

1654 ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS

In the following term the Court did not direct that the schools be desegregated forthwith, but rather with "all deliberate speed."

Ten years later, many schools were still being operated on a segregated basis. It was in this context that in July 1964 Congress enacted Title VI of the Civil Rights Act of 1964. That Title expressly requires all Federal agencies, including the Department of Health, Education, and Welfare, to assure that no person be subjected to discrimination under any program or activity receiving Federal financial assistance. This law obliges the Department to withhold Federal funds from any school system that continues to maintain a segregated school. It was in order to discharge this responsibility that we issued the Guidelines and established the appropriate administrative machinery for enforcing them.

The school desegregation guidelines were issued by the Office of Education to provide an objective basis for carrying out our obligations under Title VI of the Civil Rights Act of 1964. Not only did local school districts request consistent guides to assist them in undertaking their obligations, but the Office of Education required a policy statement to assist in administration of a large program. The fundamental principles of the guidelines are based upon the Civil Rights Act of 1964 and upon court decisions. The courts have said, for example: that faculty desegregation is a necessary element of school desegregation; that free-choice plans must work fairly; and that school boards have an obligation to work affirmatively to achieve desegregation. The guidelines articulate the basic principles already enunciated by the courts and the way they apply to the broad administrative responsibility of the Office of Education.

As a brief summary we would call attention to the following points:

1. The guidelines were developed to meet the needs of the schools for a statement concerning their obligations under Title VI of the Civil Rights Act. The primary purpose of the guidelines and of our administration of Title VI is to help school districts to stay in compliance so that Federal funds may flow to the benefit of school children.

2. Our own attorneys in the Department of Health, Education, and Welfare and those in the Justice Department were asked to examine the guidelines prior to their issuance in March 1966 to determine whether they are consistent with Title VI. These attorneys have agreed that the guidelines are consistent with Title VI and follow the Federal Court rulings.

3. The Courts have pointed out that as long as school staffs are still assigned on a segregated basis the existence of the Negro school and the white school as separate parts of a dual school system cannot be overcome.

4. The guidelines do not mention and do not require "racial balance" or the correction of racial "imbalance." Nor have we in the administration of our obligations under Title VI sought to establish "racial balance." They deal only with desegregation plans designed to eliminate the dual school systems for whites and Negroes, systems being operated in violation of the 1954 Supreme Court Ruling.

In response to questions which have arisen over the past few months concerning the legality, the purpose, and the operation of the 1966 School Desegregation Guidelines, we prepared a special statement which the Secretary of Health, Education, and Welfare, John Gardner, sent on April 9, 1966, as a letter to Congressmen and Governors.

What the letter said was this:

"We have received a number of inquiries about our revised school desegregation guidelines, some of which reflect a misunderstanding of their purpose and intent. You will probably have received similar inquiries, so I think it might be useful to restate the purpose, background, and meaning of the revised guidelines.

"For the same reason, I have asked U.S. Commissioner of Education Harold Howe II and senior members of his staff to meet with State and local school officials to make clear the purpose and nature of these revised guidelines.

"The Courts and the Congress have spoken clearly on the basic issues of the desegregation of public schools. The Supreme Court decided that question twelve years ago. Since then Congress has plainly established in law that pupils may not be assigned to schools on the basis of their race or color. Title VI of the Civil Rights Act of 1964 expressly requires the Executive Branch to insure that funds for federally assisted programs, including education, must not be used to support discrimination or segregation.