GOVERNMEN
Storage
1043
Y 4
. L 11/2
EI 2/2
966/
PT. 5

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1966

HEARINGS

BEFORE THE

SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

S. 3046

TO STRENGTHEN AND IMPROVE PROGRAMS OF ASSISTANCE FOR OUR ELEMENTARY AND SECONDARY SCHOOLS

S. 2778

TO AMEND THE ACT PROVIDING FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES IN ORDER TO PROVIDE FINANCIAL ASSISTANCE FOR THE EDUCATION OF ORPHANS AND OTHER CHILDREN LACKING PARENTAL SUPPORT

S. 2928

TO AMEND TITLE IV OF THE CIVIL RIGHTS ACT OF 1964 IN ORDER TO AUTHORIZE THE COMMISSIONER OF EDUCATION TO PROVIDE TECHNICAL ASSISTANCE AND GRANTS TO SCHOOL BOARDS IN SUPPORT OF PROGRAMS DESIGNED TO OVERCOME ANY RACIAL IMBALANCE IN THE PUBLIC SCHOOLS

S. 3012

TO PROVIDE GRANTS TO THE STATES FOR THE STRENGTHENING OF ADULT EDUCATIONAL PROGRAMS

APRIL 1, 4, 5, 19, 26, AND 27, 1966

PART 5

Printed for the use of the Committee on Labor and Public Welfare

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1966

HEARINGS

BEFORE THE

SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

S. 3046

TO STRENGTHEN AND IMPROVE PROGRAMS OF ASSISTANCE FOR OUR ELEMENTARY AND SECONDARY SCHOOLS

S. 2778

TO AMEND THE ACT PROVIDING FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES IN ORDER TO PROVIDE FINANCIAL ASSISTANCE FOR THE EDUCATION OF ORPHANS AND OTHER CHILDREN LACKING PARENTAL SUPPORT

S. 2928

TO AMEND TITLE IV OF THE CIVIL RIGHTS ACT OF 1964 IN ORDER TO AUTHORIZE THE COMMISSIONER OF EDUCATION TO PROVIDE TECHNICAL ASSISTANCE AND GRANTS TO SCHOOL BOARDS IN SUPPORT OF PROGRAMS DESIGNED TO OVERCOME ANY RACIAL IMBALANCE IN THE PUBLIC SCHOOLS

S. 3012

TO PROVIDE GRANTS TO THE STATES FOR THE STRENGTHENING OF ADULT EDUCATIONAL PROGRAMS

APRIL 1, 4, 5, 19, 26, AND 27, 1966

PART 5

Printed for the use of the Committee on Labor and Public Welfare



U.S. GOVERNMENT PRINTING OFFICE

63-285 O WASHINGTON : 1966

COMMITTEE ON LABOR AND PUBLIC WELFARE

LISTER HILL, Alabama, *Chairman*

PAT McNAMARA, Michigan
WAYNE MORSE, Oregon
RALPH YARBOROUGH, Texas
JOSEPH S. CLARK, Pennsylvania
JENNINGS RANDOLPH, West Virginia
HARRISON A. WILLIAMS, JR., New Jersey
CLAIBORNE PELL, Rhode Island
EDWARD M. KENNEDY, Massachusetts
GAYLORD NELSON, Wisconsin
ROBERT F. KENNEDY, New York

JACOB K. JAVITS, New York
WINSTON L. PROUTY, Vermont
PETER H. DOMINICK, Colorado
GEORGE MURPHY, California
PAUL J. FANNIN, Arizona

STEWART E. MCCLURE, *Chief Clerk*
JOHN S. FORSYTHE, *General Counsel*
STEPHEN KURZMAN, *Minority Counsel*

SUBCOMMITTEE ON EDUCATION

WAYNE MORSE, Oregon, *Chairman*

LISTER HILL, Alabama
PAT McNAMARA, Michigan
RALPH YARBOROUGH, Texas
JOSEPH S. CLARK, Pennsylvania
JENNINGS RANDOLPH, West Virginia
ROBERT F. KENNEDY, New York

WINSTON L. PROUTY, Vermont
JACOB K. JAVITS, New York
PETER H. DOMINICK, Colorado

CHARLES LEE, *Professional Staff Member*
ROY H. MILLENSON, *Minority Clerk*

CONTENTS

CHRONOLOGICAL LIST OF WITNESSES

APRIL 27, 1966

	Page
Lynch, Very Rev. Msgr. John A., Diocesan School Office, Rutland, Vt.	1759
Cannon, Hon. Howard W., a U.S. Senator from the State of Nevada	1764
Church, Hon. Frank, a U.S. Senator from the State of Idaho	1769
Geer, William, executive secretary, Council for Exceptional Children, Washington, D.C., and Dr. Maynard Reynolds, Department of Special Education, University of Minnesota, Minneapolis, Minn.	1784
Metcalf, Hon. Lee, a U.S. Senator from the State of Montana	1801
Murphy, Hon. George, a U.S. Senator from the State of California	1811
Magnuson, Warren G., and Henry M. Jackson, U.S. Senators from the State of Washington	1815
Pearson, Hon. James B., a U.S. Senator from the State of Kansas	1821
Gurney, Hon. Edward J., a Representative in Congress from the State of Florida	1824
Petrozzi, Charles R., chairman, National Committee for Multi-Handicapped Children	1825
Boggs, Mrs. Fitzhugh W., chairman, Committee on Governmental Affairs, National Association for Retarded Children, Inc.	1841
Sherer, Rabbi Morris, executive vice president, Agudath Israel of America	1848
Kirk, Samuel A., professor of education and psychology, director, Institute for Research on Exceptional Children, University of Illinois	1852
Paine, Richmond S., M.D., neurologist to Children's Hospital of the District of Columbia, and professor of pediatric neurology, George Washington University School of Medicine, Washington, D.C.	1860
McCarthy, Jeanne McRae, Ph. D., director of special services, Schaumburg Community Consolidated School District 54, Cook County, Ill.	1865
Williams, Hon. Harrison A., Jr., a U.S. Senator from the State of New Jersey	1875
Kennedy, Hon. Edward M., U.S. Senator from the State of Massachusetts	2058
Johnson, Theron A., administrator, Division of Intercultural Relations, New York State Department of Education	2070
Cohen, Oscar, national program director, Anti-Defamation League of B'nai B'rith	2074
Curtin, Thomas J., deputy commissioner of education, Commonwealth of Massachusetts	2081
Petteys, Mrs. Anna C., vice chairman, Colorado Board of Education	2093
Bell, Mrs. Alison, legislative staff, American Association of University Women, accompanied by Mrs. Sherman Ross, member, National Legislative Program Committee	2107

STATEMENTS

Bell, Mrs. Alison, legislative staff, American Association of University Women, accompanied by Mrs. Sherman Ross, member, National Legislative Program Committee	2107
Boggs, Mrs. Fitzhugh W., chairman, Committee on Governmental Affairs, National Association for Retarded Children, Inc.	1841
Prepared statement	1844
Cannon, Hon. Howard W., a U.S. Senator from the State of Nevada	1764
Church, Hon. Frank, a U.S. Senator from the State of Idaho	1769
Clark, Dr. Kenneth, professor of social psychology, City College of New York prepared statement	2066
Cohen, Oscar, national program director, Anti-Defamation League of B'nai B'rith	2074

Page
Curtin, Thomas J., deputy commissioner of education, Commonwealth of Massachusetts 2081
Fellendorf, George W., executive director, Alexander Graham Bell, Association for the Deaf, Inc., prepared statement 1847
Geer, William, executive secretary, Council for Exceptional Children, Washington, D.C., and Dr. Maynard Reynolds, Department of Special Education, University of Minnesota, Minneapolis, Minn 1784
Prepared statement 1798
Gurney, Hon. Edward J., a Representative in Congress from the State of Florida 1824
Johnson, Theron A., administrator, Division of Intercultural Relations, New York State Department of Education 2070
Kennedy, Hon. Edward M., U.S. Senator from the State of Massachusetts 2058
Kirk, Samuel A., professor of education and psychology, director, Institute for Research on exceptional Children, University of Illinois 1852
Lynch, Very Rev. Msgr. John A., Diocesan School Office, Rutland, Vt 1759
McCarthy, Jeanne McRae, Ph. D., director of special services, Schaumburg Community Consolidated School District 54, Cook County, Ill 1865
Magnuson, Warren G., and Henry M. Jackson, U.S. Senators from the State of Washington 1815
Metcalf, Hon. Lee, a U.S. Senator from the State of Montana 1801
Supplemental statement 1809
Murphy, Hon. George, a U.S. Senator from the State of California 1811
Paine, Richmond S., M.D., neurologist to Children's Hospital of the District of Columbia, and professor of pediatric neurology, George Washington University School of Medicine, Washington, D.C 1860
Prepared statement 1860
Pearson, Hon. James B., a U.S. Senator from the State of Kansas 1821
Petrozzi, Charles R., chairman, National Committee for Multi-Handicapped Children 1825
Prepared statement 1830
Petteys, Mrs. Anna C., vice chairman, Colorado Board of Education 2093
Reynolds, Dr. Maynard C., president, Council for Exceptional Children, prepared statement 1788
Ross, Mrs. Sherman, on behalf of Dr. Lois H. Roth, area representative, education, and Dr. Victoria Schuck, chairman, Legislative Program Committee, of the American Association of University Women 2108
Shagaloff, June, director for education, National Association for the Advancement of Colored People, prepared statement, with attachments 2085–2093
Sherer, Rabbi Morris, executive vice president, Agudath Israel of America 1848
Prepared statement 1850
Speiser, Lawrence, director, Washington office, American Civil Liberties Union, prepared statement 2111
Washington State Superintendent of Public Instruction's Office, prepared statement 1816
Williams, Hon. Harrison A., Jr., a U.S. Senator from the State of New Jersey 1875

ADDITIONAL INFORMATION

Communications from—
Hansford, Dr. Byron W., commissioner of education, Colorado State Department of Education, to—
Evans, Representative Frank E., August 16, 1965 2102
Petteys, Mrs. Anna C, May 10, 1966 2104, 2105
Melcher, John W., director, Bureau for Handicapped Children, Wisconsin State Department of Public Instruction, to Senate Subcommittee on Education, April 22, 1966 1784
Communications to—
Church, Hon. Frank, a U.S. Senator from the State of Idaho, from—
Bieker, James W., superintendent, Potlatch public schools, District No. 285, Potlatch, Idaho, March 30, 1966 1776
Bird, T. C., superintendent, Boise public schools, Boise, Idaho, March 30, 1966 1779
Blakeley, Don, superintendent, public schools, Joint School District No. 304, Kamiah, Idaho, March 8, 1966 1773

Communications to—Continued
Church, Hon. Frank, from—Continued
Page
Brown, Charles A., district superintendent, Joint School District No. 365, Grand View, Idaho, March 31, 1966 1778
Burns, Robert A., superintendent of schools, School District No. 101, Bonners Ferry, Idaho, March 31, 1966 1775
Carnie, George M., superintendent, Joint School District No. 233, Hagerman, Idaho, March 30, 1966 1774
Coll, Ford, board chairman, School District No. 59 Firth, Idaho, February 28, 1966 1774
Ellis, Ruhlon M., superintendent, School District No. 25, Pocatello, Idaho, March 29, 1966 1782
Evans, Jerry E., superintendent, public schools, District No. 422, Cascade, Idaho, March 8, 1966 1780
Farley, Calvin H., superintendent, School District No. 274, Harrison, Idaho, March 31, 1966 1776
Hawkins, Andy, superintendent, Joint School District No. 41, St. Maries, Idaho, March 4, 1966 1777
Hinds, George H., superintendent, public schools, Joint School District No. 182, Mackay, Idaho, March 4, 1966 1777
Hughes, LeRoy, superintendent, board of trustees, School District No. 193, Mountain Home, Idaho, March 4, 1966 1771
Meyer, Camden B., superintendent of schools, Joint Class A District No. 331, Rupert, Idaho, March 31, 1966 1779
Smith, Andrew L., superintendent, Independent School District No. 1, Lewiston, Idaho, April 18, 1966 1772
Snow, Max, superintendent of schools, Fremont County No. 215, Joint School District A–215, St. Anthony, Idaho, March 29, 1966 1778
Spencer, Irvin W., superintendent, Joint School District No. 181, Challis, Idaho, March 8, 1966 1773
Stoddard, I. T., superintendent, School District No. 55, Blackfoot, Idaho, April 1, 1966 1775
Thienes, Carolyn, Hayden Lake, Idaho, March 9, 1966 1774
Williams, Arnold, secretary of state, State of Idaho, Boise, March 22, 1966, with enclosure 1782
Fussell, Clyde G., superintendent of schools, Barre, Vt., from Msgr. John A. Lynch, Rutland, Vt., August 19, 1965 1763
Gardner, Hon. John W., Secretary of the Department of Health, Education, and Welfare, from Senator Javits, February 18, 1966 1883
Holden, Dr. A. John, department of education, Montpelier, Vt., from Msgr. John A. Lynch, Rutland, Vt., August 19, 1965 1762
Kennedy, Hon. Edward M., a U.S. Senator from the State of Massachusetts, from—
Hunt, Prof. Herold C., Harvard University Graduate School of Education, Cambridge, Mass., April 19, 1966 2066
Killion, Walter L., business manager, Livermore Joint Union High School District, Livermore, Calif., from—
Senator George Murphy 1813
Representative Don Edwards 1814
Representative Glenard P. Lipscomb 1814
Kuchel, Hon. Thomas H., a U.S. Senator from the State of California, from—
Killion, Walter L., business manager, Livermore Joint Union High School District, Livermore, Calif., April 20, 1966 1812
Lynch, Msgr. John A., diocesan superintendent of schools, Rutland, Vt., from A. John Holden, Jr., Montpelier, Vt., August 25, 1965 1762
Metcalf, Hon. Lee, a U.S. Senator from the State of Montana, from—
Miller, Harriet, State superintendent of public instruction, Helena, Mont.:
April 25, 1966 1804
April 5, 1966, with attachment 1807
Morse, Hon. Wayne, a U.S. Senator from the State of Oregon, from—
Simons, William H., president, Washington Teachers' Union, April 26, 1966 2064

