themselves been affected by the School Board's gradual desegregation plan. The Court stated (382 U.S. at 200):

> Two theories would give students not yet in desegregated grades sufficient interest to challenge racial allocation of faculty: (1) that racial allocation of faculty denies them equality of educational opportunity without regard to segregation of pupils; and (2) that it renders inadequate an otherwise constitutional pupil desegregation plan soon to be applied to their grades.

Relying on the *Bradley* case, the Court of Appeals for the Fifth Circuit, the circuit covering the states of Alabama, Florida, Georgia, Louisiana, Mississippi and Texas, ruled in January 1966, in a suit also brought by Negro students, that it was "essential" that the plan of desegregation for Jackson, Mississippi "provide an adequate start toward elimination of race as a basis for the employment and allocation of teachers, administrators, and other personnel." *Singleton* v. *Jackson Municipal Separate School District*, 335 F. 2d 865, 870. And in a case decided in August 1966, the same Court ruled that the plan of desegregation for Mobile, Alabama "must be modified in order that there be an end to the present policy of hiring and assigning teachers according to race by the time the last of the schools are fully desegregated for the school year 1967–68." *Davis* v. *Board of School Commissioners of Mobile County*, 364 F. 2d 896, 904.

The Courts of Appeals for the Fourth Circuit (Maryland, North Carolina, South Carolina, Virginia and West Virginia), the Eighth Circuit (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota) and the Tenth Circuit (Colorado, Kansas, New Mexico, Oklahoma, Utah and Wyoming) have similarly held. In a suit brought by pupils in Durham, North Carolina, the Court stated:

> We read the [*Bradley*] decision as authority for the proposition that removal of race considerations from faculty selection and allocation is, as a matter of law, an inseparable and indispensable command within the abolition of pupil segregation in public schools as pronounced in *Brown* v. *Board of Education*, *supra*, 347 U.S. 483. Hence no proof of the relationship between faculty allocation and pupil assignment was required here. The only factual issue is whether race was a factor entering into the employment and placement of teachers.

Wheeler v. *Durham City Board of Education*, 363 F. 2d 738, 740 (C.A. 4, 1966).

The Court in *Wheeler* went on to require (at p. 741):

> Vacant teacher positions in the future . . . should be opened to all applicants, and each filled by the best qualified applicant regardless of race. Moreover, the order should encourage transfers at the next session by present members of the faculty to schools in which pupils are wholly or predominantly of a race other than such teacher's. A number of the faculty members have expressed a willingness to do so. Combined with the employment of new teachers regardless of race, this procedure will, within a reasonable time, effect the desegregation of the faculty.

Chambers v. *Hendersonville Board of Education*, 364 F. 2d 189 (C.A. 4, 1966), involved the problem of Negro teachers who lost their jobs when an all Negro school was abolished. The School Board treated them as new applicants. The Court held that this was discriminatory and invalid under the Fourteenth Amendment, stating (at p. 192):

> First, the mandate of *Brown* v. *Board of Education*, 347 U.S. 483 (1954), forbids the consideration of race in faculty selection just as it forbids it in pupil placement. See *Wheeler* v. *Durham City Board of Education*, 346 F. 2d 768, 773 (4 Cir. 1965). Thus the reduction in the number of Negro pupils did not justify a corresponding reduction in the number of Negro teachers. *Franklin* v. *County Board of Giles County*, 360 F. 2d 325 (4 Cir. 1966). Second, the Negro school teachers were public employees who could not be discriminated against on account of their race with respect to their retention in the system. *Johnson* v. *Branch*, 364 F. 2d 177 (4 Cir. 1966), and cases therein cited. . . .

In a suit brought by pupils in El Dorado, Arkansas, the Eighth Circuit Court of Appeals recognized "the validity of the plaintiffs' complaint regarding the [School] Board's failure to integrate the teaching staff. Such discrimination is proscribed by *Brown* and also the Civil Rights Act of 1964 and the regulations promulgated thereunder." *Kemp* v. *Beasley*, 352 F. 2d 14, 22 (1965). The Court elaborated on this theme in *Smith* v. *Board of Education of Morrilton*, 365, F. 2d 770, 778 (1966):