COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

Ms. Rucker o/b/o/ J.L.P.,	:	
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Complainants,	:	
	:	
v.	:	PHRC Case No.: 202600496
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School District of Pittsburgh & School Board of Directors,	:	
	:	
Respondents.	:	
Ms. Chambers o/b/o/ D.A.L.C. & D.L.C.,	:	
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Complainants,	:	
	:	
v.	:	PHRC Case No.: 202600498
	:	
School District of Pittsburgh & School Board of Directors,	:	
	:	
Respondents.	:	
Ms. Worthy o/b/o/ D.H. & E.M.,	:	
	:	
Complainants,	:	
	:	
v.	:	PHRC Case No.: 202600499
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School District of Pittsburgh & School Board of Directors,	:	
	:	
Respondents.	:	

COMPLAINANTS' CONSOLIDATED BRIEF IN OPPOSITION TO RESPONDENTS' MOTIONS TO DISMISS PENNSYLVANIA HUMAN RELATIONS COMMISSION COMPLAINTS

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I. INTRODUCTION

Complainants file this consolidated brief in opposition to Respondents' motions to dismiss. Respondents fail to grasp the full scope of their obligations under the PHRA. Their motions misunderstand and fail to distinguish between various forms of discrimination prohibited under the Pennsylvania Human Relations Act ("PHRA"), ignore the applicable rules and standards set forth by the Pennsylvania Human Relations Commission ("PHRC"), and disregard their obligation to provide equal educational opportunity for all students.

The PHRC has jurisdiction over this matter. Respondents' argument that the school closure plan cannot be challenged until Black students lose their current schools and educational benefits ignores the fact that the PHRC has made clear that a school district's policy itself constitutes impermissible education discrimination.[1] Complainants' injuries are imminent, concrete, and certain to occur absent relief from the PHRC. The PHRA grants the PHRC unique powers to root out and eradicate discrimination that blocks individuals from opportunity based on their protected traits. *See Pa. Hum. Rels. Comm'n v. Alto-Reste Park Cemetery Ass'n*, 453 Pa. 124, 134 (Pa. 1973).

The PHRA has long prohibited both disparate treatment and disparate impact discrimination.[2] Respondents' motions to dismiss, however, confuse disparate treatment under a deliberate indifference theory with disparate impact. These are two different forms of prohibited discrimination, both of which violate the PHRA under the PHRC's well-reasoned decisions.[3]

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[1] PA. HUM. RELS. COMM'N, EDUCATION PROTECTIONS [hereinafter Education Protections] *available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/phrc-outreach/english/education%20protections.pdf.

[2] *See, e.g.,* PA. HUM. RELS. COMM'N, CIVIL RIGHTS PROTECTIONS FOR STUDENTS, 2, [hereinafter Protections for Students] *available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/phrc-outreach/english/education%20division%20civil%20rights%20protections%20for%20students.pdf (explaining that education discrimination includes "intentional discrimination based on a protected class", "neutral policy/practice that results in discrimination (intent not required)", and more).

[3] *See, e.g.*, *Taylor & Pointdexter v. McGlawn & McGlawn*, No. 200027668 & 200201787 (Pa. Hum. Rels. Comm'n 2004) *available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/final-legal-orders/2000-

Respondents' motions should therefore be denied and the PHRC should intervene in this matter to protect equal educational opportunity for Black children attending Pittsburgh Public Schools.

II. PROCEDURAL HISTORY AND APPLICABLE LEGAL STANDARD

On July 14, 2026, Complainants filed a complaint with the Pennsylvania Human Relations Commission ("PHRC") alleging education discrimination based on race in violation of the Pennsylvania Human Relations Act ("PHRA"). 43 P.S. § 955(i)(1). On September 24, 2026, Respondents filed motions to dismiss alleging that the PHRC lacks authority to hear Complainants' claims; Mot. to Dismiss at 16-31; and to grant the requested relief; *Id.* at 31-35. Following Complainants' October 7, 2026 filing for a Petition for a Rule to Show Cause, Respondents belatedly submitted their Answer on October 16, 2026. On October 28, the PHRC notified the parties that Complainants' response to the motions to dismiss must be filed by November 12, 2026.

