

1676 ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS

5. The only basis on which Title I services may be offered in schools enrolling children most of whom are not in the "target population" (see item 2) is that those services are designed for and will be serving primarily educationally deprived children selected from that population. Other children who have needs which can be met through such a project may participate in it but the number of such children must be limited so as not to dilute the effectiveness of the project for the children for whom it was designed.

6. The types of services that would be appropriate under these circumstances include special health, nutritional and social services; guidance and counseling; and remedial programs. In applying such services, consideration should be given to the special needs of the children in their new school environment. The types of services that on the surface would not be acceptable would include such activities as field trips for large numbers of children, general cultural enrichment activities, construction, and the installation of equipment.

Again, may I urge you to transmit this memorandum to local educational agencies in your State and to establish appropriate procedures for them to follow with respect to future Title I applications and amendments to applications. Please let us know how many copies you need for this purpose.

I would appreciate hearing from you concerning any problems you may have in implementing these provision in your State.

FEBRUARY 27, 1967.

HON. JOHN STENNIS,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR STENNIS: I am sending you herewith a rather lengthy memorandum of law from this Department's Office of General Counsel, concerning the many points you raised some weeks ago about the policies and practices of the Office of Education for school desegregation under Title VI of the Civil Rights Act of 1964. I have already written you concerning the status of the Tate County School District, about which you inquired in particular, but in accordance with your request the legal memorandum answers your questions both in general terms and with specific reference to Tate County where appropriate. The lawyers have sought to provide comments on every point you raised.

I understand that Mr. Barus of the Office of General Counsel and Mr. Cresswell of your staff discussed the memorandum requested at various points. Among other things, we understood from these discussions that you would prefer that the memorandum await the official wording of the *Jefferson County* decision of the Fifth Circuit Court of Appeals, handed down in late December.

By the time the printed opinion in this case was available, a motion for rehearing by the full court had been filed. The enclosed memorandum accordingly reflects the position of the Department as to school desegregation requirements under Title VI that was arrived at prior to the *Jefferson County* decision, although other recent decisions are noted.

I hope the memorandum will be helpful and informative.

Sincerely yours,

HAROLD HOWE II,  
U.S. Commissioner of Education.  
February 24, 1967.

To: Harold Howe II, U.S. Commissioner of Education.  
From: Edwin Yourman, Assistant General Counsel, Education Division, Office of General Counsel, DHEW.  
Subject: Points Raised by Senator Stennis Concerning School Desegregation Policies under Title VI of the Civil Rights Act of 1964.

This memorandum is provided in response to your request for analysis and comment on the several points raised by Senator Stennis in his letter to you of October 21, 1966, concerning the legal validity of the school desegregation policies of the Office of Education under Title VI of the Civil Rights Act of 1964.

In your preliminary reply to Senator Stennis giving information on the Tate County School District, about which he inquired, you advised the Senator that you had requested a memorandum from the Office of General Counsel in view of the legal nature of the bulk of his questions. Since that time we have had several telephone conversations with the Senator's office concerning the work