

LEADERSHIP CONFERENCE EDUCATION FUND

CIVIL RIGHTS MONITOR

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WELCOME to the first issue of the Civil Rights Monitor, a bimonthly newsletter of the Leadership Conference Education Fund (FUND). The purpose of the FUND is to support educational activities relevant to the activities of the Leadership Conference on Civil Rights — a coalition of 175 national organizations concerned with the establishment and enforcement of rights in law and the realization of those laws. The Civil Rights Monitor will provide information on federal enforcement efforts in civil rights, review relevant court cases, report on research of interest to the civil rights community, and summarize civil rights legislation. Many of the items presented in the newsletter will come from the Task Forces of the LCCR Compliance and Enforcement Committee, chaired by William Taylor of the Center for National Policy Review. Task Forces and their chairpersons are: Education, Donna Gold of the National Education Association and Leslie Wolfe of the NOW Project on Equal Education Rights; Employment, David Brody of the Anti-Defamation League and Claudia Withers of the Women's Legal Defense Fund; Housing, Glenda Sloane of the Center for National Policy Review; Women's Rights, Pat Reuss of the Women's Equity Action League.

DO THE CIVIL RIGHTS STATUTES STILL EXIST?

Between 1964 and 1975, Congress passed four civil rights statutes prohibiting discrimination based on race (Title VI of the Civil Rights Act of 1964), sex (Title IX of the Education Amendments of 1972), disability (Section 504 of the Rehabilitation Act of 1973), and age (Age Discrimination Act of 1975) in any "program or activity" receiving federal funds. Until 1982, these statutes were interpreted as providing institution-wide coverage. If a university received federal funds for its library or computer center the university was prohibited from discriminating not just in those facilities but throughout the university — the entire institution was covered. In 1984, at the urging of the Department of Justice, the Supreme Court ruled in Grove City v. Bell (___ U.S. ___, 104 S.Ct. 1211 (1984)) that Title IX's prohibition against sex discrimination applied only to the specific "program or activity" receiving federal funds. Today a university that receives federal funds for its computer center would be free to discriminate against women in the chemistry laboratory or on the athletic field. Further, since all the civil rights statutes use the same language to describe coverage, Grove City applies as well to Title VI, Section 504, and the Age Discrimination Act. In fact, Assistant Attorney General William Bradford Reynolds stated immediately after the Grove City decision that this narrow interpretation of Title IX's coverage applies to all the nondiscrimination statutes.

The result has been to limit severely the ability of the Federal Government to prohibit discrimination in institutions receiving federal funds. The broad reach of the civil rights laws has been drastically narrowed, and civil rights protections many Americans thought they had have been lost. Quite simply, it is now permissible for the Federal Government to subsidize discrimination against women, minorities, disabled persons, and senior citizens.

How Grove City has hurt enforcement efforts

The Office for Civil Rights (OCR) in the Department of Education and its counterpart in the Department of Health and Human Services are two of the agencies primarily responsible for enforcement of the civil rights laws. Enforcement of the laws is carried out through the investigation of citizens' complaints, periodic compliance reviews, corrective action agreements where a violation has been found, and monitoring of those agreements. If voluntary compliance is not achieved, cases may be referred to an Administrative Law Judge for a hearing. In the first nine months after the Grove City decision, 90 education cases in the administrative enforcement process were adversely affected. Further, in cases referred by OCR to administrative law judges, the Grove City decision has been used as a jurisdictional defense. Hospitals have also raised the Grove City decision as a defense in ten cases involving allegations of employment discrimination by disabled persons. Like educational institutions, hospitals have argued that the section of the hospital (e.g. the medical records center or the laundry) in which the person worked received no federal funds.

Two recent education decisions from administrative law judges are summarized below. In both cases, OCR had determined that a violation existed and voluntary compliance was not obtained. But the victims of discrimination lost out anyway.