When considering a motion to dismiss a complaint, the PHRC "shall reply . . . by making whatever good faith arguments may exist in favor of the Commission's continued ability to proceed" with the complaint. *See* 16 Pa. Code § 42.34(c). The PHRC has acknowledged that "the burden of establishing a prima facie case should not be onerous." *Nester v. Littlestown Area Sch. Dist.*, No. E-34373-D, at *12 (Pa. Hum. Rels. Comm'n 1993)[4] (citing *Allegheny Hous. Rehab. Corp. v. Pa. Hum. Rels. Comm'n*, 532 A.2d 315 (Pa. 1987)). "When adjudicating [alleged discrimination under the PHRA], Pennsylvania courts look to corollary federal law and construe the [PHRA] in light of principles that have emerged from federal precedent interpreting federal

2009/Taylor%20v%20McGlawn.pdf (finding both disparate treatment and disparate impact discrimination); *Detter v. Richard Sharp & Sharp's Village Mobile Home Park*, No. H-7404 (Pa. Hum. Rels. Comm'n 2004) *available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/final-legal-orders/2000-2009/Detter%20v%20Sharp.pdf (same).

[4] *Available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/final-legal-orders/1990-1999/Nester%20v%20Littlestown%20Area%20School%20District%20%20092993.pdf.

antidiscrimination statutes." *Reading Hous. Auth. v. Pa. Hum. Rels. Comm'n*, 349 A.3d 502, 512 (Pa. Commw. Ct. 2025) (citing *Foust v. Pa. Dep't of Hum. Servs.*, 305 A.3d 1128, 1133 (Pa. Commw. Ct. 2023)) (in housing discrimination context). That federal law dictates that complainants alleging violations of antidiscrimination law are neither "required to establish a *prima facie* case" nor choose what theory they are proceeding under; rather, they must "plead facts that, construed in [their] favor, state a claim of discrimination that is plausible on its face." *Connelly v. Lane Const. Corp.*, 809 F.3d 780, 791 (3d Cir. 2016) (internal quotations omitted). At the preliminary objection stage, a court must "accept as true all well-pleaded, material, and relevant facts alleged in the complaint and every inference that is fairly deducible from those facts." *Raynor v. D'Annuzio*, 243 A.3d 41, 52 (Pa. 2020). Further, courts cannot resolve disputed factual allegations without an evidentiary hearing at this stage. *Blackwell v. City of Pittsburgh,* 350 A.3d 1085 (Table), 2025 WL 3240395 at *5 (Pa. Commw. 2025) (citing Pa.R.Civ.P. 1028(c)(2)).

III. ARGUMENT

A. Complainants' claims are justiciable.

In their motions to dismiss, Respondents challenge standing and assert that Complainants' claims are unripe. Mot. to Dismiss at 13. Respondents are mistaken. Complainants' injuries are concrete, imminent, and certain to occur absent relief from the PHRC, and their claims are ripe.

1) Respondents' Approval and Subsequent Execution of the School Closure Plan Ripens Complainants' Injury.

Respondents allege that because Pittsburgh Public Schools has not fully executed its discriminatory school closure plan, Complainants are not yet aggrieved, and their claims are not ripe. Mot. to Dismiss at 13-15. Respondents appear to suggest that Black students must wait for

the 2027-2028 school year to bring this matter to the PHRC. *Id.* Respondents mistakenly rely on *Committee to Keep Our Public Schools Public v. Schweiker* to support their argument. *See* Mot. to Dismiss at 14-15 (citing 803 A.2d 869, 873-74 (Pa. Commw. 2002)). In *Schweiker* the court found that a petition challenging a public commission's consideration of possible contract with a private corporation was not ripe because there was no "final action that would establish a concrete context for the filing of the petition" and that "it would be impossible for [the] court to determine whether a non-existent contract, a contract without terms and conditions, violates" state law. 803 A.2d at 873.

In contrast, Respondents May 27, 2026, approval of the "Future-Ready Facilities Plan," the official title for the school closure plan, is a final action. According to Superintendent Wayne Walters, Respondents have made progress in the early implementation stages of the school closure plan, having completed 67 of the 71 goals the district set for itself to be complete by October 2026, ranging from topics of transportation, communications, curriculum and instruction, finances and student supports.[5] School Board President Gene Walker said with respect to implementation that "I think we're off to a tremendous start, and it will pick up speed as we get closer."[6] Since Respondents have officially enacted their school closure plan, and they are actively in the process of implementation, Complainants' claims here are ripe.

