



APPROVED

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**COUNTY OF LEHIGH, PENNSYLVANIA
COMMISSIONERS BILL 2024 - 03
SPONSORED BY COMMISSIONERS COLE-BORGHI, IRONS & ALVARADO
REQUESTED DATE: JANUARY 17, 2024
ORDINANCE NO. 2024 – 106**

**ESTABLISHING COUNTY-WIDE NON-DISCRIMINATION REQUIREMENTS FOR
EMPLOYMENT, HOUSING, EDUCATION, HEALTH CARE AND PUBLIC
ACCOMMODATIONS; CREATING A HUMAN RELATIONS COMMISSION;
AND PROVIDING FOR INVESTIGATION AND ENFORCEMENT OF
CLAIMS OF DISCRIMINATION**

WHEREAS, by Ordinance No. 2021-137 the Board of Commissioners established the Lehigh County Human Relations Advisory Council (Council); and

WHEREAS, the Board of Commissioners (Board) tasked the Council with the mission of addressing issues of discrimination as they may occur in Lehigh County; and

WHEREAS, the Council was asked to provide regular updates to the County Executive and the Board of Commissioners, and to make recommendations for improving policies and practices which could be established by the County Executive or the Board of Commissioners; and

WHEREAS, the Council has conducted several meetings and has reported on those meetings to the County Executive and the Board of Commissioners; and

WHEREAS, the Council has recommended that the County of Lehigh (County) create a County-wide Human Relations Commission and establish prohibitions against discrimination in employment, housing, education and health care, and public accommodations; and

WHEREAS, the Council has presented a proposed Human Relations Ordinance to the Board for consideration; and

WHEREAS, the Board of Commissioners is committed to providing protection against discrimination for all individuals in Lehigh County; and

WHEREAS, this Ordinance shall be deemed an exercise of the police powers of the County of Lehigh for the protection of the public welfare, prosperity, health, and peace of the people of the County.

NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LEHIGH, PENNSYLVANIA, THAT:

1. The foregoing Whereas clauses are incorporated herein as if set forth in their entirety.

2. Pursuant to Section 12.1 of the Pennsylvania Human Relations Act, 43 P.S. § 962.1, there is hereby established a Human Relations Commission in and for the County of Lehigh (hereinafter referred to as the “Lehigh County Human Relations Commission” or the “Commission”). The composition and responsibilities of the Commission shall be set forth in Article VII of the Lehigh County Administrative Code, as provided for herein.

3. The following provisions shall be known as The Lehigh County Human Relations Ordinance.

SECTION 101 – PURPOSE

A. Be it known to all that the County of Lehigh does hereby declare its intent to promote the rights and opportunities of all persons to participate in the social, cultural, recreational, and economic life of the County and to assure equal opportunity for all persons concerning employment, housing, education, healthcare, and use of public accommodations without regard to actual or perceived race, ethnicity, color, religion, creed, national origin or citizenship status, ancestry, sex (including pregnancy, childbirth, and related medical conditions), gender identity, gender expression, sexual orientation, genetic information, marital status, familial status, GED rather than high school diploma, physical or mental disability, relationship or association with a disabled person, source of income, age, height, weight, veteran status, use of guide or support animals and/or mechanical aids, or domestic or sexual violence victim status.

B. Nothing in this Ordinance shall be construed as supporting or advocating any particular doctrine, position, point of view, or religious view. To the contrary, it is the intention of this Ordinance that all persons are treated fairly and equally, and it is the express intent of this Ordinance to guarantee fair and equal treatment under law to all people in Lehigh County.

C. Nothing in this Ordinance shall be construed to require any person to violate existing laws of local municipalities, the County, the State or the United States.

SECTION 201 – DEFINITIONS

The following words, terms and phrases when used in this Ordinance shall be defined as follows, unless the context clearly indicates otherwise:

201.1 Accessible

Being in compliance with the applicable standards set forth in the following:

- A. The Fair Housing Act (Public Law 90-284 as amended, 42 U.S.C. § 3601 et seq.);
- B. Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. § 12101 et seq.);
- C. Pennsylvania Construction Code Act, 35 P.S. §7210.101 et seq.

201.2 Advertisement or advertising

As defined in the Pennsylvania Human Relations Act – 43 P.S. §954.

201.3 Advertiser

Any person who places, publishes, broadcasts or similarly causes to be disseminated by any other means an advertisement or advertising as defined herein.

201.4 Age

Includes any person over the age of thirty-five (35) years and shall also include any other person so protected by further amendment to the Federal Age Discrimination in Employment Act.

201.5 AIDS

Acquired Immunodeficiency Syndrome.

201.6 National origin or citizenship status

Individuals protected by Section 1324b of the Immigration and Nationality Act, 8 U.S.C. §1324b.

201.7 Commercial Property

- A. Any building, structure or facility, or portion thereof, which is used, occupied or is intended, arranged or designed to be used or occupied for the purpose of operating a business, an office, a manufactory or any public accommodation; and
- B. Any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, facility, business concern or public accommodation.

