

1668 ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS

The State educational agency should attempt to secure a proper revision of any summer project that is likely to be operated on a discriminatory basis. Failing that, it is the responsibility of the State agency to notify the Commissioner of Education in order that he may determine the action to be taken under Title VI of the Civil Rights Act.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
July 1, 1966.

MEMORANDUM

To: Chief State School Officers.

From: Harold Howe II, U.S. Commissioner of Education.

Subject: Responsibilities of State Education Agencies in Assuring Compliance for State Approved Projects.

Recently a number of State departments of education have raised questions concerning their responsibility for assuring compliance with the nondiscrimination requirements of the Civil Rights Act of 1964. Several State systems have objected that their agencies are not enforcement agencies and have no responsibility to assure that federally assisted programs funded through their agency are in compliance with the Act.

I feel that it is most important that State agencies be reminded of their responsibilities in this area. The intent of Congress in enacting Title VI was that no further Federal assistance should be provided for programs in which there is discrimination on the basis of race, color, or national origin. Since, in many Federal education programs, the Congress has also prescribed that much of the educational leadership and administrative responsibility for the program shall be borne by the State departments of education, it is evident that State educational agencies have an important responsibility for carrying out the non-discrimination policies now written into all of these programs.

Each State educational agency has filed with the Office of Education a Statement of Compliance giving its assurance that it will fulfill these responsibilities as a condition for the receipt of Federal financial assistance through the Office of Education and outlining the methods of administration to be used by the State department of education in carrying them out. Each agency has set out, among other things, the methods it will use to "Review periodically the practices of the State agency, school districts, and other agencies participating in these programs, to ascertain and assure that these practices are in conformity with the Regulation and the Statement of Compliance." The instructions accompanying the Statement of Compliance forms, issued December 1964, stated that "While it is recognized that some discriminatory practices may occur in school districts and other agencies which are not within the control of the State agency, the methods of administration must describe the efforts that the State agency will make to effect compliance (such as advice and consultation), and must provide that where such efforts fail, the U.S. Commissioner of Education will be so advised." Such methods must also provide for the evaluation of compliance, for taking timely action to correct discriminatory practices found to exist, and for keeping the Office of Education informed regarding the disposition of complaints.

Failure of the States to carry out these responsibilities violates the intention of Congress to maintain the decentralization of educational responsibility in the States and local school districts. It invites Federal action where it may not be needed. It furthermore constitutes a violation of Title VI of the Civil Rights Act which could jeopardize the continued participation of the entire State in federally assisted programs.

The recent examples which have given rise to these questions of State responsibility have come up under the summer programs financed through Title I of the Elementary and Secondary Education Act. My memorandum of April 25 called attention to the importance of State educational agencies reviewing summer projects to make sure that they would be operated on a nondiscriminatory basis. Some State departments of education have informed local school districts of the April 25 memorandum and have undertaken to review all projects to assure compliance. Others have not done so. We are now receiving complaints of segregated summer programs conducted in violation of Title VI. There is particular concern about those school districts which have purposely switched the funding of their summer preschool programs from the Office of Economic Opportunity to the Elementary and Secondary Act in the hope of avoiding the non-discrimination requirement.