

EDUCATION PROTECTIONS

Disabilities:

- **Title II of the Americans with Disabilities Act (ADA)- 42 U.S.C. § 12132**- Prohibits discrimination on the basis of disability by public entities, whether or not they receive federal funding.
- **Section 504 of the Rehabilitation Act of 1973 -29 U.S.C. § 794(a)**- A student with disabilities may not "by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."
- **Individuals with Disabilities Education Act (IDEA) 2004**- Makes available a free appropriate education to eligible children and ensures special education and related services to those children.

Gender:

- **Title IX of the Education Amendments of 1972-20 U.S.C. § 1681(a)**- Prohibits sex discrimination: "No person... shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance."
- **PHRA Title 16 Pa. Code §41.206** - Pennsylvania Human Relations Commission's regulations promulgated pursuant to the PHRA clarify that the definition for the protected class of "sex" includes pregnancy status, childbirth status, breastfeeding status, sex assigned at birth, gender identity or expression, affectional or sexual orientation and differences in sex development. **(Effective: August 16, 2023)**

Race:

- **Title VI of the Civil Rights Act of 1964-42 U.S.C. § 2000d**- Prohibits discrimination on the basis of race, color, or national origin in all programs or activities receiving federal funding.

Contact the Regional Office Closest to You:

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PHRC EDUCATION DIVISION



Pennsylvania
Human Relations Commission

CIVIL RIGHTS PROTECTIONS FOR STUDENTS

STUDENT RIGHTS

All students have the right to obtain an education in an environment that is free from unlawful discrimination.

In Pennsylvania, protected classes include, **race, color, sex, religious creed, ancestry, national origin, disability, use of a guide or support animal, handling or training of support or guide animals, or retaliation.**

The **Pennsylvania Human Relations Act (PHRA)** covers discrimination in employment, housing, commercial property, education, and public accommodations.

The **Pennsylvania Fair Educational Opportunities Act (PFEOA)** is specific to postsecondary education and secondary vocational and trade schools.

PHRA AND PFEOA EDUCATION PROVISIONS PRACTICE POINTERS

- **Not protected under PHRA:** Age, familial status, GED, or students attending “distinctly private” schools.
- **Not protected under PFEOA:** Age, familial status, or GED.
- The Federal Family Educational Rights and Privacy Act (FERPA) allows PHRC to serve a subpoena to obtain records.
- Under PFEOA, “religious or denominational educational institutions” may certify in writing to the Commission that they are religious denominational educational institutions—are still subject to PFEOA. See § 3(2).

FREQUENT ISSUES

(Not an exhaustive list)

Disparate Treatment vs. Adverse (Disparate) Impact

- Disparate Treatment: **intentional** discrimination based on a protected class.
 - Focus: intent & motive
 - Legal Standard: direct or circumstantial evidence of bias
- Adverse Impact: neutral policy/practice that results in discrimination (**intent not required**).
 - Focus: effect or outcome
 - Legal Standard: statistical disparity with no valid justification

Failure to Provide Reasonable Accommodation(s)

Failing to adjust policies, practices, or environments to allow equal access or participation for:

- students with disabilities.
- students with sincerely held religious beliefs.

Retaliation

Harming a student, parent, or staff member because they complained about discrimination, participated in an investigation, or asserted their rights under civil rights laws.

Bullying/Harassment

Student subjected to verbal or written bias-related comments, images, or graphics, in-person or over the internet that can detrimentally affect their education. Once the school knows, it must investigate, take effective action to stop it, prevent recurrence, and remedy the effects.



CONSTITUTIONAL CONSIDERATIONS

The First Amendment of the U.S. Constitution

- Students have free speech rights in school, but those rights can be limited if speech:
 - Disrupts learning
 - Promotes illegal activity
 - Lewd, vulgar, or offensive
 - Conflicts with school-sponsored activities

Protected Student Speech

- ✓ Political expression (if non-disruptive)
- ✓ Religious expression (if it doesn't disrupt or seem school-endorsed)

Not Protected Student Speech

- ✗ Vulgar or obscene speech
- ✗ Speech causing disruption (fights, walkouts that halt instruction)
- ✗ Speech promoting illegal acts (drug use or violence)
- ✗ Hate speech or bullying (may violate anti-harassment policies and civil rights laws)