

Civil Rights Developments in New Hampshire, 1982

April 1983

--A clearinghouse report of the New Hampshire Advisory Committee to the U.S. Commission on Civil Rights, published for the information of the Commission and the people of New Hampshire. The contents of this report should be attributed to the New Hampshire Advisory Committee and not to the U.S. Commission on Civil Rights.

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CIVIL RIGHTS DEVELOPMENTS IN NEW HAMPSHIRE, 1982

CONTENTS

I.	Overview.1
	National Developments.1
	State Developments. . . . .	.3
II.	Civil Rights Enforcement. . . . .	.5
	New Hampshire Commission for Human Rights. . . . .	.5
	Division of Welfare. . . . .	.5
III.	Women. . . . .	.9
	New Hampshire Commission on the Status of Women. . . . .	.9
	Women in the Legislature. . . . .	.9
	Sex Equity. . . . .	.9
IV.	Refugees. . . . .	.11
V.	Advisory Committee Activities. . . . .	.13
	Language-Minority Students in Manchester. . . . .	.13
	Other Minority-Language Concerns. . . . .	.14
	Sexual Harassment. . . . .	.15

I. OVERVIEW

This is the third annual report on civil rights developments in the State prepared by the New Hampshire Advisory Committee to the U.S. Commission on Civil Rights, as part of the Commission's clearinghouse responsibility. Three areas of concern are reviewed: civil rights enforcement, the status of women, and the status of refugees, as well as the activity of the Advisory Committee. Below is a brief summary of national and State developments.

National Developments

On the national level, 1982 was a disquieting year for civil rights advocates. Progress that had been made in employment opportunity for minorities and women was eroded, both by increasing unemployment, and by funding cutbacks for civil rights enforcement. In addition, many of the industries hardest hit by the recession were those that employed large numbers of minorities and women.

NAACP President Benjamin Hooks warned that if "joblessness continues to soar or remains relatively high...we will find ourselves with a group of people in their middle 20s who have never had a job...A new kind of culture of despair will develop."

Black unemployment, traditionally double white joblessness, is serious when it approaches 10 percent. But in 1982, when general unemployment averaged 9.5 percent, unemployment in the black community was a depression-level 20 percent.

Concerned about the reduction in funding of Federal civil rights enforcement agencies, the U.S. Commission on Civil Rights warned in its June report, The Federal Civil Rights Enforcement Budget: FY 1983, that the problems will remain and the victims will be less likely to obtain relief. The proposed budget, said the Commission,

contains 25 percent less spending power for civil rights enforcement than in FY 1980, amounting to .07 percent of the total budget. Such a reduced expenditure means "an increasingly passive role for Federal civil rights enforcement agencies" and could retard and possibly reverse civil rights progress.

Throughout the year, spokespersons for the Administration stated their support for civil rights, but made clear their opposition to mandatory busing, court-ordered student assignments, affirmative action, and burdensome reporting requirements for business. However, the U.S. Commission on Civil Rights during the course of the year reaffirmed its position through reports and statements, and on September 27, 1982, pointed out that "a right without an effective remedy is meaningless."

With regard to mandatory busing the Commission observed on November 17, 1982, that the issue was resolved by the Supreme Court more than a decade ago, and that the effort of the U.S. Department of Justice to eliminate transportation as a remedy for unconstitutional school segregation reopens old wounds.

Earlier in the year (February 19, 1982) the Commission wrote the President expressing opposition to efforts by Congress and the Administration to weaken Federal equal educational opportunity enforcement, including legislation to prevent the Federal government and the courts from requiring remedies for illegal segregation; the Department of Education's acceptance of inadequate higher education desegregation plans; and the effort to grant tax exemptions to racially discriminatory schools.

The Commission, through its publication of the consultation proceedings in connection with its statement, Affirmative Action in the 1980s: Dismantling the Process of Discrimination, in October 1982, reiterated its commitment to affirmative action as a process to make equal opportunity a reality and as an organizational

strategy for removing the qualitative and quantitative aspects of discrimination.

In addition, civil rights groups fought successfully against the weakening of the Voting Rights Act and for its extension; objected to the deterioration of the Department of Housing and Urban Development's fair housing effort; protested the apparent disinterest of the Administration in pursuing sex and age discrimination cases; and denounced the reduction in social welfare programs which serve low-income families, a disproportionately large number of whom are minority.

State Developments

How do events in New Hampshire conform to national trends? Cutbacks in Federal funds for programs designed to overcome inequities, or provide equal opportunity, have affected all States. Another development which affects New Hampshire as elsewhere is the effort to curtail Federal regulations. Where civil rights enforcement activities are weakened, the effect can be to decrease the protections available to those covered by the civil rights laws.