2) As Students of a Protected Class Who Will Suffer Harm Unless Respondents' Discriminatory Acts Are Reversed, Complainants Have Standing.

[5] Kellen Stepler, *Pittsburg Superintendent gives 1st public status update on school closure, realignment plan*, TRIBUNE LIVE, Nov. 5, 2026, *available at* https://triblive.com/news/education-classroom/pittsburgh-superintendent-gives-1st-public-status-update-on-school-closure-realignment-plan/; *see also* Shannon Coan, *PPS school closure and restructuring plan is on track, superintendent says*, 90.5 WESA, Nov. 5, 2026, *available at* https://www.wesanews.org/education/2026-11-05/pps-school-closure-and-restructuring-plan-progress-report.
[6] Stepler *supra* note 5.

For standing, the PHRC maintains that any person claiming to have experienced education discrimination can make, sign, and file a complaint with the Commission.[7] A "school policy" can itself constitute education discrimination for purposes of the PHRA.[8] Further, in the federal equal protection context, imminent loss of a school constitutes injury sufficient for standing. *See, e.g.*, *Doe ex rel. Doe v. Lower Merion Sch. Dist*., 665 F.3d 524, 542-43 (3d Cir. 2011) (potential reassignment to different school due to new school district policy constitutes injury that is not conjectural or hypothetical) (citing *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 718-19 (2007)).

The speculative "possibility of a contract" at issue in *Schweiker*; 803 A.2d at 874; bears no resemblance to the final, published school closure plan that the PPS Board approved and PPS is executing here. On May 27, 2026, Respondents approved a plan that will close schools in Black neighborhoods, which Complainants allege will lead to a disproportionate number of Black students suffering the harms of school closures. Complainants are Black students attending schools that will be closed in 2027 due to the school closure plan. As such, Complainants have a "direct and substantial interest in the challenged" school closure plan and its implementation under the standard applied by the *Schweiker* Court. *See* 803 A.2d 873-74. Additionally, there is "a sufficiently close causal connection between" the school closure plan and the asserted educational harms, including the loss of educational opportunities that Complainants' current school offers. *Id*. Thus, Complainants have standing to challenge the school closure plan.

B. Complainants State Facts Sufficient to Support a Plausible Claim of Either Different Treatment or Disparate Impact Discrimination.

[7] Education Protections *supra* note 1.
[8] *Id.*

Respondents argue that the complaint is deficient because it rests on a theory of disparate impact discrimination. *See* Mot. to Dismiss at 16-31. The PHRC, however, explicitly states that disparate impact discrimination is prohibited under the PHRA.[9] Complainants do not waive a finding of either intentional or disparate impact discrimination and reaffirm that the facts alleged in the complaint and affirmed in Respondents' belated Answer are sufficient for PHRC to find probable cause under either theory.

1) Complaint Asserts Sufficient Facts to Find Probable Cause That Respondents' Approval of School Closure Plan Constitutes Intentional Discrimination.

The Third Circuit and other courts have held that a showing of deliberate indifference is sufficient to establish intentional discrimination in certain contexts, including Title VI. *See, e.g.*, *Blunt v. Lower Merion Sch. Dist.*, 767 F.3d 247, 272-73 (3rd Cir. 2014). To establish deliberate indifference, a complainant "must show that the school district had knowledge of the alleged misconduct and the power to correct it but nonetheless failed to do so." *Id*. at 273; *see also Memphis St. Acad. Charter Sch. at J.P. Jones v. Sch. Dist. of Philadelphia*, No. 22-02760, 2023 WL 4032660, at *3 (E.D. Pa. June 15, 2023). Here, Complainants plausibly allege that Respondents had knowledge that the school closure plan would have a discriminatory impact on Black students[10] and that Respondents made no efforts to address this harm before approving the

[9] *See, e.g.,* Protections for Students *supra* note 2, at 2 (explaining that education discrimination includes "intentional discrimination based on a protected class", "neutral policy/practice that results in discrimination (intent not required)", and more).