Communications to—Continued
Murphy, Hon. George, a U.S. Senator from the State of California, from—
Killion, Walter L., business manager, Livermore Joint Union High School District, Livermore, Calif.: Page
April 20, 1966 1812
March 25, 1966 1812
Pearson, Hon. James B., a U.S. Senator from the State of Kansas, from—
Yeargan, Gordon A., superintendent of schools, Leavenworth, Kans., February 9, 1966 1822
Norton, Dr. M. Scott, superintendent of schools, Salina, Kans., February 3, 1966 1823
Wattenburger, Ralph T., superintendent, Livermore Joint Union High School District, Livermore, Calif., from Representative Don Edwards 1814
Massachusetts statute on racial imbalance 2066
Memorandum from—
American Friends Service Committee, NAACP Defense and Educational Fund, to Secretary of Health, Education, and Welfare John W. Gardner, on report of the implementation of title VI of the Civil Rights Act of 1964 re school desegregation 1884
Miller, Harriet, superintendent of public instruction, State of Montana, on major issues concerning meeting the Federal Government's increasing need for information 1805
NAACP Legal Defense and Educational Fund, Inc., to Secretary of HEW John W. Gardner, on report of implementation of title VI of the Civil Rights Act of 1964 re hospital discrimination 1943
Office of Education, Department of Health, Education, and Welfare, on 1875
Proportion of funds for handicapped 1874
Orr, Calvin R., to Dr. Byron W. Hansford, on in-school work training programs 2101
Publications:
"Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964," Department of HEW, Office of Education, March 1966 2013
Responses of—
Gardner, Hon. John W., Secretary of Health, Education, and Welfare, to questions from Senator Javits 2007
Curtin, Thomas J., deputy commissioner, Department of Education, Commonwealth of Massassachusetts, to questions submitted by Senator Javits 1878

CONTENTS

PARTS 1–6

	Page
Text of bills:	
S. 3046	2
S. 2778	37
Departmental reports:	
Bureau of the Budget	62
Department of Health, Education, and Welfare	62
S. 2928	40
S. 3012	46
Departmental reports:	
Bureau of the Budget	61
Department of Health, Education, and Welfare	61
Office of Economic Opportunity	2563
Section-by-section analysis of S. 3046	307

CHRONOLOGICAL LIST OF WITNESSES

APRIL 1, 1966

Gardner, Hon. John W., Secretary of Health, Education, and Welfare; accompanied by Ralph K. Huitt, Assistant Secretaryof Health, Education, and Welfare for Legislation; Harold Howe II, Commissioner of Education; Arthur L. Harris, Associate Commissioner for Elementary and Secondary Education, U.S. Office of Education; Samuel Halperin, Deputy Assistant Secretary of Health Education, and Welfare for Legislation; Albert L. Alford, Acting Assistant Commissioner for Legislation, U.S. Office of Education; John Hughes, Director, Division of Program Operations, U.S. Office of Education; and Edwin Yourman, Assistant General Counsel, Department of Health, Education, and Welfare -- 298

Fannin, Hon. Paul J., a U.S. Senator from the State of Arizona -- 358

Anderson, Hon. Harry R., Assistant Secretary of the Interior for Public Land Management -- 361

Kennedy, Hon. Edward M., a U.S. Senator from the State of Massachusetts -- 365

APRIL 4, 1966

Anderson, Harry R., Assistant Secretary of the Interior for Public Land Management, accompanied by James E. Officer, Associate Commissioner of Indian Affairs; and Madison Coombs, Acting Chief, Branch of Education, Bureau of Indian Affairs -- 455

Howe, Hon. Harold, II, U.S. Commissioner of Education, accompanied by Arthur Harris, Associate Commissioner of Education, Bureau of Elementary and Secondary Education; Albert L. Alford, Acting Assistant Commissioner of Education, Office of Legislation; Samuel Halperin, Deputy Assistant Secretary of Health, Education, and Welfare for Legislation; and Hendrik Gideonse, program planning and development officer, Bureau of Research -- 470

Stimbert, E. C., superintendent of schools, Memphis, Tenn.; Dr. John W. Letson, superintendent of schools, Atlanta, Ga.; William H. Curtis, superintendent of schools, Manchester, Conn.; and Dr. Martin Essex, superintendent of schools, Akron, Ohio; a panel representing the American Association of School Administration -- 762

Cooper, Hon. John Sherman, a U.S. Senator from the State of Kentucky -- 785

Moss, Hon. Frank E., a U.S. Senator from the State of Utah -- 786

Shepoiser, Lawrence H., superintendent of schools, Unified School District No. 259, Wichita, Kans -- 793

Brownell, Dr. Samuel M., superintendent of schools, Detroit, Mich.; Dr. Laurence Paquin, superintendent of schools, Baltimore, Md.; Dr. Joseph Manch, superintendent of schools, Buffalo, N.Y.; William H. Barbour, Jr., controller, Los Angeles City School District; and Dr. George R. Balling, assistant superintendent of schools, Chicago, Ill., public schools_ Page 807
Doran, Dr. Adron, chairman, NEA Legislative Commission; president, Morehead State College, Morehead, Ky.; and Dr. J. Warren Hitt, deputy State commissioner of education, Austin, Tex., accompanied by Dr. James L. McCaskill, executive secretary, Legislative Commission, National Education Association_____ 917

APRIL 5, 1966

Megel, Carl J., Washington representative, American Federation of Teachers, AFL–CIO_____ 983
Stevens, Frank A., supervisor of school libraries, State Department of Education, Albany, N.Y.; John Rowell, director of school libraries, State Department of Public Instruction, Harrisburg, Pa.; Dr. Gene Schwilck, principal and superintendent, secondary district, Oak Park-River Forest High School, Oak Park, Ill.; Miss Roberta E. Young, school library supervisor, State Department of Education, Denver, Colo.; and Miss Germaine Krettek, associate executive director, American Library Association_____ 1004
Hartke, Hon. Vance, a U.S. Senator from the State of Indiana_____ 1080
Murphy, Hon. George, a U.S. Senator from the State of California_____ 1091
Stevens, Frank A., John Rowell, Dr. Gene Schwilck, Miss Roberta E. Young, and Miss Germaine Krettek, American Library Association—Resumed_____ 1097
Carstenson, Dr. Blue, chairman, Senior Members Council, National Farmers, Union, Washington, D.C.; Arthur Crabtree, State Department of Education, Trenton, N.J.; James R. Dorland, assistant director, Division of Adult Education Services, National Association for Public Schools Adult Education, Washington, D.C.; Lowell A. Burkett, executive director, American Vocational Association, Washington, D.C.; Dr. Eugene I. Johnson, executive director, Adult Education Association, Washington, D.C.; Dr. Leonard Nadler, council professor of adult education, and professor of adult education, American University; Dr. Wilmer Bell, director of adult education, Baltimore City public schools, Baltimore, Md.; and Dr. William Harley, president, National Association of Educational Broadcasters, Washington, D.C_____ 1112, 1263
Gruening, Hon. Ernest, a U.S. Senator from the State of Alaska_____ 1282

APRIL 19, 1966

Montoya, Hon. Joseph M., a U.S. Senator from the State of New Mexico_ 1286
Bennett, Hon. Wallace F., a U.S. Senator from the State of Utah_____ 1293
Madison, Blaine M., North Carolina commissioner of juvenile correction and president of the National Association of Training Schools and Juvenile Agencies_____ 1305
Fuller, Dr. Edgar, executive secretary, Council of Chief State School Officers, Washington, D.C_____ 1307
Sparks, Dr. Harry M., superintendent of public instruction, Commonwealth of Kentucky_____ 1334
Pfeffer, Dr. Leo, special counsel, American Jewish Congress_____ 1419
Koteen, Mrs. Bernard, member of National Board, National Council of Jewish Women_____ 1423

APRIL 26, 1966

Bartlett, Hon. E. L. (Bob), a U.S. Senator from the State of Alaska_____ 1429
Biemiller, Andrew J., director, department of legislation, American Federation of Labor and Congress of Industrial Organizations, accompanied by Larry Rogin, director, department of education, AFL–CIO_____ 1431
Pierce, Frank H., county attorney, Richmond County, Ga., on behalf of the National Association of Counties, accompanied by C. D. Ward, general counsel, National Association of Counties_____ 1445
Briggs, Dr. Paul W., superintendent of schools, Cleveland, Ohio_____ 1452
Hicks, W. B., Jr., executive secretary, Liberty Lobby, Washington, D.C_____ 1471

Page
Pike, Rolland W., assistant superintendent, Los Alamitos school district, California 1473
Lawrence, Richard H., legislative and special projects coordinator, Los Angeles City school districts, California 1477
Jordan, Hon. Len B., a U.S. Senator from the State of Idaho 1654
Donohue, Very Rev. Msgr. James C., director, department of education, National Catholic Welfare Conference, accompanied by W. R. Consedine, director, legal department 1674
Rose, Oscar, moderator, superintendent of schools, Midwest City, Okla.; Charles Quinn, acting director of federally aided programs, division of financing, State department of education, Albany, N.Y.; Woodwrow J. Darden, county superintendent, Brevard County, Titusville, Fla.; William Simmons, assistant superintendent of schools, Detroit, Mich.; John Eater, superintendent of schools, Rantoul City schools, Rantoul, Ill.; Richard Taylor, superintendent of Westside schools, Colorado Springs, Colo.; Ralph Hood, superintendent of schools, Brunswick, Ga.; Bluford F. Minor, assistant superintendent of schools, business services division, San Diego Unified School District, San Diego, Calif.; Walter McKee, superintendent of schools, Montgomery, Ala.; Charles A. Briscoe, business manager, Alameda school district, Alameda, Calif.; J. M. Hanks, superintendent of Ysleta schools, Ysleta independent school district, El Paso, Tex.; W. H. Moore, State department of education, Little Rock, Ark.; and Grant Pinney, superintendent of schools, China Lake public school district, China Lake, Calif 1677, 1682
Hortin, James F., chief, Technical Operations Branch, U.S. Office of Education 1682
Pinney, Grant, superintendent of schools, China Lake public school district, California 1690
Simmons, William, assistant superintendent of schools, Detroit, Mich 1697
Darden, Woodrow, J., county superintendent, Brevard County, Titusville, Fla 1702
Taylor, Richard, superintendent of Widefield-Security schools, Colorado Springs, Colo 1709
Hood, Ralph E., superintendent, Glynn County schools, Brunswick, Ga 1713
Quinn, Charles J., assistant director for federally aided programs, division of educational finance, State education department, Albany, N.Y 1719
Hanks, J. M., superintendent of schools, Ysleta independent school district, El Paso, Tex 1724
Minor, Bluford F., assistant superintendent of schools, business services division, San Diego unified school district, San Diego, Calif 1726
Eater, J. W., superintendent of schools, Rantoul, Ill 1745
McKee, Walter T., superintendent of schools, Montgomery, Ala 1750
Briscoe, Charles A., business manager, Alameda unified school district, Alameda, Calif 1753

APRIL 27, 1966

Lynch, Very Rev. Msgr. John, Diocesan School Office, Rutland, Vt 1759
Cannon, Hon. Howard W., a U.S. Senator from the State of Nevada 1764
Church, Hon. Frank, a U.S. Senator from the State of Idaho 1769
Geer, William, executive secretary, Council for Exceptional Children, Washington, D.C., and Dr. Maynard Reynolds, Department of Special Education, University of Minnesota, Minneapolis, Minn 1784
Metcalf, Hon. Lee, a U.S. Senator from the State of Montana 1801
Murphy, Hon. George, a U.S. Senator from the State of California 1811
Magnuson, Warren G., and Henry M. Jackson, U.S. Senators from the State of Washington 1815
Pearson, Hon. James B., a U.S. Senator from the State of Kansas 1821
Gurney, Hon. Edward J., a Representative in Congress from the State of Florida 1824
Petrozzi, Charles R., chairman, National Committee for Multi-Handicapped Children 1825
Boggs, Mrs. Fitzhugh W., chairman, committee on Governmental Affairs, National Association for Retarded Children, Inc 1841
Sherer, Rabbi Morris, executive vice president, Agudath Israel of America 1848
Kirk, Samuel A., professor of education and psychology, director, Institute for Research on Exceptional Children, University of Illinois 1852

