

NEW JERSEY COMMISSION ON NEW AMERICANS
ANNUAL REPORT TO THE PEOPLE OF NEW JERSEY
DECEMBER 2010

The New Jersey Commission on New Americans [CONA] was established by Executive Order 164 on January 12 of this year to work towards three major goals: The integration of immigrants into the fabric of New Jersey society, to advise the Governor and State Legislature on how to do this in a cost-effective manner, and to develop a resource guide to assist immigrants in navigating through the maze of state and local services.

The establishment of the Commission was one of the principal recommendations of the Governor's Blue Ribbon Advisory Panel on Immigrant Policy which issued its report in March 2009.

The Commission was born into a politically volatile environment. On the national level, the failure to address immigration reform has led to a power struggle between the states and the federal government over the enforcement of immigration law, while at the same time millions of undocumented immigrants remain in legal limbo.

On the state level, the establishment of the Commission was one of the final acts of the outgoing administration of Governor Jon Corzine. It was placed within the State Department of the Public Advocate, which ceased to exist as of July 1. This places the Commission in the odd circumstance of existing without an official home within state government. In May, CONA asked Governor Chris Christie to reassign the Commission to the New Jersey Division on Civil Rights, but as of this writing we have received no response. The Commission currently receives no assistance from support staff within state government, a requirement set forth in the executive order.

In spite of all of this, the Commission has met on a monthly basis since January and is going about the task of trying to fulfill its immigrant integration mission. This report is part of that effort. The executive order requires the Commission to report periodically to the Governor and State Legislature. This document will lay out the work of the Commission so far and conclude with a set of recommendations to the Governor and State Legislature.

In the absence of - support staff, -the Commission's agendas, minutes, and mission are not posted on any New Jersey state website.

The Work So Far

The first official act of the Commission was to divide its members into four separate committees to analyze the 98 recommendations made by the Blue Ribbon Advisory Panel on Immigrant Policy. The four committees established by the Commission are: Education, Labor and Workforce Development, Social Services and Health Care, and Immigrant Integration.

Each committee was given the task of selecting policy recommendations that could be implemented at "no cost or low cost." This was particularly important to Commission members given the difficult economic climate in New Jersey and across the nation. Since the

situation with regards to the services available to immigrants remains fluid given State budget cuts enacted recently by the Governor and State Legislature, the committees researched the current status of funding and availability of services. The bulk of this report will summarize the research of the committees and conclude with a set of recommendations based on the Commission's work in its first year.

This report is not intended to be an exhaustive review of the policies affecting immigrants in New Jersey, rather we hope it is the continuation of a conversation, begun by the Advisory Panel on Immigrant Policy, with the public, and state and local elected officials about the vital resource that is our immigrant community.

It is important to note that the Commission, prior to this report, issued two policy recommendations to the Governor and the State Legislature. The first recommendation was made in February when we asked Governor Christie to reconsider cuts to FamilyCare that removed nearly 12,000 legal immigrants from the health care program. This recommendation went mostly unheeded. The Commission believes this is a mistaken policy and one that runs counter to national plans to expand health care based on federal legislation passed in March.

The second recommendation was made in May when we urged Governor Christie and the State Legislature to refrain from adopting legislation that profiles people based on race and ethnicity in an effort to enforce federal immigration law as was done earlier this year in Arizona. The CONA resolution also opposed efforts, again proposed in Arizona, to limit ethnic studies programs at the K-12 level. To his credit, Governor Christie has spoken out against passing legislation in New Jersey that would use state and local law enforcement to implement federal immigration law and, as of this date, such measures have received no visible support in the New Jersey State Legislature.

In July the Commission voted to endorse and help create the Rutgers Immigrant Infrastructure Map (RIIM). A project of the Program on Immigration and Democracy at Rutgers' Eagleton Institute of Politics, RIIM is creating a comprehensive navigator that will promote immigrant community-based organizations statewide, one of the major goals set forth in the executive order. Major funding for RIIM comes from an Academic Excellence award from Rutgers, as well as the Carnegie Corporation of New York, The Fund for New Jersey, and the United Way of Central New Jersey's New Americans Program.

RIIM seeks to promote the work of community-based immigrant organizations, to attract funding to the sector, and to encourage better policy making with respect to immigrants. RIIM has created a set of maps that highlight various dimensions of immigrant New Jersey and will soon roll out an online map and directory that will be accessible by funders, policymakers, the public, and other non-profit organizations.