201.8 Commercial Housing

Housing accommodations held or offered for sale or rent:

- A. by a real estate broker, salesperson or agent or by any person pursuant to authorization of the owner;
- B. by the owner themselves, or their legal representative, but shall not include either the rental of a room or rooms in a personal residence where the rental includes shared space in the personal residence.

201.9 Commission

The Lehigh County Human Relations Commission.

201.10 Common Carrier

A person holding themselves out to the general public to provide transportation for compensation.

201.11 County

The County of Lehigh, Pennsylvania.

201.12 Disability

- A. The term “handicap or disability,” (hereafter referred to as disability) with respect to a person, means:

1. a physical or mental impairment which substantially limits one or more of such person's major life activities;
2. a record of having such an impairment; or
3. being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the Controlled Substances Act (Public Law 91-513, 21 U.S.C. §802).

B. The term "non-job related disability" means any disability which does not substantially interfere with the ability to perform the essential functions of the employment for which a disabled person applies, is engaged in or has been engaged in. Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a disability job-related.

C. As used herein, the phrase: "physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss;
2. Any mental or psychological disorder, including, but not limited to, autism spectrum disorder, emotional or mental illness, and intellectual and learning disabilities.
3. Contagious and non-contagious diseases and conditions, including but not limited to orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, AIDS, Long COVID, and any other conditions protected under the Americans with Disabilities Act, 42 U.S.C. §12101 et seq..

201.13 Discrimination

Any exclusion, denial, intimidation, coercion, difference or segregation in treatment because of an individual's membership in a protected class in the following areas:

- A. hiring, referring for hire, promoting, training, including apprenticeship programs;
- B. membership in employee or labor organizations;
- C. the advertisement, sale, lease, rental, financing or zoning of housing;
- D. the provision of healthcare;
- E. education; or
- F. rendering service in places of public accommodation.

201.14 Educational Institution

Public or private education provider, charter school, college, university, trade or training school, pre-school, daycare provider, or other educational entity,

201.15 Employee

- A. An employee is an individual who works under the supervision or control of an employer.

B. The term “employee” does not include an individual employed by said individual’s parents, spouse, or child.

201.16 Employer

Any person or organization who employs one or more employees, exclusive of parents, spouse, or children. This term includes the County, its departments, authorities, boards, and commissions, as well as political subdivisions and school districts.

201.17 Employment Agency

Any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer or place employees.

201.18 Fair Housing Act

Public Law 90-284, 42 U.S.C. § 3601 et seq.

201.19 Familial Status

A. One or more individuals who have not attained the age of 18 years being domiciled with:

1. A parent or other person having legal custody of such individual or individuals; or
2. The designee of such parent or other person having such custody, with the written permission of such parent or other person.

B. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

201.20 Gender Expression

The external appearance of one’s gender identity, usually expressed through behavior, clothing, haircut, voice, chosen name, and/or pronouns, and which may or may not conform to socially defined behaviors and characteristics typically associated with being male or female.

201.21 Gender Identity

Self-perception, or perception by others, as male, female, non-binary, or gender diverse, and shall include an individual’s appearance, behavior, or physical characteristics, may refer to gender expression, sex assigned at birth, transgender identity, gender transition, that may be in accord with, or opposed to, physical anatomy, DNA, chromosomal sex, or sex assigned at birth, and shall include, but is not limited to, persons who are gender variant, persons who have completed or are in the process of gender transition, or who are undergoing or have completed sex affirmation hormonal treatments or gender affirming surgeries.

201.22 Genetic Information

That information which is defined as genetic information in the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff et seq.

201.23 Discrimination Based on Genetic Information

A. to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or

B. to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities, or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.

201.24 Health Care Provider

Means a licensed healthcare provider and their assistants and staff, including but not limited to a medical doctor, osteopath, dentist, podiatrist, optometrist, optician, chiropractor, psychologist, social worker, pharmacist, nurse, midwife, emergency medical technician, radiologist, x-ray technician, therapist, physician's assistant, or dental hygienist. This term also includes a group or institutional provider of healthcare, such as a hospital, skilled nursing facility, assisted living facility, clinic, laboratory, home healthcare provider, medical office and the employees of such entities.

201.25 HIV

Human Immunodeficiency Virus, also referred to as HIV Disease. The spectrum of disease clinically associated with HIV infection, encompassing both the symptomatic and asymptomatic forms of the infection.

201.26 Housing Accommodations

A. Any building, structure, mobile home site, hotel, motel, campground, shelter, dormitory or facility, or portion thereof, which is used or occupied or is intended, arranged or designed to be used or occupied as the home residence or sleeping place of one or more individuals, groups or families, whether or not living independently of each other.

B. Any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, mobile home site or facility.

C. The term "housing accommodation" shall not include any owner-occupied personal residence offered for rent by the owner thereof when personal living space is to be shared with the owner.

201.27 Housing for Older Persons

Housing which satisfies the requirements set forth in the Fair Housing Act and its regulations for housing for older persons.

201.28 Independent Contractor

An individual providing services who is free from direction or control over the performance of the services, both under the contract of service and in fact, and is customarily engaged in an independently established trade occupation profession or business. Includes any person who is

subject to the provisions governing any of the professions and occupations regulated by state licensing laws enforced by the Bureau of Professional and Occupational Affairs in the Department of State, or is included in the Fair Housing Act (Public Law 90-284, as amended, 42 U.S.C. § 3601 et seq.).