Paine, Richmond S., M.D., neurologist to Children's Hospital of the District of Columbia, and professor of pediatric neurology, George Washington University School of Medicine, Washington, D.C. Page 1860
McCarthy, Jeanne McRae, Ph. D., director of special services, Schaumburg Community Consolidated School Disrict 54, Cook County, Ill. 1865
Williams, Hon. Harrison A., Jr., a U.S. Senator from the State of New Jersey 1875
Kennedy, Hon. Edward M., U.S. Senator from the State of Massachusetts 2058
Johnson, Theron A., administrator, Division of Intercultural Relations, New York State Department of Education 2070
Cohen, Oscar, national program director, Anti-Defamation League of B'nai B'rith 2074
Curtin, Thomas J., deputy commissioner of education, Commonwealth of Massachusetts 2081
Petteys, Mrs. Anna C., vice chairman, Colorado Board of Education 2093
Bell, Mrs. Alison, legislative staff, American Association of University Women; accompanied by Mrs. Sherman Ross, member, National Legislative Program Committee 2107

STATEMENTS

American Association of School Administrators, prepared statements 765, 2484
American Jewish Committee, prepared statements 2142, 2185
American Library Association, Statement on Standards for the Binding of Library Books 1106
Americans United for Separation of Church and State on Shared Time, prepared statement entitled "The Truth About Shared Time" 2164
Anderson, Hon. Harry R., Assistant Secretary of the Interior for Public Land Management 361
Anderson, Harry R., Assistant Secretary of the Interior for Public Land Management, accompanied by James E. Officer, Associate Commissioner of Indian Affairs; and Madison Coombs, Acting Chief, Branch of Education, Bureau of Indian Affairs 455
Baptist Joint Committee on Public Affairs, prepared statement 3132
Bartlett, Hon. E. L. (Bob), a U.S. Senator from the State of Alaska 1429
Bell, Mrs. Alison, legislative staff, American Association of University Women, accompanied by Mrs. Sherman Ross, member, National Legislative Program Committee 2107
Bennett, Hon. Wallace F., a U.S. Senator from the State of Utah 1293
Prepared statement 1293
Biemiller, Andrew J., director, department of legislation, American Federation of Labor and Congress of Industrial Organizations, accompanied by Larry Rogin, director, department of education, AFL–CIO 1431
Prepared statement 1436
Boggs, Mrs. Fitzhugh W., chairman, Committee on Governmental Affairs, National Association for Retarded Children, Inc 1841
Prepared statement 1844
Briggs, Dr. Paul W., superintendent of schools, Cleveland, Ohio 1452
Prepared statement 1455
Briscoe, Charles A., business manager, Alameda unified school district, Alameda, Calif 1753
Prepared statement 1756
Brown, Hon. Edmund G., Governor of the State of California, prepared statement 2210
Brownell, Dr. Samuel M., superintendent of schools, Detroit, Mich.; Dr. Laurence Paquin, superintendent of schools, Baltimore, Md.; Dr. Joseph Manch, superintendent of schools, Buffalo, N.Y.; William H. Barbour, Jr., controller, Los Angeles City School District; and Dr. George R. Balling, assistant superintendent of schools, Chicago, Ill., public schools 807
Prepared statement 898
Burkett, Lowell A., executive director, American Vocational Association, prepared statement 1280
Cannon, Hon. Howard W., a U.S. Senator from the State of Nevada 1764

Carstenson, Dr. Blue, chairman, Senior Members Council, National Farmers Union, Washington, D.C.; Arthur Crabtree, State Department of Education, Trenton, N.J.; James R. Dorland, assistant director, Division of Adult Education Services, National Association for Public Schools Adult Education, Washington, D.C.; Lowell A. Burkett, executive director, American Vocational Association, Washington, D.C.; Dr. Eugene I. Johnson, executive director, Adult Education Association, Washington, D.C.; Dr. Leonard Nadler, council professor of adult education, and professor of adult education, American University; Dr. Wilmer Bell, director of adult education, Baltimore City public schools, Baltimore, Md.; and Dr. William Harley, president, National Association of Educational Broadcasters, Washington, D.C. Page 1112, 1263
Prepared statement 1267
China Lake elementary school district, Naval Ordnance Test Station, China Lake, Calif., prepared statement 1693
Church, Hon. Frank, a U.S. Senator from the State of Idaho 1769
Clark, Dr. Kenneth, professor of social psychology, City College of New York, prepared statement 2066
Cohen, Oscar, national program director, Antidefamation League of B'Nai B'Rith 2074
Cooper, Hon. John Sherman, a U.S. Senator from the State of Kentucky 785
Crabtree, Arthur P., past president, Adult Education Association of the United States, prepared statement 1274
Curtin, Thomas J., deputy commissioner of education, Commonwealth of Massachusetts 2081
Curtis, William H., superintendent of schools, Manchester, Conn., prepared statement 778
Darden, Woodrow J., county superintendent, Brevard County, Titusville, Fla 1702
Prepared statement 1705
Donohue, Very Rev. Msgr. James C., director, department of education, National Catholic Welfare Conference, accompanied by W. R. Consedine, director, legal department 1674
Doran, Dr. Adron, NEA Legislative Commission; president, Morehead State College, Morehead, Ky.; and Dr. J. Warren Hitt, deputy State commissioner of education, Austin, Tex., accompanied by Dr. James L. McCaskill, executive secretary, Legislative Commission, National Education Association 917
Dorland, James R., assistant executive secretary, National Association for Public School Adult Education, prepared statement 1276
Eater, J. W., superintendent of schools, Rantoul, Ill 1745
Prepared statement 1746
Fannin, Hon. Paul J., a U.S. Senator from the State of Arizona 358
Fellendorf, George W., executive director, Alexander Graham Bell Association for the Deaf, Inc., prepared statement 1847
Flast, Mrs. Florence, president, United Parents Associations, prepared statement 2394
Fuller, Dr. Edgar, executive secretary, Council of Chief State School Officers, Washington, D.C. 1307
Gardner, Hon. John W., Secretary of Health, Education, and Welfare; accompanied by Ralph K. Huitt, Assistant Secretary of Health, Education, and Welfare for Legislation; Harold Howe II, Commissioner of Education; Arthur L. Harris, Associate Commissioner for Elementary and Secondary Education, U.S. Office of Education; Samuel Halperin, Deputy Assistant Secretary of Health, Education, and Welfare for Legislation; Albert L. Alford, Acting Assistant Commissioner for Legislation, U.S. Office of Education; John Hughes, Director, Division of Program Operations, U.S. Office of Education; and Edwin Yourman, Assistant General Counsel, Health, Education, and Welfare 298
Geer, William, executive secretary, Council for Exceptional Children, Washington, D.C., and Dr. Maynard Reynolds, Department of Special Education, University of Minnesota, Minneapolis, Minn 1784
Prepared statement 1798
Gibboney, Richard A., commissioner of education, State of Vermont, prepared statement 2150
Gruening, Hon. Ernest, a U.S. Senator from the State of Alaska 1282

Page

Gurney, Hon. Edward J., a Representative in Congress from the State of Florida 1824
Hanks, J. M., superintendent of schools, Ysleta independent school district, El Paso, Tex 1724
Prepared statement 1724
Hartke, Hon. Vance, a U.S. Senator from the State of Indiana 1080
Hicks, W. B., Jr., executive secretary, Liberty Lobby, Washington, D.C. 1471
Hitt, J. Warren, deputy commissioner of education, Texas Education Agency, prepared statement 978
Hood, Ralph E., superintendent, Glynn County schools, Brunswick, Ga. 1713
Prepared statement 1715
Hortin, James F., Chief, Technical Operations Branch, U.S. Office of Education 1682
Howe, Hon. Harold, II, U.S. Commissioner of Education, accompanied by Dr. Arthur Harris, Associate Commissioner of Education, Bureau of Elementary and Secondary Education; Dr. Albert L. Alford, Acting Assistant Commissioner of Education, Office of Legislation; Dr. Samuel Halperin, Deputy Assistant Secretary of Health, Education, and Welfare for legislation; and Dr. Hendrik Gideonse, program planning and development officer, Bureau of Research 470
Prepared statement, including additional material 470–645
Isenberg, Robert M., executive secretary, Department of Rural Education, National Education Association, prepared statement 2147
Johnson, Theron A., administrator, Division of Intercultural Relations, New York State Department of Education 2070
Jordan, Hon. Len B., a U.S. Senator from the State of Idaho 1654
Kelley, Dean M., director, Commission on Religious Liberty, National Council of the Churches of Christ in the U.S.A., prepared statement 2156
Kennedy, Hon. Edward M., a U.S. Senator from the State of Massachusetts 365, 2058
Kirk, Samuel A., professor of education and psychology, director, institute for research on exceptional children, University of Illinois 1852
Koteen, Mrs. Bernard, member of National Board, National Council of Jewish Women 1423
Krettek, Miss Germaine, associate executive director, American Library Association, prepared statement 1108
La Noue, George R., Teachers College, Columbia University, prepared statement 2125
Laufenberg, Francis, assistant superintendent of schools (business), Long Beach Unified School District, Long Beach, Calif 2123
Lawrence, Richard H., legislative and special projects coordinator, Los Angeles City school districts, California 1477
Leavitt, Jerome E., professor of education, Portland State College, Portland, Oreg., prepared statement 2413
Letson, Dr. John W., superintendent, Atlanta public schools, Atlanta, Ga., prepared statement 771
Lynch, Very Rev. Msgr. John, Diocesan School Office, Rutland, Vt 1759
McCarthy, Jeanne McRae, Ph. D., director of special services, Schaumburg Community Consolidated School District, 54 Cook County, Ill. 1865
McKee, Walter T., superintendent of schools, Montgomery, Ala 1750
Prepared statement 1751
Madison, Blaine M., North Carolina commissioner of juvenile correction and president of the National Association of Training Schools and Juvenile Agenices 1305
Magnuson, Hons. Warren G., and Henry M. Jackson, U.S. Senators from the State of Washington 1815
Manch, Dr. Joseph, superintendent of schools, Buffalo, N.Y., prepared statement 896
Megel, Carl J., Washington representative, American Federation of Teachers, AFL–CIO 983
Metcalf, Hon. Lee, a U.S. Senator from the State of Montana 1801
Supplemental statement 1809
Minor, Bluford F., assistant superintendent of schools, business services division, San Diego unified school district, San Diego, Calif 1726
Prepared statement 1728
Mock, Dr. Samuel E., Detroit, Mich., prepared statement 2560
Montoya, Hon. Joseph M., a U.S. Senator from the State of New Mexico 1286
Moss, Hon. Frank E., a U.S. Senator from the State of Utah 786

Page
Mueller, F. Eugene, superintendent, San Bernardino City unified school district, San Bernardino, Calif. 1673
Murphy, Hon. George, a U.S. Senator from the State of California 1091, 1811
Murray, Leonard H., chairman, Citizens Council on Delinquency and Crime of Minnesota, prepared statement 2404
National Education Association, prepared statement on Adult Education Act 1277
Oregon Education Association, prepared statement 2410
Paine, Richmond S., M.D., neurologist to Children's Hospital of the District of Columbia, and professor of pediatric neurology, George Washington University School of Medicine, Washington, D.C. 1860
Prepared statement 1860
Paquin, Laurence G., superintendent of public instruction, Baltimore city public schools, Baltimore, Md., prepared statement 895
Pearson, Hon. James B., a U.S. Senator from the State of Kansas 1821
Petrozzi, Charles R., chairman, National Committee for Multi-Handicapped Children 1825
Prepared statement 1830
Petteys, Mrs. Anna C., vice chairman, Colorado Board of Education 2093
Pfeffer, Dr. Leo, special counsel, American Jewish Congress 1419
Prepared statement 1422
Pierce, Frank H., county attorney, Richmond County, Ga., on behalf of the National Association of Counties, accompanied by C. D. Ward, general counsel, National Association of Counties 1445
Pike, Rolland W., assistant superintendent, Los Alamitos school district, California 1473
Pinney, Grant, superintendent of schools, China Lake public school district, California 1690
Quinn, Charles J., assistant director for federally aided programs, division of educational finance, State education department, Albany, N.Y. 1719
Prepared statement 1721
Rappaport, Dr. Joseph, executive director, United Parents Associations, prepared statement 2397
Reynolds, Dr. Maynard C., president, Council for Exceptional Children, prepared statement 1788
Rose, Oscar, moderator, superintendent of schools, Midwest City, Okla.; Charles Quinn, acting director of federally aided programs, division of financing, State department of education, Albany, N.Y.; Woodrow J. Darden, county superintendent, Brevard County, Titusville, Fla.; William Simmons, assistant superintendent of schools, Detroit, Mich.; John Eater, superintendent of schools, Rantoul City schools, Rantoul, Ill.; Richard Taylor, superintendent of westside schools, Colorado Springs, Colo.; Ralph Hood, superintendent of schools, Brunswick, Ga.; Bluford F. Minor, assistant superintendent of schools, business services division, San Diego unified school district, San Diego, Calif.; Walter McKee, superintendent of schools, Montgomery, Ala.; Charles A. Briscoe, business manager, Alameda school district, Alameda, Calif.; J. M. Hanks, superintendent of Ysleta schools, Ysleta independent school district, El Paso, Tex.; W. H. Moore, State department of education, Little Rock, Ark.; and Grant Pinney, superintendent of schools, China Lake public school district, China Lake, Calif. 1677, 1683
Prepared statement 1683
Ross, Mrs. Sherman, on behalf of Dr. Lois H. Roth, area representative, education, and Dr. Victoria Schuck, chairman, Legislative Program Committee, of the American Association of University Women 2108
St Germain, Hon. Fernand J., a U.S. Representative in Congress from the State of Rhode Island 1670
Schwilick, Dr. Gene L., superintendent-principal of Oak Park and River Forest High School, Oak Park, Ill., before the Subcommittee on Education, prepared statement 1107
Shagaloff, Miss June, director for education, National Association for the Advancement of Colored People, prepared statement, with attachments 2085–2093
Shepoiser, Lawrence H., superintendent of schools, Unified School District No. 259, Wichita, Kans. 793
Prepared statement, jointly with Gwendel A. Nelson 797
Sherer, Rabbi Morris, executive vice president, Agudath Israel of America 1848
Prepared statement 1850