It is the intent of the Commission to promote this initiative. Funded largely by private not-for profit organizations, it promises to deliver significant value to the sector by advancing our understanding of how immigrants integrate.

Education

Education is a critical component of successful integration for New Jersey's new Americans, just as it was for the previous generations that arrived to build lives, fortunes and families in the Garden State.

The state that once drew Albert Einstein continues to attract immigrants with advanced degrees - perhaps at a higher rate than any other state. Today, as many as half of all Ph.D.s working in New Jersey were born outside the United States. Likewise, immigrants are represented at a high proportion among the physicians, pharmacists and other professionals who keep the state at the forefront of the sciences, research and technology. Their work in private industry, the non-profit sector and government means these professionals pay taxes, create jobs and rejuvenate neighborhoods. Because of them, New Jersey is a truly global marketplace.

To ensure that New Jersey actively cultivates immigrant achievement, the education subcommittee of the Commission on New Americans has committed itself to the integration of current and future immigrants into the high caliber of public education cultivated here. Immigrants benefit from NJ's education richness - and enrich it - in return. Educated immigrants have always been central to the cultural, intellectual and economic wealth of the state.

Early on, members of the committee selected the recommendations of the Blue Ribbon Panel that seemed most likely to lead to integration-oriented outcomes. Three priorities emerged:

*** **K to 12 School enrollment** – To keep New Jersey's workforce competitive, students need to be educated. In New Jersey, as in New York and many other states, school administrators were acting in violation of state and federal law by requesting documents other than those proving age and place of residence.

*** **Bilingual education** – With more than 65,000 Limited English Proficient students statewide, a population that puts the state in seventh place nationally, New Jersey students speak 187 languages and represent a true microcosm of the globe. Across the state, approaches to these non-native speakers of English vary rather dramatically. Some schools teach students subject matter in their native tongue, while others teach exclusively in English – no matter what the students' comprehension level. The committee wishes to understand the current state of research in this field and to assure that New Jersey districts are meeting the educational needs of students in the most pedagogically sophisticated ways possible. Related issues included bi-lingual teacher training and the high number of waivers the state grants to districts exempting them from ESL requirements.

*** **Bilingual Parental Advisory Committees** -- A final concern of the committee refers to the state mandate that districts with significant Limited English Proficiency populations create bilingual parental advisory committees to keep teachers, school administrators and parents in good communication where not only language, but cultural differences and norms can complicate the relationship.

After significant discussion, the Commission decided to focus on the enrollment issue as our top priority, since access to K through 12 is a very important step in enabling immigrant integration.

With regard to the school enrollment issue, the committee reviewed evidence by the American Civil Liberties Union showing that upwards of 1 in 5 districts statewide may be asking parents for identification in violation of the law. The Commission obtained copies of letters which the New Jersey Department of Education sent to school superintendents at two previous points, reminding them of the United States Supreme Court decision and subsequent state statutes that affirm the right of all students to access schools from kindergarten through grade 12. These laws expressly prohibit school districts from asking for extra documents.

In light of the current backlash against immigrants caused by a lack of action at the federal level and the Arizona-style legislation, the committee determined that summer 2010 presented a perfect opportunity for the state to clarify and reaffirm the school enrollment law for districts.

The Commission sought to partner with the New Jersey Department of Education in sending out this reminder letter. Although initial contacts with Deputy Commissioner Willa Spicer seemed promising, they did not result in any positive outcomes. Response from the Division on Civil Rights in the Office of the Attorney General took longer but resulted in similar inaction.

Commission members expressed dismay at the unwillingness of two separate branches of state government that were charged with upholding laws to take this simple step to ensure that all children in New Jersey are well educated. After a rigorous debate about what avenues to pursue in support of the integration of immigrants, the Commission determined to send letters to Acting Commissioner of the Department of Education Rochelle Hendricks and New Jersey Attorney General Paula Dow expressing our frustration. One of our members also contacted the School Administrators Association, to ask them to consider taking independent action to bring practice, statewide, into line with federal and state law. [Letters Attached].

Our efforts, and those of numerous outside organizations, were rewarded when on October 25, Acting Commissioner Hendricks sent a letter to all the school districts in New Jersey reminding them of their obligation to enroll all eligible students regardless of their immigration status. The Commission is still in negotiation with the Department of Education to try and ensure that a similar reminder letter is sent out every year in the spring and fall during the busiest registration periods.

