a guide to the Office of Education in determining whether or not a free choice plan should be scheduled for review and a guide to the school district as to what, in general, might be considered reasonable progress. In this same section, there is an indication of what might be done in the event there is a substantial deviation from these expectations.

Any school district which believes it is being asked to do more than the law requires has full recourse to an administrative proceeding and a thirty-day notification to Congessional committees before a termination of Federal assistance (sec. 602, Civil Rights Act of 1964). Moreover, if it believes the termination to exceed the Commissioner's authority under the law, it is entitled to judicial review as provided in section 603.

In short, the decisions of the Federal courts establish that local school officials who have in the past maintained separate schools for Negro and white children are under a constitutional compulsion to provide a single desegregated school system for all children. At no time did the Congress intend in title IV or elsewhere in the Civil Rights Act of 1964 that any school child receive less than his full measure of constitutional protection. The responsibility which school officials who are desegregating their school systems voluntarily must assume in order to qualify for Federal assistance may not, if the purposes of title VI are to be carried out, be any less than the responsibilities imposed on school officials by the courts in recent school desegregation decisions. The Guidelines were issued to inform school officials of what those responsibilities are and are in accord with those decisions. If school systems assuming a lesser degree of responsibility were permitted to receive Federal assistance, the purposes of title VI would be thwarted.

MARCH 2, 1967.

Hon. RUSSELL B. LONG,
Chairman, Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: During the course of Secretary Gardner's testimony before your Committee on February 23, 1967, you raised the question whether the Supreme Court's decision in the *Brown* case requires the desegregation of a public school faculty in which teachers have previously been assigned on a racial basis as part of a dual racial public school system. You asked that this Department furnish the Committee a memorandum discussing the case law in this area. The case law, I believe, clearly imposes on public school authorities the affirmative, constitutional duty to desegregate their faculties so that the rights of pupils to the "equal protection of the laws" under the Fourteenth Amendment will no longer be denied.

In 1954 the Supreme Court of the United States declared that the segregation of public school students according to race violates the Fourteenth Amendment. *Brown* v. *Board of Education*, 347 U.S. 483 (1954). A year later, the Court, in determining how judicial relief could best be fashioned, mentioned the problem of reallocating staff as one of the reasons for permitting the desegregation process to proceed with "all deliberate speed." *Brown* v. *Board of Education*, 349 U.S. 294, 301 (1955).

Two cases decided by the Supreme Court in late 1965 indicate that school boards may no longer postpone the responsibility owed their students of desegregating faculty. In *Bradley* v. *School Board of Richmond, Virginia*, 382 U.S. 103 (1965), the Court took the view that faculty segregation had a direct impact on a desegregation plan, and that it was improper for the trial court to approve a desegregation plan without inquiring into the matter of faculty segregation. In reaching this conclusion the Court, in a unanimous opinion, commented that "there is no merit to the suggestion that the relation between faculty allocation on an alleged racial basis and the adequacy of the desegregation plans is entirely speculative." And in ruling that there should be no further delay in a hearing on the question of faculty desegregation, the Court further emphasized that "delays in desegregation of school systems are no longer tolerable." 382 U.S. at 105.

In *Rogers* v. *Paul*, 382 U.S. 198 (1965), the Supreme Court extended the undelayed right to challenge teacher segregation to students who had not yet themselves been affected by the School Board's gradual desegregation plan. The Court stated (382 U.S. at 200):

"Two theories would give students not yet in desegregated grades sufficient interest to challenge racial allocation of faculty: (1) that racial allocation of