

1686 ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS

color, or national origin by virtue of the composition of staff or other factors, and the progress actually made in eliminating past discrimination and segregation.

No action has been taken by the General Counsel toward the termination of Federal financial assistance to the Tate County Schools. The files show that the Tate plan has not at this time been scheduled for review. The small size of the staff, and the fact that a number of other districts have made even less progress than Tate, have thus far made it not feasible to do more than advise this district that its progress is not considered adequate, and that it should on its own initiative take additional steps to make further progress in both student and staff desegregation. It is believed, however, that the Office of Education will schedule Tate County's plan for a full review in the near future.

The Senator's question as to what progress in faculty desegregation would be considered adequate for 1966-67 can best be answered by reference to § 181.13 of the guidelines. Several alternative patterns of staff assignments are provided in subsection (d), as examples of what adequate steps to initiate staff desegregation might include. From these examples, as the Office of General Counsel and the Office of Education have explained to the school officials concerned, there emerges a general minimum rule-of-thumb. This is that school districts are generally expected to arrange for at least such a number of present or new professional personnel to serve in desegregated situations, in one or more schools, as would roughly equal the number of schools in the system.

The appropriateness of § 181.13 of the guidelines is reflected in the *Clark* case referred to above. The court held that the desegregation of the staff should have begun "many years ago", and that "accelerated and positive action" is now required. Such action, the court ruled, must include not only implementing nondiscriminatory hiring, assignment, transfer and dismissal practices, but also "all additional positive commitments necessary to bring about some measure of racial balance in the staffs of the individual schools in the very near future." (Slip opinion, p.13, 14.) This decision reflects substantially the same principles as those of the guidelines, except that the guidelines do not require any form of "racial balance", either of students or staff, as a thoughtful reading will reveal.

As applied to a nine-school system like Tate County, the rule-of-thumb minimum for 1966-67 would call for a total of eight or nine staff members serving in desegregated situations. The school system reported anticipated desegregated assignments with a full-time equivalent of at most four staff members, including only two on a full-time basis. Additional desegregated assignments for four or five more staff members would normally be considered to constitute adequate progress in faculty desegregation for 1966-67 for a system like Tate under the minimum rule-of-thumb, but the rule-of-thumb figures would be weighed with all other relevant factors in making a definite determination as to the adequacy of progress under the desegregation plan.

Senator Stennis has further specific questions in this connection. He asks, "What percentage of integration effectively desegregates a school? What ratio of white students to colored students must be achieved in order that the school may be considered desegregated, and what is the authority for this ratio?" Review of a desegregation plan focuses primarily on the desegregation of the school system rather than the situation at any particular school or schools within it. And no racial ratio of students within a single school is required or even considered significant: the important question is the general degree of progress in the transfer of students from segregated schools in the entire system.

Because in most districts with free choice plans white students have not chosen to attend schools originally established for the segregated use of Negro students, the method of gauging progress must presently involve considering the extent to which Negro students have transferred to the schools formerly operated exclusively for white students. Accordingly, in response to the Senator's next question, the number of white students remaining in formerly all-white schools now attended by one or more Negro students is not considered particularly significant in terms of progress in student desegregation, at least not where such Negro students constitute a small minority of the students in the schools.

In the case of Tate County, the files show that the Office of Education has appropriately considered the degree to which Negro students have transferred from segregated schools to formerly all-white schools, but has properly not