

Syracuse University

SURFACE

Syracuse University Honors Program Capstone Projects Syracuse University Honors Program Capstone Projects

Spring 5-1-2011

Utilization of the New York State Division of Human Rights

Sarah Turney

Follow this and additional works at: https://surface.syr.edu/honors_capstone



Part of the [American Politics Commons](#), and the [Comparative Politics Commons](#)

Recommended Citation

Turney, Sarah, "Utilization of the New York State Division of Human Rights" (2011). *Syracuse University Honors Program Capstone Projects*. 290.

https://surface.syr.edu/honors_capstone/290

This Honors Capstone Project is brought to you for free and open access by the Syracuse University Honors Program Capstone Projects at SURFACE. It has been accepted for inclusion in Syracuse University Honors Program Capstone Projects by an authorized administrator of SURFACE. For more information, please contact surface@syr.edu.

Utilization of the New York State Division of Human Rights

A Capstone Project Submitted in Partial Fulfillment of the Requirements of
the Renée Crown University Honors Program and the Political Science
Distinction Program at Syracuse University

Sarah Turney

Candidate for B.S. Degree and Renée Crown University Honors

May 2011

Honors Capstone Project and Distinction Thesis in Political Science

Capstone Project Advisor: _____

Jeffrey Stonecash

Honors Reader: _____

Thomas Raven

Distinction Reader: _____

Rebecca Halsey

Honors Director: _____

James Spencer, Interim Director

Date: _____

Abstract

There is a general disconnect between the services the New York State government offers and their utilization. This paper focuses on the New York State Division of Human Rights. The New York State Division of Human Rights purpose is to enforce the Human Rights Law through investigations into complaints of discrimination based on the protected classes. For the purposes of this paper, only employment discrimination will be discussed.

This paper argues the lack of utilization of these services arises from the lack of resident awareness of these services. Moreover, this paper argues that implementing practical government lesson plans into the New York State Social Studies curriculum could help remedy the lack of awareness. In order to demonstrate the disparity between the number of perceived incidents of discrimination and the number of cases filed with the New York State Division of Human Rights, a Gallup Organization study of employment discrimination. This study yielded an annual national rate of perceived employment discrimination. Using this number, an estimate of the number of perceived incidents of employment discrimination in New York was calculated. This number was then compared to the number of complaints filed with the New York State Division of Human Rights. The number of perceived incidents of employment discrimination was much greater than the number of complaints filed with the Division.

In order to demonstrate that lack of awareness was the potential cause of this difference, high school students and faculty were surveyed about their knowledge of the Division. These surveys revealed the general lack of awareness of both high school seniors and high school faculty. In addition, observations were made at the Syracuse Satellite Regional Office of the Division. These observations of intake calls demonstrated that a larger percentage of the callers were not aware of the services the Division actually offered.

This paper then discusses the current New York State Standards for Social Studies. After presenting the current standards, a proposed lesson plan for teaching practical government knowledge, specifically knowledge about the New York State Division of Human Rights is discussed. In addition, this proposed lesson plan and the information contained in it are discussed in light of the current standards. This paper argues that inclusion of this information in the required "Participation in Government" class for high school seniors actually fits perfectly with the current standards and curriculum for this class.

Through analysis of Division caseload, rates of perceived discrimination, surveys of New York State residents, and observations of a Division regional office, this paper demonstrates the under-utilization of the New York State Division of Human Rights and proposes inclusion of practical government knowledge into high school classrooms as a potential solution.

Table of Contents

Introduction.....Page 1

Background of New York State Division of Human Rights.....Page 3

National Rates of Perceived Discrimination.....Page 11

Explanations for Not Seeking Division Help.....Page 15

New York State Division of Human Rights Caseload.....Page 24

Awareness of Division.....Page 27

Division Observations.....Page 36

Education.....Page 47

Conclusion.....Page 60

Works Cited.....Page 62

Appendix.....Page 64

Capstone Summary.....Page 68

Introduction

This paper describes an important but often overlooked governmental division: the New York State Division of Human Rights. The history, mission, and caseload of the Division will be discussed in great detail in order to shed light on both the purpose and the shortcomings of the Division. Although the New York State Division of Human Rights processes complaints of discrimination in various areas, this paper will focus on only one such area: employment.

National rates of perceived discrimination will be presented and compared to the actual caseload of the New York State Division of Human Rights in order to gauge the number of instances of employment discrimination that go unreported. Although various reasons for the discrepancy will be discussed, the main argument of this paper is that many incidents of discrimination go unreported simply because those victimized are unaware of the New York State Division of Human Rights. This argument will be supported by responses of New York State residents to questionnaires administered and by data collected at the Syracuse Satellite Regional Office of the Division.

Secondly, this paper argues that one of the most effective ways to remedy the problem of unreported employment discrimination is to educate New York State residents about the Division. Implementing practical government knowledge, such as information about governmental agencies, their missions, and how to contact them into the New York State Social Studies curriculum could help narrow the gap between incidents of discrimination and actual filings of discrimination.

Overall, this paper aims to demonstrate the importance of the Division, describe the problems facing the Division, and discuss in detail a potential solution and the feasibility of its implementation.

Background of New York State Division of Human Rights

Purpose of New York State Division of Human Rights

In 1945, New York State led the nation by codifying human rights protections in its State Constitution (Stonecash, 43). This effectively made the state government legally responsible for protecting human rights. In 1968, this law was renamed the Human Rights Law, and states in Executive Law Article 15,

Every individual in New York State is afforded an equal opportunity to enjoy a full and productive life and that the failure to provide such equal opportunity, whether because of discrimination, prejudice, intolerance or inadequate education, training, housing or health care not only threatens the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants (Division of Human Rights).

The Human Rights Law also states that an executive department division will be created to ensure the execution of the aforementioned law. Named the New York State Division of Human Rights, this governmental division is responsible for investigating claims of discrimination that fall under its jurisdiction (Division of Human Rights).

There is a commissioner of the Division who is appointed by the Governor of New York State with the advice and consent of the New York State Senate. The commissioner may “establish, consolidate, reorganize or abolish such bureaus and other organizational units within the division as he or she determines to be necessary for efficient operation” (Division of Human Rights). The current commissioner is Galen D. Kirkland, who was nominated by Governor David A. Paterson on May 15, 2008 and confirmed by the New York State Senate on June 19, 2008.

The Commissioner reports directly to the governor and is, along with the rest of the division's executive staff responsible for the effective implementation of the Human Rights Law (Division of Human Rights). New York is the first state in the nation to enact a state Human Rights Law, and the New York State Division of Human Rights was created solely to enforce this important law. The forty-nine other states have followed suit, creating their own Fair Employment Practices Agencies (FEPAs). The laws that these FEPAs enforce are similar to the New York Human Rights law. As will be discussed later, the New York State Division of Human Rights faces many challenges in both implementation and reporting of complaints. These other agencies face similar problems. Although this paper will quickly demonstrate that the New York State Division of Human Rights is far from perfect, when compared to the agencies in other states' agencies, it functions more effectively and efficiently ("List of State Fair Employment Practices Agencies").

Jurisdiction and Regulation

The Human Rights Law prohibits discrimination in employment, housing, credit, places of public accommodations, and non-sectarian educational institutions, based on the protected classes of age, race, national origin, sex, disability, sexual orientation, marital status, familial status, military status, domestic violence victim status, arrest or conviction record, and predisposing genetic characteristics (Mission Statement, NYSDHR). If an individual living in New York State experiences discrimination based on the aforementioned protected classes, he or she should contact the Division or pursue one of the other

state or federal options available that will be discussed in a later section.

Regulation in Employment Discrimination

In order for the New York State Division of Human Rights to have jurisdiction in an employment discrimination case, certain requirements must be met. Only employers who have four or more employees are subject to the Human Rights Law. In cases of discrimination in employment based on disability, employers who are subject to the Human Rights Law are only required to make reasonable accommodations for disabled employees if the accommodation is necessary for an employee to complete an essential task of the job. However, the accommodation is only required if it is reasonable under the specific circumstances and does not create an “undue hardship” on the employer. An “undue hardship” is defined as an accommodation that either alters the basic nature of the company or business or affects the entity’s economic viability (Jurisdiction, NYSDHR).

Retaliatory Conduct

Employers are not permitted to retaliate against individuals who file complaints or testify about unlawful acts of discrimination with the New York State Division of Human Rights (Division of Human Rights). If an employer is suspected of retaliatory action, a separate complaint of discrimination may be filed against the party. Retaliatory conduct is unlawful and falls under the jurisdiction of the New York State Division of Human Rights. By making retaliatory conduct unlawful, New York State residents are able to file complaints with the Division without fear of losing their livelihood.

Time Period

Complaints with the Division must be filed within one year of the incident of discrimination. This one year time period is stated in the Human Rights Law in order to ensure that complaints of discrimination are filed promptly. If an instance of discrimination took place more than one year ago, the individual should consult an attorney in order to determine if the complaint should be filed in state or federal court.

Attorneys

If a complaint is filed with the Division, the individual filing the complaint is not required to hire an attorney. The New York State Division of Human Rights was designed as an alternative to the state or federal court system; therefore, an attorney is not required during the Division hearing process. The Division does have an interest in vindicating the rights of New Yorkers; as a result, a member of the Division staff will be appointed to assist the individual throughout the hearing process, free of charge. Individuals filing complaints with the Division may not simultaneously or subsequently file complaints in state court. Since the Division serves as an alternative to filing a complaint in court, it would not be effective or efficient for New York State to have individuals file cases in both venues. By choosing the administrative remedy (filing a claim with the Division) which theoretically results in a quicker resolution, the complainant forfeits his or her right to file in state court. However, the losing party after the complaint's resolution may appeal to state court. As will be discussed in a later section, complainants may still pursue federal court options after resolution with the New

York State Division of Human Rights (Kiernan, 717).

Procedure

Filing

In order to file a complaint, an individual may download and print the complaint form from the Division's website, call a regional office in order to obtain a complaint form through the mail, visit a regional office and complete a complaint form, or call a regional office in order to set up an appointment (phone or in-person) with an intake specialist for assistance in completing the complaint form. Once the complaint form is complete, it must be signed by the individual submitting the complaint (known as the complainant) and notarized. The complete and notarized complaint form must be submitted to and received by one of the regional offices within one year of the alleged incident of discrimination.

Investigative

Once the completed complaint form is received by one of the Division's offices, it becomes a legal document and an official complaint with the New York State Division of Human Rights. The person or entity accused of discrimination (known as the respondent) is notified. A copy of the complaint form will then be sent to the respondent. The respondent is asked to submit a response to the accusation of discrimination to the Division.

The member of the Division assigned to the case will then resolve any question of jurisdiction relating to the complaint. If requested or applicable, the Division may forward a copy (or copies) of the complaint to the Equal

Employment Opportunity Commission (EEOC). The EEOC enforces the following laws:

- Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin
- Equal Pay Act of 1963 (EPA), which protects men and women who perform equal work in the same establishment from sex-based wage discrimination
- Age Discrimination in Employment Act of 1967 (ADEA), which protects individual who are 40 years of age or older from discrimination in employment
- Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), which prohibits employment discrimination against qualified individuals with disabilities in private, state, and local government
- Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in federal government
- Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits employment discrimination based on genetic information about an applicant, employee, or former employee
- Civil Rights Act of 1991, which, among other things, provides monetary damages in cases of intentional employment discrimination

(“Federal Laws Prohibiting Job Discrimination).

If a complaint is filed with the Division, in order to ensure that the complainant’s rights (both state and federal) are protected while avoiding duplicate investigations, the Division will forward a copy of the complaint to the EEOC while retaining the actual investigation of the complaint with the Division (“Federal Laws Prohibiting Job Discrimination). The Division member assigned will then investigate the claim of discrimination through appropriate methods such as written inquiry, field investigation, investigatory conference, and phone interviews.