[10] Compl. at 8-18, 28-30; *see also* Answer at 17 (admitting that research "reconciles closing disparities centralized on Black students"), 23-24 (admitting that "that 412 Justice, Education Rights Network, and a coalition of organizations published an 'Open Letter' to Superintendent Dr. Walters and the Board challenging the Proposal's impact on Black and marginalized communities and demanding an end to the use of utilization rates" and calling "for an equity audit" and that Respondents' consultant acknowledged that "the Facilities Utilization Plan 'would impact a higher share of the district's Black and Latinx students compared to its white and Asian students"), 28 (admitting harms associated with frequent and unnecessary school transitions).

school closure plan.[11] Respondents' prior knowledge of the school closure plan's imminent and disproportionate harm to Black students, and their refusal to change course despite that knowledge, is the essence of intentional discrimination under a deliberate indifference theory. *See* Compl. at 27-31.

While Respondents are wrong that Complainants may only prevail upon a showing of intentional discrimination under the standard identified in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 266–68 (1977), *see* Mot. to Dismiss at 18-21, even that more stringent test is satisfied here. The complaint describes in detail how Respondents adopted the plan knowing that it would have a racially discriminatory impact on Black students. *Compare* Compl. at 7-11, 18-25, 31-33 *with Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 465 (1979) ("Adherence to a particular policy or practice, with full knowledge of the predictable effects of such adherence upon racial imbalance in a school system is one factor among many others which may be considered by a court in determining whether an inference of segregative intent should be drawn") (internal quotations omitted). The record also identifies the relevant historical background, sequence of events, and procedural departures and legislative history that cause the school closure plan to flunk the *Arlington Heights* test. *See Arlington Heights*, 429 U.S. at 253 (stating that evidence such as "disproportionate impact, the historical background of the challenged decision, the specific antecedent events, departures from normal procedures, and contemporary statements of the decisionmakers" can show discriminatory

[11] Compl. at 18, 30-31; *see also* Answer at 29 (admitting that on May 27, 2026 the Board approved the school closure plan), 30-31 (indicating that Miller's specific African-centered curriculum will be replaced with a more general framework of "culturally responsive teaching"), 32 (admitting that Respondents are without sufficient information to affirm or deny whether Miller's art programs will continue), 35 (indicating that Woolslair school-wide STEAM program will end and acknowledging Complainant Worthy's concerns about her children being academically set back by the school closure plan), 36-37 (generally stating that Respondents lack sufficient knowledge to affirm or deny whether J.L.P. or other Manchester students will continue to receive the educational benefits that they enjoy once the school closes).

intent); *African People's Educ. & Def. Fund v. Pinellas Cnty*, 184 F.4th 1194, 1212-14 (11th Cir. 2026). Here, for example, Respondents and their predecessors attempted to close schools more than two decades ago—a decision resulting in a settlement after proceedings brought pursuant to the PHRA. *See* Compl. at 5-6 (citing *Advocates for African American Students et al. v. Bd. of Pub. Educ. of the Sch. Dist. of Pittsburgh*, Nos. 199213299-199213302,199213359-199213361, Appendix B: Terms of Settlement (Pa. Hum. Rels. Comm'n 2006).[12] There were departures from normal procedures, such as when the school district violated its own policies to reverse itself after initially rejecting the school closure plan in 2025; *see* Letter from Laura Petty, Staff Attorney, Advancement Project, to Ira Weiss, Solicitor, Pittsburgh Public Schools (Feb. 20, 2026);[13] and approval of the plan without complying with an August 2025 resolution to articulate what "supports for . . . African American" students would be available. Compl. at 15-16. And Respondents have acknowledged the complaint's well-pled allegations of discriminatory impact. Mot. to Dismiss at 23. As such, even under Respondents' theory, Complainants have pled facts sufficient to support a claim of intentional discrimination.

2) Respondents' Attempt to Recast the History of the School Closure Plan is Filled with Inaccuracies and is Irrelevant at the Motion to Dismiss Stage.