1. The Lauderdale County School District, Alabama was found in violation of Section 504 of the Rehabilitation Act of 1973 and Title IX of the Education Amendments of 1972. OCR alleged that the school board failed to renew the contract of a handicapped teacher because of the handicap, and used an employment application which improperly inquired as to the applicant's health, physical defects, and marital status. The administrative judge's decision (April 23, 1985) stated that OCR did not have jurisdiction to bring and maintain action against the school board, because the teacher was not employed in a program specifically identified as receiving federal monies. Section 504 of the Rehabilitation Act did not protect this teacher.

The ruling went a step further and determined that federal compensation (in the form of Impact Aid) for local school districts whose enrollment and resource needs have been increased by federal activities does not constitute federal financial assistance and thus does not trigger the civil rights statutes. This portion of the ruling contradicts OCR's previous policy that Impact Aid constituted nonearmarked federal financial assistance which would trigger institution- or district-wide coverage (July 31, 1984 Memorandum from the Assistant Secretary for Civil Rights to Regional Civil Rights Directors). In 1984 the Impact Aid Program was funded at \$585 million. The case was dismissed without determining the merits.

2. Similarly, in an administrative proceeding against Mecklenburg County Public Schools, Virginia the school district's motion to dismiss the proceedings was granted because the district's federal funds were not earmarked to the specific program where discrimination was alleged (Administrative Proceeding in the United States Department of Education, June 2, 1985). The case was dismissed although OCR had determined that the school system used achievement grouping policies and procedures which resulted in racially identifiable classes without educational justification; employed a curricular tracking system which resulted in racially identifiable tracks; employed policies and procedures which did not permit movement between those tracks from middle school to high school. As a result,

OCR found, minority students were locked into segregated classes that denied them educational opportunity. But because of Grove City's limited view of the law, Title VI did not provide a remedy for the students.

To restore these protections, Representative Augustus Hawkins (D-CA.) and Senator Edward Kennedy (D-MA.) introduced the Civil Rights Restoration Act of 1985 (H.R. 700/S. 431). The Restoration Act, the top legislative priority of the Leadership Conference, would restore the civil rights statutes to their pre Grove City status — the receipt of federal monies would trigger institution-wide coverage. Cosponsored by 49 Democratic and Republican Senators and 209 Democratic and Republican Representatives, the bill has been reported out by the House Committees on Education and Labor, and the Judiciary. House floor action is anticipated shortly after the August congressional recess. In the House Education and Labor Committee, amendments were added which would change substantive law including a provision to repeal long-standing regulations protecting students and employees against discrimination in education programs if they choose to have an abortion. A second amendment would extend exemption from Title IX coverage to religiously "affiliated" schools. These amendments, which are inconsistent with the principle of restoration, have placed the bill in jeopardy. The House Judiciary Committee has reported out a pure restoration measure. In the Senate, the Committee on Labor and Human Resources held one hearing on July 17, 1985. As of August 2, the committee which is chaired by Orrin Hatch (R-UT.) had not scheduled additional hearings or a committee mark-up.

WHY REYNOLDS LOST

On June 27, by a vote of 10-8, the Senate Judiciary Committee rejected the Reagan Administration's nomination of Wm. Bradford Reynolds to be Associate Attorney General, the number three position in the Department. By identical votes of 9-9, the Committee refused even to report the nomination to the floor without a recommendation or with an adverse recommendation.

In part, Reynolds lost because members of the Committee felt he had not been candid in some of his answers. Senator Dennis DeConcini (D-AZ.) stated that Reynolds had shown "a consistent pattern of bending and altering the truth in a self-serving way." But Reynolds was also rejected because, in his four years as Assistant Attorney General for Civil Rights he had often in the words of Senator Arlen Specter (R-PA.) "placed himself above the law." In testimony before the Senate Judiciary Committee, Ralph G. Neas, Executive Director of LCCR, referred to the policies of the Civil Rights Division under Brad Reynolds as a disgrace. "In his four years at the Department of Justice, he has repeatedly repudiated the enforcement policies of the previous six Republican and Democratic administrations. He has consistently ignored the intent of Congress when it enacted the nation's civil rights laws. And he has routinely defied the decisions of the Federal Judiciary." Benjamin Hooks, Executive Director of the NAACP and Chairperson of the LCCR, stated "During Mr. Reynolds tenure as chief of the Civil Rights Division he has shown no concern about what the law is, nor with enforcing the law as it has developed...his concern has been to attempt to reshape the law for the ideological and political purposes of the administration."

