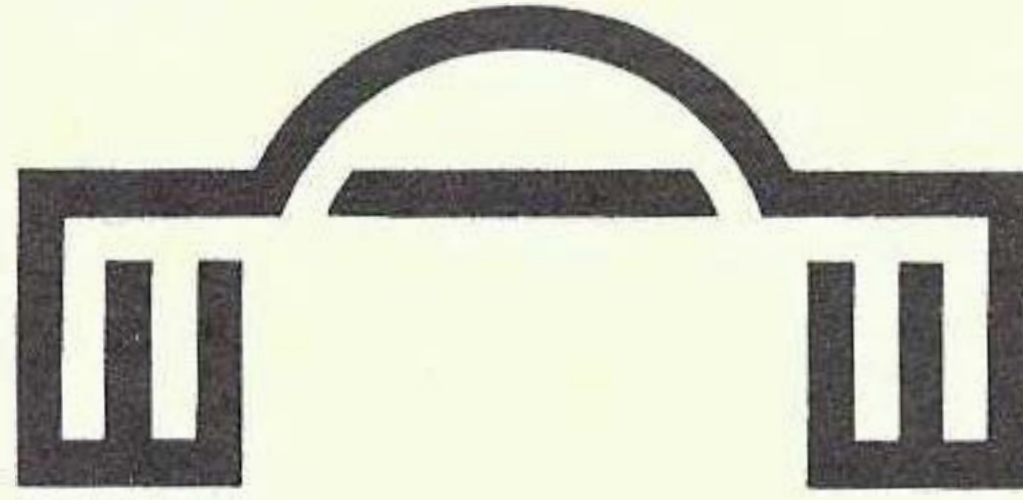




NORTH CAROLINA CENTER FOR
PUBLIC POLICY RESEARCH INC.

For Immediate Release: October 25, 1983

STATE'S COMPLIANCE WITH FEDERAL CIVIL RIGHTS
LEGISLATION FOR HANDICAPPED QUESTIONED

"No otherwise qualified handicapped individual in the United States...shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance...."

Section 504 of the Rehabilitation Act of 1973.

These few lines, enacted as federal civil rights legislation for handicapped citizens, required North Carolina to act. But, the state has not fully complied with the law, says the N.C. Center for Public Policy Research. The Center, in its magazine N.C. Insight, reports that while Governor James B. Hunt Jr. has taken many voluntary steps to implement the law, ~~11~~¹⁹ of 14 cabinet-level officials have not complied with the law. The Center also found that North Carolina is one of only 10 states in the country without a state civil rights act guaranteeing nondiscrimination against handicapped persons.

Section 504 of the Rehabilitation Act, passed by Congress in 1973, prevents discrimination in employment, education, and government services to handicapped citizens, and requires removal of architectural barriers. The legislation was modeled after similar civil rights legislation for blacks and women enacted in the 1960s and 1970s. Federal regulations implementing the Congressional mandate were issued in 1977, and anyone receiving federal funds is required by law to comply.

In 1978, Governor Hunt convened a Steering Committee to "develop policy recommendations for Section 504 implementation." Representatives of every major state agency were represented on the 40-member committee, which was chaired by Jane S. Patterson, now Secretary of Administration. The 504 Steering Committee completed its report in April 1979 and sent the Governor a list of 31 recommendations including:

- * better recruitment of handicapped persons for state employment;
- * new legislation prohibiting localities from zoning family care homes for handicapped people out of residential districts;
- * removal of architectural barriers in state buildings; and
- * supporting a state civil rights act for handicapped persons.

"We found that 22 of the 31 recommendations have been completely or partially implemented by Governor Hunt," said Ran Coble, executive director of the Center and co-author of the study with law student Alison Gray.

But the Center also found that six departments headed by Hunt cabinet members and three other departments headed by separately elected officials have not complied with the 504 regulations. State agencies must identify barriers to handicapped persons -- in buildings, as well as in employment, education, and provision of government services -- and then prepare a written plan for redressing any discriminatory measures. To comply with these federal regulations, state agencies receiving federal funds must prepare a Self-Evaluation Plan and a Transition Plan.

The Center reviewed existing regulations now in effect and found that 14 of the 21 departments in the executive branch were supposed to develop such plans, but only the state's university and community college systems, the Department of Public Instruction, and the Department of Human Resources have complied. The departments under Hunt-appointed secretaries of Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, and Natural Resources and Community Development (NRCD) have not complied, nor have the Departments of Agriculture, Justice, and Labor complied. "These state agencies are not acting out of prejudice against handicapped persons but have simply failed to keep up with federal requirements," said Coble. "They need to act -- not just because it is the right thing to do, but because nondiscrimination against handicapped persons is the law."