Respondents attempt to litigate the underlying facts and the procedural history surrounding the school closure plan. *See* Mot. to Dismiss at 3-10, 18-30. The PHRC should accept Complainants' factual allegations as true and decline Respondents' invitation to engage in impermissible weighing of facts at the motion to dismiss stage. *Raynor*, 243 A.3d at 52; *Blackwell,* 2025 WL 3240395 at *5; *Warren Gen. Hosp. v. Amgen*, 643 F.3d 77, 84 (3rd. Cir 2011).

[12] *Available at* https://clearinghouse-umich-production.s3.amazonaws.com/media/doc/70387.pdf.
[13] *Available at* https://advancementproject.org/wp-content/uploads/2026/02/Letter-to-PPS-Solicitor-Weiss.pdf.

Complainants further allege that Respondents mischaracterize their engagement with equity-minded parties throughout the years preceding approval of the school closure plan.[14] Specifically, Respondents claim that the Equity Advisory Panel's and PHRC's "contemporaneous awareness of the Plan" absolves them of any finding of intentional discrimination. Mot. to Dismiss at 21. According to Respondents, PHRC's "contemporaneous awareness" is evidenced by a January 13, 2026, PHRC interim assessment stating that Pittsburgh Public Schools was in compliance with a 2022 Memorandum of Understanding. Tellingly, PHRC issued this letter after the Board voted down the discriminatory school closure plan on November 25, 2025; *see* Answer at 30; and a mere two weeks before Respondents violated its own procedures[15] and approved a motion to reconsider the failed vote to close schools at a January 28, 2026 legislative meeting. Since the school closure plan was not an approved policy of PPS at the time they issued the interim assessment, it supports (as opposed to undermines) Complainants' arguments.

For similar reasons, Respondents' assertion that the Equity Advisory Panel (EAP), the monitoring body created by PPS and the PHRC, had "contemporaneous awareness" of or approved the discriminatory school closure plan, falls flat. To the contrary, at the March 17, 2026 meeting, EAP members raised concerns related to racial inequities and their involvement in the school closure plan. The minutes from that meeting reflect members' concerns that "materials were received too close to the meeting to allow for meaningful review and preparation"; their questions regarding "student integration in school consolidation scenarios, including the need to proactively address racial dynamics, belonging, and school culture"; their comments indicating

[14] *See Nester v. Littlestown Area School District*, No. E-34373-D (Pa. Hum. Rels. Comm'n 1993) at 20 *available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/final-legal-orders/1990-1999/Nester%20v%20Littlestown%20Area%20School%20District%20%20092993.pdf (finding evidence of pretext where school district presented affidavits with inaccurate statements).

[15] Letter from Laura Petty, Staff Attorney, Advancement Project, to Ira Weiss, Solicitor, Pittsburgh Public Schools (Feb. 20, 2026), https://advancementproject.org/wp-content/uploads/2026/02/Letter-to-PPS-Solicitor-Weiss.pdf; *see also* Resp'ts Exhibit 36.

that "the EAP was not engaged early enough in the planning process and emphasiz[ing] the importance of ongoing involvement in implementation and monitoring"; and a request for "detailed breakdown of the current and projected race/ethnic demographics of schools impacted by the Future Ready Plan, to better understand how proposed changes may affect student populations across the District." Resp'ts Exhibit 38 at 3. Complainants have seen no evidence that PPS subsequently addressed, let alone satisfied, the EAP members' concerns.

The timeline of when the 2023 equity audit was conducted—nearly a year before the school closure process started—elides the fact that Complainants and other community members requested a narrower equity audit on the school closure process and interim plans, which Respondents repeatedly declined to perform. *See, e.g.*, Answer at 23-24, 42-43. Indeed, it appears that Respondents' focus on closing schools may be delaying implementation of other practices recommended in the 2023 Equity Audit, such as professional development training on restorative practices. *See* Resp'ts Exhibit 37 at 4-5; *see also* Resp'ts Exhibit 10 at 9-11; 117-118 (recommending professional development on restorative practices to address disproportionality in discipline). Finally, it is reductive and contrary to the PHRA's text and legislative purpose to suggest that the school closure plan is essentially immune from judicial review on discrimination grounds because it includes the word "equity" 35 times. Mot. to Dismiss at 19; *cf. Ash v. Tyson Foods*, 546 U.S. 454, 456 (2006) ("it does not follow that the term [boy], standing alone, is always benign"). The Court should therefore deny Respondents' motions to dismiss Complainants' claims of racial discrimination.