Labor and Workforce Development

The Labor Committee approached its work with the idea that New Jersey needs to embrace the economic advantages that immigrants give our state in a global economy. The Committee felt that it was important to consider the following data from a report issued by the Eagleton Institute of Politics entitled *Destination New Jersey: How Immigrants Benefit the State Economy*.

- New Jersey ranks 3rd in the country in terms of the percentage of foreign-born residents.
- Immigrants make up 28% of the New Jersey Workforce.
- Foreign-born workers are increasingly represented in critical occupations at both ends of the earnings distribution. For example, more than 40 percent of chemists, nursing aides, physicians, and janitors are foreign-born. Without them, significant segments of the economy would be totally transformed.
- The foreign born are critical to New Jersey as a center of innovation. Over 40 percent of the state's scientists and engineers with higher degrees are foreign-born.
- Immigrants bring in almost one-quarter or 23 percent of all earnings statewide. Foreign-born entrepreneurs own one-fifth of the businesses in the state. They are key contributors to New Jersey's economic output, and hence critical to the state's tax base.

With that data in mind, it is clear immigrants are a resource that needs to be harnessed if New Jersey is to succeed in the 21st Century. The Labor and Work Force Development Committee of the Commission concentrated its efforts on several key issues, specifically a review of the One Stop Career Centers, the ongoing debate about the New Jersey Unemployment Insurance Fund and the lack of regulation of temporary employment agencies.

One Stop Career Centers

The State of New Jersey has eighteen One Stop Career Centers that assist the unemployed with job training, job search support, vocational and trade school training. The training occurs on-site, in various schools and through union apprenticeships. Approximately 80 percent of this program is funded by the federal government with New Jersey providing the remaining 20 percent.

A key missing ingredient is that often the career centers do not offer programs for those lacking English language proficiency. This restricts access to key programs for a major segment of the New Jersey workforce. This, along with efforts to provide courses in English, is central to training the workforce of the future. These centers would benefit from having a more diverse workforce by geographic area, in an effort to better serve new immigrants who speak a variety of languages. There is also a proposal to privatize these centers in an effort to

save \$3.2 million dollars by The New Jersey Privatization Task Force. The Commissioners reject this proposal. The entire community would be better served if these services were kept under the purview of the state. Privatizing these services could lead to less access, fewer services, and limited affordable options for the unemployed to get retrained and get back to work, however it may mean more profits for the lowest bidder. It would also reduce or eliminate the public accountability that currently exists. This is a time when the state needs to invest its resources to help the unemployed reenter the workforce. The savings do not justify the human cost.

Unemployment Insurance Fund

Legislation was passed in June in an effort to delay a large increase in the unemployment tax assessed to employers. Governor Christie vetoed the bill and said he would only sign legislation that included an additional classification category for employees who lose their jobs. The State Legislature complied with the Governor's request and inserted language establishing the "severe misconduct" category for one year.

Under the old law if a worker was fired for "misconduct" they were restricted from collecting unemployment for six weeks as a penalty. If fired for "gross misconduct", for reasons such as stealing and fighting they could be denied unemployment payments altogether. Governor Christie succeeded in establishing the "severe misconduct" category which is an intermediate finding placed between the two existing categories. Employer complaints such as lateness or failing to follow the rules could lead to someone being placed in this category.

This appears to be a proposal aimed at ensuring that employers seldom pay out unemployment claims. It places all the power in the hands of employers and makes employees vulnerable to abuse. This is of particular concern to immigrants, who often find themselves among the most exploited segment of the workforce. These new rules can be used to keep employees in intolerable working conditions. In short, it shifts all the power to the employer. It grants employers too much flexibility in allowing them to categorize actions as "severe misconduct. As a result, New Jersey has one of the most onerous and restrictive statutory definitions of misconduct of any of the states. We urge the State Legislature to eliminate the "severe misconduct" category when the current legislation comes under consideration in June.

Temporary Employment Agencies

In New Jersey the demands of the global economy have radically changed the behavior of firms and resulted in the development of a highly volatile low wage labor market where immigrant workers are trapped in what amounts to an economic "race to the bottom." It is a labor market that is dependent on a complex network of firms interconnected through subcontracting and outsourcing. Subcontracting has fundamentally changed the way that individual firms manage their internal labor markets. Temporary employment agencies occupy the key position in this subcontracting network of firms. They are responsible for keeping wages low, undermining work standards and making it nearly impossible for workers to organize.

