

The HEW guidelines are in step with the current most recent court decision. They do not go beyond them. The significance of the fifth circuit decree is in its most recent case is that it would, in effect, bring up to date all of the court orders issued earlier in this process up to the point that the court is now establishing for the districts.

Mr. SCHEUER. I just want to clarify in my own mind that the guidelines have not extended their mandate beyond the areas and guidelines established by the Federal courts.

Mr. LIBASSI. The guidelines require no more than what the courts have been requiring, particularly the circuit courts.

Chairman PERKINS. Before you leave this point I personally am very much impressed with the way you are handling the guideline problem which always causes considerable criticism, which in reality, on occasion, could be discrimination in reverse.

I make that statement because as a young prosecuting attorney I had an awfully lot of experience with misdemeanors and felonies not complying with the law and so on. When we fail to give a local educational agency the basis of that complaint or fail to furnish them with a copy of the exact complaint, we are really not complying with the standards of justice that have been handed down to us through centuries and centuries.

I don't think we should have a different standard of justice throughout the country. It should be uniform in the North as well as in the South. I make this observation because I think none of us is infallible and we will slip up occasionally but I think in the future where you could furnish all local school districts the exact nature of the complaint, then everybody will know that it is not unfounded and it is not inspired for some selfish motive and it will work and redound to the benefit of the Office of Education in administering the guidelines in bringing about what you are seeking at the earliest possible date.

I just make that assertion because, as a prosecuting attorney, so many people came to me and wanted to prosecute but did not want to get out in the open, and I would just say, "Well, you have no case."

I think the same holds true everywhere under our system of government. That would help you in a better, more helpful administration. I know the situation has been different in the North from the South. I recognize all of those aspects of your problem, but I will say by and large I think you have done an excellent job.

I do not mean to be critical but we can always improve a little more.

Mr. LIBASSI. Thank you, Mr. Chairman. Let me assure you that the Secretary is very strict that this program must be operated as fairly as it is humanly possible to administer a program and we are extremely cautious in dealing with civil rights that we do not abuse civil liberties and no funds to a school district are terminated except on evidence presented before a hearing examiner publicly according to the school district full opportunity to cross-examine witnesses and full disclosure of all the information to a hearing examiner which would be the basis for a decision to terminate funds.

Chairman PERKINS. I thought that was the policy. There is no termination until the local educational agency has the exact nature of the charge and has the right to cross-examine witnesses, clearly get their point of view before the Office of Education. That statement is correct?