The Reynolds' record was painstakingly documented by the testimony of more than 20 civil rights organizations and by careful committee review of Justice Department case files. The committee record clearly established that the administration has used busing and quotas as a smokescreen to mask the worst civil rights record of any administration in more than half a century — in education, housing, voting, employment, disability rights, and women's rights (For more detail see Neas Testimony).

Some of the most disturbing testimony dealt with the Department's abdication of its responsibility to protect voting rights. Section 5 of the Voting Rights Act seeks to prevent discrimination by requiring Department preclearance of all electoral changes in nine states and parts of 13 others which have a history of voting discrimination. The following examples are from testimony provided by the NAACP Legal Defense Fund, the Lawyers' Committee for Civil Rights Under Law, and the Mexican American Legal Defense Fund.

Since the Reagan Administration took office in 1981, the number of electoral changes submitted for preclearance has risen dramatically, largely as a result of redistricting following the 1980 census. From 1965-1980, the DOJ received 33,798 requests for election changes. Between 1981 and 1985, 36,968 such requests were received, 52.2 percent of all submissions since enactment of the Voting Rights Act in 1965. However, during that same period, 1981-85, only 232 letters of objection were sent, 22.2 percent of all objections since enactment of the law. Put another way, between 1965 and 1981, 2.4 percent of all requests for election changes (33,798) were objected to by DOJ. Since 1981, less than one percent (.63) of the requests have been objected to, while the number of submissions has increased.

The DOJ initially objected to a change in the method of appointing members to the Greene County, Alabama Racing Commission because the change appeared to prevent the appointment of blacks. Four months later, after protests from Alabama state officials, this objection was withdrawn for the asserted reason that DOJ lacked jurisdiction to disapprove the change. This position was challenged in court and a three-judge panel ruled that DOJ was wrong, enjoining the change until it had been properly reviewed by the DOJ (Hardy v. Wallace 603 F. Supp. 174 (1985)).

DOJ approved a new congressional redistricting plan for Louisiana over the objection of Louisiana black state legislators and DOJ staff attorneys. The plan was approved even though Louisiana Governor David Treen had threatened to veto an earlier legislatively enacted plan because it contained a majority black congressional district. Reynolds conferred extensively with Governor Treen, but did not meet with those who objected to the plan. The districting, which resulted in a configuration so misshaped that it resembled a duck, was invalidated by a federal court (Major v. Treen 574 F. Supp. 325 (1983)).

A North Carolina State legislative reapportionment plan was approved although the plan contained districts that diluted black voting strength by at-large multi-county voting and by fracturing black population concentrations to deny black voters a majority black district. Subsequently, a three-judge district court struck down the districts DOJ had approved (Gingles v. Edmisten 590 F. Supp. 345 (E.D.N.C. 1984), prob. juris. noted, 53 U.S.L.W. 3776 (April 29, 1985)). The DOJ has obtained a review by the Supreme Court of the three-judge decision.

DOJ approved a Montgomery, Alabama city redistricting plan even though it reduced the number of majority-black districts and even though staff attorneys concluded that the plan was intentionally discriminatory. In a private suit, brought after DOJ's approval a district court ruled that the plan was racially discriminatory in both purpose and effect (Buskey v. Oliver 565 F. Supp. 1473 (M.D. Ala. 1983)).

