

all or nearly all Negro, it is nevertheless the fact that since the adoption and implementation of title VI of the Civil Rights Act, the number of Negro students attending desegregated schools has increased markedly.

In 1964, it was 2.25 percent of the Negro students in desegregated schools. In 1965 it was 6 percent and in September 1966 it was 12 percent. The progress in the six border States is even more impressive with the dual school system nearly abolished in some.

In addition, more than half of the districts of the South have made at least a start in faculty desegregation. The object of the Department's civil rights activity is not the termination of Federal funds. Our goal is to assure that no person in the United States on the grounds of race, color or national origin be excluded from participation in or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Mr. Chairman, I have two documents which I would like to submit for the committee's information and for the record. One is a memorandum from the General Counsel on the legal basis of the revised guidelines.

The second is a letter from the Attorney General stating the need to require faculty desegregation.

Chairman PERKINS. Without objection all of those documents will be inserted in the record at this point.

(The documents referred to follow:)

MEMORANDUM

NOVEMBER 29, 1966.

To: The Secretary.

From: Alanson W. Willcox, General Counsel.

Subject: Review of Legal Authority for the 1966 School Desegregation Guidelines.

Pursuant to your recent request, I have reviewed the legal authority for the Revised Statement of Policies for School Desegregation Plans (the "Guidelines") and my earlier advice to you concerning the legal authority for it.

I have completed this review, and I unhesitatingly reaffirm my advice that the 1966 Guidelines are fully consistent with and supported by title VI of the Civil Rights Act of 1964 and the decisions of Federal courts.

In addition to the analysis of court decisions in my memorandum of March 7, 1966, to Commissioner Howe, the pertinent decisions are discussed in a statement entitled "Authority for the 1966 School Desegregation Guidelines." That statement served as an attachment to a letter of May 24, 1966, from Commissioner Howe to Senator Fulbright. More recently the Courts of Appeals for the Fourth and Fifth Circuits have handed down decisions in *Wheeler v. Durham City Board of Education* (No. 10,460, C.A. 4th, July 5, 1966) and *Davis v. Board of School Commissioners of Mobile County* (No. 22,759, C.A. 5th, August 16, 1966). These reaffirm principles upon which the Guidelines are based, particularly the fact that teacher desegregation is an essential part of the desegregation plans. Further, in the *Mobile* case, the Court pointed out as one of the principal legal defects in the plan there under review "the fact that even as to those grades which, under the plan, have actually become 'desegregated' there is no true substance in the alleged desegregation. Less than two-tenths of one per cent of the Negro children in the system are attending white schools."

The Deputy Attorney General recently submitted to Congressman Howard W. Smith, Chairman of the House Rules Committee, a letter requested by him regarding faculty desegregation. The Chairman had asked whether this Department has authority, under title VI of the Civil Rights Act of 1964, to require a school district maintaining a dual school system to desegregate its faculty as a necessary part of desegregating its school system. The Department of Justice responded with a letter dated October 4, 1966, and an attachment cit-