Once all applicable information has been gathered and the investigation is complete, the Director of the Regional Office after thorough consultation with the assigned Division member who worked on the case will determine whether or not there is probable cause to believe that an act of discrimination occurred. Once the Director of the Regional Office makes this determination, he or she will notify the complainant and respondent in writing of the decision. If there is a finding of no probable cause, the complaint is dismissed and the complainant may appeal to the State Supreme Court within sixty days of the decision. However, if there is a finding of probable cause, the case will be sent to a public hearing (Investigative Procedure, NYSDHR).

Public Hearing

If there is a finding of probable cause then a public hearing will be held. A

Division staff member will be appointed to present the case in support of the complainant, or the complainant may obtain outside counsel if he or she wishes. A notice of hearing will be issued to the respondent who may hire outside counsel for the defense. An administrative judge will preside over the hearing, and the hearing may last one or more days, depending on the complexity and amount of evidence presented. A recommended order is then prepared by the Commissioner and sent to both parties (complainant and respondent) for comment. A Commissioner's Order either dismisses the case or finds discrimination. In the latter case, the Commissioner may order the respondent to cease and desist or take appropriate action to remedy the discrimination. The Commissioner may order damages to be paid and/or compensation for back pay if applicable. The Commissioner's Order may be appealed to the State Supreme Court within sixty days by either party. Within one year, the Compliance Investigative Unit of the Division will investigate whether the respondent has complied with all of the provisions of the Commissioner's Order (Procedure, NYSDHR).

National Rates of Perceived Discrimination

The caseload of the Division will be discussed in the next section.

However, in order to compare the number of discrimination complaints that are filed with the Division to the perceived number of incidents of discrimination that take place, national rates of discrimination in areas of employment will be presented and discussed. These national rates of perceived discrimination within the protected classes will then be compared to the number of complaints filed annually with the Division. The study used to gather the discrimination rates is “Employee Discrimination in the Workplace,” published in 2005 by the Gallup Organization. Although these statistics are not guaranteed to be unbiased measures of discrimination, the information in the report is applicable to this paper and the aforementioned comparison, as well as readily available for analysis.

Since it is not possible to determine the number of actual incidents of unlawful employment discrimination that take place annually, this paper uses a Gallup Organization poll in order to gauge the number of perceived acts of employment discrimination. Although it is possible that the individuals responding to the poll may have varying perceptions of discrimination, this paper uses the reported number to demonstrate that the number of individuals who feel discriminated against is much larger than the number of individuals who file complaints with the Division. Even if the individuals who believe they have been wronged have not actually been discriminated against, the mere fact that they feel that they have and have failed to report the discrimination indicates a problem

with the current situation. The New York State Division of Human Rights exists to enforce the Human Rights Law, and if individuals working in New York State feel that they are being discriminated against (even if later their claim has no probable cause), they should contact the Division in order to ensure no unlawful employment discrimination takes place. Although it is impossible to be certain of whether the responses in the Gallup poll indicate actual incidents of discrimination or only distorted perceptions of discrimination, this paper is not trying to prove actual discrimination in these instances, but only that a lack of reporting exists, and attempts to provide an explanation for this disparity.

Employment

According to Gallup's "Employee Discrimination in the Workplace" poll and study, 15% of either full or part-time workers have been discriminated against in their place of employment for some reason in the past year. If the figures are adjusted to exclude reasons other than those expressly prohibited by federal law: gender, race, national origin, age, disability, and religion, the figure drops down to 9%. However, the New York State Human Rights Law also prohibits discrimination based on sexual orientation, so the rate of discrimination in New York State may be higher. Despite the fact that there is a probable greater rate of discrimination in New York State, 9% will be the rate used to estimate the perceived number of incidents of discrimination in order to yield a conservative estimate. The charts pictured on the next page indicate the rates and bases of discrimination claimed by the individuals who participate in the Gallup poll.

Rates of Discrimination

		% Yes	Unweighted Sample Size
Overall		15	1022
<u>Race/ethnicity</u>			
	White	12	409
	Black (non-Hispanic)	26	241
	Hispanic	18	256
	Asian	31	82
<u>Gender</u>			
	Male	9	437
	Female	22	585
<u>Race/ethnicity by gender</u>			
	White male	3	190
	White female	22	219
	Black male	26	78
	Black female	27	163
	Hispanic male	20	120
	Hispanic female	15	136
<u>Age</u>			
	18-29	11	181
	30-39	15	244
	40-49	18	280
	50-59	17	219
	60+	11	81

(Gallup Organization).

Bases of Discrimination

	% of Responses	% of Cases
Gender	21	26
Race/ethnicity	19	23
Age	14	17
Favoritism/nepotism	10	12
Disability	7	9
Sexual orientation	4	4
Religion	4	4
Language	2	2
Pay	1	1
Jealousy	*	1
Education	*	*
Personality conflict	*	*
Opportunities	*	*
Something else	14	17
Don't know	4	5
Refused	1	1
TOTAL	101 [^]	122 [#]
Weighted number of responses/cases	193	156
Unweighted number of responses/cases	230	171

* Less than 0.5%
[^] Does not total 100% because of rounding error
[#] Totals to more than 100% because multiple responses measured.

(Gallup Organization).

According to the Bureau of Labor Statistics, in November 2010, 8,514,300 people were employed in New York State by non-farm sectors. This number is seasonally adjusted. In order to get an estimate of how many people were discriminated against, this number was multiplied by 9%. This yields a number of 766,287 people/instances of perceived discrimination as indicated by the Gallup poll. In the next section, this initial number of incidents of discrimination will be discounted in order to account for different venues individuals may file a complaint in or reasons individuals would intentionally not seek Division help.

Explanations for Not Seeking Division Help

There are many potential reasons for individuals who believe they have been discriminated against to not seek help from the Division. Such individuals may make conscious decisions to seek alternate paths to resolution or simply not take any action against discrimination. In this section, the various reasons why individuals who know about the Division but do not seek its services will be discussed and analyzed in relation to the number of perceived incidents of discrimination estimated by the Gallup poll.

In-State Alternative

Individuals who perceive employment discrimination may file a claim in New York State court instead of filing a complaint with the Division. An individual can either file a complaint with the Division or file a complaint in New York State Court; however, the individual cannot file complaints in both. Perhaps many of the individuals who have been discriminated against choose to file in court because they will believe it will be more effective or efficient. However, in 2010, only 12,832 cases regarding employment or labor discrimination were filed in New York State Court. These cases account for less than 3.93% of the actual incidents of discrimination. Although New York State Court does provide another means of reporting discrimination, it is fairly obvious that the vast majority of perceived workplace discrimination is not being reported to either the New York State Division of Human Rights or the New York State Court system.

Federal Options

Individuals could also choose to file a claim in federal court or with the Equal Employment Opportunity Commission (EEOC) as discussed earlier. 195 employment discrimination cases were filed in federal court from New York residents in 2010 (“U.S. District Courts”). In addition, 99,922 complaints were filed with the EEOC. However, this is a total number of all complaints filed in the United States (“All Statutes”). In order to get an estimate of how many of these complaints originated in New York, the total number was multiplied by 7%. 7% was used because residents employed in New York State constitute 7% of the total number of individuals employed in the United States (Department of Labor). This yields an approximate 6,995 complaints filed with the EEOC that originated in New York. Adding the 195 cases filed in federal court to the number of EEOC complaints, yields a total number of 7,190 complaints that were filed through federal court or a federal agency instead of the New York State Division of Human Rights.

Skepticism and Time

A third potential reason for individuals to not file a complaint with the Division could be New York State residents’ skepticism in the efficacy of government or governmental services. They may not file complaints with the Division because they do not believe they will be provided with enough assistance, or they believe that the process would take far too long and be more of a headache than help.

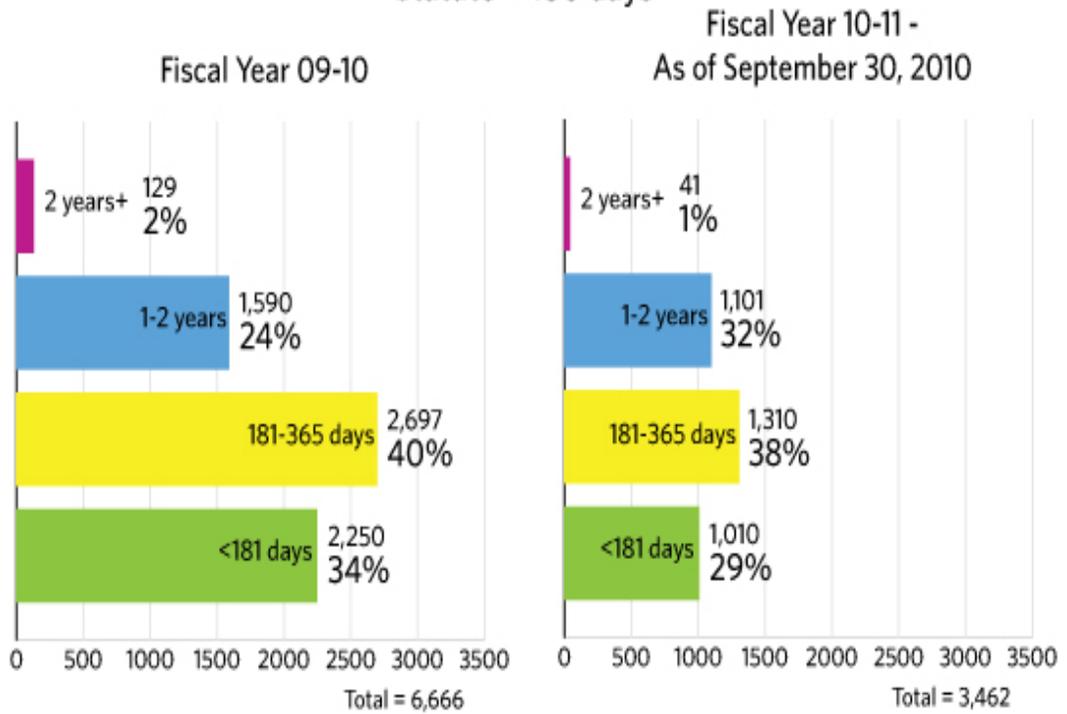
The New York State Division of Human Rights operates under the statute

that investigations of complaints must be completed within 180 days of the initial filing. Although the Division theoretically operates under this statutory timeframe in order to provide a faster alternative to Court, the Division often fails to stay within the specified time period. Even though investigations are supposed to be completed by 180 days, there is no mechanism that stops investigations once they are over the day limit.

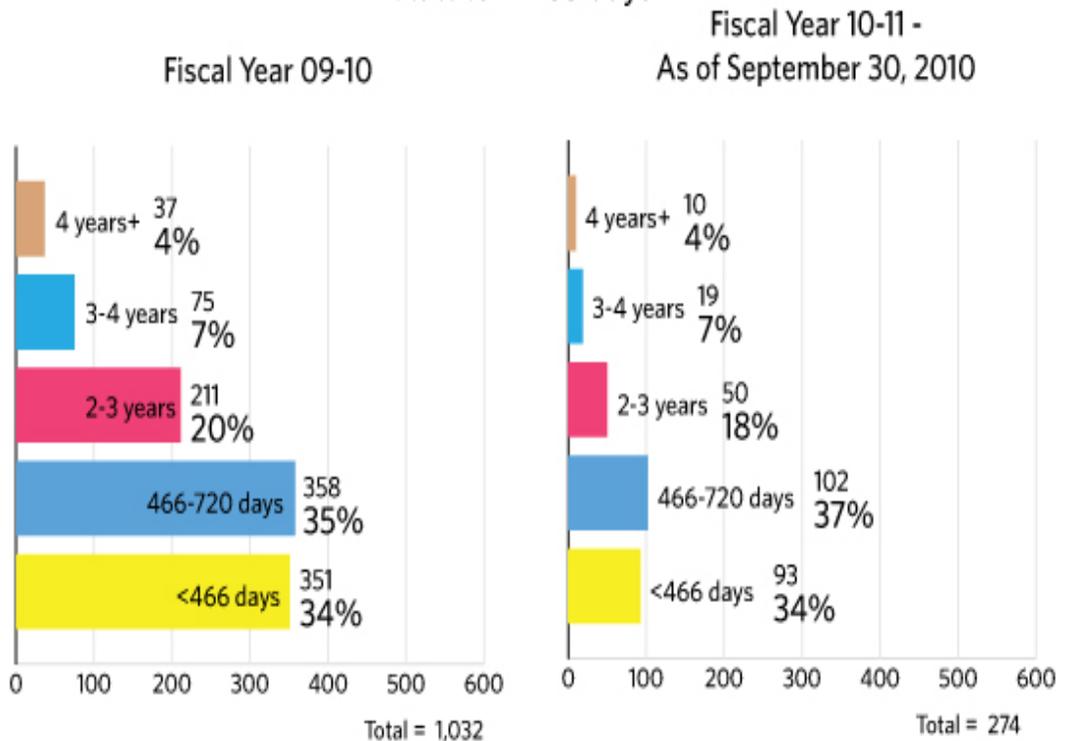
As demonstrated by the graphs pictured on the following page, only 34% of investigations were complete within 180 days for the fiscal year 2009-2010, and only 29% of investigations were complete within 180 days for the fiscal year 2010-2011. Despite these timelines, over half of the investigations take longer than they should. Individuals may be aware of such statistics or have simply heard anecdotes from their family, friends, or colleagues about the length of time such investigations take and are disillusioned about the Division.