DOJ approved a Selma, Alabama polling place change from a community center in a black neighborhood to the Dallas County courthouse, opposite the sheriff's office. As a result of the change, voting in the precinct fell from 55 percent to 36 percent. DOJ's approval was needed for the change and the Assistant Attorney General for Civil Rights gave that approval over the objection of staff attorneys. Testimony revealed that the new polling place was a five dollar taxi ride from the old polling place. Despite the history of Selma, Reynolds reportedly did not understand why blacks might be deterred from registering at the courthouse. In approving the change, Reynolds asserted that any link to lower black voter turnout was a "fanciful conclusion."

DOJ'S PROPOSED CHANGES IN VOTING PROCEDURES CHALLENGED

In comments on the DOJ's Proposed Revision of Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, the Center for National Policy Review asserted that the proposed revisions would serve to dilute the Act both in its administration and in its substantive interpretation. Section 5 requires approval from the Justice Department of all voting law changes in nine states and parts of 13 others which have a history of discrimination in voting practices. Excerpts from the Center's comments follow.

Essential to the effective enforcement of the Voting Rights Act is the Attorney General's responsibility to investigate fully each proposed voting change submitted by "covered states." By redefining the Attorney General's investigative responsibility as optional rather than mandatory, the proposed revisions deny both submitting authorities and affected voters their right to thorough analysis by the Justice Department.

In 1982, the Act was amended to require an objection to voting changes by the Attorney General whenever those changes result in discrimination against racial and language minorities. The purpose of the amendment was to remove the burden of proving discriminatory purpose or intent from parties challenging a proposed change and to broaden the Attorney General's authority to object to proposed electoral changes in order to prohibit any unconstitutional forms of discrimination.

The proposed revisions depart from that legislative intent by permitting discrimination as long as it is "reasonable." Under the proposed changes discrimination is also permissible if it maintains but does not worsen current levels of discrimination. Finally, in circumstances where electoral changes will heighten discrimination, the changes will nonetheless be approved if the discrimination is "unavoidable". For further information, contact Sonia R. Jarvis at the Center for National Policy Review, 1025 Vermont Avenue, N.W., Suite 360, Washington, D.C. 20005

FINAL REGULATIONS ISSUED FOR MAGNET SCHOOLS ASSISTANCE PROGRAM

The Department of Education has issued final regulations to implement the Magnet Schools Assistance Program (Title VII of the Education for Economic Security Act) ten months after Congress authorized \$75 million for the program. Financial assistance is provided to local school districts on a competitive basis to establish and operate magnet schools incident to eliminating minority group segregation, and to encourage development of academic and vocational instruction within magnet schools. Special consideration will be given to local school districts that received \$1 million less under the Chapter 2 education

block grant program in fiscal year 1982 than they received under the Emergency School Aid Act (ESAA). ESAA provided funds directly to local school districts to assist in the implementation of school desegregation plans. A study by the American Association of School Administrators (1983) found that under the education block grant only 5.7 percent of the school districts surveyed used block grant funds for any desegregation activities. In 1983 Senator Daniel Patrick Moynihan (D-N.Y.) and Rep. Dale E. Kildee (D-MI.) were unsuccessful in their efforts to reenact ESAA through the Emergency School Aid Extension Act. But, due to the persistent leadership of Senator Moynihan, the Magnet Schools Program was passed in 1984 to replace some of the funds school districts lost under the block grant. The Administration has asked Congress to rescind the funding for the program. Secretary of Education William Bennett has stated that this effort can be "taken up by local and state agencies." The experience with the block grant indicates otherwise: states have neither the resources nor apparently the desire to fund school desegregation efforts.