201.29 Labor Organization

Any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in relation to employment.

201.30 Lending Institution

Any bank, insurance company, savings and loan association, credit union, or any other person or organization regularly engaged in the business of lending money or guaranteeing loans.

201.31 Licensed Common Carrier

Includes transportation provided by buses, trolleys, taxis, limousines, and shuttles.

201.32 Marital Status

The status of being single, married, separated, divorced, widowed or a life partner.

201.33 Ordinance

The Lehigh County Human Relations Ordinance.

201.34 Owner

Includes lessee, sublessee, assignee, manager, agent, or any other person or organization having the right of ownership or possession or the authority to sell, rent or lease any housing accommodation, including political subdivisions and the County and its authorities, boards and commissions.

201.35 Pennsylvania Human Relations Act

Public Law 744, No. 322, 43 P.S. §951 et seq., as amended.

201.36 Person or Organization

Includes one or more individuals, a general or limited partnership, association, organization, for profit and not-for-profit corporation, sole proprietorship, limited liability company, legal representative, trustee in bankruptcy or receiver. It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, agent, employee, independent contractor, volunteer, lending institution, political subdivision, and the County and its authorities, boards and commissions.

201.37 Political Subdivision

Any city, borough, incorporated town or township located within Lehigh County.

201.38 Public Accommodation

Any accommodation, resort, or amusement which is open to, accepts or solicits the patronage of the general public or offers goods or services, including loans, to the general public or is

listed in Section 4(l) of the Pennsylvania Human Relations Act, 43 P.S. § 954(l), but shall not include any accommodations which are in their nature distinctly private by membership within a not-for-profit mission-driven organization whose mission requires a narrowed provision of services not based on race.

201.39 Protected Class

Actual or perceived race, ethnicity, color, religion, creed, national origin or citizenship status, ancestry, sex (including pregnancy, childbirth, and related medical conditions), gender identity, gender expression, sexual orientation, genetic information, marital status, familial status, GED rather than high school diploma, physical or mental disability, relationship or association with a disabled person, source of income, age, height, weight, veteran status, use of guide or support animals and/or mechanical aids, or domestic or sexual violence victim status.

201.40 Real Estate-Related Transaction

Includes any of the following:

- A. The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property; or
- B. The purchasing, constructing, improving, repairing or maintaining a housing accommodation or commercial property; or
- C. The selling, brokering, using as collateral or appraising of real property.

201.41 Religion

The term "religion" includes all aspects of religious observance and practice, as well as belief.

201.42 Sex

Male, female, or non-binary. Includes the gender of a person, gender identity, gender expression, affectional or sexual orientation, transgender identity, intersex, gender transition, sex assigned at birth, natal sex, as perceived, presumed or assumed by others. Sex as a class includes pregnancy, childbirth, breastfeeding, and related medical conditions.

201.43 Sexual Orientation

Inherent or immutable enduring emotional, romantic, or sexual attraction to other people.

Includes being gay, lesbian, bisexual, pansexual, heterosexual, asexual, by preference, practice, or as perceived by others.

201.44 Source of Income

Any lawful source of income, including but not limited to, earned income, child support, alimony, insurance and pension proceeds, unemployment insurance, social security, and all forms of public assistance, including social security disability insurance and supplemental security income, Temporary Assistance for Needy Families (TANF) and any successor legislation, and housing assistance programs.

SECTION 301 – Unlawful Practices

It shall be unlawful for any person to engage in discrimination against any person on the basis

of a protected class in the areas of employment, housing, public accommodation, access to educational institutions or provision of healthcare..

SECTION 302 – Employment discrimination protections

The intent of this section is to prevent bias and discrimination on the basis of an employee’s or prospective employee’s protected class which is unrelated to their ability to perform the job.

302.1 The following actions are prohibited with regard to any employee or independent contractor who is a member of a protected class as defined herein.

- A. An employer may not refuse, based on protected classes, to hire or employ or contract with, or to bar or discharge from employment, or to otherwise discriminate against individuals or independent contractors with respect to compensation, hiring, volunteering, tenure, terms, conditions or privileges of employment or contract, if the individual or independent contractor is the best able and most competent to perform the services required.
- B. An employment agency, employment service, labor organization, training school, or training center, or any other employee-referring source may not confine or limit recruitment or hiring of individuals with intent to circumvent the spirit and purpose of this Ordinance.
- C. An employer may not elicit any information or make or keep a record of, or use any form of application or application blank, containing questions or entries concerning the protected class of any applicant for employment. Nothing in this subsection shall preclude an employer from collecting demographic data after hiring so long as such information is voluntarily provided by the employee and its provision is not made a condition of employment.
- D. Prior to an offer of employment, an employer may not inquire as to whether an individual has a disability, or inquire as to the severity of such disability. An employer may inquire about the applicant’s ability to perform the essential functions of the position or positions sought.
- E. An employer may not deny employment because of a prior disability.
- F. A labor organization may not deny full and equal membership rights to any individual or group of individuals, or to discriminate against such individuals with respect to hiring, tenure, terms, conditions or privileges of employment, participation in apprenticeship programs, or any other matter, directly or indirectly related to employment, because of protected class.
- G. An employer may not exclude or otherwise deny an employee or applicant for employment equal jobs or benefits because of the disability of an individual with whom an employee or applicant is known to have a relationship or association.

