the admission, rejection, expulsion or suspension of students, or to refuse to make such records, documents and data available at all times for the inspection of the commission.

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Section 2. Subsection (aa) of section 4 of the act, added December 27, 1965 (P.L.1225), is amended to read:

Section 4. Unfair Educational Practices.—* * *

(aa) **[It] Except as provided in section 9, it** shall be an unfair educational practice for a religious educational institution—

(1) To exclude or limit, or otherwise discriminate, because of race, color, ancestry **[or]**, national origin *or sex*, against any student or students seeking admission as students to such institutions: Provided, That it shall not be unfair educational practice for any religious educational institution to use criteria other than race, color, ancestry **[or]**, national origin *or sex* in the admission of students.

(2) To make any written or oral inquiry prior to admission concerning or designed to elicit information as to the race, color, ancestry **[or]**, national origin *or sex* of a student seeking admission to such institution.

(3) To expel, suspend, punish, deny facilities or otherwise discriminate against any student because of race, color, ancestry **[or]**, national origin *or sex*.

(4) To penalize or discriminate against any individual because **[he] such person** has initiated, testified, participated or assisted in any proceedings under this act.

* * *

Section 3. Clause (4) of section 6 and sections 7 and 9 of the act are amended to read:

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

* * *

(4) To formulate, recommend and carry out a comprehensive program designed to eliminate and prevent prejudice and discrimination in educational institutions, **[except religious or denominational institutions,]** based upon race, religion, color, ancestry **[or]**, national origin *or sex except religious discrimination in religious or denominational institutions and except, as to sex, as provided in section 9.*

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Section 7. Procedure.—Any aggrieved person or anyone representing the aggrieved person may make, sign and file with the commission a verified complaint within six months after an unfair educational practice is alleged to have been committed, which shall set forth the particulars thereof and contain such other information as may be required by the commission. The commission upon its own initiative or the Attorney General may in like manner make, sign and file such complaint.

The procedure for the processing of any complaint shall be in accordance with the provisions of the act of April 9, 1929 (P.L.177), known as “The Administrative Code of 1929,” with the rules and regulations promulgated by the commission.

Until the commission shall determine that a cease and desist order shall be issued, it shall not disclose what takes place during informal efforts at persuasion, conciliation or mediation, nor shall it offer in evidence in any proceedings the facts adduced in such informal efforts, nor shall publicity be given to any proceedings before the commission and the identity of the educational institution shall not be disclosed, except in cases of public hearings: Provided, That the commission may publish the terms of conciliation when a complaint has been adjusted, and the results of surveys or studies conducted by the commission which pertain to matters of race, religion, color, ancestry **[or]**, national origin *or sex.*

Section 9. Construction.—The provisions of this act shall be construed liberally for the accomplishment of the purposes thereof and any law inconsistent with any provisions hereof shall not apply. Nothing contained in this act shall be deemed to repeal any of the provisions of any law of this Commonwealth relating to discrimination because of race, religion, color, ancestry **[or]**, national origin *or sex. This act shall not be construed to prohibit any educational institution which is neither State-owned nor State-related, nor State-aided, from drawing its enrollment entirely from members of one sex or from the sexes in any*

proportion, nor shall anything herein contained prevent any educational institution which is State-owned, State-related or State-aided from requiring each applicant for admission to state in the application for admission such applicant's sex to supplement and implement the institution's facts for planning purposes but only for such planning purposes and not for any discriminatory purposes. For the purpose of this section the term "State-owned" institution means the thirteen State colleges and Indiana University of Pennsylvania; the term "State-related" institutions means the University of Pittsburgh, Temple University and the Pennsylvania State University; the term "State-aided" institution means the Delaware Valley College of Science and Agriculture, Dickinson Law School, Drexel Institute of Technology, Hahnemann Medical College, Thomas Jefferson University, College of Lincoln University, the Medical College of Pennsylvania, University of Pennsylvania, Pennsylvania College of Podiatric Medicine, Pennsylvania College of Optometry, Philadelphia College of Art, Philadelphia College of Osteopathic Medicine, Philadelphia College of Textiles and Science, Philadelphia Musical Academy and Moore College of Art.

When considering any matter brought before it with respect to any alleged unfair educational practice based on sex, the commission shall take into consideration the educational programs offered by the institution and the number of admissions necessary to maintain programs and departments at educationally and economically feasible levels.

This section shall not apply until July 1, 1978 in the case of a school of medicine which has begun the process of changing from being an institution which admits only female students to being an institution which admits students of both sexes but only if it is carrying out a plan for such a change which complies with applicable Federal law.

APPROVED—The 29th day of December, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 360.



Secretary of the Commonwealth.