There is also a statute requiring all hearings to be completed within 465 days of the initial complaint filing. As demonstrated by the graphs on the following page, only 34% of hearings were completed within this time period for both fiscal years 2009-2010 and 2010-2011. Almost two-thirds of the cases that went to public hearing were not resolved within the statutory time frame. Again, there is no mechanism that stops complaints that surpass this time allotment because it would not be fair to the complainants. However, the fact that so many complaints fall outside of the statutory time frame could lead individuals to think that there must be something wrong with the system and decide not to report their perceived discrimination to a governmental agency they believe is slow and ineffective.

Investigations Completed
Statute = 180 days

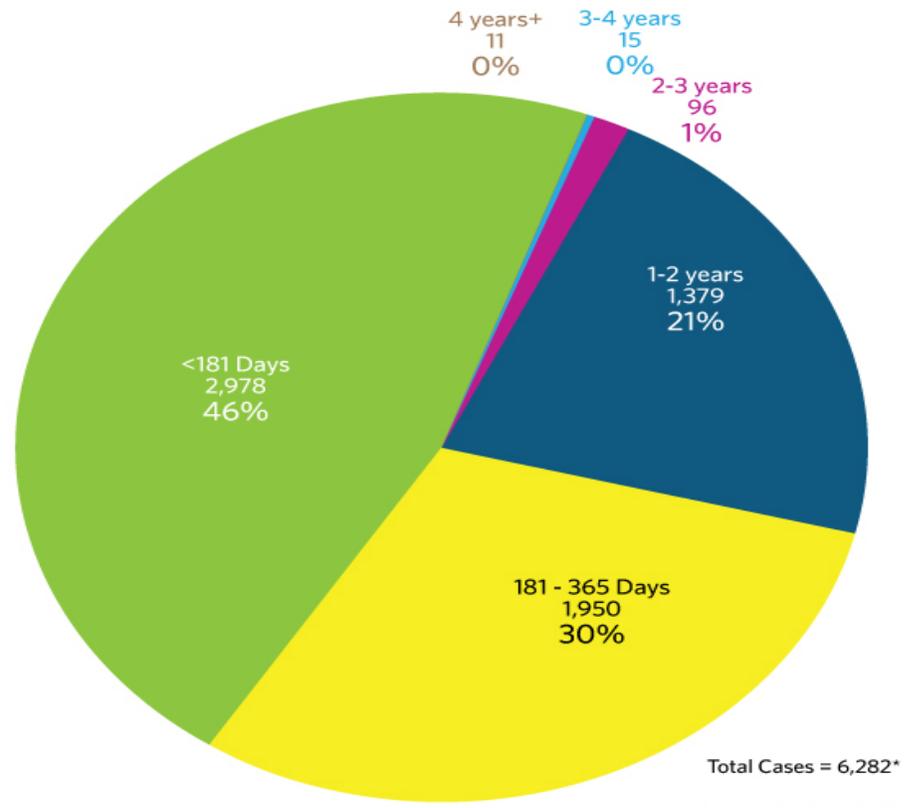


Hearings Completed
Statute = 465 days



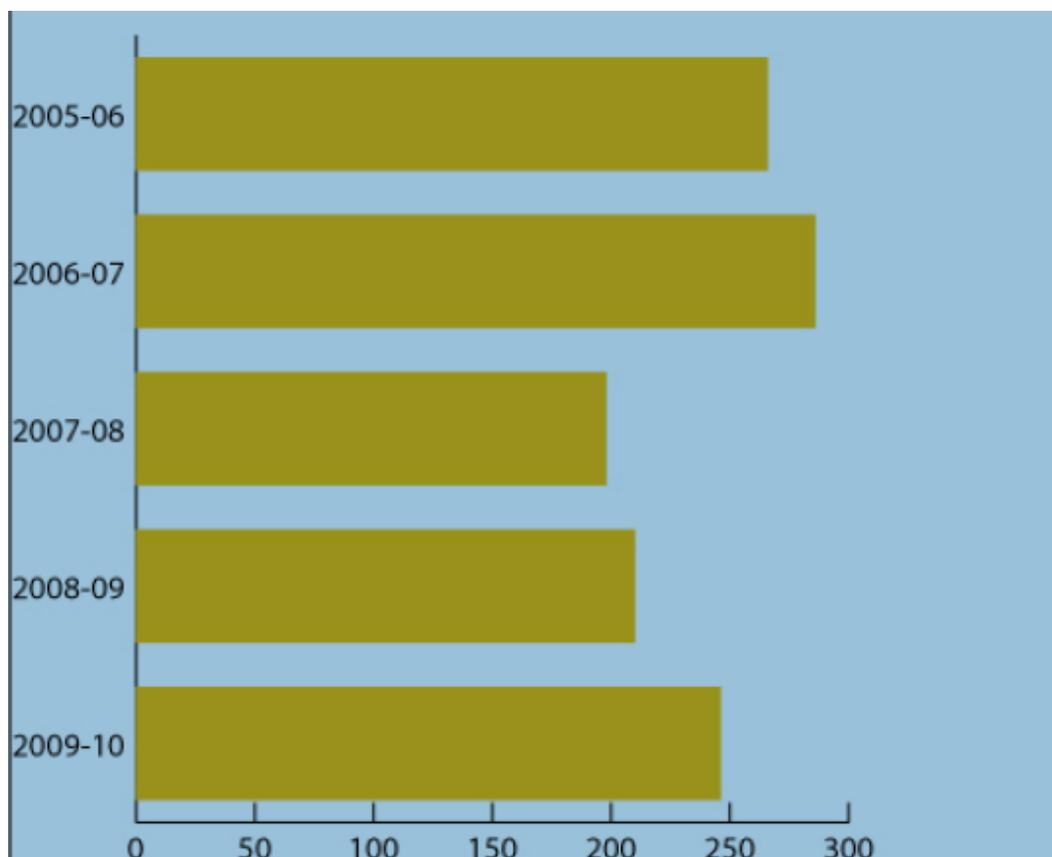
The following graph shows the ages of all current cases as of September 30, 2010. The cases included in this graph are both those under investigation and those in the hearing process. It is important to recognize that the Division operated under a statute that investigations of cases must be complete 180 days after the complaint is filed. However, since cases in the hearing process are included in this graph, it does not present an accurate representation of how many investigations exceed the 180 day limit. It does demonstrate that the majority of cases (99%) are completely resolved within two years of the initial complaint filing because only 1% of the cases are more than two years old.

As of September 30, 2010



*Please note that this graph only includes cases under investigation or in the hearing process.

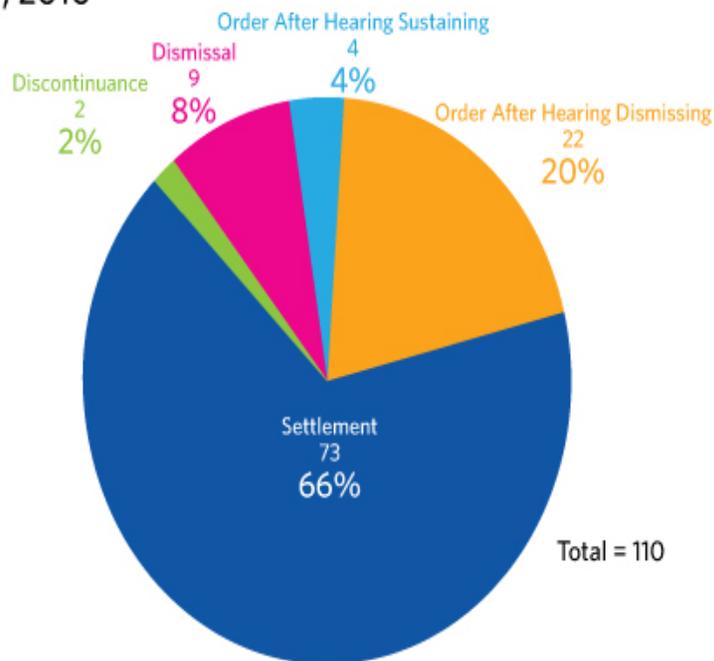
Median Processing Time in Days



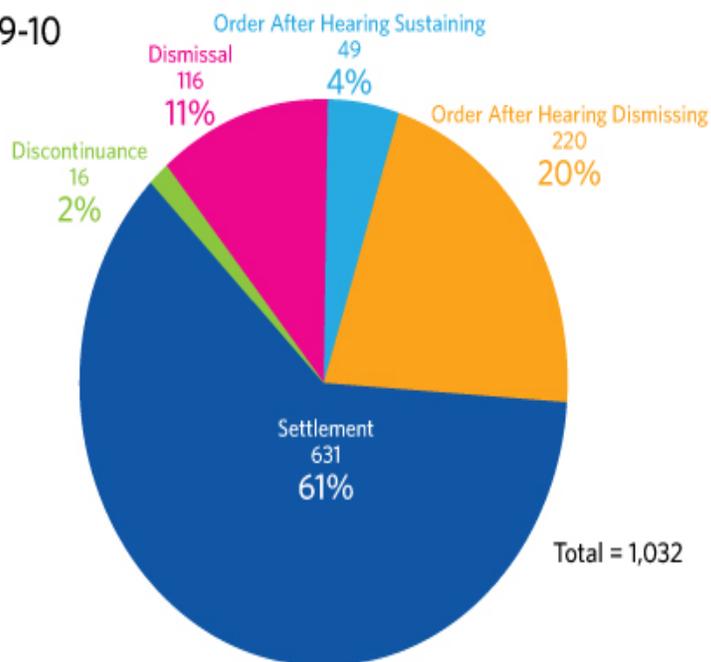
As pictured in the graph above, the median processing time increased Fiscal Year 2007-2008, Fiscal Year 2008-2009, and Fiscal Year 2009-2010. The median processing time increased from under 200 days in Fiscal Year 2007-2008 to 246 days in Fiscal Year 2009-2010. Median processing time means that in Fiscal Year 2009-2010, 50% of the Division's cases were resolved in less than 246 days and 50% were resolved in more than 246 days.

Individuals could also decide against filing a complaint with the Division after hearing about the success rate of complaints. In fiscal year 2009-2010, 1,032 cases went to public hearing. As depicted in the pie charts below, 61% of cases were settled before a decision was reached, and 13% were dismissed or discontinued before a decision reached. 20% of the cases resulted in an order dismissing the Commissioner's Order, finding in favor of the respondent. 4% of the cases resulted in an order sustaining the Commissioner's Order, finding in favor of the complainant. It is very important to understand that 61% of cases were settled because this significantly alters the meaning of the 4% sustaining the Commissioner's Order. Since such cases were settled before the hearing was complete, it could be argued that these employers recognized their discriminatory action and decided to settle before it was complete in hopes of saving money, reputation, and time. This means that the single digit rate of cases yielding a finding of discrimination is not a direct representation of the number of complaints that are filed with the Division that actually have merit.