In the current recession, unscrupulous employers and contractors continue to exploit immigrant workers. Many of the issues faced by immigrant workers include wage theft and health and safety violations. Workers are forced to use transportation services provided by the temporary employment agencies. The cost for transportation services are deducted directly from their paychecks. Wage theft and misclassification are becoming more prevalent in a wide range of industries. Government regulatory agencies in New Jersey remain underfunded and passive in their efforts to enforce even basic wage and hour and workers compensation laws.

Greater regulation of temporary employment agencies is clearly required. There need to be restrictions on the types of fees deducted from paychecks by temporary agencies. At this time some temporary employment agencies force workers to pay a weekly transportation fee of between \$35 and \$40. Alternative forms of transportation are not permitted if the worker wishes to keep the job. This amounts to a surtax on the wages. In addition, the drivers employed by the temporary agencies are often not fully trained and qualified. The transportation fees are on top of a weekly check cashing fee.

Many of the temporary employment agencies engage in systematic wage fraud. The regulatory agencies charged with overseeing them have failed to do so and this labor market goes largely unregulated. The state Department of Labor and Workforce Development needs to take a more proactive role in the enforcement of wage and hour and health and safety laws. The State Department of Transportation must do a better job of enforcing regulations regarding the transportation of workers.

Social Services and Health Care

One of the first issues the Social Services and Health Care Committee discussed was Governor Christie's proposed budget for FY 2010-2011. This budget proposed cuts to the New Jersey Family Care program removing approximately 12,000 immigrants (not refugee, asylees) with legally permanent resident status living in the United State less than five years. The income of these recipients falls below 200 percent of the Federal Poverty Level which for a family of four would be \$44,100.00 per year. Ultimately, 2,000 were restored after it was determined that they suffered from chronic illnesses and that a suspension of their coverage might endanger their lives, but this still left 10,000 previously covered individuals in a vulnerable state. The Commission was encouraged by the actions taken by Human Services to restore those with the greatest medical risk.

The State Department of Human Services initially proposed redirecting the entire 12,000 to the Federally Qualified Health Care Facilities (FQHCs), but those facilities were in no position to accept them without additional resources to increase their capacity. The FQHCs were already experiencing extensive waiting time, in some cases up to five months. Additionally, these facilities are not equipped to address the need of patients requiring a specialist, such as an oncologist.

Commission members testified at the Legislature's budget hearings and urged both legislators as well as the Governor to restore these cuts. In June the budget was

approved by the Legislature and signed into law by Governor Christie sealing the health care fate of these immigrant families.

The Commission also reviewed a report by the New Jersey Division of Mental Health Advocacy concerning undocumented immigrants in New Jersey's State and County Psychiatric Hospitals. The report found that:

“Undocumented immigrants in New Jersey's state hospitals comprise about 3.2% of the total number of patients in each of the four state hospitals surveyed. While this is a small number of patients, their care at state psychiatric facilities is costly, and is not subsidized by any federal funds. At a state cost of approximately \$130,000 per year, per patient, keeping the 61 known undocumented immigrants hospitalized costs the state almost \$8 million per year. Fifty-five of these patients are on “conditional extension pending placement”, and the cost to the state for their care is about \$7 million, which is far more than it would cost to allow these patients to live in the community, even if the State of New Jersey paid all of their expenses.”

Commission members, in collaboration with the New Jersey Immigration Policy Network [NJIPN], met with Department of Human Services Deputy Commissioner Kevin Martone earlier this year. Human Services operates and manages the state's five psychiatric hospitals. Martone agreed to work with CONA to address the special need of this population specifically in the adjustment of their status and getting more community involvement where appropriate. The Deputy Commissioner indicated that if appropriate services are available in the homeland of the patient then steps be taken to repatriate him or her.

In October, the Commission on New Americans requested a meeting with United States Senator Robert Menendez to bring to his attention several cases of Cuban citizens, who entered the United States as part of the Mariel Boatlift in 1980, to see whether their immigration status should be adjusted. Several patients have been institutionalized for many years and a clarification of their immigration status might permit them to live in a community setting. This would be more humane for the patient and cost effective for the State of New Jersey. According to the report issued by The Office of the Public Advocate's Division of Mental Health Advocacy, “some of these immigrants suffered from mental illnesses, and are now among the patients in psychiatric hospitals in New Jersey. These immigrants are in limbo, with neither the rights of citizenship nor a well defined immigration status.” It appears that the mental health professionals assigned to them did not update their records with Immigration and Customs Enforcement [ICE, formerly known as Immigration and Naturalization Services], so while they may have had appropriate documentation at some point, they no longer do.