H. An employer or labor organization, may not discriminate in any manner against any individual because that individual has made a charge, testified, or assisted in any manner in any discrimination investigation, proceeding or hearing under this Ordinance, or any other non-discrimination laws or regulations.

I. A person or employer may not, directly or indirectly, prohibit, coerce or prevent any person from complying with the provisions of this Ordinance.

J. An employment agency may not refuse to refer for employment, or otherwise discriminate against any individual because of protected class.

K. An employer, employment agency, labor organization, or advertiser may not print or publish or cause to be printed or published any notice or advertisement relating to employment or membership, indicating any preference, limitation, specification or discrimination based upon protected class.

L. An employer may not ask, on an employment application, whether the applicant has ever been convicted of a crime. An employer may include in its job requirements that an applicant have a clean driving record or be able to pass a child abuse clearance check.

M. An employer may not require a job applicant to disclose prior criminal convictions until after an initial interview.

N. Employers are prohibited from considering conviction records which do not relate to an applicant's suitability for employment. After a first interview, employers may use background checks and prior history to determine suitability for employment. Pennsylvania State law requires employers to provide written notification if a denial of employment was based in whole or in part on the applicant's criminal history. Failure to provide such notice will also be a violation of this Ordinance.

O. An employer may not ask a job applicant what their salary is or was from any current or previous employment.

P. Nothing in this Ordinance shall prohibit any institution or organization for persons with disabilities from limiting or giving preference in employment or membership to disabled persons.

Q. Nothing in this Ordinance shall require an employer to hire, promote or retain an employee who is not qualified or not able to perform the job for which they are applying or were hired to do.

SECTION - 303 Housing Discrimination Protections

303.1 The following actions are prohibited. A person or organization may not:

- A. because of protected class refuse to sell, lease, finance, or otherwise to deny or withhold any housing accommodation or commercial property, or to refuse to furnish facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodation or commercial property, from any tenant, owner, prospective owner, occupant or user of such housing accommodation or commercial property.
- B. evict or attempt to evict an occupant of any housing accommodation before the end of the term of a lease because of pregnancy or the birth of a child.
- C. refuse to lend money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or commercial property or otherwise withhold financing of any housing accommodation or commercial property from any person because of protected class.
- D. refuse to permit, at the expense of a tenant, owner, renter, or legal occupant with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modification may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, grant permission for a modification if the renter agrees to, at their expense, restore the premises to the condition that existed before the modification, with reasonable wear and tear excepted.
- E. refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a tenant, owner, renter, or legal occupant equal opportunity to use and enjoy a housing accommodation.
- F. print, publish, circulate or cause to be made any statement or advertisement relating to the sale, lease or acquisition of any housing accommodation or commercial property or the loan of money, whether or not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or commercial property, which indicates any preference, limitation, specification, or discrimination based upon protected class.
- G. make any inquiry, elicit any information, make or keep any record or use any form of application, containing questions or entries concerning protected class in connection with the sale or lease of any housing accommodation or commercial property or loan of any money whether or not secured by mortgage or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing combination or commercial property.
- H. deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings or commercial property, or to discriminate against that person in the terms or condition of such access, membership, or participation, because of protected class.

I. for any person or organization whose business includes engaging in real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of protected class.

J. induce, solicit, or attempt to induce or solicit for commercial profit, any listing, sale, or transaction involving any housing accommodation or commercial property by representing that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area in which there reside, or do not reside, persons of any particular protected class.

K. discourage, or attempt to discourage, the purchase or lease of any housing accommodation or commercial property by representing that such housing accommodation or commercial property is within any neighborhood, community or area adjacent to any other area in which there reside, or may in the future reside, in increased or decreased numbers, persons of any protected class.

L. for any person to harass, threaten, intimidate, harm, damage or otherwise penalize any person, group, or business because they exercised or encouraged others to exercise their rights under this section, or because they have complied with the provisions of this section, or enjoyed the benefits of this section, or because they have made a charge, testified, or assisted in any manner in any investigation, proceeding or hearing hereunder.

M. for any person to aid, abet, incite, induce, compel or coerce the doing of an unlawful practice prohibited by this section or to obstruct or prevent any person from complying with the provisions of this section or any order issued hereunder.

N. for any person who, with intent to mislead in any proceeding under this section to destroy or mutilate, falsify, alter or refuse to supply records and documents produced pursuant to subpoena or other lawful order under this section.

303.2 - Exemptions

A. Nothing in this section shall be construed to apply with respect to housing for older persons to the extent such language refers to age or familial status.

B. Nothing in this section limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

C. Nothing in this section shall prohibit a mission-driven private club not in fact open to the public, which as an incident to its primary mission provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its bona fide members or from giving preference to its members.