Fiscal Year 10-11 -
As of May 31, 2010



Fiscal Year 09-10



Burden of Proof and Perceptions

Another potential reason that the number of perceived acts of discrimination is far greater than the number of complaints filed with the Division is that many individuals have no way substantiating their claim of discrimination. Although these individuals may be being discriminated against, they may feel that it would be a waste of time to file a complaint if they do not have any evidence or way to substantiate their claim of discrimination.

Lastly, individuals surveyed in the Gallup poll may have mistakenly reported discrimination. In the section entitled Division Observations, this claim will be further addressed.

In the next section, Division caseload will be presented and the number of Division cases and number of perceived incidents of employment discrimination will be compared and evaluated.

New York State Division of Human Rights Caseload

The Division's fiscal year begins on April 1st and ends on March 31st. In Fiscal Year 2009-2010, there were 7,317 new complaints filed with the Division. As of September 2010, there were 3,625 complaints filed. When this number is projected for the entire year, it indicates there will be approximately 7,250 complaints filed for the 2010-2011 fiscal year.

As presented earlier, there are 766,287 perceived incidents of employment discrimination in New York State annually. Why are there far less complaints filed with the Division than perceived incidents of employment discrimination? Why are people not reporting perceived acts of employment discrimination to the Division?

As discussed in the previous section there is a litany of reasons individuals would knowingly choose not to file with the Division. In order to take such individuals into account, the Gallup Organization poll estimate of perceived incidents of discrimination must be discounted. The table on the next page depicts the original estimate and the various ways it was discounted.

	Number of Incidents
Original Gallup Estimate	766,287
Cases Filed in NYS Court	12,832
Complaints Filed with EEOC	6,995
Cases Filed in Federal Court	195
Incidents Unreported (est. 50% of total):	383,143
<ul style="list-style-type: none"> • Lack of proof • Disillusioned with agency • Mistaken perceptions 	
Discounted Estimate	363,122
Number of Cases Filed with the Division	7,250
Difference Between Discounted Estimate and Division Cases	355,872

The real question is how can there be over 300,000 perceived acts of discrimination that go completely unreported? Considering that individuals who choose to file with the New York State Court, the EEOC, Federal Court, or who decide not to file with the Division because they lack proof, are disillusioned by governmental services, or have mistaken perceptions have already been accounted for, over 300,000 people who believe they suffer discrimination and fail to report said discrimination must have some sort of explanation. This paper argues that some of these individuals do not contact the Division because they are unaware of the existence of the Division, its services, and how to contact the Division.

Currently, there is no mention of the New York State Division of Human Rights and many other important governmental services in the New York State curriculum. Students are graduating from high schools having never been exposed to important practical government knowledge. It seems unrealistic to expect citizens to know about the services offered if they have never been educated of these services. Moreover, the adults who are educating these students are also unaware of the services offered. In order for the New York State Division of Human Rights and its resources to be utilized more effectively, citizens must be educated about practical government. The best way to educate these citizens would be to add practical government knowledge into the New York State Social Studies curriculum. In a later section, data collected from a Western New York high school will be discussed and analyzed in light of this argument.

Awareness of Division

In order to gain a better understanding of the awareness, or lack thereof, of New York State residents about the New York State Division of Human Rights, primary research surveys were conducted in a New York State high school. The surveys were designed by the author of this paper and administered by the “Participation in Government” teacher at the high school. Two primary surveys were conducted in a New York State high school located in Kendall, New York. Kendall is a town of 2,733 people located in the western part of the state in Orleans County (“Kendall, New York”). It is situated on Lake Ontario, halfway between Rochester and Buffalo. The first survey involved high school seniors, and the second survey involved high school faculty. Both included the use of an IRB-approved (Institutional Review Board) questionnaire; a sample is included in the Appendix as Figure 1.

High School Seniors

Fifty-two New York State high school seniors were surveyed regarding their knowledge of the New York State Division of Human Rights. 17% of the high school seniors surveyed indicated that they had heard of the New York State Division of Human Rights before. Therefore, 83% of the high school seniors were previously unaware of the Division.

Have you ever heard of the New York State Division of Human Rights?

	Yes	No
Number	9	43
Percentage	7%	83%

These students are high school seniors who have had over twelve years of education in New York public schools, yet an overwhelming 80% had never even heard of the Division of Human Rights. Although many of these students will graduate and pursue higher education, some will also seek employment and independent housing upon graduation. According to the New York State Education Report Card, 22% of New York State high school seniors will not go on to further education. If any of these students were to be discriminated against based on one of the protected classes, they could be completely unaware of this governmental division that could potentially help them. Moreover, if a high school degree serves as their highest level of education throughout the rest of their lives, they will not be exposed to any further classes on practical government, diminishing their opportunity to be exposed to information regarding the New York State Division of Human Rights. As a result, exposing high school students to information about practical government, and more specifically, the New York State Division of Human Rights is very important and has potential implications in these students' lives.

In addition, only 4% knew how to contact the Division or how to find the contact information, 96% of the seniors did not know how to contact the Division.

Do you know how to contact the Division?

	Yes	No
Number	2	50
Percentage	4%	96%

Again, some of these seniors will not seek further education, so their chances of being exposed to information on governmental departments and divisions greatly decreases. In addition, since they will be seeking and hopefully obtaining employment and independent housing, they could potentially be discriminated against based on one of the protected classes. If they did fall victim to discrimination; however, they are unaware of the Division or how to contact the Division.

As shown in Figure 1, the questionnaire included seventeen questions. These questions asked about the survey respondents' educational backgrounds, residence, general knowledge of the Division, and if they had ever felt discriminated against. All of these questions were open-ended in order to elicit individual and personal responses that were not guided by the researcher's argument. Also, it gave respondents the opportunity to express all thoughts on the subject matter and not be pigeon-holed by multiple-choice style answers.

The last question asked the respondents, "What would be the most effective way of communicating important information about the Division to New York State residents in general?" Eight of the high school seniors' responses (15%) included a statement indicating that teaching the information in high schools would be effective. Although 15% is far from a majority of the

respondents, it is telling that so many students independently thought implementation of information about the Division into high school classrooms would be the most effective means. Other responses included television and radio advertisements, public service announcements, pamphlets, billboards, and town hall meetings.

In addition, another question asks, “Do you feel like most people have general knowledge of the Division? Why or why not?” One student's response succinctly states, “No, there has been no opportunities to learn about it.” Not only is this information not included in the curriculum, but students even feel that there have been no opportunities to learn or be exposed to this information in the classroom or general life.

Another question asked, “What else would you like to know about the Division?” 35% stated that they did not want to know anything more about the Division; however, 65% stated that they would like to more about the Division.

What else would you like to know about the Division?

	Something	Nothing
Number	34	18
Percentage	65%	35%

Although 35% indicated that they did not want to know any more about the Division, it is important to remember that this does not mean that they possess any knowledge of the Division. In fact, 89% of those who said they did not want to learn any more about the Division also indicated that they had never heard of

the Division or knew how to contact the Division. These students do not have any knowledge of the Division; they simply do not want anything added to their current workload. However, many of the important topics taught in the New York State Social Studies curriculum students may have opted out of learning if given a choice. Not many high school students are begging to learn about the separation of powers or the United States Constitution or the difference between different types of governments, but these topics continue to be taught in high schools because they are deemed important and valuable.

Despite the fact that student approval of New York State Social Studies topics is not necessary for implementation into the curriculum, it is important to point out that 65% of the high school seniors surveyed actually wanted to learn more about the Division and its services. Almost two-thirds of the students surveyed were interested in learning more about the Division, and such overwhelming student interest is a good indicator of the response a lesson or lessons devised to teach this knowledge in high schools would be received. In addition, of the 65% who indicated they would like to learn more about the Division, 14% indicated they would like to learn everything about the Division, 73% indicated they would like to learn what the Division does, and 12% indicated they would like to learn other specific information about the Division.

What else would you like to learn about the Division?

(of those who indicated that would like to learn something)

	Everything	What it Does	Other
Number	5	25	4
Percentage	14%	73%	12%

High School Faculty

Thirteen of the faculty members of this high school were also surveyed using the same questionnaire featured in Figure 1 in the Appendix. 54% of the faculty members indicated that they had heard of the Division, and 46% of the faculty members indicated that they had not heard of the Division.

Have you ever heard of the New York State Division of Human Rights?

	Yes	No
Number	7	6
Percentage	54%	46%

Although more than half of the faculty members indicated they had heard of the New York State Division of Human Rights, this number is still not sufficient. The median age of the faculty respondents was 45 years old, and 85% of the faculty respondents have received a master's degree in education.

Considering the age and high education level of the faculty respondents, it would be expected that they would be more knowledgeable about the government and the services offered. These individuals have also been in the labor force for many years and have been living independently. Since employment and housing are the

two biggest areas of discrimination claims, it seems that the people who participate in these two areas should be informed of the services available for discrimination claims. However, from the results of the survey, it is easy to glean that many of the faculty members at this high school are unaware.

Moreover, these high school faculty members are responsible for the education of high school students. If almost half of the faculty members are unaware, then it is very unlikely for the high school students to be informed. One 60 year old faculty member, when asked the question, “Have you ever felt discriminated against based on your state in one the protected classes?” describes an instance of discrimination. He responds, “After being let go from my job of 21 years, I looked for work for a long time. I felt every interview I was looked at as being too old to contribute (age 54).” Although it is not entirely clear whether this individual's experience would yield a probable cause finding if a complaint had been made, it definitely should have been reported to the Division. This individual was over the age of 40, which is necessary in order to file an age discrimination claim. This particular experience of discrimination also took place in the field of employment, which constitutes the largest percentage of Division cases.

When asked if he had contacted the Division and why or why not, the individual responded, “No, I did not know of the Division.” The individual could have had these potential employers investigated, but he was unable to because of his lack of knowledge about the Division. When asked if he would consider contacting the Division, he replied, “yes.” In addition, when asked what else he

would like to know about the Division, he replied, “everything.” This individual felt discriminated against, but he was unable to seek help because he was unaware of the Division. He even indicated that he would have wanted to contact the Division. However, since this alleged act of discrimination took place over six years ago, the individual can no longer file a complaint because of the one year statute of limitation. Although this is only one example, it demonstrates the need to educate New York State residents about the services offered. If acts of discrimination go unreported and uninvestigated, then citizens' sense of fairness in the system may falter. Also, the employers, property owners, or other individuals or entities committing these acts of discrimination go unpunished, permitting them to continue unfair practices and policies.

When the faculty members were asked if they knew how to contact the Division, 46% responded that they did, and 54% responded that they did not.

Do you know how to contact the Division?

	Yes	No
Number	6	7
Percentage	46%	54%

More than half of the faculty members did not know how to contact the Division. Again, these individuals have a higher degree of education than the average New York State resident, yet many of them are unaware of how to contact an important governmental service. If these individuals are unaware, then a greater percentage of New York State residents with less education than these

individuals may be unaware. One individual responded that, “I don't know if many people understand the [Division's] role and how helpful they can be.”

Another responded, “I think most people know there are discrimination laws (from reading them on job applications, leases, etc) but I don't think people, in general, know where to go if it happens to them.” Another responded, “In my opinion, the people who are likely victimized have no idea this organization exists.” Another responded, “I believe that most people lack a general knowledge of government and its many agencies.” These are educators feel that there is not enough general knowledge about the government. The problem is what to do to educate people about the government and its respective services and agencies. A potential solution will be discussed and evaluated later in this paper.

