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Authority

The provisions of this Chapter 47 issued under sections 6 and 7(d) of the Pennsylvania Human Relations Act (43 P. S. §§ 956 and 957(d)), unless otherwise noted.

Source

The provisions of this Chapter 47 adopted January 25, 1966, unless otherwise noted.

GENERAL PROVISIONS

§ 47.1. Scope.

(a) This chapter delineates the rules governing the fair educational practices provisions of the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) and the Fair Educational Opportunities Act (24 P. S. §§ 5001—5010).

SCHOOLS

§ 47.11. Jurisdiction of the Commission.

(a) Kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses and educational institutions operating within and under the supervision of the Commonwealth which are open to, accept or solicit the patronage of the general public, are subject to the jurisdiction of the Human Relations Commission (Commission) and shall provide equal educational opportunities for students seeking admission, without reference to race, religion, color, ancestry or national origin.

(b) Sections 3(1) and 5 of the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5003(1) and 5005) vest jurisdiction in the Commission to deal with schools, colleges, universities and professional schools of post-secondary grade and also with secretarial, business, vocational or trade schools of secondary or post-secondary grade. Sections 4(l), 5(i) and 6 of the Pennsylvania Human Relations Act (43 P. S. §§ 954(l), 955(i) and 956) give the Commission authority to deal with other schools enumerated in this chapter.

ADMISSION PROCEDURES

§ 47.21. Filing.

Every school subject to the provisions of the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) and the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5001—5010) shall on or before September 1 of each year file with the Human Relations Commission (Commission) a written statement setting forth in detail the procedures it follows in admitting students. The statement shall include information disclosing who determines the admission policy, who

executes the policy, what specific procedures are followed and what factors are taken into consideration in accepting or rejecting a student. New or amended statements shall be filed by a school if and when any changes in the admission procedures from those previously described in the written statement filed with the Commission are adopted by the school.

APPLICATION FORMS

§ 47.31. Illegal questions.

A school may continue to use its supply of applications-for-admission forms which it had on hand when the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) and the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5001—5010) came into effect, provided that illegal questions and entries therein are entirely blocked out. When the supply of forms is exhausted and new application-for-admission forms are printed, the illegal questions and entries shall be omitted and deleted from the newly printed forms.

§ 47.32. Filing.

Copies of the application-for-admission form and other written forms required to be filled out and signed by an applicant prior to admission shall be filed with the Human Relations Commission (Commission) on or before September 1 of each year by every school which is subject to the provisions of the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) and the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5001—5010). If a change is made in a written form thus filed, the new or amended form shall be forthwith filed with the Commission by the school.

UNLAWFUL DISCRIMINATORY PRACTICES

§ 47.41. Scope.

In clarification of the language, “to...deny facilities or otherwise discriminate...,” contained in section 4(a)(3) of the Pennsylvania Fair Educational Opportunities Act (24 P. S. § 5004(a)(3)), and in clarification of the language, “...to refuse, withhold from, or deny to any person... either directly or indirectly...,” contained in section 5(i)(1) of the Pennsylvania Human Relations Act (43 P. S. § 955(i)(1)), it shall be an unlawful discriminatory practice for a school subject to those statutes, because of the race, color, religious creed, ancestry or national origin of a student or group of students applying for admission or attending the school to do the following:

- (1) Employ a quota system based upon race, color, religious creed, ancestry or national origin.
- (2) Offer or impose a different or special terms and conditions with respect to scholarships, grants and loans given by the school itself.

(3) Deny an equal opportunity to participate in extracurricular activities, including intermural and interscholastic athletics as well as nonathletic activities.

(4) Give official school sanction to a social, honorary or professional fraternity, sorority or other student organization, if the student organization excludes or discriminates against an individual on account of race, color, religious creed, ancestry or national origin unless the student organization is founded for the express purpose of assisting or ministering to students of a particular religion.