The research group also found that North Carolina is one of only 10 states in the country without a state civil rights act for handicapped persons. Twenty-one states (and the District of Columbia) have a complete civil rights act which provides a full list of rights or anti-discrimination provisions for physically and mentally handicapped persons in employment, housing, real estate transactions, credit or financial transactions, public accommodations, and transportation. These laws also designate a state-level administrative body to hear complaints and arm those agencies with enforcement powers.

Another 19 states have a partial civil rights act for disabled persons which does redress discrimination but only in one area (such as housing or employment) or for only one class of handicapped persons (such as only those with physical handicaps, not mental).

North Carolina is in the group of 10 states which have only a "white cane law" (G.S. 20-175.1) or a policy statute (G.S. 168-1). White cane laws set forth the rights of blind persons, especially regarding their use of white canes and guide dogs. A "policy statute" declares certain rights for the handicapped but provides no way to administer the declaration, no agency to hear complaints, and no enforcement provisions or penalties for violations. "We are far behind the rest of the nation and much of the South in not providing someone at the state level with the power to hear and act on any legitimate complaints by handicapped persons," said Coble. The Center recommended that the General Assembly enact a state civil rights law for handicapped persons and suggested that the Human Relations Council in the Department of Administration could be given the administrative responsibilities.

For more information, call Ran Coble or Bill Finger at (919) 832-2839.

This article is part of a special 96-page issue of N.C. Insight focusing on state policies affecting handicapped citizens. The magazine is available for \$4.00 from the N.C. Center for Public Policy Research, P.O. Box 430, Raleigh, N.C. 27602.

Table 4. Civil Rights Policies for Handicapped Persons in the 50 States.
By Region (1983)

Region	"White Cane" Laws or "Policy Statutes" Only	Has Complete Civil Rights Act	Has Partial Civil Rights Act
SOUTH (15 states)	Alabama Arkansas Florida Mississippi North Carolina South Carolina	District of Columbia ⁷ Louisiana Maryland West Virginia	Georgia ¹ Kentucky ¹¹ Oklahoma ¹ Tennessee ¹ Texas ¹⁴ Virginia ¹
NORTHEAST (10 states)		Connecticut ⁵ Maine New Hampshire New Jersey New York Pennsylvania	Delaware ⁶ Massachusetts ¹² Rhode Island ¹ Vermont ¹
NORTH CENTRAL (12 states)	South Dakota	Illinois ⁸ Indiana ⁹ Iowa Michigan Minnesota Missouri North Dakota Ohio	Kansas ¹⁰ Nebraska ¹ Wisconsin ¹³
WEST (13 states)	Colorado Idaho (Wyoming) ¹⁶	Montana New Mexico Oregon Washington	Alaska ² Arizona ³ California ⁴ Hawaii Nevada ¹³ Utah ¹
TOTAL (50 states plus D.C.)	10	22	19

¹These states have civil rights provisions in the area of employment discrimination only.

²Alaska's law prohibits discrimination in employment because of a physical handicap.

³Arizona's laws provide a private cause of action. They protect only persons with mental handicaps.

⁴California's statutes address discrimination in housing against the physically handicapped and employment discrimination against mentally and physically handicapped persons.

⁵The 1983 Connecticut General Assembly proposed an amendment to the State Constitution which would guarantee equal protection under the law and prohibit discrimination because of physical or mental disability.

⁶Delaware's act covers housing discrimination only.

⁷The District of Columbia has a complete civil rights act addressing the rights of the handicapped.

⁸Illinois' Constitution also proscribes discrimination on the basis of handicap in employment and housing.

⁹Under Indiana's law, an individual may not initiate an action in state court but must proceed through the

Civil Rights Commission. In that sense, the individual has no right to a private cause of action.

¹⁰Kansas' statute covers only employment discrimination involving the physically handicapped.

¹¹Kentucky's law carefully defines what constitutes discrimination but covers only the physically handicapped.

¹²Massachusetts' law outlaws discrimination in public accommodations, credit transactions, and housing because of deafness, blindness, or any physical or mental disability.

¹³Nevada's statute addresses only discrimination in employment against the physically handicapped.

¹⁴Although Texas law provides no one administrative body to handle compliance or enforcement for discrimination against the physically handicapped, it does provide a private cause of action with a conclusive presumption of damages of \$100.

¹⁵Wisconsin's statute covers only discrimination in housing and employment.

¹⁶Wyoming has no statutory provisions addressing civil rights of the handicapped.