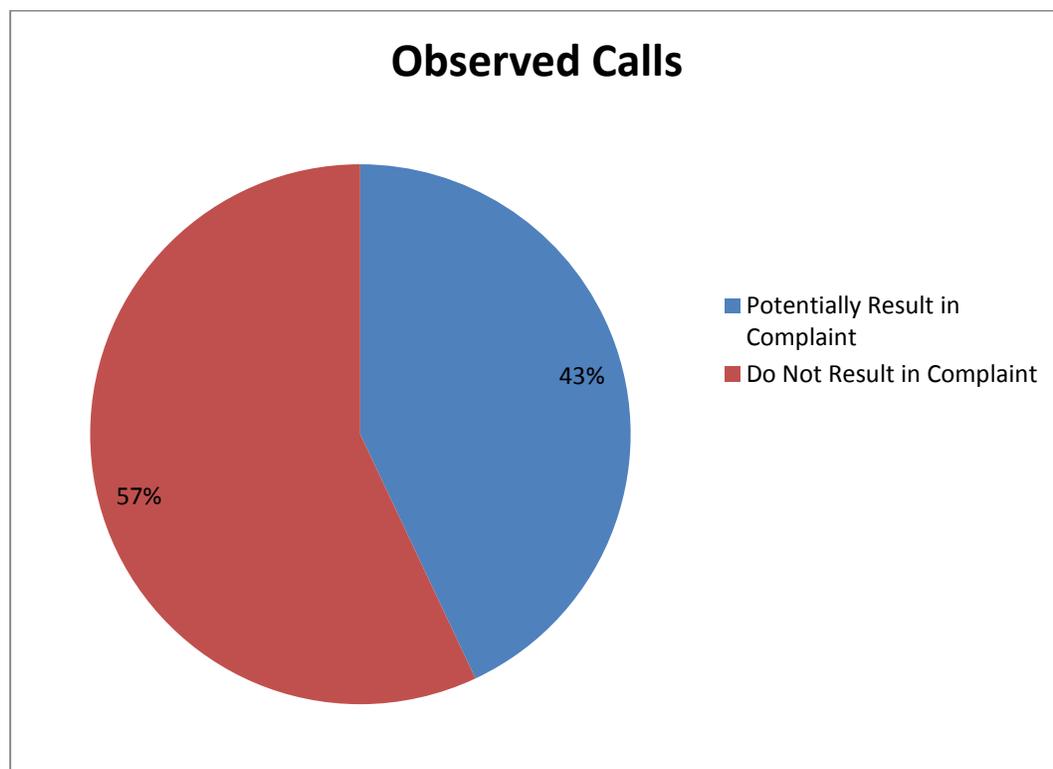
Division Observations

In an attempt to understand the daily operations of the Division and the flow of calls and efforts in the regional offices, observations were made at a regional office. Although only one regional office was observed, based on discussions with the staff, many of the activities, trends, and other data collected at the office could be taken as representative of the regional offices across New York State. It was important to have actual contact with and observation of the Division in order to gain a full understanding of the Division's work and the problems both Division staff and those seeking Division help face.

In order to gather data about the rate of intake calls and the amount of complaints that are filed, observations were made once a week at the Syracuse Satellite regional office. The Syracuse Satellite regional office was chosen because of both its proximity to the researcher and when combined with the Rochester regional office, it is part of the area that has the most complaints filed annually. For two hours each Friday, calls were monitored and notes were taken. This lasted for three months, from September to November 2010. In the Appendix, the forms used to document these calls can be found in Figures 2 and 3. The time lengths, characteristics about the callers, descriptions of the discrimination, and referrals were recorded. On the next page, a chart listing the data gathered is featured. Many of the calls did not result in the filing of a complaint. 57% of the observed calls did not result in the filing of complaint. Explanations for this will be discussed later in the section. Most calls resulted in referrals to other governmental agencies because the caller was either misdirected

or the discrimination claim did not fall within the Division's jurisdiction.

Number of Calls



Over the three months of observations approximately twenty hours were observed, two hours each Friday, and twenty-one calls were observed. Of the twenty-one calls, twelve did not result in the filing of a complaint. 57% of the observed calls did not result in a complaint. In the next section, why these twelve calls did not result in an official complaint will be discussed in further detail. Nine of the twenty-one calls did result in the mailing of a complaint form to an individual or in scheduling an appointment with an intake specialist. This indicates that the caller was likely to file a complaint with the Division. Only 43% of the observed calls potentially resulted in a complaint. 43% of callers were

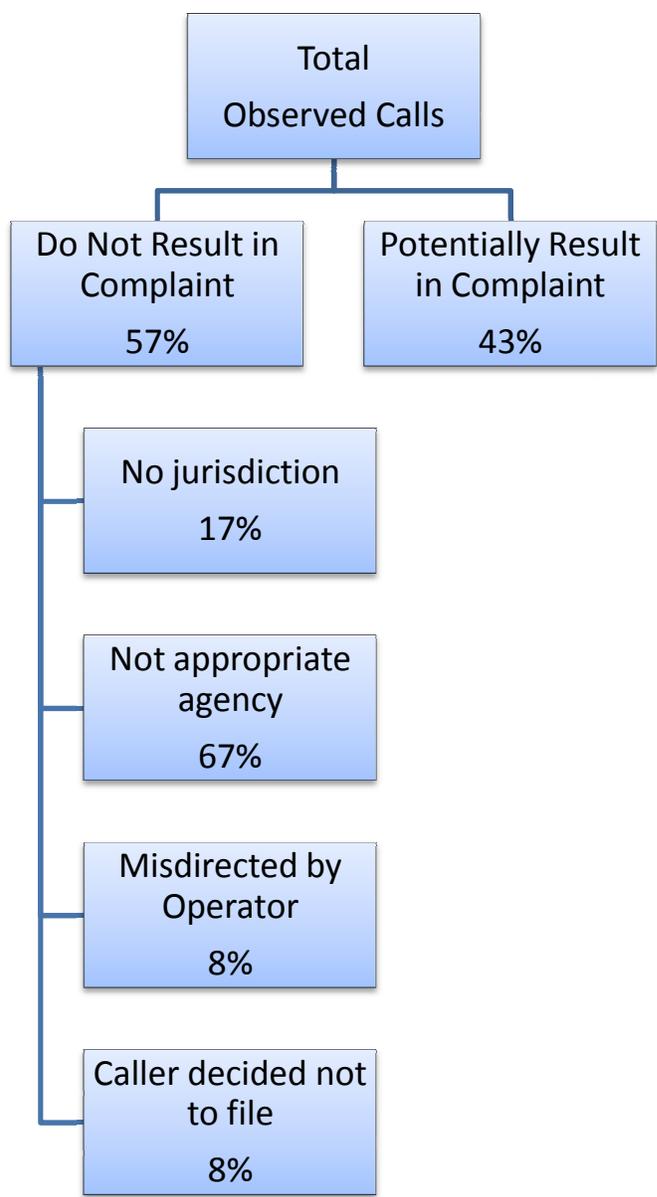
mailed complaint forms, told how to access the complaint form online, or scheduled for intake appointments with an intake specialist. Although it is likely that most of these callers ended up filing a complaint, it is possible that after careful review of their options, they decided not to.

Over the twenty hours of observation, only twenty-one calls were observed. This averages to only 1.05 calls per hour. Despite the fact that only Fridays were observed, the receptionist at the Syracuse Satellite regional office indicated that the observations were fairly representative of the number of calls received in that time period for any day of the week. Although this low frequency of calls is not a promising indicator for the Division, it must be placed in context. The Syracuse Satellite office reports its official numbers in conjunction with the much larger Rochester regional office. These two offices combined represent the area that has the largest number of complaints filed each year.

Even though the Syracuse Satellite office has a low frequency of calls, it does not necessarily mean the Rochester office or the rest of the regional offices also have this low frequency of calls. However, it is important to note that the number of complaints filed in the 2010-2011 fiscal year is slightly lower than the number of complaints filed in the 2009-2010 fiscal year for both the Rochester/Syracuse Satellite office and the Division as a whole. Although it cannot be empirically supported that the low frequency of calls is a cause to the lower complaint filing rate, it can be inferred that it may be a contributing factor. In addition, the fact that 57% of calls do not even potentially result in a complaint may be a contributing factor to the reduced number of complaints filed, at least

for the Rochester/Syracuse Satellite office. The low frequency of calls and the large number of calls that do not result in even potential complaints may be contributing factors to the decreased number of complaints filed in the 2010-2011 fiscal year.

Description of Calls



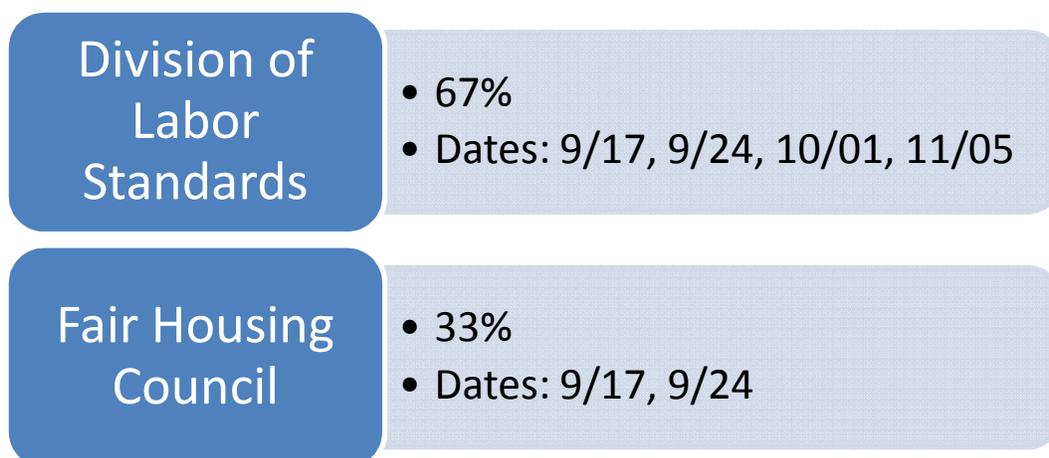
The chart on the previous page depicts the representation of observed calls. As discussed earlier, only 43% of the observed calls potentially resulted in a complaint. The other 57% did not result in a complaint.

No Jurisdiction

Of the calls that did not result in a complaint, 17% of the calls did not fall within the Division's jurisdiction. This means that either the instance of discrimination did not fall under one of the protected classes or the instance of discrimination was over one year old. Many of these callers, especially those whose claim of discrimination was over a year old, were referred to legal aid or any other applicable agency.

Not Appropriate Agency

Another 67% of these callers were seeking a service the Division did not offer. Moreover, many were seeking services offered by other governmental agencies. As a result, many callers were referred to the appropriate agency or agencies. These callers were mostly referred to the following two agencies: the Fair Housing Council and the Division of Labor Standards. Below is a chart depicting the number of referrals each agency received during the observed calls.



As shown in the chart above, 67% of the callers who referred to another agency were referred to the Division of Labor Standards which is a subdivision of the Department of Labor.

The Division of Labor Standards enforces the New York State Labor Laws concerning minimum wage, hours of work, child labor, payment of wages and wage supplements, industrial homework, apparel industry registration, registration of Professional Employer Organizations and farm labor. It also administers the Employment Agency Law (Article 11 of the General Business Law) outside New York City (NYS Department of Labor).

Many people would call the New York State Division of Human Rights in an attempt to report violations in labor or wage standards. As a result, these callers were referred to the Division of Labor Standards. These callers mistakenly thought that the Division of Human Rights dealt with labor or wage laws instead of the Human Rights Law. As discussed in the Explanations for Not Seeking Division Help section, perhaps the mistake these callers made was also made by some of the sample for the Gallup poll on national rates of employment discrimination. This means that the aforementioned survey could have included these mistaken reports of discrimination in their number. However, this number was discounted to account for such error in the previous section.

33% of these callers were referred to the Fair Housing Council. The Fair Housing Council is “a private, non-profit organization that is dedicated to promoting equal housing opportunity through education, research, advocacy and enforcement” (Fair Housing Council of CNY, Inc.) This organization’s mission is similar to the Division of Human Rights’, but it deals more exclusively with the Fair Housing Act. As a result, some callers’ complaints did not fall under the

Division of Human Rights' narrow jurisdiction but possibly fell under the Fair Housing Council's, so they were referred to this agency.

