

unconstitutional segregation." See Senator Humphrey's statement at 110 Cong. Rec. 6545-6546 (1964). Accordingly, provision was made in the generally applicable Regulation whereby the nondiscrimination requirements of § 80.3 would be deemed satisfied for such districts as became subject to final court orders of desegregation (now about 200) and those that submitted adequate voluntary desegregation plans (about 1750 voluntary plans are now in effect, although not all are considered to be operating adequately).

Under § 80.4(c) of the Regulation, the Secretary, with the approval of the President, assigned the responsibility for evaluating school districts' desegregation plans to the Commissioner of Education. Under § 80.4(c)(2), the Commissioner is empowered and required to review voluntary plans to determine and redetermine whether they are "adequate to accomplish the purposes of the Act." The wisdom of this arrangement was early acknowledged by the Fifth Circuit. In *Singleton v. Jackson Municipal Separate School District*, 348 F.2d 729, 731 (5th Cir. 1965) the court said, ". . . [T]he United States Office of Education is better qualified than the courts and is the more appropriate federal body to weigh administrative difficulties inherent in school desegregation plans."

Under § 80.12(b) of the Regulation, the Commissioner is also directed, as responsible Department official, to issue to interested persons "forms and detailed instructions and procedures" for effectuating the Regulation, which provision is quoted by Senator Stennis. Pursuant to this provision, and mindful of his responsibilities under § 80.4(c)(2), the Commissioner issued, shortly after the Regulation became effective, a leaflet with the (short) title "Instructions to School Districts Regarding Compliance with Title VI." This document explained the form of assurance of full and immediate compliance expected from the great majority of all districts, but it also set out, for the guidance of the relatively few districts involved, the general criteria the Commissioner would apply in making determinations as to the adequacy of voluntary desegregation plans under § 80.4(c)(2).

School officials in most of those districts not in a position to assure full and immediate compliance felt the need for more detailed guidance, however, in formulating desegregation plans that would be considered adequate. This need led first to the circulation of an unofficial memorandum on school desegregation law by an outside expert, and then, in April of 1965, to the issue of the Commissioner's own "General Statement of Policies" for school desegregation plans, which became known as the "guidelines."

The publication of the guidelines assisted many districts to draw up acceptable plans, but many others asked for still further guidance. The Commissioner then circulated two complete model desegregation plans, substantially ready for signature by individual districts. One model plan was based on free choice of schools and the other on the adoption of a single set of nonracial attendance zones. Both were in conformance with the applicable policies of the guidelines. These plans were adopted by a number of districts and promptly accepted by the Commissioner. Altogether some 1950 voluntary plans were accepted under the Regulation for the 1965-66 school year as "adequate to accomplish the purposes of the Act."

In reviewing the results of the first year of operation of these plans, it was found that in many districts with voluntary plans little or no progress in desegregation had been made. It became apparent that all plans would have to be modified in some respects for the following school year. The Commissioner consulted over a period of months on the various problem areas with State and local school officials, outside experts on school desegregation law, and attorneys of this Department and of the Justice Department.

This thorough review led ultimately to the issue of the "Revised Statement of Policies," or revised guidelines, for the guidance of school districts in amending their desegregation plans so that they might be considered adequate for the 1966-67 school year. A simplified amending process was arranged, so that school districts could assure their compliance with the policies and procedures of the revised guidelines by filing a printed form, HEW Form 441-B.

The revised guidelines include or improve on most of the provisions of the previous model plans, and provide indications of the general order of progress normally expected in both student and staff desegregation for plans to continue to be considered adequate. No fixed quotas or standards for progress are imposed, however, as study of the various provisions shows. The revised guidelines also reflect changed judicial standards for desegregation plans as expressed in more recent court decisions.