Page
Simons, William H., president, Washington Teachers' Union, prepared statement 2187
Simmons, William, assistant superintendent of schools, Detroit, Mich 1697
Prepared statement 1700
Snider, Robert C., assistant executive secretary, Department of Audio-visual Instruction, National Education Association, prepared statement 782
Sparks, Dr. Harry M., superintendent of public instruction, Commonwealth of Kentucky 1334
Prepared statement 1396
Speiser, Lawrence, director, Washington Office, American Civil Liberties Union, prepared statement 2111
Stevens, Alden, president, Association on American Indian Affairs 1671
Stevens, Frank A., supervisor of school libraries, State Department of Education, Albany, N.Y.; John Rowell, director of school libraries, State Department of Public Instruction, Harrisburg, Pa.; Dr. Gene Schwilck, principal and superintendent, Secondary District, Oak Park-River Forest High School, Oak Park, Ill.; Miss Roberta E. Young, school library supervisor, State Department of Education, Denver, Colo.; and Miss Germaine Krettek, associate executive director, American Library Association 1004, 1097
Stimbert, E. C., superintendent of schools, Memphis, Tenn.; Dr. John W. Letson, superintendent of schools, Atlanta, Ga.; William H. Curtis, superintendent of schools, Manchester, Conn.; and Dr. Martin Essex, superintendent of schools, Akron, Ohio; a panel representing the American Association of School Administrators 762
Prepared statement 763
Stockburger, Cassandra, director, National Committee on the Education of Migrant Children, National Child Labor Committee, prepared statement 2124
Taylor, Richard, superintendent of Widefield-Security schools, Colorado Springs, Colo 1709
Prepared statement 1712
Venn, Grant, superintendent of Wood County schools, Parkersburg, W. Va., prepared statement 971
Ward, C. D., general counsel, National Association of Counties, supplemental statement 1451
Washington State Superintendent of Public Instruction's Office, prepared statement 1816
Williams, Hon. Harrison A., Jr., a U.S. Senator from the State of New Jersey 1875
Willis, Dr. Benjamin C., general superintendent of schools, Board of Education, Chicago, Ill 822
Supplemental statement 826

ADDITIONAL INFORMATION

S. 3046, statements and correspondence relative to 2359
S. 2928, statements and correspondence relating to 2180
S. 2778, statements and correspondence relating to 2176
Advisory Council on State Departments of Education, annual report 653–736
Members of 654
American Library Association, biographical material of panel members:
Stevens, Frank A., panel moderator, New York State Education Department, Albany, N.Y 1001
Rowell, John, Department of Public Instruction, Commonwealth of Pennsylvania 1002
Schwilck, Gene L., superintendent-principal of Oak Park and River Forest High School, Oak Park, Ill 1002
Young, Roberta E., school library supervisor, Colorado State Department of Education, Denver, Colo 1003
Articles entitled:
"Behold, This Is New," from Catholic Library World, March 1966 1010
"Education Of Handicapped Children And Youth", a conference report, Department of Health, Education, and Welfare, August 11 and 12, 1965 395
"Education: The Talk of Wall Street," chapter of book published by the National School Public Relations Association, 1966–67 1328

Articles entitled—Continued
"Effects of Ethnic Group Concentration Upon Educational Process, Personality Formation, and Mental Health," by Charles A. Pinderhughes, M.D., from the National Medical Association Journal, September 1964 ... Page 2195
"Electronic Equipment in Education, a Brief Summary," submitted by the Oak Park and Forest High School, Oak Park, Ill ... 1103
"Gardner Calls for End to De Facto Segregation—Secretary Urges United States To Aid Local Officials in Integrating Schools," from Baltimore (Md.) Sun, November 15, 1965 ... 368
"Governmental Financing of Public and Private Education," by Dr. Edgar Fuller, executive secretary, Council of Chief State School Officers, Washington, D.C. Baldwin Lecture for 1966 at the Northeast Missouri State Teachers College, Kirksville, Mo., February 1, 1966 ... 1317
"How To Put 2½ Tons of Research Into One Handy Little Box," from American Education, February 1966 ... 288
"Libraries Say Prices Fixed," an Associated Press article from the Christian Science Monitor ... 1079
"Statistic of the Month, Enrollment in Elementary and Secondary Schools, Fall 1955 to Fall 1975," from American Education, April 1966 ... 2565
"The Book Bind: Information Explosion Swamps Print Shops—Shipment Delays Rise—Publishers, Authors, Students Affected; Cleveland Stores Miss 500 Christmas Sales—Shabby Work on the Animals," from Wall Street Journal, March 10, 1966 ... 1109
Budget for fiscal year 1967, excerpts from the appendix, Office of Education, Department of Health, Education, and Welfare, pp. 421–435 ... 92
Communications from:
Hansford, Dr. Byron W., commissioner of education, Colorado State Department of Education to—
Evans, Representative Frank E., August 16, 1965 ... 2102
Petteys, Mrs. Anna C., May 10, 1966 ... 2104, 2105
Kunkle, Paul H., board secretary, St. Thomas Township School District, St. Thomas, Pa., to Senate Committee on Labor and Public Welfare, March 9, 1966 ... 2259
Massaro, Nicholas R., assistant superintendent, Roaring Fork School District, Colorado, to Mr. Arthur Ludka, Colorado State Department of Education, March 9, 1966 ... 1312
Melcher, John W., director, Bureau for Handicapped Children, Wisconsin State Department of Public Instruction, to Senate Subcommittee on Education, April 22, 1966 ... 1784
Morse, Hon. Wayne, a U.S. Senator from the State of Oregon, to:
Gardner, Hon. John W., Secretary of Health, Education, and Welfare, May 20, 1966 ... 466
Knotts, Richard B., superintendent of schools, District No. 30, Warrenton, Oreg.:
March 10, 1966 ... 335
April 14, 1966 ... 336
Udall, Stewart L., Secretary of the Interior:
May 20, 1966 ... 465
May 23, 1966 ... 468
Pogue, Thomas T., executive director, Economic Opportunity Corp., Millville, N.J., with attachment, March 18, 1966 ... 2418
Rothenberg, Leon, research director, Federation of Tax Administrators, Chicago, Ill., to C. D. Ward, National Association of Counties, April 29, 1966 ... 1451
Communications to:
Alexander, Robert L., State-Federal coordinator, Governor's office, Columbia, S.C., from:
Cater, Douglass, Washington, D.C., February 28, 1966 ... 2256
Garrett, Gordon H., North Charleston, S.C., March 9, 1966 ... 2256
Anderson, Hon. Clinton P., a U.S. Senator from the State of New Mexico, from:
Leonard J. De Layo, superintendent of public instruction, New Mexico Department of Education, Santa Fe, July 16, 1966 ... 2415

Communications to—Continued
Bennett, Hon. Wallace F., a U.S. Senator from the State of Utah, from:
Bell, T. H., State superintendent of public instruction, Utah State Board of Education, Salt Lake City, Utah, February 2, 1966 ..... Page 1300, 2243
Boren, William R., superintendent of schools, Weber County School District, Ogden, Utah, February 4, 1966 1298
Eyre, Sherman G., superintendent, Logan City Schools, Logan, Utah, March 15, 1966 1299
Haws, J. C., superintendent, Box Elder County School District, Brigham City, Utah, January 21, 1966 1297
Holt, G. Harold, superintendent, et al., Davis County School District, Farmington, Utah, January 17, 1966 1295
Jones, D. Gary, superintendent, Daggett County School District, Manila, Utah, February 1, 1966 1299
Rosenhall, A. L., executive secretary, Granite Education Association, Inc., Salt Lake City, Utah, March 4, 1966 1299
Smith, T. O., superintendent, Ogden City Schools, Ogden, Utah, February 4, 1966 ..... 1296, 2242
Bible, Hon. Alan, a U.S. Senator from the State of Nevada, from:
Manning, R. H., first assistant superintendent, Nevada Department of Education, Carson City, Nev., April 6, 1966 2373
Brewster, Hon. Daniel B., a U.S. Senator from the State of Maryland, from:
Fletcher, E. L., superintendent, Maryland Training School for Boys, Baltimore, Md., March 22, 1966 2177
McKeldin, Theodore R., mayor, Baltimore, Md., April 18, 1966 2178
Byrd, Hon. Robert C., a U.S. Senator from the State of West Virginia, from:
Kingery, John D., assistant superintendent, Roane County Schools, Spencer, W. Va., Jan. 3, 1966 2359
Lowery, T. A., superintendent, Jefferson County Schools, Charles Town, W. Va., April 20, 1966 2374
Preston County, W. Va., Board of Education, Kingswood, W. Va., April 19, 1966 2375
Trail, Sherman C., superintendent, Raleigh County Board of Education, Beckley ,W. Va., March 25, 1966 2359
Cannon, Hon. Howard W., a U.S. Senator from the State of Nevada, from:
Manning, R. H., first assistant superintendent, Nevada Department of Education, Carson City, Nev., April 6, 1966 2373
Chairman, Senate Committee on Education and Labor, from:
Childs, Martha D., superintendent, and others, Daggett School District, Daggett, Calif., March 14, 1966 2257
Church, Hon. Frank, a U.S. Senator from the State of Idaho, from:
Bieker, James W., superintendent, Potlatch Public Schools, District No. 285, Potlatch, Idaho, March 30, 1966 1776
Bird, T. C., superintendent, Boise Public Schools, Boise, Idaho, March 30, 1966 1779
Blakeley, Don, superintendent, public schools, Joint School District No. 304, Kamiah, Idaho, March 8, 1966 1773
Brown, Charles A., district superintendent, Joint School District No. 365, Grand View, Idaho, March 31, 1966 1778
Burns, Robert A., superintendent of schools, School District No. 101, Bonners Ferry, Idaho, March 31, 1966 1775
Carnie, George M., superintendent, Joint School District No. 233, Hagerman, Idaho, March 30, 1966 1774
Coll, Ford, board chairman, School District No. 59, Firth, Idaho, February 28, 1966 1774
Ellis, Ruhlon M., superintendent, School District No. 25, Pocatello, Idaho, March 29, 1966 1782
Evans, Jerry L., superintendent, Public Schools District No. 422, Cascade, Idaho, March 8, 1966 1780