D. Nothing in this section shall require a landlord to participate in any government housing programs, such as Section 8 housing.

E. The rental or leasing of a room or rooms in a personal residence in which the owner currently resides, when the renter or lessee will be sharing some or all of the space with the owner, shall be exempt from this Ordinance.

SECTION 304 – Unlawful Public Accommodations Practices

304.1 The following actions are prohibited. A person or an organization may not:

A. refuse, withhold from or deny to any person because of protected class, either directly or indirectly, any of the accommodations, advantages, facilities, services or privileges of such place of public accommodation, resort or amusement.

B. publish, circulate, issue, display, post or mail, either directly or indirectly, any written or printed communication notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld or denied to any person on account of protected class.

C. prohibit a breastfeeding mother from, or segregate a breastfeeding mother within, any public accommodation where she would otherwise be authorized to be.

D. when providing licensed common carrier service, discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use such vehicles, refusing to accommodate such individuals in the use of a service animal due to blindness or deafness, or refusing to assist with the stowing of mobility devices, or charging higher fares or fees for carrying individuals with disabilities and their service animals and/or equipment which are not charged to other persons.

E. exclude or otherwise deny services because of the disability of an individual with whom a patron, client, or customer is known to have a relationship or association.

304.2 - Exemption

Nothing in this Section shall be applied or interpreted to require an individual to create speech or artistic expression which is contrary to their sincerely held religious beliefs.

SECTION 305 – Unlawful Education Practices

305.1 It is unlawful for an educational institution to refuse, based on a protected class, access to enrollment, equal treatment, participation in programs, or to otherwise discriminate against students, families, faculty, staff, administrators, or others legitimately involved with the function of the educational institution and including faculty, staff, and administrators with respect to compensation, hiring, volunteering, tenure, conditions or privileges of employment or contract based on protected classes.

305.2 It is unlawful for an educational institution to exclude or otherwise deny access to enrollment, equal treatment or participation in programs because of the disability of an individual with whom a student is known to have a relationship or association.

SECTION 306 – Unlawful Healthcare Practices

It is unlawful for a healthcare provider to refuse or limit, based on a protected class, access to treatment, surgery, medication, healthcare insurance benefits, participation in health programs, or access to other healthcare services.

SECTION 307 – Retaliation

Filing a complaint under this Ordinance is a protected activity. It is unlawful for any person to retaliate against an individual who files a complaint under this Ordinance, regardless of the merits of the complaint. Unlawful retaliation occurs when a person takes an adverse action against an individual either in response to the exercise of rights under this Ordinance or to deter or prevent such protected activity in the future. To establish retaliation the individual shall demonstrate:

- A. The individual or someone on behalf of the individual has or in engaged in a protected activity under this Ordinance or person retaliating believed the individual or someone on behalf of the individual might engage in such a protected activity in the future;
- B. The individual experienced an adverse action caused by the person retaliating; and
- C. There is some evidence of a causal connection between the protected activity and the adverse action.

SECTION 401 – Enforcement

The Commission shall be responsible for receiving and investigating complaints filed pursuant to this Ordinance.

SECTION 402 - Filing a complaint

402.1 Any person(s) claiming to be aggrieved by an unlawful practice within the scope of this Ordinance may make, sign, and file a complaint, verified in accordance with PA Rule of Civil Procedure 1024, alleging violations of this Ordinance. The Commission, upon its own initiative, may in like manner sign, verify and file a complaint. The complaint shall include the following information:

- A. The name and address of the aggrieved person(s) (Complainant(s));
- B. The name and address of the person(s) alleged to have committed the prohibited practice (Respondent(s));
- C. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory practice;

D. If applicable, the address and a description of the place of employment, or dwelling unit, or public accommodation which is involved; and

E. Such other information as may be required by the Commission.

The Commission or the Complainant shall have the power reasonably and fairly to amend any complaint, or withdraw it, and the Respondent shall have like power to amend their answer.

402.2 Complaints may be filed in person at the Lehigh County Office of Human Resources or on-line at the Commission's website. Complaints shall be marked with the date and time received.

402.3 All complaints must be received by the Lehigh County Office of Human Resources or by the Human Relations Commission website within one hundred eighty (180) days of the most recent alleged act(s) of discrimination.

402.4 The Lehigh County Office of Human Resources shall convey all original complaints it receives to the Human Relations Complaint Investigator and the Chairperson of the Commission within ten (10) days of the Office's receipt of such complaints.

SECTION 403 – Preliminary Jurisdictional Review

403.1 Within thirty (30) days of its receipt of a complaint, the Commission shall conduct a review to determine if the complaint is within the jurisdiction of the Commission, including a determination as to whether the complaint sets forth a prima facie case of discrimination.

403.2 If the complaint is not determined to be within the jurisdiction of the Commission, no further review or investigation will take place. The Commission shall send a notice to the Complainant informing them that the Commission does not have jurisdiction to hear the complaint.

403.3 If the complaint is determined to be within the jurisdiction of the Commission, the Commission shall send a notice to the Complainant informing them that the complaint has been received and will be investigated. If the complaint alleges discrimination on a basis prescribed under federal or state law, the notice sent to the Complainant shall also inform them of the right to file with the Pennsylvania Human Relations Commission and/or with the federal Equal Employment Opportunity Commission, or any other relevant entity.