(5) Administer dormitories and other housing operated by the school on a discriminatory or segregated basis, or to approve and list housing rooming places which are privately operated, unless the housing accommodations are open to students of the school without discrimination on account of race, color, religious creed, ancestry or national origin.

(6) Fail to make available to students on an equal basis a school-operated health or recreational facilities on or off the campus.

(7) Deny opportunities to students in making placements of the students as interns, student teachers or workers in industry, as part of the students' educational program.

(8) Fail to make available to every student on an equal basis the full services of the placement office of the school, so that each student may be placed in the best position for which he is qualified in accordance with merit hiring principles.

(9) Permit the race, color, religious creed, ancestry or national origin of a student to be indicated on a transcript of record of the student or in a written or oral information given by the school when the same is made available to a prospective employer, employment agency or to a school of higher learning to which the student is applying for admission.

EXEMPTIONS

§ 47.51. Special circumstances.

A school subject to the provisions of the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) and the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5001—5010) may submit to the Pennsylvania Human Relations Commission a request in writing for exemption from one or more of the provisions of the statutes and assign reasons for requesting the exemption. The Commission will consider the request so received, will determine in each instance whether or not to grant the request, and will promptly notify the school of its final decision.

INQUIRIES

§ 47.61. After admission.

A school subject to the provisions of the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) and the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5001—5010) may properly ask its students, after admission, questions which reveal their race, color, religious creed, ancestry or national origin, provided that the information will not be used for the purpose of discriminating against the students because of their race, color, religious creed, ancestry or national origin.

§ 47.62. Prior to admission.

(a) Generally, it is not lawful for a school subject to the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) and the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5001—5010) to ask questions of applicants, prior to admission, either orally or in writing, the answers to which may reveal the race, color, religious creed, ancestry or national origin of the applicants. However, where an educational institution is required to supply information to the Federal government concerning birth and citizenship of an applicant residing in a foreign country in order to expedite his entry into the United States, it shall be lawful to submit a questionnaire to the foreign applicant requesting the required information. The questionnaire shall be subject to the following:

- (1) Clearly marked for the attention of the foreign student only.
- (2) Not made part of or attached to the application-for-admission form commonly used by the educational institution.

(b) Lawful and unlawful inquiries directed to applicants shall include the following:

| <i>Subject</i> | <i>Lawful Preadmission Inquiries</i> | <i>Unlawful Preadmission Inquiries</i> |
|-----------------------------------|---|---|
| Address or duration of residence: | Applicant's place of residence. How long a resident of the state or city. | |
| Age: | Requirement that applicant state age and submit proof in the form of a certificate of age issued by a school authority. | Requirement that applicant produce proof of age in the form of a birth certificate or baptismal record. |
| | | Birthplace of applicant. |

| <i>Subject</i> | <i>Lawful Preadmission Inquiries</i> | <i>Unlawful Preadmission Inquiries</i> |
|----------------|---|--|
| | | Birthplace of applicant's parents, spouse or other close relatives. |
| Character: | <p>Have you ever been arrested or convicted of any crime?</p> <p>Do you regularly attend a house of worship: yes ____no ____?</p> <p>(This may only be asked in writing in the form above, and may not be asked orally)</p> | |
| Education: | Inquiry into the academic, vocational or professional education of applicant and the public and private schools he has attended. | |
| Experience: | Inquiry into work experience. Inquiry into countries applicant has visited. | |
| Citizenship: | <p>Are you a citizen of the United States?</p> <p>If not a citizen of the United States, does applicant intend to become a citizen of the United States.</p> <p>If not a United States citizen, have you the legal right to remain permanently in the United States? Do you intend to remain permanently in the United States?</p> <p>Whether applicant's parents or spouse are naturalized or native-born citizens of the United States; the date when parents or spouse acquired citizenship.</p> | <p>Of what country are you a citizen?</p> <p>Whether applicant is a naturalized or native-born citizen; the date when the applicant acquired citizenship.</p> <p>Requirement that applicant produce his naturalization papers or first papers.</p> |