Communications to—Continued
Church, Hon. Frank, from—Continued
Page
Farley, Calvin H., superintendent, School District No. 274, Harrison, Idaho, March 31, 1966 1776
Hawkins, Andy, superintendent, Joint School District No. 41, St. Maries, Idaho, March 4, 1966 1777
Hinds, George H., superintendent, Public Schools, Joint School District No. 182, Mackay, Idaho, March 4, 1966 1777
Hughes, LeRoy, superintendent, Board of Trustees, School District No. 193, Mountain Home, Idaho, March 4, 1966 1771
Meyer, Camden B., superintendent of schools, Joint Class A District No. 331, Rupert, Idaho, March 31, 1966 1779
Smith, Andrew L., superintendent, Independent School District No. 1, Lewiston, Idaho, April 18, 1966 1772
Snow, Max, superintendent of schools, Fremont County No. 215, Joint School District A–215, St. Anthony, Idaho, March 29, 1966 1778
Spencer, Irvin W., superintendent, Joint School District No. 181, Challis, Idaho, March 8, 1966 1773
Stoddard, I. T., superintendent, School District No. 55, Blackfoot, Idaho, April 1, 1966 1775
Thienes, Carolyn, Hayden Lake, Idaho, March 9, 1966 1774
Williams, Arnold, secretary of state, State of Idaho, Boise, March 22, 1966, with enclosure 1782
Cornogey, Mrs. Wayne, Gilchrist, Oreg., from:
Gubser, Joy Hills, assistant superintendent, Oregon State Department of Education, Salem, Oreg., February 24, 1966 2416
Curtis, Hon. Carl T., a U.S. Senator from the State of Nebraska, from:
Morrison, Hon. Frank B., Governor, State of Nebraska, Lincoln, Nebr., with attachment, April 1, 1966 2373
Dodd, Hon. Thomas J., a U.S. Senator from the State of Connecticut, from:
Sanders, William J., commissioner of education, Hartford, Conn., April 21, 1966 2386
Fannin, Hon. Paul J., a U.S. Senator from the State of Arizona, from:
Bradshaw, Ray J., administrator, and others., Page Schools, February 17, 1966 2245
Carpenter, W. S., superintendent, Ganado Public Schools, District No. 19, Ganado, Ariz., February 17, 1966 2245
Lewis, Fred R., superintendent, Whiteriver Elementary School, District No. 20, Whiteriver, Ariz., February 8, 1966 2262
Martin, William S., Window Rock School District No. 8, Fort Defiance, Ariz., February 21, 1966 2246
Fong, Hon. Hiram L., a U.S. Senator from the State of Hawaii, from:
Tsui, Sik Kum, principal, et al., Olomana School, Kailua, Hawaii, March 14, 1966 2177
Fussell, Clyde G., superintendent of schools, Barre, Vt., from Msgr. John A. Lynch, Rutland, Vt., August 19, 1965 1763
Gardner, Hon. John W., Secretary of Health, Education, and Welfare, from Senator Javits, February 18, 1966 1883
Hart, Hon. Philip A., a U.S. Senator from the State of Michigan, from:
Arnold, Urey B., superintendent, Richmond Community Schools, Richmond, Mich., April 28, 1966 2387
Brumbaugh, Donald S., superintendent, Norway-Vulcan area schools, Norway, Mich., April 29, 1966 2387
McConnell, Dan, superintendent, Paw Paw public schools, Paw Paw, Mich., April 29, 1966 2388
Hill, Hon. Lister, a U.S. Senator from the State of Alabama, from:
Shriver, Sargent, Director, Office of Economic Opportunity, Washington, D.C., June 2, 1966 2563
Holden, Dr. A. John, Department of Education, Montpelier, Vt., from Msgr. John A. Lynch, Rutland, Vt., August 19, 1965 1763

Communications to—Continued
Holland, Hon. Spessard L., a U.S. Senator from the State of Florida, from:
Page
Boone, Shelley S., superintendent of public instruction, the Board of Public Instruction for the County of Polk, Bartow, Fla., with attachment, March 31, 1966 2382
Hall, Joe, superintendent, Dade County Public Schools, Miami, Fla., April 7, 1966 2377
Seay, John W., superintendent of public instruction, Board of Public Instruction, Marion County, Ocala, Fla., April 15, 1966 2384
Williams, Ray L., superintendent of public instruction, Board of Public Instruction, Lee County, Fort Myers, Fla., April 12, 1966 2381
Howe, Hon. Harold, II, Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C., from:
Morse, Hon. Wayne, a U.S. Senator from the State of Oregon, March 11, 1966 2431
Jordan, Hon. Len B., a U.S. Senator from the State of Idaho, from:
Armitage, John S., superintendent, Joint Independent School District No. 342, Culdesac Consolidated Schools, Culdesac, Idaho, April 1, 1966 1667
Arms, Mrs. Walter, secretary, Spirit Lake Home School Organization, Spirit Lake, Idaho, March 8, 1966 1668
Banks, R. M., superintendent of schools, School District 291, Salmon, Idaho, March 1, 1966 1663
Bird, T. C., superintendent, Boise Public Schools, Boise, Idaho, February 28, 1966 1661
Blakely, Don, superintendent of schools, Joint School District 304, Pukaniam, Idaho, February 25, 1966 1657
Brown, Charles A., District Superintendent, Joint School District No. 365, Grand View, March 1, 1966 1663
Burns, Robert A., Superintendent of Schools, Boundary County School District No. 101, Bonners Ferry, Idaho, March 31, 1966 1669
Carnie, George M., Joint School District No. 233, Hagerman, Idaho, March 4, 1966 1667
Clark, Charles L., Superintendent of Schools, Joint School District No. 93, Idaho Falls, Idaho, February 25, 1966 1657
Coy S. Clay, superintendent, School District No. 271, Coeur D'Alene, Idaho, February 28, 1966 1662
Duncan, Verne A., superintendent, Butte County Public Schools, Arco, Idaho, February 25, 1966 1658
Ellis, Rulon M., superintendent, School District No. 25, Pocatello, Idaho, March 2, 1966 1662
Engelking, D. F., State Superintendent of Public Instruction, et al., State of Idaho, Department of Education, Boise, February 21, 1966 1656, 2388
Farley, Calvin H., superintendent, Kootenai School District No. 274, Harrison, Idaho, February 28, 1966 1666
Farmin PTA, Sandpoint, Idaho, March 29, 1966 1669
Harada, Deto, School District No. 59, Firth, Idaho, February 28, 1966 1664
Hawkins, S. A., Joint School District No. 41, St. Maries, Idaho, February 25, 1966 1659
Hinds, George H., superintendent, Mackay Public Schools, Joint School District No. 182, Mackay, Idaho, February 25, 1966 1665
Hobbs, Donald J., superintendent, Shelley Public Schools, Joint School District, No. 60, Shelley, Idaho, February 28, 1966 1664
Hughes, Leroy, superintendent, School District No. 193, Mountain Home, Idaho, February 19, 1966 1664
Malcolm, A. J., superintendent, Prairie Public Schools, Cottonwood, Idaho, February 25, 1966 1657
Marcum, R. Laverne, Superintendent, February 25, 1966 1658
Rodemack, Ira, superintendent, Garden Valley Schools, School District No. 71, Garden Valley Idaho, February 26, 1966 1666
Ross, David, superintendent, School District 161, Dubois, Idaho, February 25, 1966 1657

Communications to—Continued
Jardon, Hon. Len B., from—Continued
Page
Smith, Andrew L., superintendent of schools, Independent School District No. 1, Lewiston, Idaho, February 25, 1966 1660
Snider, John A., Idaho School Trustees Association, Moscow, Idaho, March 3, 1966 1668
Spencer, Irvin W., superintendent, Joint School District No. 181, Challis, Idaho, February 25, 1966 1664
Stanley, Philip A., superintendent, School District No. 394, Avery, Idaho, February 28, 1966 1663
Thomas, William, superintendent, American Falls Public Schools, American Falls, Idaho, March 4, 1966 1659
Vopat, Earl, District Superintendent, School District No. 241, Grangeville, Idaho, March 2, 1966 1662
Kennedy, Hon. Edward M., a U.S. Senator from the State of Massachusetts, from:
Allen, James E., Jr., the University of the State of New York, the State Education Department, Albany, N.Y., April 26, 1966 2209
Gibbons, Ray, director, United Church of Christ Council for Christian Social Action, with attachment, New York, N.Y., May 4, 1966 2207
Moore, Rt. Rev. Paul, Jr., suffragan bishop, Diocese of Washington, Mount Saint Alban, Washington, D.C., May 3, 1966 2207
Speiser, Lawrence, director, Washington office, American Civil Liberties Union, Washington, D.C., April 26, 1966 2209
Sullivan, Neil V., Ed. D., superintendent of schools, Berkeley Unified School District, Berkeley, Calif., April 27, 1966 2209
Hunt, Prof. Herold C., Harvard University Graduate School of Education, Cambridge, Mass., April 19, 1966 2066
Killion, Walter L., business manager, Livermore Joint Union High School District, Livermore, Calif., from:
Senator George Murphy 1813
Representative Don Edwards 1814
Representative Glenard P. Lipscomb 1814
Kuchel, Hon. Thomas H., a U.S. Senator from the State of California, from:
Killion, Walter L., business manager, Livermore Joint Union High School District, Livermore, Calif., April 20, 1966 1812
Broom, Wendell, district superintendent, Soledad Union School District, Soledad, Calif., May 2, 1966 2389
Formhals, Robert W., California School Boards Association, Sacramento, Calif., April 26, 1966 2390
Tarvin, Stratton L., district superintendent, Hanford Joint Union High School, Hanford, Calif., April 29, 1966 2390
Lausche, Hon. Frank J., a U.S. Senator from the State of Ohio, from:
Craig, Clifford O., superintendent, Licking Heights Local School District, board of education, Summit Station, Ohio, March 16, 1966 2363
Lynch, Msgr. John A., diocesan superintendent of schools, Rutland, Vt., from A. John Holden, Jr., Montpelier, Vt., August 25, 1965 1762
McCarthy, Hon. Eugene J., a U.S. Senator from the State of Minnesota, from:
Bevis, Donald D., Minneapolis Public Schools, Minneapolis, Minn., December 27, 1965 2572
Lappegaard, Ray, Commissioner of Corrections, State department of corrections, St. Paul., Minn.:
February 3, 1966 2176
March 11, 1966 2176
Metcalf, Hon. Lee, a U.S. Senator from the State of Montana, from:
Miller, Harriet, State superintendent of public instruction, Helena, Mont.:
April 25, 1966 1804
April 5, 1966, with attachment 1807
Montoya, Hon. Joseph M., a U.S. Senator from the State of New Mexico, from:
Gray, Gary O., supervisor of special education—institutions, State of Maryland, Department of Education, Baltimore, Md., March 21, 1966 2178

Communications to—Continued
Murphy, Hon. George, a U.S. Senator from the State of California, from:
Barker, Lowell F., President-Superintendent, Merced College, Merced Junior College District, Merced, Calif., March 3, 1966 — Page 1095
Bradshaw, R. H., President, Riverside City College, Riverside, Calif., Feb. 18, 1966 — 1094
Collins, J. J., District Supt. and President, Yuba College, Yuga County Junior College District, Marysville, Calif., March 8, 1966 — 1096
Conrad, Walter, President, Allan Hancock College, Santa Maria, Calif., March 23, 1966 — 1095
Doyle, F. W., deputy superintendent, California State Department of Education, December 29, 1965 — 2571
Faul, George J., President, Monterey Peninsula College, Monterey, Calif., Feb. 25, 1966 — 1093
Fruehauf, Hubert, President, et al., Napa Junion College, Napa, Calif., March 23, 1966 — 1096
Killion, Walter, L., business manager, Livermore Joint Union High School District, Livermore, Calif.:
April 20, 1966 — 1812
March 25, 1966 — 1812
Lawson, F. Melvin, Superintendent, Sacramento City Unified School District, Sacramento, Calif., April 5, 1966 — 2385
Rice, George A., Jr., Assistant Superintendent, Business, Los Rios Junior College District, March 2, 1966 — 1093
Tabor, Glenn D., Superintendent, Santa Ana Unified and Junior College Districts, Santa Ana, Calif., February 23, 1966 — 1094
Weaver, Harold M., President, and District Superintendent, Sierra College, Rocklin, Calif., March 3, 1966 — 1094
Morse, Hon. Wayne, a U.S. Senator from the State of Oregon, from:
Adamson, Bernard, superintendent of schools, Benton School District No. 7–J, Alsea, Oreg., March 24, 1966 — 2214
Alexander, Dr. Milnor, legislative secretary, Women's International League for Peace and Freedom, Washington, D.C., April 26, 1966 — 2194
Alford, Albert L., Acting Assistant Commissioner for Legislation, Department of Health, Education, and Welfare, Office of Education, Washington, D.C., March 23, 1966 — 336, 2432
Altman, Mrs. Marie, Springfield, Oreg., May 3, 1966 — 2562
Anderson, Harry R., Assistant Secretary of the Interior:
June 6, 1966, with attachments — 468
June 6, 1966 — 2570
Carstenson, Dr. Blue, chairman, Legislative Policy Committee, Adult Education Association, with attachment — 1269
Aune, Muriel D., February 24, 1966 — 2259
Baldwin, Lee E., superintendent, Union High School District No. 2, Burns, Oreg., Feburary 22, 1966 — 2226
Barkhurst, M. R., superintendent, principal, Elkton Public Schools, Elkton, Oreg., February 18, 1966 — 2234
Benbaset, Mrs. Gladys S., New York, N.Y., March 25, 1966 — 2408
Bennett, Hon. Wallace F., a U.S. Senator from the State of Utah, with attachment — 2362
Benson, Lawrence N., school board chairman, et al., Bonneville School District No. 46, Bonneville, Oreg., February 25, 1966 — 2224
Blackwell, Keith Marie, clerk, Grant County School District No. 17, Long Creek, Oreg., February 18, 1966 — 2222
Blake, Richard E., town manager, town of Stratford, Stratford, Conn., February 24, 1966 — 2254
Bolen, Lee, administrative assistant, Sweet Home School District No. 55, Sweet Home, Oreg., February 16, 1966 — 2237
Boyle, Chester A., superintendent, Sisters Public Schools, District No. 6, Sisters, Oreg., March 2, 1966 — 2219
Briscoe, Charles A., assistant superintendent, Alameda Unified School District, Alameda, Calif., March 9, 1966 — 2253
Brock, Elbert P., superintendent, Malheur County School District No. 15, Vale, Oreg., February 22, 1966 — 2227