It should be noted that the economic picture in New Hampshire for 1982 has been somewhat more favorable than the rest of New England and the Nation. Unemployment in 1982, which averaged 9.5 percent nationally and 7.8 percent in New England, was 7.5 percent in New Hampshire, an increase, however, of 2.4 percent over the year before. (In 1981 New Hampshire averaged 5.1 percent unemployment compared to 6.2 percent in New England and 7.4 percent nationally.) In average hourly earnings in manufacturing in 1982, New Hampshire lagged behind with \$6.93. New England averaged \$7.55, and for the United States the figure was \$8.47.

New Hampshire, as indicated last year, saw a marked increase in its minority population between the 1970 and the 1980 censuses.

Though New Hampshire has a minority population of a little more than one percent, this represents an overall growth rate since 1970 of 121 percent compared to the general population growth of 24.8 percent. The State's population increase is six times the rate for the region as a whole; however, growth has been concentrated in southern New Hampshire and is bypassing the northern tier. The rate of growth for the north is 9.9 percent as compared with 25.6 for the south.

Table 1 presents the population figures for 1980 by racial groups.

Table 1: Racial Distribution of New Hampshire Population

<u>Population Group</u>	<u>Number</u>	<u>Percent</u>
White	910,099	98.85%
Black	3,990	0.43%
American Indian	1,352	0.14%
Asian	2,929	0.31%
Other	2,240	0.24%
TOTAL	920,610	
Hispanic (included in main racial categories above)	5,587	0.60%

Source: U.S. Bureau of the Census, 1980 Census of Population

II. CIVIL RIGHTS ENFORCEMENT

New Hampshire Commission for Human Rights

In an effort to improve the State's enforcement of anti-discrimination laws, the New Hampshire Commission for Human Rights issued in November a revised set of rules of practice and procedure, as well as new rules on discrimination in housing, employment, and advertising.

The commission's new rule on pregnancy requires an employer to treat pregnancy the same as any other temporary physical disability. The commission also adopted a regulation which defines illegal sexual harassment and establishes liability for employers who engage in, or permit, sexual harassment on the job.

In the area of housing discrimination, the commission's new rule clarifies the coverage of the law against discrimination based on age, by interpreting the law to forbid discrimination against children in the rental of housing. Retirement communities limited to persons aged 45 and over are exempted.

Complaints received by the commission in fiscal year 1982 (July 1, 1981 to June 30, 1982) have declined after increasing steadily for several years. The commission speculates that the drop may be due in part to "the recent poor economy and rising unemployment, which make people wary of doing anything that they fear will jeopardize their jobs or job prospects." A total of 164 cases were filed in FY 1982 as compared to 197 in FY 1981. (See table 2.)

The regional office of Fair Housing and Equal Opportunity (FHEO) of the U.S. Department of Housing and Urban Development conducted a performance evaluation of the commission in May with respect to its fair housing efforts, and found that the commission

has been unable to meet the investigative standards and time-frames set by HUD, because of its limited resources and its method of conducting investigations. The commission processed 11 cases from July 1981 to May 1982, closed three cases and took an average of 123 days to close them. The other eight cases have been open an average of 351 days. The number of fair housing complaints processed by the commission has increased slightly on a monthly basis when compared to previous years. The FHEO also found that the commission's fair housing efforts have been directed more toward real estate agents and owners than toward the protected classes. To improve its performance, FHEO recommended that the commission institute an outreach effort to inform the protected classes and community groups about fair housing laws and procedures for filing complaints.

The executive director of the commission believes that the State has made progress, but still has a long way to go to eliminate illegal discrimination. Though there is greater awareness of some types of discrimination, there are still many people unaware of their rights and their responsibilities. In the area of sexual harassment, which has received considerable attention, the executive director still sees a great deal of confusion, ignorance and misunderstanding.

Division of Welfare

In June, the Office for Civil Rights and the Children's Bureau of the Office of Human Development Services of the U.S. Department of Health and Human Services completed a civil rights compliance review of the New Hampshire Division of Welfare (DOW). Deficiencies in DOW'S civil rights compliance were found, and several areas requiring specific corrective action were identified.

As a result of the review, DOW signed an agreement which outlines a course of action for bringing it into compliance with Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act

of 1973, as well as other Federal civil rights laws. Specifically, the agreement calls for DOW to designate a Title VI and Section 504 coordinator, and to notify all beneficiaries and the general public that its services are provided without discrimination on the basis of race, color, national origin, or handicap. DOW is also required:

- to ensure that its staff fully understands its responsibilities and obligations under the civil rights laws;
- to establish a grievance procedure for filing discrimination complaints;
- to inform and monitor its contracting service providers of their obligations to comply with the Civil Rights Act and Section 504;
- to maintain racial and ethnic data which shows the extent of minority group participation in DOW programs; and
- to take steps to ensure that non-English-speaking clients have equal opportunity to benefits and services.