In enacting the law, Congress limited the use of funds for any course of instruction the LEA determines is "secular humanism." The term, however, is not defined in the regulations, and many fear that school districts will elect to limit classroom discussions to noncontroversial subjects in an attempt to avoid complaints. Anthony T. Podesta, President of People for the American Way, stated that the term is used by the far-right to refer to "everything they don't like, from evolution and sex to Homer, Hawthorne, and Hemingway." A pamphlet distributed by a Texas Pro-Family Forum states that topics such as ecology, racial equality, poverty, love, church, free enterprise, war, death etc. promote secular humanism (emphasis added). Without guidance from the Department of Education, the nation's classrooms may be subjected to censorship from the far-right, and the nation's children may receive an education void of critical discussion and thinking.

THE JUSTICE DEPARTMENT'S WAR ON AFFIRMATIVE ACTION

The Justice Department continues its assault against affirmative action remedies in employment and education. Here are some recent developments.

DOJ Efforts to Overturn Employment Consent Decrees

In January 1985, the Department of Justice began sending letters to 51 jurisdictions notifying them that existing consent decrees in employment discrimination cases required modification to comply with the Supreme Court decision in the Memphis firefighters' case, Firefighters Local Union No. 1784 v. Stotts (104 S.Ct. 2576 (1984)). The letters indicated that the DOJ wanted to modify the consent decrees, previously negotiated by the Justice Department, because the Stotts decision "precludes persons who are not actual victims of discrimination from receiving preferential treatment as a part of any remedial measures designed to overcome the effects of past discriminatory policies." The consent decrees were to be modified to remove all reference to numerical goals and timetables in the hiring of minorities and women — to eliminate the "race conscious" aspects of the affirmative action plans. The responses of the jurisdictions have been overwhelmingly in favor of retaining the affirmative action requirements. In response to the Department's request the state of Arkansas wrote:

We feel we have a fair and workable hiring procedure in place at this point, and we see no reason to alter it. The State Police has worked hard to eliminate any vestige of discrimination and will continue to work toward that end.

The city of Syracuse responded:

The Consent Decree currently in force protects the legitimate interests of local minority and female citizens with the least possible adverse impact on the interest and expectations of white male citizens. In doing so, it is legally permissible.

The state of Florida reported that it had exceeded the consent decree's hiring goals in the past two years and that "academic quality and grades of the applicants have not suffered." The Department of Justice has sued the city of Indianapolis to require it to modify its consent decree. The city is fighting this effort and its brief before the district court states "there is a legitimate government concern that there be a minority and female representation in the Public Safety Department. Richard Hudnut, the conservative Republican Mayor of Indianapolis, has stated that the Department's "decision to turn back the clock on Affirmative Action and Equality of Opportunity is wrong constitutionally, it's wrong morally, and it's wrong politically."

Opponents of DOJ's actions say that the Department's actions are based on a faulty interpretation of the Stotts decision. They point out that the Supreme Court only addressed the issue of layoffs in Stotts, not whether race consciousness is permissible in hirings and promotions. The Court merely held that a bona-fide seniority system takes precedence over an affirmative action plan which does not address the issue of layoffs. Thus, civil rights advocates maintain that Stotts is limited to court-imposed affirmative action plans that do not take into consideration rights held under a legitimate seniority system.

Further, it is claimed that DOJ's interpretation ignores the distinction between "make-whole" relief for the identified victims of discrimination and "prospective relief" designed to dismantle patterns of job discrimination and to insure that future employment opportunities are allocated on a nondiscriminatory basis. Courts of Appeals have unanimously recognized that in some cases the need to eradicate the effects of widespread discrimination calls for prospective race- or gender-conscious affirmative relief in hiring and promotion. The Supreme Court has also given its approval to such relief in Weber (443 U.S. 193 (1979)), Bakke (438 U.S. 265 (1978)), and Fullilove (448 U.S. 448 (1980)).

This view of civil rights lawyers has received support from the courts. Since Stotts, courts of appeals for seven federal circuits have rejected the Department's broad interpretation of the decision. For example, on June 5, 1985 a district court rejected the Department's effort to modify its consent decrees with the city of Buffalo's police and fire departments. The decision stated:

The difference between Stotts and the cases pending here are so great that there should be no serious questions concerning the impact of Stotts.

