

1656 ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS

"With more than 2000 separate districts to consider, such percentages are thus an administrative guide which helps us to determine those districts requiring further review. Such review in turn will determine whether or not the freedom of choice plan is in fact working fairly.

"If the purposes of the guidelines and their relationship to the decision of the Courts and the laws of the Congress are understood, I believe our general aim also will be clear. It is to assist local officials to comply with the law in good faith and to enable us to fulfill our responsibilities in administering Title VI.

"Sincerely,

JOHN W. GARDNER, *Secretary.*"

Mr. Chairman, there are just two additional topics I would like to mention. The first has to do with Office of Education administration of its obligations under Title VI of the Civil Rights Act. In this connection we would make the following points:

1. The purpose of our administrative activities is to help school districts to get into compliance and avoid any issue of loss of funds.

2. As of September 26, there were 37 school districts which had lost all Federal funds because of failure to submit an acceptable desegregation plan. There are an additional 73 districts which have been cited for hearings and which may lose their funds if the rulings of Federal examiners go against them. Approximately 2,000 school districts, which formerly maintained dual school systems, are receiving funds as the result of using the compliance procedures.

3. We have attempted to focus the attention of our small staff on those districts which have had the greatest problems with making their free-choice plans operate effectively. We have deferred the award of new funds to some 70 of these districts, but they continue to receive money for programs already approved. This deferral of funds follows a procedure established by the Attorney General.

Secondly, I would like to mention that we have received substantial help in our school desegregation efforts from State and local officials. The State of Florida provides an example. Two years ago, less than 3 percent of all Florida Negro children attended school with whites. Last year, the percentage had risen almost 10 percent, and it is estimated that this year it will reach close to 20 percent. Such a significant increase is due in no small part to the acceptance by the State educational agency of a constructive role in eliminating Florida's dual system of schools as rapidly as possible.

Wherever possible, the Office of Education tries to decentralize administrative responsibility for desegregation so that those who make the initial decisions are in close contact with local school officials. We also seek to strengthen the capabilities of existing State and local educational agencies for providing assistance and leadership. A Title IV grant has been made to the Florida educational agency to establish a full-time unit of 10 people, working at the State level, to help local schools with desegregation problems. Similar units have now also been established in other Southern and border States—Georgia, Tennessee, Delaware, and Maryland.

Finally let me say that any school district that is not in compliance with the provisions of the Civil Rights Act seems to us to represent a defeat. It means failure on our part and failure on the part of those responsible for the schools. Our failure arises from our inability to be of sufficient help in achieving voluntary compliance. The failure of the schools arises from some combination of local conditions that threatens the opportunities of all children to receive the best possible education. We are seeking always to be fair and just. Our legal responsibility is clear—to adhere to the procedures and policies established in the Civil Rights Act of 1964 and supported by the decisions of the Federal courts.

MEMORANDUM

MARCH 7, 1966.

To: Harold Howe II, Commissioner of Education.

From: Alanson W. Willcox, General Counsel.

Subject: Title VI—Civil Rights Act—Revised Statement of Policies for Desegregation Plans—Test for Performance.

This relates to your request for my opinion on the validity of a test of effectiveness to determine the need for a change in a school system's freedom of choice desegregation plan. The test would be based upon the percentage of Negro