3) The PHRA Prohibits Disparate Impact Discrimination and Complainants Assert Facts Sufficient for a Probable Cause Finding under that Theory.

The PHRC recognizes disparate impact as prohibited discrimination under the PHRA. *See* Pa. Hum. Rel. Comm'n, Civil Rights Protections for Students, at 2 [hereinafter PHRC

Student Protections] (defining adverse or disparate impact as a "neutral policy/practice that results in discrimination (*intent not required*))[16]; *see also Taylor & Pointdexter v. McGlawn & McGlawn*, No. 200027668 & 200201787 (Pa. Hum. Rels. Comm'n 2004) (final order finding disparate impact discrimination violates the PHRA post-*Sandoval*)[17]; *Detter v. Richard Sharp & Sharp's Village Mobile Home Park*, No. H-7404 (Pa. Hum. Rels. Comm'n 2004) (same).[18] The legal standard for finding disparate impact discrimination is a statistical disparity with no valid justification that has an adverse effect or outcome on a protected class of students. *See* PHRC Student Protections at 2; *see also Lopez v. Com*, 978 N.E.2d 67, 81 (Mass. 2012); *Levin v. Yeshiva University*, 754 N.E.2d 1099 (N.Y. 2001).

Respondents' motions to dismiss state that Complainants plead "a facially neutral utilization criterion falls harder on Black students, and the District knew it. That is a disparate-impact claim." Mot. to Dismiss at 23. Complainants agree—and believe that constitutes an independent claim, in addition to the deliberate indifference theory. *See, e.g.*, *Taylor*, Nos.200027668 & 200201787, at *19 (finding evidence of both intentional and disparate impact discrimination); *Nester*, No. E-34373-D, at *10 (same). Indeed, Respondents concede that Complainants have alleged a statistical disparity. *Compare* Mot. to Dismiss at 2, 17, 24, 26, *with* Compl. at 11, 33-35. As such, the complaint pleads facts that are more than sufficient to defeat Respondents' motions to dismiss. *Taylor*, Nos.200027668 & 200201787, at *19-20 (citing statistics as supporting disparate impact); *but see Lopez*, 978 N.E.2d at 81 n. 20 (allegations of statistical disparities not required at the motion to dismiss stage).

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[16] *Available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/phrc-outreach/english/education%20division%20civil%20rights%20protections%20for%20students.pdf
[17] *Available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/final-legal-orders/2000-2009/Taylor%20v%20McGlawn.pdf.
[18] *Available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/final-legal-orders/2000-2009/Detter%20v%20Sharp.pdf.

C. PHRC Should Deny Respondents' Challenge to Relief Requested as Improper at Motion to Dismiss Stage.

Respondents' suggestion that the PHRC lacks the authority to order Complainants' requested relief, *see* Mot. to Dismiss at 31-35, is deeply mistaken. It is axiomatic that the PHRC has "broad discretion in fashioning a remedy after a finding of unlawful discrimination." *Detter,* No. H-7404 at *2; *see also Pa. Hum. Rels. Comm'n v. Neshaminy Sch. Dist.*, No. 201501536 (Pa. Hum. Rels. Comm'n 2019)[19]. Per the PHRC's guidelines, the PHRC has the authority to order respondents to "cease and desist from the specific discriminatory act or practice involved in the complaint," and "implement whatever actions, programs, or compensation the PHRC deems necessary to remedy the discrimination uncovered in the investigation."[20] If Respondents were correct that the PHRC has no jurisdiction over "a governmental body's facilities or policy decisions," Mot. to Dismiss at 31, the protections of the PHRA would be meaningless. *See Pittsburgh Bd. of Pub. Educ. v. Pa. Hum. Rels. Comm'n,* 820 A.2d 838, 840 (Pa. Commw. 2003) (holding that PHRC had authority to investigate whether school district's school closure plan is discriminatory).

