

"This Department, like all other executive agencies, is required by Title VI not to use Federal funds to perpetuate racial segregation. We have found that uniform rules contained in guidelines issued by the Commissioner of Education are the best method of dealing with both the operational problems of school districts and our own responsibilities under the law.

"The first school guidelines were issued in April, 1965, and they were not widely questioned. There was a widespread effort by school districts to comply. In many areas, school desegregation began for the first time smoothly and without incident. In other areas, desegregation, already begun, progressed substantially.

"From the experience under the original guidelines, we learned that effective desegregation depends on determination by local communities. The guidelines did not ask school districts formerly segregated to desegregate overnight. They recognized that the remedy to be fashioned should take into account administrative problems. Thus, they asked that a substantial beginning be made; and this was done. All but 300 of the more than 2,000 affected school districts agreed to desegregate all 12 grades by the fall of 1966, a full year ahead of the 1967 target contemplated by the original guidelines and required by the Courts. Only 79 chose not to comply.

"The legal principle, defined by the Courts, is that desegregation must progress, and that as it proceeds in a particular school district, administrative problems offer progressively less justification for delay. During 1965 and this year, the Courts repeatedly announced requirements which put school districts further along the road toward desegregation than did the original guidelines. This was a foreseeable and inevitable result, since the guidelines were of general applicability while Courts fashioned their orders on a case-by-case basis.

"From the issuance of revised Court orders it became clear that school districts not operating under Court orders could and should make more progress this year toward desegregation than was required by the original guidelines. In light of this fact and of our experience with problems under free choice plans for compliance, we revised the guidelines.

"One aspect of the revised guidelines about which there has been some inquiry is faculty desegregation. Courts have held that meaningful desegregation cannot occur so long as segregation of faculty members persists. The 1965 guidelines pointed toward faculty desegregation by asking school boards to hold desegregated staff meetings and to plan further steps the ensuing year. The 1966 guidelines, following the decisions of Courts, provide for desegregation of the faculty to begin.

"The guidelines do not, as some have assumed, require the instantaneous desegregation of the faculty in every school building in every district. Nor do they prescribe rigid means. They provide considerable flexibility as to how a district might undertake faculty desegregation. What the guidelines do require is that a reasonable beginning be made and that reasonable progress be achieved beyond what was achieved last year. We believe that, with determination and good faith, these goals can be attained.

"The second area of concern involves the percentages mentioned in the guidelines. Some have contended that this portion of the guidelines imposes a formula of 'racial balance.' The contention misconceives the purpose of the percentages.

"The prevailing method of desegregation is what is called the 'free choice' plan. Under such a plan, students select their schools instead of being assigned to them on a geographic basis. Courts have expressly conditioned their approval of such plans on affirmative action by school boards to insure that 'free choice' actually exists. It is our responsibility to review such plans to insure that the choice is, in fact, free and to indicate to school districts what procedures should be used to assure true freedom of choice.

"In seeking appropriate criteria to guide us in review of free choice plans, we have adopted the objective criteria applied by the Courts in similar situations. One such criterion is the distribution of students by race in the various schools of a system after the students have made their choices. If substantial numbers of Negro children choose and go to previously all-white schools, the choice system is clearly operating freely. If few or none choose to do so in a community where there has been a pattern of segregation, then it is appropriate that the free choice plan be reviewed and other factors considered to determine whether the system is operating freely.