Misdirected by Operator

8% of the callers who did not file a complaint had been misdirected by the operator. These callers had not asked to be connected to the New York State Division of Rights. Many of these callers had asked to be connected to a different agency or had simply told the operator briefly what their problems were and the operator had mistakenly thought it fell under the Division's jurisdiction.

Caller Decided Not to File

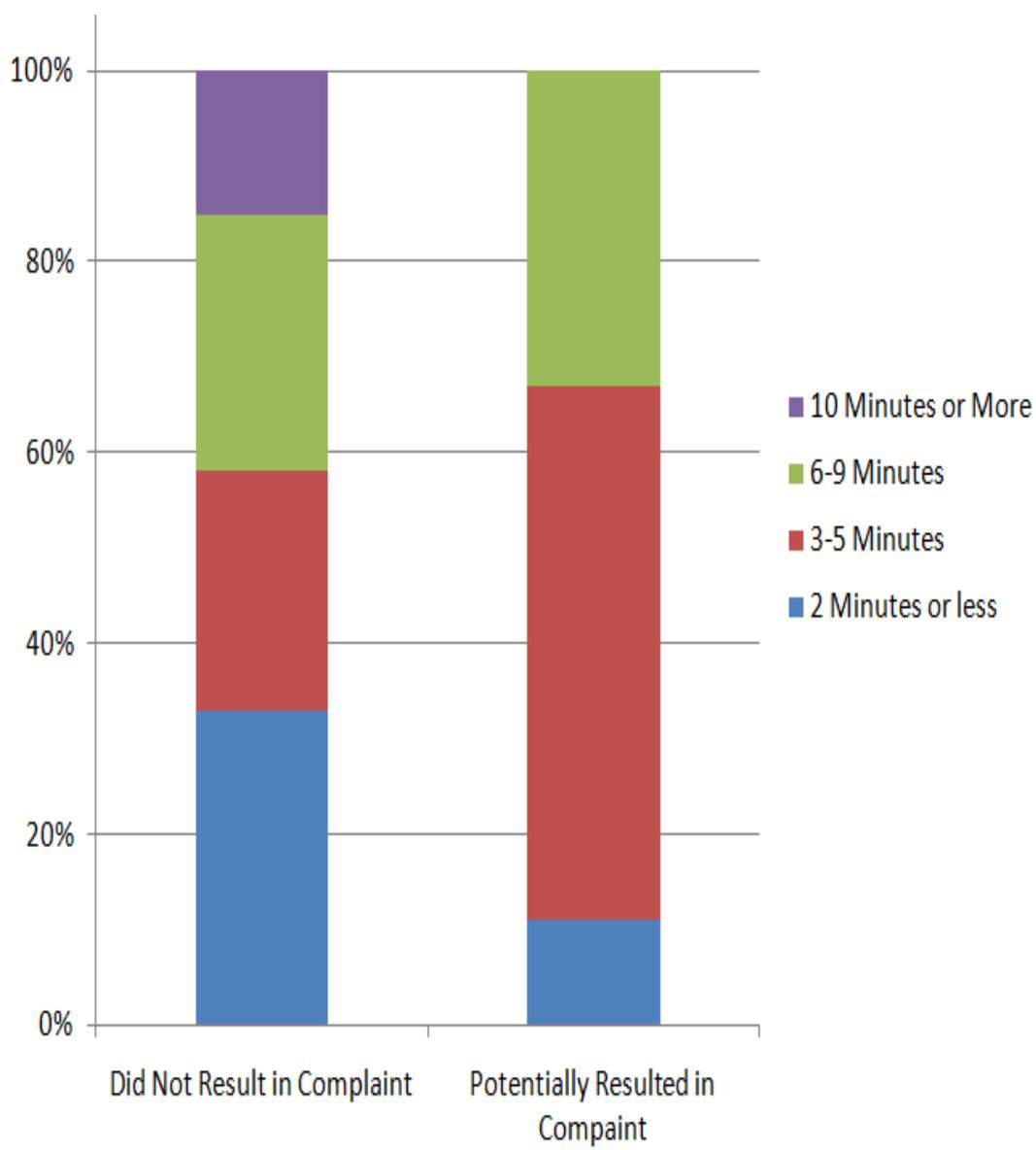
8% of the callers decided not to file a complaint, even though their complaint may have fallen under the Division's jurisdiction. These callers decided against filing with the decision because they wanted to keep the option open of filing a lawsuit in state court. Since the New York State Division of Human Rights serves as an alternative to state court, a person cannot file in both.

Time Spent on Calls

In an attempt to gauge the amount of time Division staff spend speaking to callers who do not end up filing complaints, the time length of each call was recorded during observation. On the next page is a bar graph representing the lengths of phone calls that either potentially resulted in a complaint or did not result in one. It is clear that the time lengths of the calls that did not result in a

complaint were more varied than those that potentially resulted in a complaint. In addition, the longest calls (ones that lasted ten minutes or more) were calls that did not result in a complaint.

Length of Phone Calls



Other Observations

While observing the Syracuse Satellite regional office of the Division, some other information was gathered. The receptionist discussed that the Division of Labor Standards automated phone system automatically forwarded calls to the Division if there were no operators at Labor Standards available to answer the calls. This seems ineffective because as previously mentioned, these two governmental organizations have very different and distinct missions and services. The Division deals exclusively with complaints involving the violation of the Human Rights Law; whereas, Labor Standards focuses on complaints regarding wage and labor laws. Most likely, individuals contacting Labor Standards have a complaint regarding wage or labor laws and do not need to speak with the Division. These calls being forwarded to the Division not only results in wasting Division employees time but also in wasting the time of those individuals calling with labor complaints time. Such inefficiencies could lead to individuals abandoning their attempts to seek help from governmental agencies because they figure that it is not worth the hassle.

In addition, Division staff workers also mentioned that until July 2010, the Syracuse office had an intake specialist. This was a full time position which required the specialist to receive intake calls, mail out complaint forms, and assist individuals with filling out complaint forms through appointments, both in-person and phone. However, in July, the intake specialist retired and as of November 2010 has not been replaced. Since Syracuse is a satellite office, most of its

numbers are reported in combination with the Rochester regional office. The Rochester regional office has its own intake specialist. According to Division staff workers, before Syracuse's intake specialist retired, eight intake interview appointments were made and conducted daily between the two offices; however, since his retirement, only three intake interview appointments are made and conducted daily because there is no one available in Syracuse. Although, as previously discussed, there are a variety of ways to submit a complaint with the Division, and intake appointments serve a very important purpose. Individuals who set up intake appointments with the intake specialist usually do this because they do not feel comfortable completing the intake form individually or they cannot complete the intake form because of illiteracy, a language barrier, or some other physically or mentally incapacitating reason.

Arguably, the individuals who require or prefer assistance with filing complaints through intake appointments are the people who need the Division's help the most. If fewer appointments are available, it will take longer for these individuals to be seen to file their complaints. The long wait could possibly discourage these individuals from filing at all. Although the Syracuse Satellite regional office is only one of the offices, a possible decrease in complaints for one office could affect the number of total Division complaints. In addition, since the Rochester and Syracuse offices are linked, if Syracuse requires assistance from the Rochester office, then the Rochester office could potentially become overextended, creating problems for the individuals in the Rochester-area that wish to file complaints. This information, although anecdotal, provides a glimpse

into the many complexities facing the Division, its individual regional offices, and its employees.

Education

The discrepancy between the number of perceived incidents of employment discrimination and the number of cases with the New York State Division of Human Rights is large. Why? Although there are a variety of explanations, one important explanation revolves around education. New York State residents are not specifically educated about the governmental services available to them or given the practical government knowledge required to successfully navigate the governmental bureaucracy. If residents are unaware of the Division, how can they utilize the Division when needed? As demonstrated by the completed questionnaires of high school students and faculty and the observations of a regional Division office, there is a general lack of knowledge about the Division. Although there is not one silver bullet solution to the issue, this paper argues that educating New York residents about practical government could potentially lead to a more aware population and a more utilized Division.

Education of the New York State residents should take place in the high school. New York State requires all high school seniors to take a semester long government class entitled “Participation in Government.” It seems intuitive that a lesson plan(s) about the Division and other practical government should be added to this required course. Along with information about the New York State Division, information about other New York State divisions and agencies such as the Attorney General, Department of Family Assistance, Department of Health, Department of Labor, Division of Labor Standards, Employee Relations Board,

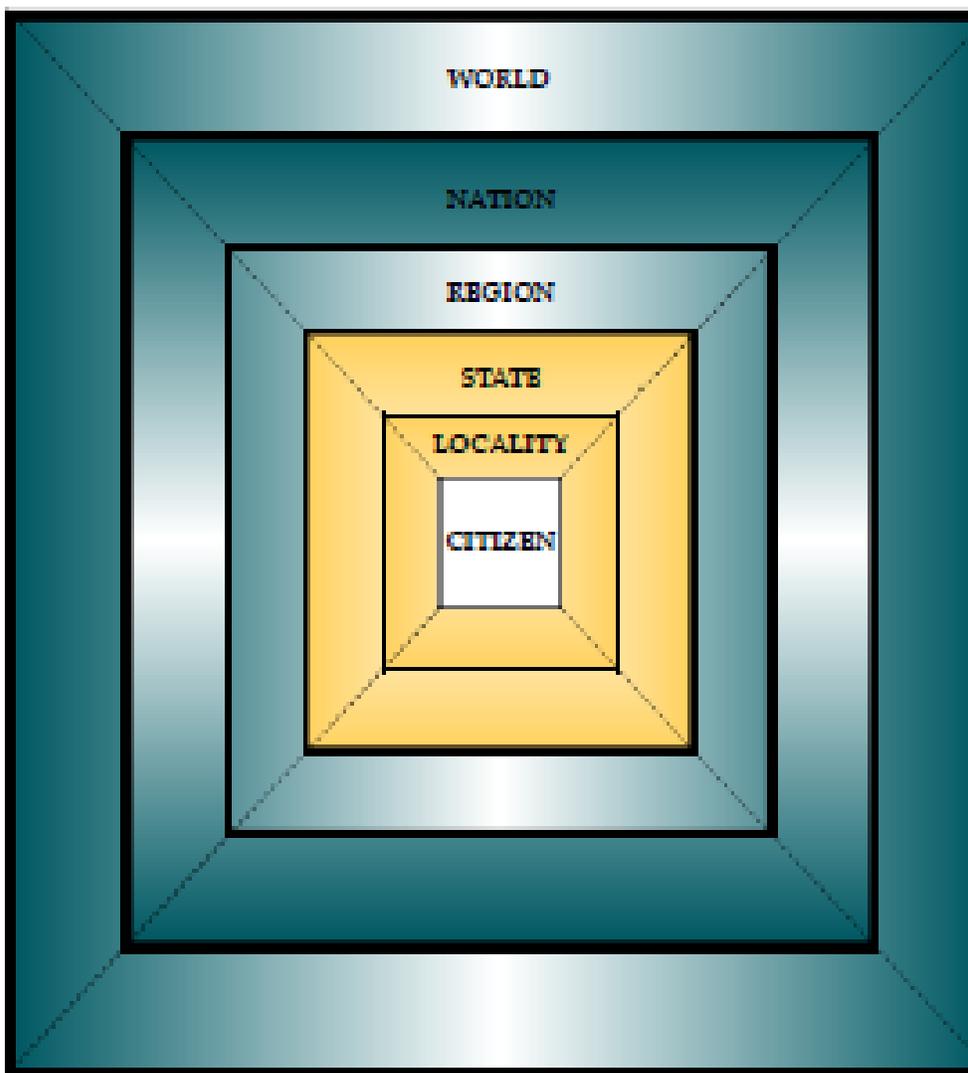
Fair Housing Council, and Workers Compensation Board should also be incorporated into the curriculum. This class is devoted to government, and although theory is very important, practical government is too. Implementing a lesson plan describing governmental divisions coincides with the focus and purpose of the class. According to the New York State Education Department description for “Participation in Government,” the course reflects, “An issue-based approach to public policy, the tools and skills needed in real-life learning experiences, and the knowledge needed for effective citizenship.” By devoting just one or two class periods to introducing students to these governmental divisions, their missions, and their contact information, general knowledge of these important entities could be greatly increased. This would directly support the second and third learning objectives of this course, for knowledge about governmental services is a tool needed in real-life and is necessary for effective citizenship. In addition, the course description states, “A major aim of education in the State of New York is to prepare its students for a productive and meaningful life as citizens in local, state, national, and international settings.” The inclusion of this knowledge into the curriculum goes hand in hand with the purpose and objective of “Participation in Government.”