Communications to—Continued
Morse, Hon. Wayne, from—Continued
Page
Brogoitti, S. E., chairman, State Board of Education, State of Oregon, State Department of Education, Salem, Oreg., April 13, 1966 2212
Brown, James V., superintendent/principal, Nestucca Union High School, District U. 3, Cloverdale, Oreg., February 16, 1966 2237
Burns, James O., Gilliam County, Condon, Oreg., February 25, 1966 2222
Clark, James, superintendent of schools, Agawan School Department, Agawam, Mass., with attachment, January 18, 1966 2421
Coburn, Joseph L., San Marcos, Calif., March 12, 1966 2252
Cohen, David, legislative representative, Americans for Democratic Action, Washington, D.C., May 6, 1966 2191
Coles, Robert, M.D., Harvard University, University Health Services, Cambridges, Mass 2191
Conroy, Jim, assistant superintendent, Klamath County School District, Klamath Falls, Oreg., February 17, 1966 2228
Conway, Jack T., executive director, Industrial Union Department, Washington, D.C., April 27, 1966 2193
Coultas, Walter, superintendent, Los Rios Junior College District, Sacramento, Calif., March 22, 1966 2254
Cox, Leon, Jr., executive director, National Association of Real Estate Brokers, Inc., Washington, D.C. April 26, 1966 2203
Dahl, Gerald L., Secretary and staff consultant, Citizens Council on Delinquency and Crime, Minneapolis, Minn., April 22, 1966 2404
Davis, Florence N., clerk, Seneca Elementary School, District No. 47, Grant County, Seneca, Oreg., March 7, 1966 2215
De Layo, Leonard J., superintendent of public instruction, New Mexico Department of Education, Santa Fe, February 21, 1966 2415
Deller, M. C., superintendent, Roseburg Public Schools, Roseburg, Oreg., April 13, 1966 2407
Dummer, Francis H., superintendent, Detroit Schools, Marion-Linn County, District 123–J, Detroit, Oreg., February 16, 1966 2229
Durfee, Ingrid., clerk, Umatilla Public Schools, District No. 6, Umatilla, Oreg., February 18, 1966 2233
Earl, Richard R., superintendent-clerk, Chenowith Public Schools, School District No. 9, Wasco County, The Dalles, Oreg., February 17, 1966 2233
Edmondson, Mrs. Zelda, Butte Falls Public Schools, District No. 91, Buttee Falls, Oreg., March 2, 1966 2218
Ellenbogen, Theodore, acting general counsel, Department of Health, Education, and Welfare, including attachment, June 20, 1966 2566
Erickson, Kenneth, superintendent, Corvallis School District No. 509J, Corvallis, Oreg., March 3, 1966 2216
Geyer, Ray L., superintendent, Maconaquah School Corporation, Bunker Hill, Ind., April 13, 1966 2251
Growdon, Mrs. Wm. A., Americanism chairman, Clairemont Junior Women's Club, La Jolla, Calif., March 1, 1966 2255
Hakanson, John, director, Department of Research, Oregon Education Association, Portland, Oreg., May 5, 1966 2409
Hale, Glenn D., superintendent, Eagle Point public schools, district 9, Jackson County, Eagle Point, Oreg., February 18, 1966 2228
Hampton, Lynn O., assistant superintendent-clerk, The Dalles public schools, Wasco County School District No. 12, The Dalles, Oreg., February 15, 1966 2239
Hartman, Hugh, superintendent, Redmond grade school, district No. 2, Redmond, Oreg., February 22, 1966 2223
Hartley, Henry H., superintendent of schools, North Bend public schools, North Bend, Oreg:
February 9, 1966 2241
February 14, 1966 2241
February 16, 1966 2238

Communications to—Continued
Morse, Hon. Wayne, from—Continued
Page
Harvey, Mrs. Benson H., et al., Massachusetts Council of Churches, Boston May 17, 1966 2189
Haworth, Richard D., superintendent, Powder Valley public schools, school district No. 8J, Union and Baker Counties, North Powder, Oreg., February 21, 1966 2229
Haynie, Dr. W. F., superintendent, Portales municipal schools, Portales, N. Mex., April 19, 1966 2179
Heibel, Gerald L., superintendent, district No. 15 public schools, Days Creek, Oreg., February 18, 1966 2239
Held, Adolph, president, Jewish Labor Committee, New York, N.Y., April 28, 1966 2192
Hoff, Walt V., superintendent, Echo public schools, district 5, Umatilla County, Echo, Oreg., February 15, 1966 2238
Jeffrey, Fannie P., executive director, National Council of Negro Women, Inc., Washington, D.C., April 28, 1966 2193
Johnson, Mrs. Albert D., San Diego, Calif., March 8, 1966 2253
Johnson, Alfred C., superintendent, et al., Lane County School District No. 117, Westfir, Oreg., February 17, 1966 2230
Johnson, John R., superintendent, Consolidated District No. 4, Knappa, Astoria, Oreg., February 18, 1966 2240
Keener, Gerald, chairman, citizenship committee, Eugene Education Association, Eugene, Oreg., March 11, 1966 2215
Knotts, Richard B., superintendent of schools, school district No. 30, Warrenton, Oreg.:
February 15, 1966 2313
February 16, 1966 2313
February 22, 1966 335
April 21, 1966 337
Larive, A. O., superintendent of schools, Hermiston public schools, district No. 8, unified, Hermiston, Oreg.:
February 15, 1966 2240
February 7, 1966 2241
Larsen, Vernon S., chairman, education committee, Astoria Chamber of Commerce, Astoria, Oreg., April 29, 1966 2211
Leaming, Edward, chairman, board of directors, Eagle Point public schools, Eagle Point, Oreg., April 1, 1966 2412
Lewis, Graydon A., president, Kent Jr. High School PTA, Landover, Md., March 10, 1966 2257
McCarter, A. B., supervising principal, Big Spring School District, Newville, Pa., February 24, 1966 2251
McSorley, Rev. Richard T., S.J., member, board of directors, the Catholic Interracial Council of D.C., Georgetown University, Washington D.C., May 8, 1966 2190
Macnair, Luther Knight, executive secretary, Civil Liberties Union of Massachusetts, Boston, May 12, 1966 2190
Marshall, L. W., superintendent, Forest Grove Union High School, Forest Grove, Oreg., Jan. 27, 1966 2572
Martin, Claude, superintendent of schools, Mapleton Public Schools, District No. 32, Lane County, Mapleton, Oreg., February 19, 1966 2230
Marshall, James, president, and others, National Association of State Directors, of Special Education:
April 26, 1966 2393
April 26, 1966 2406
Minear, Leon P., superintendent public instruction, State Department of Education, Salem Oreg.:
March 1, 1966 2217
April 1, 1966 2422
May 6, 1966 2411
Mitchell, Matthew, D.D.S., Washington, D.C., April 25, 1966 2190
Murphy, Edward V., superintendent, Escondido Union School District, Escondido, Calif., February 25, 1966 2259
Murray, Donald T., superintendent, Stanfield School District No. 61, Stanfield, Oreg., February 18, 1966 2232

Communication to—Continued
Morse, Hon. Wayne, from—Continued
Page
Nash, Thomas A., superintendent, Spray Public Schools, Spray, Oreg., June 28, 1965 2573
Needles, Mary C., legislative chairman, Community Teachers' Association, Consolidated School District No. 1 (Hickman Mills), Kansas City, Mo., March 14, 1966 2252
Newby, John H., Commander, USNR., Omaha, Nebr., March 8, 1966 2257
Nielsen, Lloyd C., superintendent-elect, Monongalia County Schools, Morgantown, W. Va., April 26, 1966 2405
Obitz, C. S., dean of adult education, Lane Community College, Eugene, Oreg., May 9, 1966 2563
Orgain, Mrs. Faye, clerk, Prospect Schools, District No. 59, Prospect, Oreg., February 17, 1966 2239
Parks, Paul, chairman, Boston Branch, NAACP's Education Committee, Boston, Mass., April 21, 1966 2191
Patrick, C. W., President, San Diego City Schools, San Diego Junior Colleges, San Diego, Calif., April 24, 1966 1735
Pasley, Modine, May 3, 1966 2562
Pate, Leonard L., superintendent, Grant County School District No. 4, Prairie City, Oreg., February 18, 1966 2231
Phillips, Stuart S., superintendent of schools, Oakland Public Schools, Oakland, Calif., with attachments, May 2, 1966 2263
Pinderhughes, Charles A., M.D., Veterans' Administration, Boston, Mass., April 26, 1966 2194
Pinkett, Flaxie M., president, District of Columbia Citizens for Better Public Education, Inc., Washington, D.C., March 11, 1966 2258
Pope, Gregory J., New York State assemblyman, April 26, 1966 2405
Potter, David R., district superintendent, Morrow County Schools, School District No. R–1, Lexington, Oreg., March 2, 1966 2225
Rabe, Jack, chairman, Preparation for principalship, Michigan Association of Elementary School Principals, with attachment, East Lansing, Mich., January 20, 1966 2419
Rafferty, Dr. Max, State of California, Department of Education, Sacramento:
February 15, 1966 1773
February 15, 1966 2260
Ramsay, William W., coordinator, State of New Jersey Department of Education, Trenton, N.J., with attachments, April 12, 1966 2399
Rappaport, Joseph, executive director, United Parents Associations of New York City, Inc., New York, N.Y., with attachments, May 10, 1966 2394
Red, James O., principal, Hines Grade School, School District No. 30, Hines, Oreg., February 17, 1966 2232
Rees, Errol C., superintendent, Multnomah County Intermediate Education District, Portland, Oreg., March 2, 1966 2218
Rhoda, Carl V., superintendent, et al., Oakridge School District 76, Oakridge, Oreg., February 17, 1966 2234
Richardson, Elliot L., Lieutenant Governor, Commonwealth of Massachusetts, Boston, May 13, 1966 2180
Ringoen, Richard M., president, Arapahoe County School District Six, Littleton, Colo., March 2, 1966 2255
Sample, Tex S., director, department of social relations, Massachusetts Council of Churches, Boston, April 27, 1966 2193
Sayre, Athol R., superintendent of schools, Elgin Public Schools, Elgin, Oreg., February 16, 1966 2236
Schlechte, William P., district superintendent and secretary to board of trustees, Vista Unified School District, Vista, Calif., February 11, 1966 2260
Seeborg, Roy R., superintendent, Astoria School District No. 1C, Astoria, Oreg., February 17, 1966 2236
Shannon, William G., assistant executive director, American Association of Junior Colleges, Washington, D.C., April 19, 1966 2245

Communications to—Continued
Morse, Hon. Wayne, from—Continued
Page
Simons, William H., president, Washington Teachers' Union, April 26, 1966 2064
Slater, Henry L., superintendent-principal, Burns Public School, Burns, Oreg., February 23, 1966 2226
Smith, M. J., superintendent, Lane County School District 71, Lowell, Oreg., February 17, 1966 2237
Smith, Stewart H., superintendent, Butte Falls Public Schools, District No. 91, Butte Falls, Oreg., March 3, 1966 2216
Sparrow, T. R., board of education, Wyandotte, Mich., April 20, 1966 2409
Spelts, Robert R., superintendent, Douglas School System, Ellsworth Air Force Base, S. Dak., February 9, 1966 2251
Stanbro, Duane, superintendent, Burnt River High School, Baker County School District 30J, Unity, Oreg., February 22, 1966 2223
Starns, A. E., superintendent, Harney County IED, county school superintendent, Harney County, Burns, Oreg., February 28, 1966 2221
Steingut, Stanley, New York State assemblyman, Vice Chairman of Joint Legislative Committee on Mental Illness and Retardation, Albany, N.Y., April 26, 1966 2405
Stevens, Charles R., district clerk, Grant Union High School, John Day, Oreg., February 16, 1966 2236
Stillman, John S., National Chairman, American Veterans Committee, Washington, D.C., May 9, 1966 2189
Sweetland, Monroe, NEA legislative consultant, Western States, National Education Association, Washington, D.C., April 6, 1966 2423
Taylor, Marcella, clerk, Pleasant Hill Public Schools, District No. 1, Creswell, Oreg., March 18, 1966 2215
Tenold, Earl, clerk, Petersburg Elementary School, School District 14C, Wasco County, The Dalles, Oreg., February 21, 1966 2224
Tobin, W. J., clerk-assistant superintendent, Hood River County School District No. 1, Hood River, Oreg., February 28, 1966 2220
Tompkins, Ellsworth, executive secretary, National Association of Secondary-School Principals, Washington, D.C., May 13, 1966 2411
Towler, E. D., superintendent, Clatsop County Schools, Clatsop County Intermediate Education District, Astoria, Oreg., March 4, 1966 2219
Trilling, Leon, professor of aeronautics and astronautics, M.I.T., Cambridge, Mass., April 22, 1966 2203
Vaughan, Marion, Springfield, Oregon, May 4, 1966 2562
Vopat, Tom, superintendent, Administrative District No. 3, Arlington Public Schools, Administrative District No. 3, Arlington, Oreg., February 22, 1966 2226
Walk, Ronald D., La Grande Public Schools, Union County District No. 1, La Grande, Oreg., March 2, 1966 2220
Wenzel, Joseph, principal, Reedville Elementary School, District No. 29, Aloha, Oreg., February 4, 1966 2421
Weston, Mrs. Wilma G., Springfield, Oreg 2562
Wiemers, Mrs. Betty A., district clerk, Lane County School District 71, Lowell, Oreg., February 18, 1966 2239
Wilcox, Everett E., superintendent, California School for the Blind, Berkeley, Calif., July 13, 1965 2572
Williams, Nile G., superintendent, Fern Ridge Public Schools, Lane County District 28J, Veneta, Oreg., February 17, 1966 2240
Wise, Wayne T., superintendent, et al., Pearsall Public Schools, Pearsall, Tex., May 2, 1966 2250
Wohlers, Pat, curriculum supervisor, David Douglas Public Schools, Portland, Oreg., February 24, 1966 2575
Woodroofe, Robin, clerk, Umatilla County, School District No. R29, Athena, Oreg., February 21, 1966 2231
Woods, Thomas E., chairman, advisory committee, Oregon State Department of Education, Salem, Oreg., February 18, 1966 2414