| <i>Subject</i> | <i>Lawful Preadmission Inquiries</i> | <i>Unlawful Preadmission Inquiries</i> |
|------------------------------|---|--|
| Military experience: | Inquiry into an applicant's military experience in the Armed Forces of the United States or in the State Militia. Inquiry into applicant's service in particular branch of United States Army, Navy and the like. | Inquiry into applicant's general military experience. |
| Name: | Maiden name of a married woman applicant. | Original name of an applicant whose name has been changed by court order or otherwise. |
| National origin: | Inquiry into languages applicant speaks and writes fluently. What foreign language do you read fluently? write fluently? speak fluently? Inquiry into how applicant acquired ability to read, write or speak English. | Inquiry into language commonly used by applicant. Inquiry into applicant's a. Lineage b. Ancestry c. National Origin d. Descent e. Parentage f. Nationality Nationality of applicant's parents or spouse. What is your mother tongue? |
| Notice in case of emergency: | Name and address of person to be notified in case of accident or emergency. | Name and address of nearest relative to be notified in case of accident or emergency. |
| Organizations: | List all organizations of which you are a member, omitting any group which may reveal your race, religion or nationality. | List all clubs, societies and lodges to which you belong. |

| <i>Subject</i> | <i>Lawful Preadmission Inquiries</i> | <i>Unlawful Preadmission Inquiries</i> |
|--------------------|---|--|
| Photograph: | If admitted as a student, you will be required to submit a photograph. | Requirement that an applicant affix a photograph to the application- for-admission form. Request an applicant, at his option, to submit his photograph. Requirement for photograph after interview but before admission. |
| Race or creed: | Color of applicant's eyes and hair. | Complexion or color of skin. |
| References: | | Requirement of the submission of a religious reference. |
| Relatives: | Do you live with your parents? If not, with whom do you live? What family have you? Names of any relatives who have attended this institution. Names of applicant's guardian, parents, spouse, or minor children. | Blanket request for names and addresses of relatives. |
| Religion or creed: | | Inquiry into applicant's religious denomination, religious affiliations, church, parish, pastor or religious holidays observed. |

RELIGIOUS OR DENOMINATIONAL EDUCATIONAL INSTITUTIONS

§ 47.71. Certification.

An educational institution which claims exemption under the terms of the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5001—5010) as a religious or denominational educational institution shall file with the Human Relations Commission a written statement setting forth pertinent facts and claiming the exemption.

§ 47.72. Effect of exemption.

A school certified by the Human Relations Commission (Commission) as a “religious or denominational educational institution” may select its students exclusively or primarily from members of the religion or denomination and also may give preference in the selection to the members. Where a complaint has been filed against a religious or denominational educational institution, the Commission will have the authority to visit the institution for the purpose of investigating the facts relating to the complaint.

§ 47.73. Limitation of exemption.

A school certified by the Human Relations Commission (Commission) as a “religious or denominational educational institution” are not exempt from the provisions of the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) and the Pennsylvania Fair Educational Opportunities Act (24 P. S. §§ 5001—5010) from affording students, otherwise qualified, an equal opportunity to attend therein without discrimination because of race, color, ancestry or national origin. The Commission will have jurisdiction of a complaint against a religious or denominational educational institution where the substance of the complaint alleges that students within the preferential group have been discriminated against because of their race, color, ancestry or national origin.

§ 47.74. Preadmission inquiries.

(a) A “religious or denominational educational institution” may request an applicant, prior to admission, to state whether he is a member of the particular religion or denomination as that of the institution to which the student is applying for admission. Thus, a Baptist-supported school may ask, prior to admission, “Are you Baptist?” and a Catholic-supported school may ask, prior to admission, “Are you Catholic?” but neither may ask, prior to admission, “What is your religion?”

(b) A religious or denominational educational institution may not ask an applicant, prior to admission, questions which may reveal the race, color, ancestry or national origin of the applicant, nor may an institution request an applicant, prior to admission, to submit a photograph.

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