Respondents suggest that PPS can avoid liability under the PHRA so long as Complainants "continue[] to receive *a* public education." Mot. to Dismiss at 27 (emphasis added). Such suggestion disregards the PHRA's promise of equal opportunity, free from racial discrimination, for all students and "ignores completely the legislative conclusion that racial [discrimination] in the public schools, whatever its source, threatens 'the peace, health, safety and general welfare of the Commonwealth and its inhabitants.'" *See Pa. Hum. Rel. Comm'n v.*

[19] *Available at* https://www.pa.gov/content/dam/copapwp-pagov/en/phrc/final-legal-orders/2011-2020-final-orders/PHRC-Neshaminy-Commission%20Final%20Order-11-26-2019.pdf.
[20] Pa. Hum. Rels. Comm'n, *Filing a Complaint*, https://www.pa.gov/agencies/phrc/programs-and-services/file-a-complaint#accordion-45c1aafe5c-item-6970becf5a (last visited Nov. 12, 2026).

Chester Sch. Dist., 427 Pa. 157, 170 (1967). Indeed, in *Chester School District*, the Pennsylvania Supreme Court recognized that under the PHRA, even "seemingly neutral decisions by school officials, such as construction sites of new schools, school size, attendance zones, and methods of relieving overcrowded schools, frequently perpetuate" racial discrimination. *Id.* at 171. The *Chester School District* Court affirmed the PHRC's order requiring a school district to submit a plan for desegregating six schools. *Id*. at 181; *see also Swann v. Charlotte-Mecklenburg Bd. of Educ.* 402 U.S. 1, at 29-30 (holding that ordering a system of bus transportation to desegregate schools is within the power of the district court).

The PHRC should disregard Respondents' inapposite case law,[21] and reject Respondents' recycled, meritless arguments. Mot. to Dismiss at 34 (Respondents "pressed the same delegation principle before") (*citing Pittsburgh Bd. of Pub. Educ.*, 820 A.2d at 840). The PHRC should follow suit here and reject Respondents' arguments.

IV. CONCLUSION

For the reasons stated above, the PHRC should deny Respondents' motions to dismiss.

Submitted: November 12, 2026

By: Adaku Onyeka-Crawford
Jessica Alcantara

ADVANCEMENT PROJECT
COUNSEL FOR COMPLAINANTS

[21] Respondents cite a series of cases that are distinguishable because they did not involve the PHRA, antidiscrimination law, or Equal Protection Clause jurisprudence. Respondents' cases instead involve alleged violations of substantive and procedural due process rights under the U.S. Constitution, Mot. to Dismiss at 27 (citing *Mullen v. Thompson*, 155 F. Supp. 2d 448, 453-54 (W.D. Pa. 2001)), 32 (citing *Save Our Saltsberg Schs. v. River Valley Sch. Dist.*, 285 A.3d 692, 697 (Pa. Commw. 2022), and 34 (citing *Hortonville Joint Sch. Dist. No. 1 v. Hortonville Educ. Ass'n*, 426 U.S. 482, 496 n.5 (1976)); Pennsylvania's administrative procedure law, Mot. to Dismiss at 33 (citing *Borough of Clifton Heights v. Sch. Dist. of Upper Darby Twp.*, 377 A.2d 836, 838 (Pa. Commw. 1977)); and state common law, Mot. to Dismiss at 33-34 (citing *Beegle v. Greencastle-Antrim Sch. Dist.*, 401 A.2d 374, 375 (Pa. Commw. 1979); *Sch. Dist. of Pittsburgh v. Zebra*, 325 A.2d 330, 333 (Pa. Commw. 1974)); *Prozan v. Millcreek Twp. Sch. Dist. Bd. of Dirs.*, 338 A.3d 220, 231 (Pa. Commw. 2025); *McKnight v. Bd. of Pub. Educ.*, 76 A.2d 207, 210 (Pa. 1950); *Wilson v. Sch. Dist. of Phila.*, 195 A. 90, 97 (Pa. 1937)).

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Ms. Worthy o/b/o/ D.H. & E.M.,	:	
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Complainants,	:	
	:	
v.	:	PHRC Case No.: 202600499
	:	
School District of Pittsburgh & School Board of Directors,	:	
	:	
Respondents.	:	

ORDER

AND NOW, this ___ day of _____ 2026, Respondents motions to dismiss are hereby DENIED.

_____