In addition, DOW agreed to conduct an assessment to determine whether there is a need to provide client information and services in languages other than English. It also agreed to conduct a review of its service providers to ensure that they are in compliance with the agreement.

Table 2: New Hampshire Commission for Human Rights
Cases Filed, Closed, and Pending, 1981, 1982

Subject of Cases	Filed		Closed		Pending	
	1982	1981	1982	1981	1982	1981
<u>Employment</u>	<u>148</u>	<u>182</u>	<u>96</u>	<u>67</u>	<u>52</u>	<u>115</u>
Sex	72	101	60	45	12	56
Age	25	32	12	8	13	24
National Origin	7	9	6	4	13	5
Race/Color	19	15	12	4	13	11
Religion	1	3	0	2	1	1
Marital Status	3	1	0	0	3	1
Handicap	21	21	6	4	15	17
<u>Housing</u>	<u>12</u>	<u>11</u>	<u>11</u>	<u>2</u>	<u>1</u>	<u>9</u>
Marital Status	3	3	2	1	1	2
Race/Color	3	4	3	1	0	3
Sex	2	1	2	0	0	1
Age	3	2	3	0	0	1
National Origin	0	1	0	0	0	1
Religion	1	0	1	0	0	0
<u>Public Accommodation</u>	<u>4</u>	<u>3</u>	<u>0</u>	<u>2</u>	<u>4</u>	<u>1</u>
Color/Race	1	2	0	1	1	1
Marital Status	0	0	0	0	0	0
Handicap	2	1	0	1	2	0
National Origin	0	0	0	0	0	0
Sex	1	0	0	0	1	0
<u>Commerical Property</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>
National Origin	0	1	0	1	0	0
TOTALS	164	197	107	72	57	125

Source: New Hampshire Commission for Human Rights

III. WOMEN

New Hampshire Commission on the Status of Women

According to a report issued by the Employment Task Force of the New Hampshire Commission on the Status of Women, there is a significant degree of illegal discrimination in employment against women and an increase in reports of sexual harassment and resistance to enabling women to gain access to nontraditional jobs. The commission concluded that the employment picture for women in New Hampshire in terms of upward mobility, wages, and sex discrimination has not changed substantially over the past 10 years. The commission recommended the establishment of a State Task Force on Employment Problems and a State Task Force on Sexual Harassment, a review of the State's job classification system, and legislation to create a State Affirmative Action Office.

Women in the Legislature

A review of the roster of the General Court for the 1981 and 1983 sessions shows that the number of women elected to the State legislature dropped from 129 in 1981 to 124 in 1983. The 1983 legislature has 6 female senators and 118 representatives, compared to 2 senators and 127 representatives in 1981. Women currently hold 29.5 percent of the 400 seats in the House of Representatives compared to 31.8 percent in 1981. In the Senate women tripled their number, but hold only 25 percent of the 24 Senate seats. Overall, women held 30.5 percent of the legislative seats in 1981 compared to 29.2 percent in 1983.

Sex Equity

The New Hampshire State Department of Education initiated a series of sex equity "awareness sessions," which its Sex

Equity/Title IX office is conducting during the 1982-83 school year. Issues covered include sex role stereotypes, sex discrimination, sexual harassment, "sex fair" curriculum materials, and the media and sex equity. In addition to the awareness sessions, the Sex Equity/Title IX office will provide workshops, in-service training, and resource materials. (It can be contacted at 410 State House Annex, Concord, N.H. 03301; (603) 271-3196.)

IV. REFUGEES

The State Refugee Settlement Office is located in the office of the Governor, Division of Human Resources, and administers the Refugee Resettlement Program. A summary of its activities indicates that the refugee population in New Hampshire has grown from 287 in 1980 to 488 currently, including 128 Vietnamese, 135 Lao, 134 Khmer, 38 Eastern Europeans, 8 Soviet Jews, 3 Iraqis, and 42 unaccompanied refugee minors. They are located in 36 different communities and in all 10 counties, and most are employed in electronic assembly, shoe and woodworking factories, or service industries. In 1982, 120 Vietnamese, 124 Laotians and 12 Cambodians settled in eight general areas: Concord, Manchester, Exeter, Portsmouth/Dover, Hanover, Nashua, Franconia, and Petersboro/Jaffrey. The majority live in southern New Hampshire and the seacoast area.

The objectives of the Refugee Resettlement Office are to promote economic self-sufficiency by providing language training and employment opportunity, and by serving as a clearinghouse of information on refugee services and programs. The office feels that the program has been successful in attaining self-sufficiency for the refugees because less than 20 percent are dependent on public assistance. According to the office, some of its accomplishments include the development of a case management system to track public assistance recipients; providing foster care services to 40 unaccompanied refugee minors; enrollment of 136 refugees in English as a Second Language (ESL) classes; and coordination with public and private agencies and employers.