In addition to misreading the Supreme Court's decision in Stotts, civil rights groups have questioned DOJ's actions in this area because the reopening of settled employment discrimination cases has the potential to:

1. cause substantial expense for local governments
2. rekindle emotional issues regarding, racial, ethnic, and gender discrimination
3. disrupt remedial programs which are working well
4. waste limited federal funds more appropriately used to address pending discrimination cases.

Further, Howard Friedman, President of the American Jewish Committee, which opposes quotas, has objected to the Department's efforts because such actions "will open old wounds, and will have the effect of increasing tensions and disrupting social peace in communities across the country."

Opponents of the Department's efforts asked Congress to place a rider on the Justice Department's authorization bill to limit the expenditure of funds to reopen judicial decrees to remove affirmative action provisions. The Department's authorization bill as reported by the House Committee on the Judiciary contains such a restriction.

DOJ's actions come at a time when affirmative action is receiving praise from many quarters. In a recent survey of 142 Chief Executive Officers, 122, or 85.9 percent, indicated that they intended to use numerical programs to track equal opportunity progress in their corporations regardless of government requirements (Memorandum re Final Results of CEO Survey on Numerical Measures, December 14, 1984). William E. McEwen, National Association of Manufacturers, in testimony before House Subcommittees on Civil and Constitutional Rights and Employment Opportunities stated that "affirmative action has been, and is, an effective way of ensuring equal opportunity for all people in the workplace..." He further stated "Business...sets goals and timetables for every aspect of its operations...setting goals and timetables for minority and female participation is a way of measuring progress and focusing on potential discrimination." Further, a study by Jonathan S. Leonard, University of California, Berkeley, The Impact of Affirmative Action, found that black employment increased more in companies subject to the federal government's affirmative action requirements than in companies not so subjected. The impact on white women in federal contractor establishments was greater in companies where their share of employment was small. Leonard's study also found that the relative productivity of females and minority males did not significantly decline as their employment share increased. Leonard's findings were distorted in the Administration's Special Analysis J: Civil Rights Activities (Budget of the United States Government Fiscal Year 1986). The Special Analysis J reported that Leonard's study was modeled on the assumption that affirmative action is a tax on the employment of white men. Leonard has rejected this interpretation of his research. A report from the Potomac Institute, A Decade of New Opportunity: Affirmative Action in the 1970's, by Herbert Hammerman, found that affirmative action played a significant role in increasing the number of minorities and women in the workforce and also the quality of their jobs.

The NAACP, the NAACP Legal Defense and Educational Fund and the Lawyers' Committee for Civil Rights Under Law have been closely monitoring DOJ actions in this area. The Legal Defense Fund and the Lawyers' Committee have been providing information to the jurisdictions involved, encouraging their resistance to modification of the plans, and offering assistance in their efforts to maintain their programs, and the NAACP filed a suit against the DOJ. For further information, contact Barry L. Goldstein, NAACP Legal Defense Fund, 806 Fifteenth Street, N.W., Suite 940, Washington, D.C. 20005; Richard T. Seymour, Lawyers' Committee, 1400 "I" Street, N.W., Suite 400, Washington, D.C. 20005; or Grover G. Hankins, NAACP, 186 Remsen Street, Brooklyn, New York 11201.

DOJ Attacks Affirmative Action in Tennessee School Settlement

While pressing its efforts to dismantle affirmative action in employment, the DOJ has also launched an offensive on affirmative action in education. The Department is appealing a consent decree between officials of the State of Tennessee and lawyers for the black

plaintiffs in the seventeen year old Tennessee higher education desegregation case (See Brief for the U.S. as Appellant, No. 84-6055 (6th Cir., filed 6/13/85)). The consent decree was approved by District Court Judge Thomas A. Wiseman in September 1984 in settlement of the case which addresses the State's obligation to eliminate its racially dual system of public higher education. At the time the suit was filed, the system was comprised of the University of Tennessee with five campuses and six other universities under the State Board of Education. Under the State's segregated system, only one institution, Tennessee State University (TSU) in Nashville, provided higher education for blacks. Over the years, numerous interim plans were instituted but proved unsatisfactory in dismantling the dual system. In 1981, statistics showed that black students and faculty were becoming more segregated at the historically black institution.