403.4 If the complaint is found to be within the jurisdiction of the Commission, the Commission will send a copy of the complaint to the Respondent by USPS first-class mail.

SECTION 404 - Response to the Complaint

404.1 The Respondent(s) shall file a written, signed and verified answer to the complaint within sixty (60) days of the mailing date of the complaint. The answer to a complaint shall be filed in the same manner as an original complaint, in-person or on-line.

404.2 The Lehigh County Human Resources Office shall convey Respondent's answer to the Human Relations Commission within ten (10) days of the Lehigh County Human Resources Office's receipt thereof. The Commission shall send a copy of the answer to the Complainant within ten (10) business days.

SECTION 405 – Investigation

405.1 The Commission, through its investigator, shall review the complaint and the answer and gather such additional information as deemed necessary. Such information may include interviews, record and/or document review and data collection.

405.2 The Commission may, in the conduct of such investigation, issue subpoenas to any person charged with an unlawful practice, to furnish information, records or other documents, or to give sworn testimony, as necessary to assist in its investigation. The Commission may seek enforcement of its subpoena by Petition to the Court of Common Pleas of Lehigh County if needed.

405.3 If the investigator determines that no unlawful practice has occurred, they will present that finding to the Commission, and if the Commission agrees, the Commission shall notify the Complainant and Respondent that the Commission has determined that the Ordinance has not been violated.

405.4 If the investigator determines there is probable cause that an unlawful practice has occurred, the investigator will present the facts regarding the complaint to the Commission for further proceedings. The Commission shall send notice of the determination of probable cause to both the Complainant and the Respondent.

405.5 Either Complainant or Respondent may request that the Commission help to determine a conciliation and resolution. If so, the Commission may appoint a mediator to meet with the parties. If the parties are able to concur on a conciliation and a resolution, the parties will agree in writing to the resolution of the complaint. The resolution of the complaint shall be provided to the Commission for review and approval.

405.6 In the event that the mediator reports that the complaint cannot be resolved with a voluntary conciliation plan, the Commission will schedule the matter for adjudication within thirty (30) days of such report.

SECTION 406 - Public hearing

406.1 If the Commission determines it is not possible to resolve the complaint informally, the Commission shall schedule and hold a public hearing on the complaint. A minimum of ten (10) days' notice of the hearing shall be provided to both the Complainant and the Respondent.

406.2 The Commission may designate one Commissioner to serve as a master to preside at such a hearing or it may, at its election, conduct such hearing with a quorum of the Commission.

406.3 At the public hearing, the case in support of the complaint shall be presented by the County Solicitor's office if the complaint has been filed by the Commission, or by the Complainant or their attorney, if they are represented. Both the Complainant and the Respondent may appear at the hearing with or without counsel and testify. In addition, both the Complainant and the Respondent may introduce the testimony of witnesses and may submit documentary evidence. The Commission and the parties shall not be bound by the strict rules of evidence at the hearing. The testimony shall be taken under oath and shall be recorded.

406.4 Finding of Discrimination

If, upon consideration of all the evidence presented at the hearing, the Commission finds that the Respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this Ordinance, the Commission shall state its findings of fact and shall issue and cause to be served on the Respondent an order requiring the Respondent to cease and desist from such unlawful discriminatory practice and to take such additional action as the Commission deems appropriate. The Commission shall have the authority to order any remedies available under the Pennsylvania Human Relations Act, or the Commission may act directly to ensure there is a remedy to the discrimination by requiring the respondent to change practices, make restitution, and, in egregious instances, pay a fine of no more than \$500.00.

406.5 Finding of No Discrimination

If, upon consideration of all the evidence presented at the hearing, the Commission finds that the Respondent has not engaged in any unlawful discriminatory practice, the Commission shall state its findings of fact and shall issue and cause to be served on the parties an order dismissing the complaint as to the Respondent.

406.6 Except as otherwise provided, any order of the Commission may be reviewed under the provisions of the Act of December 2, 1968, P.L. 1133 (53 P.S. §11300) known as the "Local Agency Law", as amended.

SECTION 407 - Private Right of Action and Non-limitation of Remedies

A. Any person(s) aggrieved by a violation of this Ordinance shall have a right of action in the Court of Common Pleas of Lehigh County or any other court of competent jurisdiction and may recover for each violation any remedies provided under the Pennsylvania Human Relations Act or Federal law, including reasonable attorney's fees.

B. The right of action created by this Ordinance may be brought upon receipt by the aggrieved person(s) of notice that the Commission has dismissed the complaint or, if no such notice is received, after one year from the date of the filing of the complaint. If the person aggrieved has received notice that the Commission has dismissed the complaint, an action under this Ordinance must be brought by the aggrieved person within one year from the date of receipt of said notice or it will be barred. Equitable principles such as waiver, estoppel and equitable tolling shall apply to the time limitations for the filing of any complaint or other pleading under this Ordinance.

C. Nothing in this Ordinance shall limit the right of an aggrieved person to recover under any other applicable law or legal theory.