The office observed that there has been a net out-flow of refugees from New Hampshire, possibly due to such factors as the lack of general services and public transportation. It expressed the hope that this trend will be reversed as voluntary agencies come to view New Hampshire as "resettlement territory," and more services

are provided. A State Advisory Council made up of refugees, sponsors and agency representatives will undertake planning and articulate the concerns of the refugees.

V. ADVISORY COMMITTEE ACTIVITIES

Language-Minority Students in Manchester

During 1982 the New Hampshire Advisory Committee devoted most of its effort to completing its study of the Manchester school system's program for non- and limited-English-speaking students. In December, the Advisory Committee released its report, Shortchanging Language Minority Students: An Evaluation of the Manchester, N.H. School Department's Title VI Civil Rights Compliance Plan, which traces the treatment of language-minority students by the school department since 1975, and evaluates the role of the Office for Civil Rights (OCR) of the U.S. Department of Education in monitoring the school department's compliance with Federal civil rights laws.

The report points out that in June 1977 the Manchester School Department was cited by OCR for violating Title VI of the Civil Rights Act of 1964, by not providing an adequate educational program for limited-English-speaking children. It concludes that many of the conditions which led OCR to find the school department in violation of the law continue to exist. According to the report, the school department did not make a good faith effort to implement the compliance plan or provide a transitional bilingual program. It failed to provide objective procedures for determining language dominance and proficiency; did not maintain proper records of students' educational plans and profiles; did not have adequate procedures for assessing the success of students; and did not involve the parents in any meaningful way.

In view of the Manchester School Department's obligation to provide equal educational opportunity for all students, the Committee recommended that it establish a bilingual program with content instruction in native languages; hire bilingual teachers for every significant foreign language group in the district; conduct a

district-wide census to determine language dominance; administer new language dominance tests which are evaluated by professionals who are fluent in the given language; and establish a system for evaluating the children in the program, as well as those who have been mainstreamed. In addition, the Committee called on the Mayor as school board chairman to establish a balanced advisory board composed of language-minority parents, school personnel, and community representatives in order to monitor the implementation of the new plan, and the progress of the bilingual program.

The Committee also found that OCR, the agency responsible for enforcing the law, failed to carry out its responsibility. It allowed the school department to submit late and inadequate reports, and did not monitor or assist with the implementation of the plan. The Advisory Committee therefore recommended to the U.S. Commission on Civil Rights that it request the Assistant Secretary for Civil Rights of the U.S. Department of Education to determine why its regional office failed to carry out its responsibility. The Committee also recommended that OCR should reassess the school department's program and should assist in the development of a new compliance plan.

Other Minority-Language Concerns

In a related development, New Hampshire Advisory Committee chair Andrew Stewart observed: "The Spanish-speaking population in southern New Hampshire constitutes a real and growing presence that must be recognized by educators and government officials." He pointed out that the 1981 amendments to the Older Americans Act included a specific mandate for State agencies to provide services to non-English-speaking elderly persons. The Advisory Committee will monitor the provision of this act in order to ensure that Spanish-speaking elderly and other non-English-speaking elderly persons benefit from the Act.

The Advisory Committee also expressed concern that the National Materials Development Center for French located in Bedford, New Hampshire, has been closed as a result of Federal cutbacks. Its resources have been transferred to the Department of Media Services at the University of New Hampshire. The department hopes to continue to publish educational materials, and to obtain special funding to finance scholarly work and other projects. A regional advisory committee has been established to set policies and procedures for the center.

Sexual Harassment

In order to assist employers and others to deal with the issue of sexual harassment, the Advisory Committee released in November a 22-page booklet entitled, Sexual Harassment on the Job: A Guide for Employers. The guide stresses preventative measures which an employer should take to address this type of illegal discrimination, and explains the Federal and State laws concerning sexual harassment. It also defines the problem and scope of sexual harassment, and points out why it is a concern for employers, and not just for victims. The guide also serves as a useful informational tool for women's groups, unions, training agencies and employment services.

The booklet has been distributed statewide with the assistance of the New Hampshire Commission on the Status of Women and the New Hampshire Commission for Human Rights, and it has been well received by employers' groups, women's groups and the public. In part as a result of the success of the guide, the New Hampshire Commission for Human Rights is planning to sponsor several workshops on the issue. (Copies of the booklet can be obtained from the New England Regional Office of the U.S. Commission on Civil Rights, 55 Summer Street, 8th Floor, Boston, MA 02110.)

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, age, handicap, religion, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105 (c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters which the Advisory Committee has studied; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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