Communications to—Continued
Morse, Hon. Wayne, from—Continued
Wright, Nolan J., president, San Diego Taxpayers Association, February 23, 1966 — Page 2258
Wyers, Norman L., Jackson County Intermediate Education District, Medford, Oreg., March 4, 1966 — 2418
Nebraska Congressional Delegation, from Nebraska Board of Education, Lincoln, Nebr., April 4, 1966 — 2370
Pell, Hon. Claiborne, a U.S. Senator from the State of Rhode Island, from:
Boyle, John K., superintendent of schools, Smithfield Public Schools, Esmond, R.I., February 28, 1966 — 2248
Kelly, Phillip L., superintendent, Chariho Regional High School District, Wood River Junction, R.I., March 4, 1966 — 2246, 2247
Morenzoni, Edward T., superintendent of schools, Westerly, R.I., March 2, 1966 — 2246
Potenza, Robert A., superintendent of schools, North Smithfield, R.I., School Department, Slatersville, R.I., March 2, 1966 — 2247
Taylor, Clarence S., City of Warwick Public Schools, March 2, 1966 — 2248
Trainor, Henry F., superintentendent of schools, Tiverton Public Schools, Tiverton, R.I., March 1, 1966 — 2247
Pearson, Hon. James B., a U.S. Senator from the State of Kansas, from:
Norton, Dr. M. Scott, superintendent of schools, Salina, Kans., February 3, 1966 — 1823
Yeargan, Gordon A., superintendent of schools, Leavenworth, Kans., February 9, 1966 — 1822
Pickle, Hon. J. J., a Representative in Congress from the State of Texas, from:
Carruth, Irby B., Austin Independent School District, Austin, Tex., April 19, 1966 — 2409
Prouty, Hon. Winston L., a U.S. Senator from the State of Vermont, from:
Mathewson, Philip H., president, Vermont State Superintendents' Association, Montpelier, Vt., April 22, 1966 — 2386
Ramsey, Dr. William W., coordinator, State Department of Education, Trenton, N.J., from:
Hepner, Albert, president, Fairfield Township Board of Education, Fairton School, Fairton, N.J., March 25, 1966 — 2416
Scott, Hon. Hugh, a U.S. Senator from the State of Pennsylvania, from:
Marland, S. P., Jr., superintendent, Pittsburgh Public Schools, Pittsburgh, Pa., March 28, 1966 — 2372
Simpson, Hon. Milward L., a U.S. Senator from the State of Wyoming, from:
Griffith, Maurice F., Natrona County High School District and School District No. 2, Casper, Wyo., March 24, 1966 — 2363
Smathers, Hon. George A., a U.S. Senator from the State of Florida, from:
Hall, Joe, superintendent, FEA Department of County Superintendents, March 28, 1966 — 2366
Smiley, John H., county superintendent, board of public instruction, DeLand, Fla., January 18, 1966 — 2361
Tipton, Ray, executive secretary, Dade County Public Schools, Miami, Fla., April 6, 1966 — 2365
Sweetland, Monroe, NEA Legislative Consultant, Western States, Washington, D.C., from:
Fasold, Jesse V., deputy superintendent, Oregon State Department of Education, Salem, Oreg., with attachment, March 23, 1966 — 2424
Symington, Hon. Stuart, a U.S. Senator from the State of Missouri, from:
Yeokum, C. F., superintendent, Belton Public Schools, Belton, Mo., February 2, 1966 — 2249

Communications to—Continued
Talmadge, Hon. Herman E., a U.S. Senator from the State of Georgia, from:
Nix, Jack P., State superintendent of schools, Georgia State Department of Education, Atlanta, Ga., April 28, 1966 — Page 2386
Tydings, Hon. Joseph D., a U.S. Senator from the State of Maryland from:
Sensenbaugh, James A., State superintendent of schools, Maryland State Department of Education, Baltimore, Md., March 14, 1966 — 2364
Wattenburger, Ralph T., superintendent, Livermore Joint Union High School District, Livermore, Calif., from Representative Don Edwards — 1814
Yarborough, Hon. Ralph, a U.S. Senator from the State of Texas, from:
Clinton, Robert L., superintendent, Snyder Consolidated Independent Schools, Snyder, Tex., Jan. 25, 1966 — 742
Compilation of Senate statements from the Congressional Record, 2d session, 89th Congress — 66–245
Cooperative School Service Center at the University of Massachusetts, Amherst, Mass., resolution — 2421
"Education's Most Crucial Issue," an address by Harold Howe II, U.S. Commissioner of Education, Department of Health, Education, and Welfare, Before the Founders Day Convocation, Teachers College, Columbia University, New York City, May 3, 1966 — 2181
Educational Research Information Center (ERIC) — 287
Hart, Hon. Philip A., a U.S. Senator from the State of Michigan, opening remarks at Senate Antitrust and Monopoly Subcommittee hearings on price-fixing of library books — 1112
Kentucky attorney general, Robert Matthews, opinion relating to Public Law 89–10, Elementary and Secondary Education Act of 1965, sent to Dr. Harry M. Sparks, Kentucky State Department of Education, December 17, 1965 — 1313
Los Angeles, Calif., City Board of Education, proposed amendments to Public Law 89–10 — 2391
Massachusetts statute on racial imbalance — 2066
Memorandums from:
Allan, Richmond F., Associate Solicitor, Indian Affairs, U.S. Department of the Interior — 466
American Friends Service Committee, NAACP Defense and Educational Fund, to Secretary of Health, Education, and Welfare John W. Gardner, on report of the implementation of title VI of the Civil Rights Act of 1964 re school desegration — 1884
Department of Health, Education, and Welfare, office of the Secretary, on S. 3046 (Elementary and Secondary Education Amendments of 1966)—Senator Morse's letter of 5/20/66—Whether grants to Interior Department under the bill would be usable to carry out the policy of section 205(a)(2) of Public Law 81–874 (enacted by Public Law 89–10, title I) as applied to education of children in sectarian schools for Indians notwithstanding 25 United States Code 278 — 2566
Miller, Harriet, superintendent of public instruction, State of Montana, on major issues concerning meeting the Federal Government's increasing need for information — 1805
NAACP Legal Defense and Educational Fund, Inc., to Secretary of Health, Education, and Welfare John W. Gardner, on report of implementation of title VI of the Civil Rights Act of 1964 re hospital discrimination — 1943
New York State Education Department, on school library services under title I, Elementary and Secondary Education Act of 1965 programs — 1008
Orr, Calvin R., to Dr. Byron W. Hansford, on in-school work training programs — 2101

Memorandums from the Office of Education, Department of Health, Education, and Welfare, on: Page
Funds requested under title IV of the Civil Rights Act 370
Imperfections in impacted area program 352
Participation of handicapped children in title I programs 341
Proportion of funds for handicapped 1874
Proposal to transfer Operation Headstart to the Office of Education 796
Proposed exclusion of property for purposes of Public Laws 815 and 874 which is outleased and subject to taxation 1450
Purchase of "religious" books for school libraries 1311
Number of illiterate children from poverty families in Texas 981
Residence effect on special educational programs 815
State agency approval under title III, ESEA 792
Memorandum on: Effect of President Johnson's proposed 1967 Federal budget slashes of New York's land-grant university (Cornell University) 349
Public Law 874 amendments, statements and correspondence relative to 2210
National Advisory Council on the Education of Disadvantaged Children, report of 752–761
Membership of 752
Proposed amendments to:
Title IV of Public Law 89–10 offered by Superintendent Harry M. Sparks of Kentucky and Executive Secretary Edgar Fuller of the Council of Chief State School Officers 1327
Title V of Public Law 89–10 offered by Dr. Edgar Fuller of the Council of Chief State School Officers 1332
Prouty, Hon. Winston L., recommendations on education legislation 339
Departmental comments, on 340
Publications:
"Almanac, 1966," public school education, National Association for Public School Adult Education 1115
"American Education and the Search for Equal Opportunity," National Education Association 923
"Chicago and the Chicago Public Schools: Maps and Charts Showing Racial Composition and Selected Data, 1950–60" 851
"Federal-State-Local Cooperative Arrangements in Statistics," (working paper No. 1) statements on programs and problems of Federal-State-local cooperative arrangements for selected statistical activities, Bureau of the Budget, February 1966 2433
"Guidelines: Special Programs for Educationally Deprived Children," ESEA of 1965, title I, Office of Education, Department of Health, Education, and Welfare 1345
Los Angeles city schools, Los Angeles, Calif.:
"Adult Education Classes, Day and Evening," 1965–66 1514
"Cambria Adult School," catalog for fourth quarter, 1966 1501
"Catalog of Authorized Subjects, Adult Schools" 1535
"Jefferson Adult School, Spring Schedule," 1966 1483
"Pacesetters in Innovation," description of first projects approved, title III, Elementary and Secondary Education Act of 1965, supplementary centers and services program, Office of Education, Department of Health, Education, and Welfare, February 1966 479–595
"Quality Education in Oakland, Guidelines for Improving Educational Opportunity," Oakland Public Schools, Oakland, Calif., February 1966 2275
"Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964," Department of Health, Education, and Welfare, Office of Education, March 1966 2013
"Salaries and Related Information," Colorado Public Schools, school year 1965–66, Colorado State Department of Education 1019
"What Everyone Should Know About Financing Our Schools," National Education Association 2497
Questions of Senator Javits regarding S. 2928 1465
Report on allocations for programs authorized under Public Law 89–313 in behalf of the handicapped 746

Page

Resolutions:
- Lassen County, Calif., Board of Education ... 2392
- Madera County, Calif., Board of Education ... 2393
- Mariposa County, Calif., Board of Education ... 2389
- National Association of State Boards of Education ... 2407, 2485
- Oregon State Legislative Tax Study Committee ... 2212
- San Luis Obispo County, Calif., Board of Education ... 2392

Responses of:
- Curtin, Thomas J., deputy commissioner, Department of Education, Commonwealth of Massachusetts to questions submitted by Senator Javits ... 1878
- Gardner, Hon. John W., Secretary of Health, Education, and Welfare, to questions submitted by Senator Javits, including attachments ... 2007
- Lawrence, Richard H., coordinator, legislation and special projects, Los Angeles City Board of Education, to questions submitted by Senator Morse ... 1479
- National Education Association, to questions submitted by Senator Edward M. Kennedy ... 919

Responses of the Office of Education to questions submitted by:
- Senator Javits ... 246
- Senator Morse ... 285
- Senator Yarborough ... 285

Selected tables:
- Adult basic education, estimated distribution of legislative authorizations for fiscal year 1967, fiscal year 1968, fiscal year 1969 ... 1089
  - Supplemental ... 1090
- Budget changes in elementary and secondary educational activities ... 333
- Department of Health, Education, and Welfare, Office of Education, history of 1966 and 1967 appropriations ... 319–331
- Estimated amounts for dependent and neglected children aged 5 through 17 in various types of institutions in 1960 and for children under 21 years of age in foster family homes in 1965, if included in title I, Public Law 89–10, fiscal year 1967 ... 1289–1291
- Estimates by State directors of adult basic education of enrollments as of March 1, 1966, survey conducted by National Association for Public School Adult Education ... 1280
- Estimated distribution of legislative authorizations for supplemental adult education, fiscal years 1967, 1968, and 1969 ... 1090
- Schools for the handicapped benefiting by funds allocated to State agencies under the provisions of Public Law 89–313 (on the basis of tentative or final allocations as of May 13, 1966) ... 389
- State participation under title X (sec. 1009) National Defense Education Act ... 2482
- Table 1.—Estimated amounts and percent distributions for 5 to 17 population in low-income families, under title I, Public Law 89–10, fiscal year 1967, State by State ... 295
- Table 2.—Estimated amounts and percent distributions, for 5 to 17 population in low-income families, under title I, Public Law 89–10, fiscal year 1967, State by State ... 296
- Table I.—Elementary and Secondary Education Amendments of 1966 (S. 3046, Mar. 7, 1966) ... 283
- Table II.—Estimated number of handicapped children in the 5–17 population (July 1, 1964) and estimated amount based on 50 percent estimated current expenditure per A.D.A., 1964–65 ... 284

Title III.—Elementary and Secondary Education Act, operation of, from the Department of Health, Education, and Welfare, Office of Education ... 2485–2496

Utah Society of Superintendents' Position on Changes in the Federal Programs ... 2243

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1966

WEDNESDAY, APRIL 27, 1966

U.S. SENATE,
SUBCOMMITTEE ON EDUCATION
OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:20 a.m., in room 6226, New Senate Office Building, Senator Winston L. Prouty presiding pro tempore.

