

quoted remarks. The assurance provisions do apply equally to Mississippi as to Rhode Island. When a school district in Mississippi eliminates all characteristics of the unconstitutional dual structure of schools, as at least one or two in Mississippi appear to have done thus far, and as a number of districts in neighboring States have done, then such district will be subject to the same policies and requirements as the 3,000-odd single-structure districts in the South and the 20,000 or more such districts elsewhere in the Nation. And where dual-structure districts are still found, North or South, each is afforded a period of transition to reach the stage when it can be fully in compliance with §601 of the Act and §80.3 of the Regulation, and may properly file a Form 441 assurance to replace its plan. This arrangement does not constitute a discriminatory application of the law, nor does it involve applying the Act differently in different parts of the country, as the Senator suggests.

5. GENERAL DEGREE OF PROGRESS IN STUDENT AND STAFF DESEGREGATION THAT WOULD BE CONSIDERED ADEQUATE TO ACCOMPLISH THE PURPOSES OF THE ACT

Senator Stennis next raises a series of questions concerning the principles on which a determination as to the adequacy of a plan is based. His questions concern not only such principles as are applicable to the particular situation in Tate County but also those principles commonly applied in other cases.

The Senator indicates that his questions in this connection arise in part because of statements made in the letter of September 16, 1966 to Superintendent Walker of the Tate County School District. The pertinent sentences in this letter, parts of which are quoted in the Senator's letter, are as follows:

On the basis of these anticipated faculty and student assignments reported by you, we do not believe that your desegregation plan, as it has operated thus far, can reasonably be considered adequate to accomplish the purposes of the Civil Rights Act. . . . Your school board should consider what additional steps it could take in order to make adequate progress in both student and staff desegregation for 1966-67.

As the Senator is aware, a number of other school districts in Mississippi and other States received similar letters. These districts had generally reached only the same small degree of progress in student and staff desegregation as Tate County.

To understand the reasons for reaching the conclusion that such small progress is not adequate for 1966-67, the basic purpose of every acceptable desegregation plan under Title VI must be borne in mind. The purpose of each such plan is to bring about the transition from the unconstitutional dual structure of schools for students of different races to a single system of unsegregated schools for all students. Such a plan is not intended to operate indefinitely, because its basic function is only to prescribe the policies and procedures used in the assignment and reassignment to schools of both students and faculty during the transitional period.

With these facts in mind, it can readily be seen that for a plan to be considered operating adequately it must result in significant progress from one school year to the next in both student and staff desegregation. These policies and expectations are reflected in the various provisions of the guidelines. But the guidelines do not, contrary to the Senator's understanding, "establish certain graduated quotas of integration, expressed in terms of percentage transfers, which must be met."

As pointed out above, the transfer percentages given in the guidelines are provided, as the exact wording of §181.54 shows, as examples of the "criteria" by which "the Commissioner will, in general be guided" in "scheduling free choice plans for review." A plan is likely to be scheduled for review on the basis of inadequate progress in student desegregation, and the district thereafter required to take additional steps, one of which might be to reopen the choice period and to provide additional faculty desegregation, only if there is "substantial deviation" from the general order of progress that "would normally be expected" under the percentage examples. Moreover, before requiring that additional steps be taken, the Commissioner will consider not only the choices actually made but "other available evidence" tending to show that the plan is or is not operating fairly or effectively. Such other evidence would include, as the third paragraph of §181.54 indicates,

. . . such factors as community support for the plan, the efforts of the school system to eliminate the identifiability of schools on the basis of race,