On September 25, 1984 the district court approved the consent decree over the objection of the Department of Justice. The consent decree includes a recommitment to achieve the desegregation objectives, and an agreement to achieve a 50 percent white student body at TSU by 1993. The provision in the decree to which the DOJ objects is a program to select 75 black sophomore college students, within State, for a pre-professional program of intensive course work in order to increase the number of black professional students and black professionals in Tennessee. Presently, less than 4 percent of the students in graduate and professional schools in Tennessee are black. Students who complete the special program will be guaranteed admission to the State's professional schools. The DOJ brief states that there is "no constitutionally permissible basis for...requiring that students be selected for a special pre-professional school academic program on a racially preferred basis." Judge Wiseman in approving the consent decree last September stated that while the goal is a higher education system "in which race is irrelevant," color-conscious remedies are necessary "to overcome the residual effects of past color-based discrimination." Further, during a settlement negotiation session, Judge Wiseman sharply attacked the Administration's position, telling a Department lawyer:

You are an embarrassment to the United States Justice Department, or maybe it's that someone is telling you what to say.

Let's just shell the corn...Your real problem is that President Ronald Reagan and Attorney General William French Smith are philosophically opposed to anything that smacks of goals or objectives or quotas. Isn't that right?

From The LCCR Task Forces...

The Education Task Force wrote to Representative William Ford (D-Mich.) urging the House Subcommittee on Postsecondary Education to pay particular attention to questions of access and equity throughout the process of reauthorizing the Higher Education Act of 1965, as amended. The subcommittee was requested to ask each witness at the reauthorization hearings to describe the impact of her/his recommendations on women, minorities, disabled and low income persons. The task force is developing recommendations on the Higher Education Act for submission to the subcommittee.

The Employment Task Force urged Secretary of Labor William E. Brock to issue a regulation prohibiting government contractors from paying or reimbursing employees for membership fees in discriminatory private clubs. Such a rule was issued in the closing days of the Carter administration but was stayed by the Reagan administration. The task force made a similar recommendation and submitted a draft regulation in October 1981. To date, the task force has not received a response to its proposal.

The Housing Task Force expressed its support for the Fair Housing Initiative Program to members of the House and Senate Banking and Urban Affairs Committees. The private enforcement component of the program would solicit the assistance of private, non-profit, organizations in enforcement by supporting testing and other investigative efforts, and establishing lawyers' revolving funds to meet legal expenses in fair housing litigation. Testing refers to the use of matched "pairs" - e.g. a black couple and a white couple - similar in all respects but race who pose as homeseekers or apartment seekers to "test" whether they are treated differently by the realtor or rental agent. The task force also expressed its concern about reports that the Office of Management and Budget had directed the Department of Housing and Urban Development to terminate the collection of race and sex data with respect to the programs it administers. The task force asserted that the dismantlement of these data sources would undermine HUD's obligation to desegregate public housing and assure equal access to all assisted housing. Further, such action would affect other agencies' commitments to collect race and sex data as well. HUD's authorization bill as approved by the House Banking Subcommittee requires HUD to continue collecting racial and ethnic data on beneficiaries of its housing programs.

