

Ms. Christina Reese  
PA Human Relations Commission  
333 Market St. Floor 8  
Harrisburg, PA 17101

May 25, 2017

Dear Ms. Reese:

RE: PUBLIC COMMENT BY THE LGBT EQUALITY CAUCUS OF THE GENERAL ASSEMBLY ON THE GUIDANCE CONCERNING PROTECTIONS FOR LESBIAN, GAY, BISEXUAL AND TRANSGENDER INDIVIDUALS IN THE PENNSYLVANIA HUMAN RELATIONS ACT AND GUIDANCE CONCERNING PROTECTIONS FOR LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUEER/QUESTIONING INDIVIDUALS IN THE FAIR EDUCATIONAL OPPORTUNITIES ACT

On behalf of the members of the LGBT Equality Caucus of the Pennsylvania General Assembly, please accept our public comment and support for the *Guidance Concerning Protections for Lesbian, Gay, Bisexual and Transgender Individuals in the Pennsylvania Human Relations Act and Guidance Concerning Protections for Lesbian, Gay, Bisexual, Transgender and Queer/Questioning Individuals in the Fair Educational Opportunities Act* (“Guidance”).

This Guidance addresses a significant and conspicuous omission in Pennsylvania discrimination law, namely the failure of our statutes to protect Pennsylvania residents explicitly from discrimination in employment, housing, public accommodation and education based on sexual orientation, gender identity or expression.

Currently, the Pennsylvania Human Relations Act (“PHRA”) and the Fair Educational Opportunities Act (“FEOA”) appear on their face to exclude sexual orientation, gender identity and expression from the list of protected categories. Compelled by this omission, forty four municipalities across the Commonwealth have affirmatively added sexual orientation, and gender identity and expression to the list of protected categories to local anti-discrimination ordinances. However, heretofore, the Pennsylvania Human Relations Commission, the only state agency able to provide relief from discrimination for members of the LGBT community, has been stymied in its effort because the General Assembly has stubbornly refused to recognize the fundamental right of our LGBT neighbors and children to be free from discrimination.

In Price Waterhouse v. Hopkins, 490 U.S. 228 (1989), the United States Supreme Court held that discrimination against an employee on the basis of sex stereotyping--that is, a person's nonconformity to social or other expectations of that person's gender--constitutes impermissible sex discrimination. This long standing precedent is now recognized, in limited circumstances, as providing a cause of action to individuals who have experienced discrimination because of their

sexual orientation, gender identity or expression. The Pennsylvania Human Relations Commission now intends to use this established precedent to protect LGBT Pennsylvanians from discrimination. It is the right move at the right time.

But let us be clear: Unless and until the legislature acts and the Fairness Act is passed, LGBT individuals will not be unequivocally and expressly protected from discrimination in employment, housing, public accommodation and education. LGBT Pennsylvanians will continue to face uncertainty in seeking relief from discrimination.

Thank you for your continued efforts to ensure that all Pennsylvanians can enjoy freedom from discrimination in employment, housing, public accommodation and education. The LGBT Equality Caucus strongly supports the proposed PHRC Guidance Concerning Protections for Lesbian, Gay, Bisexual and Transgender Individuals in the Pennsylvania Human Relations Act and the Guidance Concerning Protections for Lesbian, Gay, Bisexual, Transgender and Queer/Questioning Individuals in the Fair Educational Opportunities Act. It is our fervent hope to soon amend the Pennsylvania Human Relations Act and the Fair Education Opportunities Act to unequivocally protect Pennsylvanians from discrimination because of sexual orientation, gender identity or expression.

Very Truly Yours,

Rep. Dan Frankel, co-chair, LGBT Equality  
Caucus  
Sen. Daylin Leach, co-chair, LGBT Equality  
Caucus  
Rep. Kevin Boyle  
Sen. John Blake  
Rep. Matthew Bradford  
Rep. Tim Briggs  
Rep. Vanessa Brown  
Rep. Donna Bullock  
Rep. Dom Costa  
Rep. Paul Costa  
Rep. Angel Cruz  
Rep. Mary Jo Daley  
Rep. Tina Davis  
Rep. Madeleine Dean  
Rep. Pam DeLissio  
Rep. Frank Dermody  
Rep. Flo Fabrizio  
Sen. Larry Farnese  
Rep. Ed Gainey  
Rep. Pat Harkins  
Rep. Jordan Harris  
Sen. Vincent Hughes

Rep. Bill Keller  
Rep. Patty Kim  
Rep. Steven Kinsey  
Rep. Leanne Krueger-Braneky  
Rep. Steve McCarter  
Rep. Joanna McClinton  
Rep. Dan McNeill  
Rep. Dan Miller  
Rep. Thomas Murt  
Rep. Mike O'Brien  
Rep. Chris Rabb  
Rep. James Roebuck  
Rep. Mark Rozzi  
Rep. Mike Schlossberg  
Sen. Judy Schwank  
Rep. Pete Schweyer  
Rep. Brian Sims  
Rep. Mike Sturla  
Sen. Christine Tartaglione  
Rep. Perry Warren Sr.  
Rep. Jake Wheatley  
Sen. Anthony Williams  
Rep. Rosita Youngblood