The sixty-six page long description of the course even features a diagram depicting the “Arenas of Citizenship.” This diagram is featured on the following page. It demonstrates how students should recognize the different and simultaneous levels of citizenship that they will experience in life. Knowledge of

state governmental divisions will help enhance their state citizenship, as well as differentiate national and state agencies and levels of citizenship.

Arenas of Citizenship

FIGURE 2



THE INDIVIDUAL EXISTS SIMULTANEOUSLY IN A LOCALITY, A STATE, A REGION, A NATION, AND THE WORLD.

(“Participation in Government”, pg. 21)

The New York State Education Department sets very detailed standards and requirements for New York State courses. “Participation in Government” is no exception. Featured on the next page is a chart detailing the units of “Participation in Government.” There are six main units, labeled on the chart A-F, and one optional unit labeled G. The six required units are:

- A. Philosophical Foundations and Comparative Perspectives;
- B. Citizenship in Comparative Perspective;
- C. Citizenship, Participation, and the Electoral Process;
- D. Legal Obligations of Citizenship;
- E. Public Policy and Political Participation; and
- F. Legal Rights and Responsibilities.

Inclusion of a lesson plan focusing on New York State governmental services would fit under Unit F: Legal Rights and Responsibilities. This unit focuses on legal rights and responsibilities in civic life, in school, and in the workplace. This unit is also supposed to educate students on how rights vary from place to place. Teaching students about the governmental services offered in New York State will both educate them about the different rights they are afforded as New York State residents, as well as the most efficient ways to inform the government when their rights are violated. New York State was the first state to implement a Human Rights Law. Many states are only regulated by the national human rights law and as such, their residents do not have as many rights or the same resources afforded New York State residents. Educating students

about the Division and other state governmental agencies aligns perfectly with the mission of Unit F.

The Content: Summary

What Do Our Students Really Need to Know About Civics?

Unit A:	Philosophical Foundations and Comparative Perspectives Purposes and principles of government, politics, and the law
Unit B:	Citizenship in Comparative Perspective Roles and rights of citizenship Becoming a citizen
Unit C:	Citizenship, Participation, and the Electoral Process Does your vote count? Political party system Preparing to vote Seeking public office Campaigns and elections Becoming an effective media consumer
Unit D:	Legal Obligations of Citizenship Registering for the Selective Service Civic implications of taxation Responding to jury duty Place of the jury in a democratic system
Unit E:	Public Policy and Political Participation Doing public policy research Distribution of federal, state, and local powers in the federal system Workings of the public policy process Purposes, principles, and values reflected in the policy process Becoming more involved in the policy process
Unit F:	Legal Rights and Responsibilities Legal rights and responsibilities in civic life, and in the workplace and school How rights can vary from place to place
Unit G:	Selecting a culminating question (optional)

(“Participation in Government,” p. 26)

The chart on the following page describes Unit F in greater detail. This section goes in-depth as to the many different rights and responsibilities citizens have, such as the rights of the accused, students, working minors, familial minors, and individuals undergoing medical treatment. Although it is not mentioned, rights and responsibilities of employees and employers should be added to the content. Such an addition would make educating students about the Division a necessity. If students were educated about the general rights employees and employers have, they would be better equipped to recognize when their rights are being violated. Whether it is related to wages, working conditions, or discrimination based on the protected classes, giving students the correct information regarding these laws would help them once they entered the labor force. Moreover, educating these students about their rights and the appropriate governmental division, department, or agency to contact if/when they are violated will give the students the tools necessary to report and potentially stop discrimination.

Not only would implementing a lesson plan about governmental services into “Participation in Government” serve a practical purpose for the students and the governmental services, but it also aligns with the New York State Social Studies Core Curriculum. According to the *Social Studies Resource Guide with Core Curriculum*, “students studying participation in government in grade 12 should experience a culminating course that relates the content and skills component of the K–11 social studies curriculum, as well as the total educational experience, to the individual student’s need to act as a responsible citizen” (p.

156). The first twelve years of Social Studies education are focused on history and the complexities of government. It only makes sense that in the last year of education, students are given the information about government to make acting like a responsible citizen by contacting the necessary agencies when rights are violated less of a challenge.

The New York State Education Department has already recognized the need to increase students' awareness of the rights of citizens, so it should follow logically that students should also be educated about their rights as employees and/or employers. Many New York State residents are completely unaware of the fact that New York State is an at-will employer. This means that an employer can terminate an employee for any reason (except based on membership of one of the protected classes) or for no declared reason at all. This is a key piece of information, for many residents feel that they are being unlawfully terminated when in reality, their employers are well within the confines of the law. Similarly, employees are well within their rights to quit a job for any reason (or non- reason). This information would be just a small part of the lesson plan, but it alone, could help many employees from wasting time on baseless claims of discrimination and could help employers from having to use limited resources countering these claims. Although it would be ideal for New York State residents to take it upon themselves in order to become familiar with labor, wage, employment, and discrimination law, it is not likely. This is why there needs to be some venue to educate residents. As previously stated, what could be a better venue than a high school classroom?

Unit F: Legal Rights and Responsibilities

Overview: This unit focuses on how students can exercise their legal rights and responsibilities. In this unit, it is important for students to see how their rights and responsibilities work in several different areas of the law.

Question 19: What are the legal rights and responsibilities of the individual in civic life, the workplace, and school?
State Standards 5.2 and 5.3, National Standards III and V

Content	Connecting Activities and Questions
<p>The teacher should focus on rights and responsibilities in two or three of the following areas:</p> <ul style="list-style-type: none"> • freedom of expression outside of school; • rights of the accused outside of school; • rights and responsibilities of students in school; • rights and responsibilities of minors in the workplace; • rights and responsibilities of minors in the family; and • rights and responsibilities related to medical treatment or public assistance for minorities. <p>Students should understand that the level of rights they enjoy in New York State can change when they move to another state, because the federal government set a floor in regard to rights that some states (like New York) choose to exceed while others do not.</p> <p>For each right studied, the student should understand and be able to distinguish: the constitutional or statutory source of the right, the key precedents, the current rules or principles of law governing the right, the limits on the right, and some of the major issues and implications of the right today. The student should also be able to see the connections between the policy making process in the legislature and the judicial process in the courts. In some cases, the legislature is a source of rights; in other cases, the legislature may have passed a law that is the subject of a rights challenge.</p>	<p>As a culminating activity for this unit on the law, students could take part in a mock trial. Each year the Law, Youth, and Citizenship (LYC) Program, cited earlier, prepares a hypothetical case for its statewide competition. Classes can use the material without entering the competition. For materials, call LYC at (518) 474-1460, or go to LYC at <www.nysba.org>.</p>

(“Participation in Government,” p. 52)

Potential Setbacks

Simply teaching this information in schools will not guarantee that all residents will possess and maintain perfect knowledge of the governmental divisions and departments, but it will expose residents to the necessary information, so they will have a baseline to work from if they ever needed one of these divisions in the future. The surveys of the high school students and faculty indicate that a majority of residents have absolutely no idea what the Division does; moreover, they have never even heard of it. By implementing practical government knowledge into the curriculum, far fewer people would be as completely unaware of the Division. It is important, however, to indicate that not all of New York State's workforce is educated in New York State. Approximately 21.3% of the New York State population is foreign-born (born outside of New York State, either in a different state or a different country). Even with implementation of the curriculum, 21.3% of the population will potentially still be unaware. However, this plan should be regarded as only a stepping stone and further programs should be implemented in the future to better educate the entire New York State population about the services available.

Besides being a complement to the curriculum, implementing a lesson plan about governmental services in the "Participation in Government" class is also effective for the Division. As this paper focuses on employment discrimination, educating high school seniors about the human rights law and the Division of Human Rights (including the process of filing a discrimination claim)

is important, considering that some of the graduating seniors may seek employment directly after graduation. 22% of New York State students do not go onto further education (2 or 4 year colleges) immediately after exiting high school (New York State Report Cards). In addition, although some graduates may go onto college, there is no guarantee that they will take courses where practical government knowledge is taught. Teaching practical government knowledge to high school seniors will be effective because they will be old enough to be interested and see the real-world application of the information in their lives. In addition, it will be closer to their prospective employment, so if they need to contact the Division, the information will be fresh in their memory as opposed to being taught in elementary school, junior high school, or early high school.

However, it is important to point out that if individuals drop out of high school before their senior year, they will not receive this information. In 2008-2009, 3.4% of students in New York State did not complete their high school degree, these students are also known as noncompleters. This means that 37,451 students did not complete their high school education, receive their high school diploma, and if practical government is implemented into “Participation in Government,” would not be educated about the New York State Division of Human Rights annually. It would be best if 100% of workers were educated about the Division, but this is not practical, at least not initially. However, educating students is a good starting point. Perhaps in later years, practical government knowledge will be implemented into the curriculum in earlier years as well, but for the purposes of this paper, implementation of the lesson plan and

process of implementation will be solely for the “Participation in Government” class.

Designed Lesson Plan

There are many ways in which this information could be taught; however, this paper argues the most effective way would be through descriptions of the agencies and subsequent situation descriptions. For example, the instructor would describe the different governmental divisions for the first part of the class period, or depending on the number of agencies described and the complexity of the descriptions, during the entire first class period. Once the students have been exposed to the divisions’ information, the instructor would then read various situations or scenarios and ask the students which division(s) they would contact and how they would go about contacting them. Below is an example of a potential description:

Scenario:

You have recently been hired by an employer who employs more than four employees. You are a woman in a predominantly male work environment. Although they were initially very welcoming, many of your fellow male employees have been making inappropriate jokes about women in front of you. You have asked them to stop, but they do not take your complaints seriously. You have repeatedly reported these incidents of inappropriate behavior to your employer, but he dismissed it, going as far as to say that it is the price you pay for entering into a “man’s job.” You feel very uncomfortable at work, but you love your actual job.

Discussion Questions:

What would you do? What should you do? What law(s) apply? Which governmental divisions would you contact? How would you go about contacting them?

After this scenario is read, the instructor would ask the discussion questions. The students should indicate that this scenario violates the Human Rights Law and that the New York State Division of Human Rights is the most applicable agency. They would discuss the various ways the Division can be contacted and the process of filing a complaint, as well as how they should maintain employment and that it is illegal for the employer to retaliate against the employee for filing a complaint. The instructor would read scenarios that fall within the jurisdiction of the other divisions described in the lesson. This discussion of scenarios, laws, and contact information would facilitate students making connections between the different divisions, the subtle differences between them, and which divisions would be most helpful in different situations. In addition, this exercise would help reinforce the different means individuals have to contact the different divisions when faced with these real-world scenarios. This is not the end-all-be-all solution to resident awareness, but it would be a step in the right direction. There needs to be some arena for residents to be exposed to practical government knowledge, and since high schools are the last formal educational site for many residents, it makes the most sense for it to be the site of practical government information.

Conclusion

Education and awareness are key tools for an engaged society. New York State offers a breadth of governmental services meant to help residents, but what good are services if only a small fraction of those who could benefit from them actually utilize them? Through surveys of New York State residents and observations of a regional Division office, this paper has set out to demonstrate the lack of New York State resident awareness of the New York State Division of Human Rights. With less than fifty percent of those surveyed indicating that they had heard of the Division, it is not an exaggeration that New York State residents are not as aware of the services offered as they should be.