SECTION 408 - Penalty for Interference

Any person who shall willfully resist, prevent, impede or interfere with the Commission, its members, agents or agencies in the performance of duties pursuant to this Ordinance, or shall willfully violate an order of the Commission, shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), in the discretion of the Court, but procedure for the review of an order shall not be deemed to be such willful conduct.

SECTION 501- Protection of Religious Exercise

A. Nothing contained in this Ordinance shall be interpreted to require an individual or Religious entity to engage in conduct which constitutes a substantial burden on the free exercise of religion without compelling justification under the act of December 9, 2002 (P.L.1701, No.214), known as the "Religious Freedom Protection Act."

B. As used in this Ordinance, the term "religious entity" means a church, association of churches or other religious order, body or institution which qualifies for exemption from taxation under section 501(c)(3) or 501(d) of the Internal Revenue Code of 1986, P.L. 99-514, 26 U.S.C. §501.

SECTION 502 – Exemption

The provisions of this Ordinance shall not apply in the limited circumstances where a not-for-profit mission-driven religious, educational, fraternal, or charitable organization or association:

A. Requires an employee's adherence to said organization's or association's mission as part of their job, or wherein membership is a bona fide occupational qualification;

B. Offers rooms or housing to members of the organization, or within the organization's mission.

This exemption does not include discrimination based on factors which are not specified as part of the organization's mission.

SECTION 601 - Conflict of Laws

Where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of the County, or any regulation issued under the authority of such ordinance, the provisions which establish the higher standard for the protection of health, safety and welfare

shall prevail. The Commission, acting with the advice of legal counsel, shall make the determination on all ordinance conflicts related to this Ordinance.

4. Article VII of the Lehigh County Administrative Code is hereby amended to add the following new sections 704 and 705:

Section 704 – HUMAN RELATIONS COMMISSION

A. The Lehigh County Human Relations Commission was established pursuant to 43 P.S. §962.1 of the Pennsylvania Human Relations Act, by Ordinance No. 2024 - ____, and may be referred to as the “Lehigh County Human Relations Commission” or the “Commission”.

B. The Commission shall be composed of volunteers and shall consist of no fewer than seven (7) and no more than thirteen (13) members. The members shall serve terms of three (3) years each, with the initial terms for one third of the members being one (1) year, one third being two (2) years and the remainder being three (3) years. At all times there shall be an odd number of members. Members shall be appointed by the County Executive and confirmed by the Lehigh County Board of Commissioners. Members of the Commission shall be residents of Lehigh County, individuals working in Lehigh County, or business owners who operate within Lehigh County. Members of the Commission may not be elected officers in any political party.

C. Members of the Commission shall serve without salary but may be paid expenses incurred in the performance of their duties, as approved by the Commission.

D. The Commission is hereby vested with the authority to administer and enforce the Lehigh County Human Relations Ordinance and shall be given sufficient administrative and legal support from the Lehigh County Office of Human Resources, the Lehigh County Clerk of Judicial Records’ Office, and the Lehigh County Department of Law to carry out its powers and duties, including assistance with intake of complaints and investigation of filed complaints of discrimination.

E. Any Commission member missing three (3) meetings in a row or missing more than three (3) meetings in a twelve (12) month period will be deemed as having resigned their position as Human Relations Commissioner, and the remainder of their term will be filled by appointment in accordance with this section.

F. If the number of Human Relations Commissioners serving on the Commission drops below seven (7) because of resignation or lack of attendance, additional Human Relations Commission members shall be appointed by the County Executive and confirmed by the Lehigh County Board of Commissioners, within sixty (60) days. If the County Executive does not appoint new Human Relations Commissioners within sixty (60) days of the Commission dropping below seven (7) members, the Board of Commissioners shall appoint sufficient Commissioners to ensure the Human Relations Commission has seven (7) members.

G. The Commission may select up to three (3) additional non-voting, ex officio members to broaden the diversity that serves and advises the Commission. Such ex-officio members will not be

counted toward the seven (7) member Commission minimum, will not count toward establishing a quorum and shall serve for no more than three (3) years.

H. The Commission shall select one (1) of its members as the Chair of the Commission, one (1) as Vice Chair, and one (1) as Secretary.

I. The Chair of the Human Relations Commission will be responsible for setting Commission meetings, coordinating with the Office of Human Resources regarding received complaints and answers, and generally ensuring that the duties of the Commission are fulfilled. The Chair may delegate responsibility for Commission duties to specific Commissioners or to paid staff. The Vice Chair will serve as Chair when the Chair is otherwise unavailable in emergency situations. The Commission Secretary shall coordinate minute-taking at meetings which may be done by paid staff or a Commissioner. Meetings may be recorded to assist with the preparation of the minutes.

J. A voting quorum of the Commission will be no less than half of the currently serving Commission members and may be no less than four (4) Commissioners.

K. Meetings of the Commission shall be duly advertised and conducted in accordance with the Pennsylvania Open Meetings Law.