The Women's Rights Task Force is comprised of three coalitions. The coalition on women and taxes submitted testimony on the tax simplification proposals to the House Ways and Means Committee and the Senate Finance Committee on June 7 and 19 respectively. For further information contact Maxine Forman, WEAL, 1250 "I" Street, N.W., Washington, D.C., 20005 or Duffy Campbell, NWLC, 1616 "P" Street, N.W., Washington, D.C. 20036. The insurance coalition is developing a state action kit to assist local volunteers working on health discrimination issues. The pension coalition is planning a "Pension Awareness Week" in March 1986. Activities, planned by coalition organizations, will inform the public about pension rights and encourage people to inquire about their pension protections. The American Association of Retired Persons in testimony before the Senate Special Committee on Aging, June 14, 1985, stated that "the ultimate goals of any change in the nation's retirement income systems must be the elimination of poverty among older Americans and the reasonable guarantee that older persons will be able to achieve and maintain an adequate retirement income." AARP further asserted "the current pension system is not meeting the needs of millions of Americans who have spent all or most of their adult lives in the labor force." Women, particularly minority women, are the most vulnerable with 17 percent of women over 65 living in poverty, and two-thirds of elderly black women who live alone living in poverty.

PENDING IN CONGRESS

Civil Rights Restoration Act of 1985 (H.R. 700/S. 431) would amend four civil rights statutes, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 to ensure that federal funds do not subsidize discrimination based on race, national origin, sex, disability, or age.

Economic Equity Act (H.R. 2472/S. 1169) contains 22 provisions which have been or will be introduced in Congress this year. The bill provides a "comprehensive agenda for women's economic equity" addressing retirement security, dependent care, insurance, employment, and tax reform.

Equal Employment Opportunity Commission Amendments of 1985 (H.R. 781) would amend section 717 of the Civil Rights Act of 1964 to require federal agencies to provide affirmative action plans to EEOC including numerical goals for hiring minorities and women. The bill was introduced by Rep. Cardiss Collins (D-ILL.) because several federal agencies refused to submit affirmative action plans to the EEOC, stating that affirmative action numerical goals and timetables were illegal.

Handicapped Children's Protection Act of 1985 (H.R. 1523/S. 974) would amend the Education of the Handicapped Act to authorize the award of attorneys' fees to parties who successfully sue under the Act.

Immigration Reform Act of 1985 (H.R. 2180) and Immigration Reform and Control Act of 1985 (S. 1200) would revise and reform the immigration and nationality laws. Civil rights groups have expressed support for strong anti-discrimination provisions to protect the rights and livelihoods of immigrants.

Japanese-American Redress Bill (H.R. 442) would implement the findings and recommendations of the Commission on Wartime Relocation and Internment of Civilians including direct restitution of \$20,000 to each interned individual.

Older Americans Civil Rights Act of 1985 (H.R. 172) would amend various civil rights statutes extending protection to the elderly. The bill would amend Title II (Public Accommodations), Title III (Desegregation of Public Facilities), Title IV (Desegregation of Public Education), of the Civil Rights Act of 1964 and Title VIII (Fair Housing) of the Civil Rights Act of 1968 to prohibit discrimination against persons over 40 years of age.

Pay Equity in Federal Civil Service (H.R. 3008/S. 519) mandates a study on wage-setting practices in the Federal Government.

Leadership Conference Materials Available From The Education Fund
(costs are to cover duplication and postage)

An Oath Betrayed: The Reagan Administration's Civil Rights Enforcement Record in Education (October 1983), 47 pages, \$5.00 prepaid.

Memorandum on the Civil Rights Restoration Act (April 1985), 20 pages, \$3.00 prepaid.

Testimony of Ralph G. Neas, Executive Director of the Leadership Conference on Civil Rights, Opposing the Nomination of William Bradford Reynolds to be Associate Attorney General (June 5, 1985), 11 pages, \$2.00 prepaid.

Statement of LCCR Before the Subcommittee on Compensation and Employee Benefits, Hearings on Sex-Based Wage Discrimination (June 18, 1985), 4 pages, \$2.00 prepaid.

Testimony of LCCR Before the House Subcommittee on Personnel and Police, Supporting Legislation to Provide Equal Employment Opportunity for Congressional Employees (July 24, 1985), 3 pages, \$2.00 prepaid.

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