Moreover, Gallup poll data was used to calculate a baseline for the number of perceived incidents of employment discrimination that take place annually in the New York State. Even when this number is adjusted for the number of employment discrimination cases that are filed in New York State Court, Federal Court, and the EEOC, it still dwarfs the number of cases filed with the Division. In addition, even when numbers are estimated and accounted for those disillusioned with governmental services, the number of cases filed with the Division accounts for less than 4% of the perceived incidents of discrimination, arguably due to a lack of awareness of the Division.

A possible solution to this lack of awareness is education. Residents must be exposed to practical government and contact information at some point. Otherwise, they may never know about these services or utilize them if the

appropriate situation arose. The required civic government class for New York State seniors is “Participation in Government.” Currently, information about the Division and governmental services is not included in the curriculum or taught in the classroom. If such information was implemented into the lesson plan, far fewer people would be completely unaware of the Division, and perhaps, more people would utilize the Division’s services. The lesson plan presented in this paper would take only one or two hour long class periods to teach, but the results of this lesson could have real-world implications in students’ futures. Knowledge of the services offered and the means to acquire them could make the difference between someone being quietly victimized and someone stopping the cycle of employment discrimination. There is no end-all-be-all solution, but educating citizens about the practical uses of their government could never be bad. Navigating governmental bureaucracy is not easy, but giving citizens a roadmap could be helpful.

Works Cited

- "All Statutes." US EEOC Home Page. Web. 05 Apr. 2011.
<<http://www.eeoc.gov/eeoc/statistics/enforcement/all.cfm>>.
- "Court Cases in the News - Workplace Fairness." Workers, Employee, Employment and Job Rights - Workplace Fairness. Web. 16 Feb. 2011.
<<http://www.workplacefairness.org/court-cases?state=NY>>.
- "Developing and Implementing a Standards-Based Curriculum:Leaders' Guide:Social Studies:CI&IT:NYSED." P-12 : NYSED. Web. 15 Feb. 2011. <<http://www.p12.nysed.gov/ciai/socst/leadersguide/sscurrdev.html>>.
- "Federal Eye - New Poll on the Size of Government." Blog Directory (washingtonpost.com). Web. 16 Jan. 2011.
<http://voices.washingtonpost.com/federal-eye/2010/09/new_poll_on_the_size_of_govern.html>.
- The Gallup Organization. "Employee Discrimination in the Workplace." Dec. 2005. 15 January 2011 <http://media.gallup.com/government/PDF/Gallup_Discrimination_Report_Final.pdf>.
- "Kendall, New York (NY 14476) Profile: Population, Maps, Real Estate, Averages, Homes, Statistics, Relocation, Travel, Jobs, Hospitals, Schools, Crime, Moving, Houses, Sex Offenders, News, Sex Offenders." Stats about All US Cities - Real Estate, Relocation Info, House Prices, Home Value Estimator, Recent Sales, Cost of Living, Crime, Race, Income, Photos, Education, Maps, Weather, Houses, Schools, Neighborhoods, and More. Web. 01 Mar. 2011. <<http://www.city-data.com/city/Kendall-New-York.html>>.
- Kiernan, John S. "The Litigation Manual: Special ..." Google Books. Web. 05 Apr. 2011. <<http://books.google.com/books?id=-xtqWYh2n9UC>>.
- "Labor Cases Filed in New York." Justia Dockets & Filings. Web. 16 Jan. 2011. <http://dockets.justia.com/browse/state-new_york/noscat-8/>.
- Laws, Eeo. "Federal Laws Prohibiting Job Discrimination: Questions AndAnswers." US EEOC Home Page. Web. 05 Apr. 2011.
<<http://www.eeoc.gov/facts/qanda.html>>.
- "List of State Fair Employment Practices Agencies | Legal Advice Guide | TheLaw.com." TheLaw.com - Free Legal Advice, Legal Forms, Lawyer Directory. Web. 05 Apr. 2011.
<<http://www.thelaw.com/guide/employment/list-of-state-fair-employment-practices-agencies/>>.
- New York State. Department of Education. Participation in Government. April 2002 <http://www.p12.nysed.gov/ciai/socst/pub/partgov.pdf>
- New York State. Division of Equal Opportunity. October 2000.
<<http://www.labor.state.ny.us/agencyinfo/moa/pdf/element2/E2%20GA%20Manual%20%20Division%20of%20Equal%20Opportunity%20Development%200113.pdf>>.
- New York State. Division of Human Rights. 2007-2008 Annual Report. Bronx: 2009.
- New York State Division of Human Rights. Web. 28 Dec. 2010.

- http://www.dhr.state.ny.us/how_to_file_a_complaint.html.
New York State Division of Human Rights. Web. 28 Dec. 2010.
- <http://www.dhr.state.ny.us/faqs.html>.
- "New York State Report Cards 2009." NySTART - New York State Testing and Accountability Reporting Tool. Web. 15 Feb. 2011.
<https://www.nystart.gov/publicweb/StateReports.do?year=2009>.
- "Patterson Nominates Galen D. Kirkland as Human Rights Commissioner."
Hudson Valley Press - HVPress.net - News for New Yorks Hudson Valley, Newburgh, Beacon, Middletown, Poughkeepsie... Web. 28 Dec. 2010.
<http://www.hvpress.net/news/126/ARTICLE/4328/2008-05-15.html>.
- Stonecash, Jeffrey M. "Governing New York State." Google Books. Web. 16 Feb. 2011. <http://books.google.com/books?>.
- United States. U.S. Department of Labor Bureau of Labor Statistics. New York State Payroll Employment By Major Industry.
<ftp://ftp.bls.gov/pub/special.requests/newyork/nysmces9485.txt>.
- "U.S. District Courts." United States Courts. Web. 05 Apr. 2011.
<http://www.uscourts.gov/Viewer.aspx?doc=/uscourts/Statistics/FederalJudicialCaseloadStatistics/2010/tables/C03Mar10.pdf>.
- "Washington Post-ABC News Poll." Washington Post - Politics, National, World & D.C. Area News and Headlines - Washingtonpost.com. Web. 16 Jan. 2011. http://www.washingtonpost.com/wp-srv/politics/documents/postpoll_042810.html.

Appendix

Figure 1:

Age:

Highest level of education:

Hometown:

Current residence:

Have you ever heard of the NYS Division of Human Rights?

If so, how (e.g. radio, television, pamphlets, etc.)?

Describe what the NYS Division of Human Rights does?

Do you know how to contact the Division?

Have you ever tried to contact the Division?

Has your contact with the Division been positive?

Would you ever consider contacting the Division?

Have you ever felt you were discriminated against based on your status in one of the protected classes?

(Protected Classes: Race, Gender, Sexual Orientation, Age, Disability, Marital Status, National Origin, Conviction Record) Please describe.

If so, did you contact the Division? Why or why not?

Do you feel confident in your knowledge of the Division?

What else would you like to know about the Division?

Do you feel like most people have general knowledge of the Division? Why or why not?

What would be the most effective way of communicating important information about the Division to NYS residents in general?

Figure 2**Intake Sheet**

Date: _____

Tally TotalTotal Calls and/or Walk-ins _____ Number
_____Calls/and or Walk-ins that do not result in an offer to file a claim _____
Number _____

Wrong Number _____

DHR not appropriate agency _____

DHR has no jurisdiction _____

Other _____

*If you have enough time/information, please fill out other form

Figure 3**Further Information:**

What is the form of discrimination claimed?

If mentioned, how did caller/walk-in hear about the DHR?

If mentioned, what is the occupation of caller/walk-in?

If mentioned, what is the approximate level of education of the caller/walk-in?

Approximately how much time was spent on this call and/or walk-in?

Did the caller/walker indicate they were going to file a claim?

Brief description of why the claim was or was not filed.

Did you refer the caller and/or walk-in to another agency/department/division, in addition to or instead of the person filing a complaint with DHR?

If so, please specify:

Capstone Summary

This paper explores the utilization of the New York State Division of Human Rights. The New York State Division of Human Rights is an important but often overlooked governmental division. New York State was the first in the nation to codify human rights protections in 1945, and the New York Division of Human Rights was created in 1968 to ensure the implementation of the New York State Human Rights Law. The Human Rights Law prohibits discrimination in employment, housing, credit, places of public accommodations, and non-sectarian educational institutions, based on the protected classes of age, race, national origin, sex, disability, sexual orientation, marital status, familial status, military status, domestic violence victim status, arrest or conviction record, and predisposing genetic characteristics.

The New York State Division of Human Rights is responsible for investigating claims of discrimination that fall within the jurisdiction of the Human Rights Law. The jurisdiction of the New York State Division of Human Rights constitutes alleged discrimination based on the protected classes in the aforementioned areas. In addition, complaints of discrimination must be filed within one year of the alleged discrimination in order to fall within the New York State Division of Human Rights' jurisdiction. Although the New York State Division of Human Rights processes complaints of discrimination for various areas, this paper will limit its focus to only one such area: employment. Filing procedures and specifics regarding the jurisdiction of the New York State Division of Human Rights will be presented in order to paint a picture of the specific nature of the

Division and regulations that must be carefully followed throughout the investigation.

First, this paper argues that the New York State Division of Human Rights is not utilized by all residents who could benefit from its service. In order to make this argument, national rates of perceived discrimination as calculated from a Gallup study will be presented and compared to the actual caseload of the New York State Division of Human Rights. The data regarding Division caseload was retrieved from the official New York State Division of Human Rights website. This comparison is used to gauge the number of perceived instances of employment discrimination that go unreported. Although various reasons for the discrepancy will be discussed, the main argument of this paper is that many perceived incidents of discrimination go unreported simply because those victimized are unaware of the New York State Division of Human Rights. This argument will be supported by responses of New York State high school seniors and faculty members to questionnaires administered and by data collected at the Syracuse Satellite Regional Office of the Division.

In order to gather the aforementioned data, seniors and faculty members at a Western New York public high school in Kendall, New York were asked to fill out IRB-approved (Institutional Review Board) questionnaires which contained questions about their level of education, residence, and knowledge and awareness of the New York State Division of Human Rights. Kendall is a small town in Western New York located in Orleans County, with a population of 2,733. This data was then compiled and presented as a sample of the general awareness of

New York state high school students and faculty members. In an attempt to understand the daily operations of the Division and the flow of calls and efforts in the regional offices, observations were made at one such office. The regional office data was gathered on a weekly basis through observations of intake calls and the ratio of calls that did not result in the filing of a complaint to calls that did result in the filing of a complaint. In an attempt to gauge the amount of time Division staff spend speaking to callers who do not end up filing complaints, the time length of each call was recorded during observation.

Second, based on this gathered data, this paper argues that one of the most effective ways to remedy the problem of unreported employment discrimination is by implementing practical government knowledge into the New York State curriculum, such as information about governmental agencies, their missions, and how to contact them. This integration of new awareness into the classroom could help narrow the gap between incidents of discrimination and actual filings of discrimination. Information regarding current New York State Social Studies Standards is presented and used to demonstrate the ease and necessity of implementing practical government knowledge into the curriculum. There needs to be some arena for residents to be exposed to practical government knowledge, and as high schools are the last formal educational site for many residents, it follows for it to be the site of practical government information.

Education and awareness are key tools for an engaged society. New York State offers a breadth of governmental services meant to help residents, but what

good are services if only a small fraction of those who could benefit from them actually utilize them? Although the ideal situation would be the presence of self-education of New York State residents concerning labor, wage, employment, and discrimination law, this outcome is not likely. New York State residents are not formally educated about the governmental services available to them or given the practical government knowledge required to successfully navigate the governmental bureaucracy. Residents must be exposed to practical government and contact information at some point. Otherwise, they may never know about these services or utilize them if the situation arose.

The required civic government class for New York State seniors is “Participation in Government.” Knowledge of the services offered and the means to acquire them could make the difference between someone being quietly victimized and someone stopping the cycle of employment discrimination. Simply teaching this information in schools will not guarantee that all residents will possess and maintain perfect knowledge of the governmental divisions and departments, but it will expose residents to the necessary information, so they will have a baseline to work from if they ever needed one these divisions in the future. Navigating governmental bureaucracy will never be easy, but giving citizens a roadmap could be helpful.