L. Should the County of Lehigh be designated as a respondent in a complaint of discrimination, the Commission is authorized to engage outside legal counsel for the Commission to take the place of the County solicitors who regularly advise the Commission. Outside legal counsel shall be required to agree to all the County's standard terms and conditions, including insurance requirements. Notice of the engagement shall be provided to the Board of Commissioners in writing.

Section 705 - DUTIES OF THE HUMAN RELATIONS COMMISSION

The Commission shall:

A. Meet monthly in-person or virtually on-line. When meeting on-line, Human Relations Commissioners must have their cameras on and be on screen and be attentive during the formal meeting.

B. Promote mutual understanding and work to improve relationships among all parts of the Lehigh County community, inclusive but not limited to those representing the protected classes covered by the Human Relations Ordinance.

C. Make studies into the status of human relations in the County.

D. At its discretion, cooperate with and assist other organizations, public or private, to improve relationships among the citizens of the County.

E. Provide educational information to community members and to organizations to promote a full understanding of the purpose and scope of the Human Relations Ordinance.

F. Receive and consider complaints of discrimination and administer and enforce the Human Relations Ordinance.

G. When appropriate, refer complainants to other social, civic, or government agencies for further action.

H. From time to time, but not less than once a year, provide a written report to the Board of Commissioners, describing in detail the investigations, proceedings, hearings and studies it has conducted and their outcome, the decisions it has rendered and the other work performed by it and make recommendations for such further legislation concerning abuses and discrimination because of protected class.

I. Maintain official copies of the minutes of Commission meetings, records of investigations and proceedings, recordings of hearings, studies conducted and their outcomes, the decisions rendered by the Commission and records of any other work performed by the Commission.

5. Section 703 of the Administrative Code is hereby amended to add the following subsection to section 703.2:

s. The Lehigh County Human Relations Commission shall work in coordination with the Office of Human Resources, the Department of Community and Economic Development and the Department of Law.

6. The Department of Community and Economic Development is directed to:

1. designate one employee who will be responsible for handling investigations on behalf of the Commission; and

2. ensure that office space for meetings of the Commission, financial support up to five-hundred dollars (\$500.00) per year, and other resources needed for operation and investigations are provided to the Commission. A webpage for the Commission, including a mechanism for on-line filing complaints of discrimination, shall be provided on the County's website.

7. The County Executive shall advertise for and appoint a full complement of members to the Human Relations Commission within ninety (90) days of the date of enactment of this Ordinance

8. The Lehigh County Human Relations Council, established by Ordinance No. 2021-137 is hereby dissolved.

9. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall remain in full force and effect.

10. The proper officers and other personnel of Lehigh County are hereby authorized and empowered to take all such further action, including any necessary transfers of funds, and execute additional documents as they may deem appropriate to carry out the purposes of this Ordinance.

11. The County Executive shall distribute copies of this Ordinance to the proper officers and other personnel of Lehigh County whose further action is required to achieve the purpose of this Ordinance.

12. The County Executive shall file copies of this Ordinance with the Clerk or Secretary of each local municipality within the County within 30 days of the date of enactment.

13. Any Ordinance or part of any Ordinance conflicting with the provisions of this Ordinance is hereby repealed insofar as the same affects this Ordinance.

14. Effective Date. For all municipalities within the County of Lehigh excepting the City of Allentown and the City of Bethlehem, this Ordinance shall become effective on June 1, 2024 or thirty (30) days after enactment, whichever is later. Pursuant to 53 Pa.C.S. §2963.2, for the City of Allentown and the City of Bethlehem, this Ordinance shall become effective in fifteen (15) months from the date of enactment, provided that no action has been taken by the governing body of either of those cities to be excluded from this Ordinance. Each City may opt to be governed or excluded from the coverage of this Ordinance without affecting the determination made by the other City.

ADOPTED this 14th day of February, 2024, by the following vote:

<u>Commissioners</u>	<u>AYE</u>	<u>NAY</u>
Sheila Alvarado	X	
Ron W. Beitler		X
Geoff Brace	X	
Zach Cole-Borghi	X	
Jeffrey Dutt		X
Dan Hartzell	X	
Jon Irons	X	
Antonio Pineda		X
April Riddick	X	

ATTEST: *Diana Howell*
Deputy Clerk to the Board of Commissioners

APPROVED this 20th day of February, 2024.

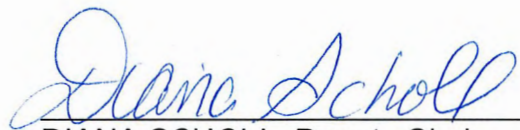
Phillips M. Armstrong
Phillips M. Armstrong
Lehigh County Executive

~~ENACTED this 20th day of February, 2024.~~

COUNTY OF LEHIGH ORDINANCE **2024-NO. 106**

CERTIFICATION

I, DIANA SCHOLL, Deputy Clerk to the Board of Commissioners of Lehigh County, do hereby certify that the attached is a true and correct copy of the ordinance adopted at a regular meeting of the Commissioners of Lehigh County held on the **14th** day of **February**, **2024**, was approved by the County Executive on the **20th** day of **February**, **2024** and becomes effective on the **1st** day of **March**, **2024**.



DIANA SCHOLL, Deputy Clerk
Board of Commissioners