

SUMMARY OF DECISION CHALLENGING THE GENDER IDENTITY PROTECTIONS IN PENNSYLVANIA HUMAN RELATIONS ACT

October 2026

On March 6, 2025, the Commonwealth Court of Pennsylvania received a complaint¹ challenging the gender identity regulations² adopted in 2023 under the Pennsylvania Human Relations Act (PHRA) following public comment. On October 9, 2026 the Commonwealth Court dismissed the complaint because all petitioners failed to establish standing to sue. The regulations remain in full force and effect.

WHO FILED THE LAWSUIT? WHO WAS SUED?

The petitioners, or entities bringing the complaint, include South Side Area School District (in Beaver County), Knoch School District (in Butler County), various parents of students in the Pennsylvania school system, the minor children of those parents, and Pennsylvania House of Representatives member Barbara Gleim. The [Thomas More Society](#) is legal counsel for the petitioners.

The Office of the Governor and the Pennsylvania Human Relations Commission (PHRC), which issued the regulations, were the original respondents, or those who were sued. The respondents argued that Gov. Josh Shapiro was not a proper party for this case, and the petitioners have since removed the Office of the Governor, leaving the PHRC as the sole respondent.

WHAT WERE THE PARTIES' ARGUMENTS?

The petitioners challenged the PHRC regulations adopted in 2023 under the “non-delegation doctrine” and the Equal Rights Amendment of the Pennsylvania Constitution. Specifically, the complaint challenged the regulations that clarify what is considered discrimination based on race, religious creed, or sex — Subchapter D of Title 16 of the Pennsylvania Code, [16 Pa. Code §§ 41.201 - 41.207](#).³

The non-delegation doctrine is the principle that the Pennsylvania legislature is limited in the power that it can give to other branches of government, including agencies like the PHRC. Under this doctrine, a law passed by the legislature must make the basic policy decisions for a law and include standards in the law that explain how it will be implemented by an agency. If the law follows these rules, the legislature can authorize an agency or other government body to execute or administer the law, following their discretion. Often, agencies will use that discretion to pass rules and regulations to make it clear what people need to do, or not do, to follow the law. In this case, the petitioners alleged that the PHRC regulations violate the non-delegation doctrine.

The Equal Rights Amendment of the Pennsylvania Constitution states that no one can be denied “equality of rights” because of their sex. The petitioners alleged that the PHRC regulations conflict with the definition of “sex” that includes different male and female reproductive functions identified by the Pennsylvania Supreme Court in a recent case interpreting Pennsylvania’s Equal Rights Amendment. *See Allegheny Reprod. Health Ctr. V. Pa. Dep’t of Hum. Servs.*, 309 A.3d 808, 868-869 (Pa. 2024).

The PHRC, as the respondent, argued that the petitioners lacked standing to bring the complaint because they did not explain how the regulations specifically harmed them. Next, PHRC argued that *even if* the case could be heard, the PHRC regulations do not violate the non-delegation doctrine or the Pennsylvania Equal Rights Amendment. PHRC asserted that it has the power from the Pennsylvania legislature to pass regulations implementing the law, as other court cases have already decided, and therefore the PHRC could not have violated the non-delegation doctrine. PHRC also argued that the regulations do not deny or lessen anyone’s rights based on their sex and therefore cannot violate the state’s Equal Rights Amendment.

WHAT DID THE COURT DECIDE?

The Commonwealth Court [dismissed the case](#) because it found the petitioner school districts, parents, and Representative Gleim did not have standing to sue. “Standing” is a legal principle that requires those bringing a lawsuit to show a real and concrete controversy about something that directly harms them. The court determined that this case could not go forward because all petitioners failed to show how the regulations would harm them. Because the parties did not have standing to seek review, the court did not decide whether the regulations violated the law.

Notably, in ruling that parents of students in the Commonwealth did not have standing to sue, the Court noted that the effect of the regulations on parental rights “is no greater than that of any other civil rights law prohibiting differential treatment based on a protected classification,” and that parents “failed to allege any harm to them caused merely by others being afforded equal opportunity.”⁴

The court refused to speculate about whether existing petitioner policies restricting transgender students’ rights would violate the regulations and explained that to do so, a proper controversy with a specific violation or direct harm would need to be presented.

WHAT DOES THIS MEAN FOR STUDENTS NOW?

The PHRC regulations remain in effect. Students continue to benefit from any protections provided by the PHRA or PHRC regulations. No appeal had been filed as of the date of this publication. If a new party with valid legal standing brings a lawsuit, the court could revisit this issue.

Individuals concerned that their school is not following the PHRC’s regulations and guidance can contact ELC-PA’s Helpline at 215-238-6970. The process to submit a complaint to the PHRC is explained in [this ELC-PA fact sheet](#) and on the [PHRC website](#).

The Education Law Center-PA (ELC-PA) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC-PA advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, multilingual learners, LGBTQ+ youth, children experiencing homelessness, and children at the intersection of multiple underserved identities.

ELC-PA's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice — visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) — or contact another attorney of your choice.

¹ The lawsuit's docket number is 78 MD 2025. A public docket report, where you can track any developments in the case, can be found at <https://www.pacourts.us/public-records>

² "Regulations," also referred to as "rules," are the terms used to refer to the administrative law issued by the PHRC in a formal publication process.

³ While the complaint challenged the whole subchapter, the arguments focused only on the definition of sex.

⁴ *South Side Area S.D., et al. v. PA Human Relations Commission*, 78 M.D. 2025, 2026 WL 3033126, *10 (Pa. Commw. Ct. Oct. 9, 2026).