

to look into it and ask him what corrective steps he can take to make sure the children are not harassed in the school.

In those cases it is not necessary to reveal the identity but where it is necessary, we make it available.

Mr. STEIGER. What you are saying is this is an administrative decision as to how you will handle it. It is not covered by the statutory language or the rules promulgated by the Department.

Mr. LIBASSI. Title VI regulation which was approved by the President, and I have some copies here, specifically provides that the identity of the complainant shall not be revealed.

In section 80.7(e) the identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

Mr. STEIGER. That is in the administrative rules that the President drew up for title VI?

Mr. LIBASSI. Yes, sir; that is right.

Mr. STEIGER. Thank you, Mr. Chairman.

Chairman PERKINS. Mr. Scheuer.

Mr. SCHEUER. Can you tell us whether the courts have passed on the constitutionality and the appropriateness of your guidelines?

Mr. LIBASSI. The Fifth Circuit Court of Appeals, in a three-judge court, recently issued an extensive ruling finding that the provisions and requirements of the guidelines were proper, were constitutional and were in accord with the law. The three-judge court thereupon directed that a general decree be fashioned applicable to all of the districts in the circuit which would establish a uniform plan for desegregation of school districts under voluntary choice which is identical to the guidelines provisions adopted by HEW.

Now on the 10th of this month, the full 12-judge court reheard argument on this case. Decision has not been rendered as yet.

Mr. STEIGER. Is this the Judge Wisdom decision in New Orleans?

Mr. LIBASSI. That is right. This is the most recent and the most comprehensive. There have been other decisions of other courts either specifically affirming the guidelines or adopting provisions or saying that they are minimal so that the fifth circuit decision, the recent one is not the only one that has been rendered.

Mr. SCHEUER. In other words other courts have affirmed the validity of the guidelines?

Mr. LIBASSI. Perhaps Mr. Bell, Mr. Chairman, might be able to that statement.

Mr. BELL. I think the last three or four times in which the Fifth Circuit Court of Appeals which handles the great bulk of the school desegregation litigation has handed down decisions in the past few years, they have commented most favorably about the guidelines. They have indicated that they would accord the guidelines a high place as minimum standards in determining appropriate desegregation plans for school districts.

It was their intention to then attach great weight to the standards established by the Office of Education asserting that absent legal questions the U.S. Office of Education is better qualified than the courts and is the more appropriate Federal body to weight these plans.