deemed beneficiaries of such a program, and section 602 would require the administering agency to take action to prohibit racial discrimination against them in such a program. On the other hand, the Agricultural Adjustment Act and acreage allotment payments under it is a commodity program having nothing to do with farm employment. Farm employees are not beneficiaries of that program, and section 602 would not authorize any action to require recipients of acreage allotments to refrain from racial discrimination in employment. (110 Congressional Record, Part 8, 10076)

In order that there be no doubt about the effect of Title VI on persons who discriminate against employees who are not the intended beneficiaries of Federal programs, the Senate added section 604 to the Civil Rights Act. But in agreeing to section 604, the Senate did not condone discrimination against the intended beneficiaries of Federal assistance programs, just because such discrimination might be linked to an employment practice of a recipient of the Federal funds. For example, section 604 certainly would not bar the Commissioner from taking appropriate action in the case of a school district which adopted the employment practice of dismissing white teachers who refused to discriminate against Negro children in their classrooms. The purpose of the Commissioner's action in such a matter would not be to protect the employment of teachers, but to protect the child, who is the intended beneficiary of Federal assistance to education, from discrimination induced by the employment practice of his teacher's employer.

Usually, the beneficiaries of Federal educational assistance programs are students, although under some programs, teachers and other persons may also be beneficiaries. A common form of discrimination against beneficiary students is the hiring, assignment, and dismissal of their teachers on the basis of the teacher's race. For the reasons discussed above, the Commissioner has authority under Title VI to protect students who are beneficiaries of Federal programs in education from this form of discrimination.

This conclusion is reinforced by an additional consideration. Under a canon of statutory construction, long recognized by the courts, when construing highly remedial legislation, such as Title VI of the Civil Rights Act of 1964, an exception to the general purpose of an act such as section 604, should be read in accordance with its particular purpose, and not in a manner which defeats the overall purpose of the act. In the case of Title VI, that purpose, of course, is the protection of the intended beneficiaries of Federal assistance from discrimination by recipients of Federal funds.

One of the main reasons for the enactment of Title VI was the failure of so many school boards and their communities to assume, at a local level, their responsibility under the Constitution to desegregate their schools. It is a matter of common sense, as well as law, that schools cannot be desegregated without desegregating teachers. It would be anomalous if section 604, which was added to the Act for a limited purpose, were to be construed to thwart one of the main purposes of Title VI.

VI

With regard to effectiveness of free choice plans, the 1966 guidelines provide, in effect, that in the absence of reasons to the contrary, the Commissioner will accept free choice plans for 1966–67. But if such plans are not effective, the Commissioner may require school officials to take such action as may be necessary to make the plans effective, or may require the adoption of a different type of plan. The relevant Section provides:

181.54 Requirements for Effectiveness of Free Choice Plans

A free choice plan tends to place the burden of desegregation on Negro or other minority group students and their parents. Even when school authorities undertake good faith efforts to assure its fair operation, the very nature of a free choice plan and the effect of longstanding community attitudes often tend to preclude or inhibit the exercise of a truly free choice by or for minority group students.

For these reasons, the Commissioner will scrutinize with special care the operation of voluntary plans of desegregation in school systems which have adopted free choice plans.

In determining whether a free choice plan is operating fairly and effectively, so as to materially further the orderly achievement of desegregation, the Commissioner will take into account such factors as community support for the plan, the efforts of the school system to eliminate the identifiability of schools