

ment that small, inferior schools must be closed and the elaboration of earlier regulations concerning nondiscrimination in programs, facilities and services such as transportation strengthened the 1966 Guidelines.

However, the exclusion of court-ordered districts from EEOP's compliance machinery seriously limits the Guidelines. Population centers which have a majority of the South's Negro children are desegregating under District Court orders, most of which are not up to the most recent standards of the Circuit Court. Court rulings are not necessarily issued with the school calendar in mind; good orders in South Carolina this fall will not be in effect until 1967. Many court orders are not being fully implemented. Federal judges have welcomed the role of the Commissioner of Education as "long overdue" because of the "utter impracticability of a continued exercise by the courts of the responsibility of supervising the manner in which segregated school systems break out of the policy of complete segregation . . . and toward complete compliance."

The general and uncritical approval of freedom of choice plans as devices for eliminating segregated school systems is another major weakness in the Guidelines. Although the overwhelming evidence is that freedom of choice produces only tokenism at best, the Office of Education has permitted most districts to use these plans and EEOP has been unable to deal with intimidation, fear, reprisals and the legacy of total segregation in the community, all of which operate as deterrents to the success of freedom of choice.

The Guidelines should be expanded to deal with Northern style de facto segregation.

HEW's Regulation requiring compliance agreements from state education agencies should be supplemented with specific guidelines which recognize the role of these agencies in preserving or abolishing segregation. State agencies play a crucial role in decisions concerning site selection and school construction, school consolidation, transportation, school lunch programs, the equalization of teachers salaries, textbooks, projects under special Federal programs, etc. Our experience indicates that state agencies often use this role to strengthen segregation even though Federal funds are involved.

II. *The Office of Education should develop an informational and educational program to interpret the goal of abolishing the dual school structure, to inform Negro citizens of their rights and to win a broad base of support for securing equality of educational opportunity.* Unlike other Governmental agencies, the Office of Education has developed no materials or mass media programs for wide dissemination of accurate information about its compliance programs, which has suffered from distortions and misinformation. The burden for initiating desegregation is still on Negroes; yet many do not know what their rights are. In the absence of an officially sponsored information program which reaches the grass roots, Negroes must rely on local school officials and the local press, which are often hostile. Private civil rights groups have tried to close this information gap, but their resources are too meager. The enjoyment of constitutional rights should not be dependent upon an individual's ability to discover on his own how he may secure these rights.

III. *At this critical juncture, the Office of Education must launch an affirmative compliance program with adequate machinery and staff and with a strengthened technical assistance component.* Lacking an affirmative program and understaffed, the Office of Education's compliance efforts tend to be focused on the worst offenders and to be compliant-oriented. In 1966, sanctions were exercised for the first time. Funds were cut off only from districts whose intention not to comply was evident in their refusal to sign the 441-B compliance form. According to press reports the referral of funds was not a major hardship because only new funds were deferred and state offices of education helped school districts re-write the proposals so that projects could be considered to be "continuing." The 90-day limit on deferrals should speed up the process of withdrawing Federal funds from non-complying districts. HEW is just beginning to exercise sanctions against poor performers and the initial standards have been very modest indeed. If a school district has executed its paper compliance and has 3% desegregation—i.e., 97% of its Negro pupils are still in segregated schools—and has token faculty desegregation, it seems assured that Federal funds will flow in 1966-67. In direct violation of the Guidelines, segregated bus transportation, harassment and reprisals, segregation in sports and other school related programs, and the use of inferior schools continue. Staff desegregation has been minimal. To preserve segregation, students are still being educated outside their home school