The Social Service Committee also looked into the status of the recommendation by the Governor's Blue Ribbon Advisory Panel on Immigrant Policy concerning special juvenile immigrant status.

“The state should establish a consistent internal process within New Jersey's Division of Youth and Family Services (DYFS) to ensure that all undocumented

children eligible to petition the federal government for lawful permanent residency under the Special Immigrant Juvenile Status are identified and fully supported in processing their petition before they reach the age of 21. The Immigration and Nationality Act gives undocumented immigrant children who are abused, neglected, or abandoned and in state custody the ability to self petition for lawful permanent residence, if a family court judge determines it would not be in the child's best interest to be returned to the child's birth parents, last residence, or country of nationality. DYFS in the past has not consistently included in its policies, training, or internal communication a provision for eligible children to be identified and connected with an appropriate entity that can process this legal petition.”

The Social Service Committee determined that the Department of Children and Families now has a process for children to be naturalized.

Summary and Recommendations

As 2011 approaches, the Commission is eager to embrace and expands its mission of serving as a strong voice for immigrants within state government. The Commission plans to collaborate with institutions of higher learning, activists, and immigrant organizations to organize a conference marking the 10th anniversary of the September 11 terrorist attacks and the implications for the immigrant community. There are also plans for a conference on the immigrant entrepreneurial spirit, a timely topic given the difficult economic times. Finally, the Commission plans to have open sessions in several communities across the state to hear from members of the immigrant community and get a sense of the challenges and opportunities created by the latest wave of immigrants to make New Jersey their home.

We are also committed to finding solutions to the challenges faced by immigrants and believe that state government can be a positive catalyst for change. The Commissioners want to build on the successes of the first year and spread the word far and wide about the great resource that is the immigrant community. The recommendations that follow are areas where initial steps can be taken to improve the life of many in the community. In future reports we will update the public on the status of our recommendations, add some new ones, and modify some existing ones.

Our Recommendations are as follows:

1. The Department of Education should send out a letter twice a year reminding school districts that they must enroll all eligible students regardless of their immigration status. In line with this, a short form indicating what documents are appropriate and which are not should be sent to the districts along with the letter. Parents should be made aware of their rights when registering their children and informed of which documents are required and which are not necessary to complete the registration process.

2. One Stop Career Centers, operated by the Department of Labor and Workforce Development, must make a greater effort to offer services in languages other than English, in areas where substantial immigrant communities reside. The training should include, as a component, instruction in English. The immigrant workforce is crucial to the economic development of our state and the current system does not adequately serve the immigrant community and our state.
3. The One Stop Career Centers should remain part of the state government. Too often in a vain attempt to save money vital services are farmed out to the private sector without weighing the long term impact of such action. Privatization would make the One Stop Career Centers less accountable to the public.
4. The State Legislature should remove from the unemployment insurance legislation the “severe misconduct” category because of its prejudicial impact on workers, immigrant and otherwise, across New Jersey.
5. There needs to be greater regulation of temporary employment agencies and their practices. Immigrant laborers and the working poor are regularly exploited by unscrupulous agencies. State law enforcement needs to crack down on these abusers. The Department of Labor and Workforce Development needs to take a more forceful role in enforcing wage and hour laws and the state Department of Transportation needs to make a concerted effort to verify the qualifications of the temporary agency drivers and ensure that workers are not forced to use them.
6. The State Legislature and Governor should reconsider the decision to remove 10,000 legal residents from New Jersey FamilyCare and at a minimum consider how to quickly reincorporate them into New Jersey FamilyCare as part of the forthcoming health care reform passed earlier this year by Congress.
7. Every effort should be made by the State Department of Human Services and United States Senators Robert Menendez and Frank Lautenberg to clear up the immigration status of the mental health patients currently in state psychiatric facilities that arrived during the Mariel Boatlift. Where possible the patients should be transferred to less restrictive community settings.

In conclusion, this report and these recommendations are a continuation of a conversation promoted for years by immigrant activists and concerned political leaders. We hope in some small way to enhance and enrich that conversation now and as we move forward.