Present: Senators Prouty, presiding; Morse, chairman of the subcommittee; Yarborough, Kennedy of New York, and Dominick.

Also present: Senators Williams of New Jersey, Kennedy of Massachusetts, Cannon, and Metcalf.

Committee staff members present: Charles Lee, counsel to the subcommittee; Roy H. Millenson, minority clerk; and Stephen Kurzman, minority counsel.

Senator PROUTY. The subcommittee will come to order, please.

I believe the first witness is the Right Reverend Monsignor John Lynch, diocesan school office, Rutland, Vt.

Monsignor Lynch?

I might say that I am particularly pleased and happy to welcome you this morning, Monsignor Lynch. As diocesan superintendent of schools in Vermont, I might point out that you have been most helpful to my staff in the past and I am sure that the subcommittee will find your presentation most helpful. I have been waiting to hear from you in order that we may gather facts and materials needed to complete the record regarding the potential cooperation between the public and private schools.

I was delighted to hear previous witnesses testify that every effort is being made in their communities to fulfill the obvious intent of Congress, which is to help all children, and that points of concern in previous years have, for the most part, been overcome.

I shall be very happy to have you proceed in any way in which you care to.

STATEMENT OF VERY REV. MSGR. JOHN A. LYNCH, DIOCESAN SCHOOL OFFICE, RUTLAND, VT.

Monsignor LYNCH. The diocesan school system in Vermont is composed of 10 secondary high schools with approximately 4,000 students and 27 elementary schools with approximately 10,000 students. Roughly this approximates 20 percent of the student populations of

the State of Vermont. Schools are located in both the urban areas such as Burlington and rural communities such as Island Pond.

May I express my appreciation for this opportunity to testify not so much in behalf of the Catholic schools of Vermont as on behalf of deprived children regardless of their religion or type of school attended. I hope I do not appear presumptuous to assume permission to so represent myself. I am, however, certain that countless thousands of young people in this land would want to appear personally in these chambers to express their very real gratitude were such a thing feasible. Further, those to whom the young people would have their voice of gratitude directed deserve to hear this thank you ringing loud and clear since it was their concern and imagination that brought about the Elementary and Secondary Education Act of 1965, thereby taking the focus of attention away from institutions and placing it squarely upon children and their needs.

EDUCATIONAL RESPONSIBILITY

It is precisely this public legal recognition of the preciousness of the potential of every child that has yet to be fully understood and accepted by all in the education community. This law has said in effect that it is no longer permissible in the United States to discriminate against any child on any pretext whatsoever. Neither his race nor his religiou, nor his economic background, nor his physical or mental handicaps can be used as excuses to ignore him and his right to equal opportunity.

Educators in Vermont have accepted this philosophy wholeheartedly. Included in this testimony are copies of letters exchanged in late August 1965. The first I addressed to Dr. A. John Holden, then commissioner of education for the State of Vermont, following the meeting he had called for all school superintendents in Vermont. Included as well is a copy of a letter that was addressed to each of the public school superintendents in those school districts having within their boundaries a Catholic school. In these letters I have indicated my desire to concentrate on the primary objective of ESEA, placing the total administrative and teaching staffs of our schools at the service of the public school superintendent in studying the needs of deprived children and in working toward the creation of suitable programs to alleviate their deprivation. Lastly, included is the response of Dr. Holden from which I quote the following sentence:

> I feel very strongly that if joint planning to serve the best interest of all the children can be engaged in from the start we will be able to have some truly successful programs.

From this beginning good things have developed under the leadership of Dr. Richard Gibboney, the successor of Dr. Holden as commissioner of education for the State of Vermont. This is not to imply that all problems have been solved in Vermont, nor all needs met. The program is new and time is needed to bring the theoretical objectives of ESEA into practical reality.

ENDORSEMENT OF S. 3046

Thus far programs have been designed more especially for students of elementary-school age. While no one doubts the validity of giving

priority to the needs of this age, I do wholeheartedly endorse S. 3046, the Elementary and Secondary Education Amendment of 1966, as the extension of time and the increase in funds will permit giving proper attention to all students grades 1 through 12.

Successful beginnings have been made in meeting the needs of eligible students through shared service programs, particularly in the field of remedial reading. Again it is hoped that with the passage of S. 3046 and a wider understanding of the philosophy of ESEA, dual enrollment programs can be inaugurated and increased. We have, in Vermont, a long tradition of successful dual enrollment programs involving students in vocational subject areas. I see no reason why this concept cannot be applied to meeting the needs of students in a great number of other areas.

TEACHER AIDS IN CATHOLIC SCHOOLS

May I say at this point that I fail to understand why projects involving the placing of teacher aids in Catholic school classrooms are ruled unacceptable on the grounds that the aid helps the teacher rather than the student. Larger classes are obviously more apt to be found in population centers having low-income families, and it would seem that since the aid would remain in the employ of and under the direct supervision of the public school authority, this person would make a direct contribution to upgrading the education opportunity for the child by freeing the teacher to give more direct attention to this very child.

DIOCESAN SCHOOL PARTICIPATION IN ESEA

Since Dr. Gibboney is to present the complete report on programs initiated in the State of Vermont, I have not considered it desirable to duplicate his effort, but I would include here a few typical quotations from personnel in the diocesan school system to indicate their satisfaction.

The public school authorities were most cooperative. They worked with us and were available whenever we needed help or suggestions. Any information which they had was immediately shared with us. Therefore, we have nothing but the highest regard and praise for the friendly, cooperative way which the local superintendent, Mr. Theodore Sargent, and his staff assisted us. (Sister St. Aloysius Marie, Principal Catholic Central School, St. Johnsbury.)

I am happy with our program and would hope that the service could be extended to meet the need of many more of our students. (Sister Mary Leo, R.S.M., principal, St. Monica's School, Barre.)

Saint Mary's Elementary School is participating in a Remedial Reading Program. Twenty-two boys and girls in Grades 2–7, under grade level ability, are attending daily remedial reading classes in near-by public schools. I was consulted in the planning stages and attended all the meetings. I am satisfied with the program. (Sister St. Ruth Marie, C.N.D., Principal St. Mary's School, St. Albans.)

Twenty first and second grade children who exhibit learning problems were selected for a special program. To identify their problems a psychologist was hired through the local mental health center for educational testing. A contract was signed between the Public School System and Family Life. I do think private school children are getting equal treatment in our school. We were consulted in the planning stages. (Sister Rita Marie, S.S.J. Principal St. Peter's School, Rutland.)

Indeed, we were consulted, as I was chosen as a member of the planning committee. The Committee met several times to discuss the projects and Mr.

Wells, Superintendent, kept us well informed on any and all developments that took place. Excellent relations and cooperation between School Superintendent, Mr. L. L. Wells and the Sacred Heart Principal. (Sister Edmund, F.C.S.C.J., Principal Sacred Heart School, Newport.)

We feel that we have received equal treatment in every way. We were invited and attended the meeting at Middlebury Grade School, when all the public schools of the district were given instructions on the procedure of ordering library books through Title II. We were consulted in planning stages and met Mr. John Burnett who is coordinating plans for ESEA in this district. We are very satisfied with the progress. (Sister Mary Thomas, R.S.M., principal St. Mary's School, Middlebury.)

There have been some instances in the State of Vermont where it was felt that increased communication between public and private authorities on the local level would result in increased cooperation and, therefore, increased benefits to children. All realize, however, that we have merely scratched the surface. We are, in general, very satisfied with the implementation of ESEA, and excited about its future possibilities. Experience in Vermont has proved the correctness of interpretation of the objectives of ESEA—the alleviation of the needs of deprived children, not the alleviation of the financial problems of institutions. We have found that rising to this situation has required an increase rather than a cutting back in our budgets. For example, I am presently negotiating for a summer assistant whose total time will be devoted to working with public school authorities in evaluating progress to date and identifying needs for the immediate future.

It has been a privilege to appear here this morning. I conclude where I began, speaking a word of gratitude to you on behalf of all young people in need for the consideration you have displayed for them.

(The letters submitted by Monsignor Lynch follow:)

AUGUST 19, 1965.

Dr. A. JOHN HOLDEN,
Department of Education,
Montpelier, Vermont.

DEAR DR. HOLDEN: May I thank you for the opportunity to have been present at yesterday's meeting and say that I did gain a number of insights that will be helpful. I am also enclosing a copy of a letter sent to superintendents where parochial schools are located as I feel it important that you both have a written statement of the attitude of this office.

May I say at this time that it has been a pleasure to be associated with you in service to the children of Vermont State, and I prayerfully hope that the years ahead of you may be as fruitful, and even more enjoyable, as those behind you.

Prayerful best wishes,

Msgr. JOHN A. LYNCH.

STATE OF VERMONT,
DEPARTMENT OF EDUCATION,
Montpelier, August 25, 1965.

Very Rev. Msgr. JOHN A. LYNCH,
Diocesan Superintendent of Schools
Clement Road, Rutland, Vermont.

DEAR MSGR. LYNCH: Thank you for your letter of August 19 and enclosed copy of letter sent to local superintendents of schools. I am glad that you have sent them this letter, and I intend to support it in a bulletin which I will be sending to these men very soon. I feel very strongly that if joint planning to serve the best interest of all the children can be engaged in from the start we will be able to have some truly successful programs.

Thank you for your kind words to me personally. My association with you has been both a personal and a professional pleasure. I wish you continued progress and satisfaction in the immensely valuable work that you are doing.

Yours cordially,

A. JOHN HOLDEN, Jr.,
Commissioner of Education.

AUGUST 19, 1965.

Mr. CLYDE G. FUSSELL,
Superintendent of Schools,
Barre, Vermont.

DEAR SUPERINTENDENT: It was a pleasure to have been invited to attend the Superintendents' Meeting in Montpelier yesterday, and I hasten this morning to write offering to supply any and all information, directly from this office, that may be of benefit to you, as well as to say that I shall be conducting meetings next week both with the elementary and secondary schools principals of the parochial school system.

At these meetings I shall stress two things. Our making ourselves available to assist in the planning stages as we do want to participate in the work as well as the fruits of 89–10. Sisters are available for evening meetings and appointment to committees as you may desire to have them.

I shall also be telling the principals, and wish here to state for you, that it is the policy of this office to avoid anything that is of a doubtful legal nature. The total good of the total children to be served is the aim, and there is no desire here to press things to the point of questionable constitutionality.

Because I can not be in all parts of the state at once I am recommending that where there is more than one parochial school to be dealt with an individual be named by me such that in contacting this one person you will be able to obtain any and all assistance you desire without having to go any further. In situations where there is but one parochial school you are, of course, free to work directly with the school principal. The burden of keeping me informed rests upon her rather than you. I will, of course, make an effort to be present at meetings where final decisions are to be made at any time you consider it desirable if my calendar will in any way permit it.

I hope that these statements of attitude will be helpful to you and look forward to further working with you for the benefit of the children of Vermont.

Prayerful best wishes,

Msgr. JOHN A. LYNCH.

Senator PROUTY. Monsignor Lynch, as usual, you have made a very thoughtful contribution to the record. I am delighted that you have testified this morning.

As you know, there are a great many people in the country who are concerned about getting the proper education to our boys and girls regardless of what type of school he or she may attend. I am one who ascribes to this view. I think that it is pretty well known that the controlling factor as far as I am concerned is the child. I am pleased to know that in Vermont, those involved in formulating the practices and the principles of this act are working very diligently to find ways to aid education without having the controversy of church versus state, which I believe to be wholly unnecessary. I believe we have a great moral obligation to do everything possible for the child, and as a Senator and member of this subcommittee it is my responsibility to see to it that this matter is pursued and laid to rest to the fullest extent possible within the framework of the Constitution.

The private schools of this country have made a tremendous contribution to the welfare of our Nation and I plan to continue to see to its that our entire educational system is strengthened and improved by every proper and legal means.

Monsignor Lynch, would you comment on the principle of shared time and just how extensively is it being applied in our Vermont schools?

PRINCIPLE OF SHARED TIME

Monsignor LYNCH. Shared time has been a workable concept in Vermont for the past 20 years, particularly in the area of vocational training subjects, in five out of eight of our major cities, the program is currently in progress. Some thought has been given to extending it to other areas, and I personally would like to see experimentation in this direction. I do not think that the shared time concept is something that should be rushed into on a real extensive scale, but I do think that it is a real possibility to answer the needs of numbers of children.

LOANS FOR SPECIAL EQUIPMENT—TITLE III OF NDEA

Senator PROUTY. As you know, title III of NDEA provides loans for nonprofit private schools for the acquisition of laboratory and other special equipment. Would you say that, generally speaking, your schools have been in the position to take advantage of these provisions?

Monsignor LYNCH. The loans available under title III of NDEA are not of any particular benefit to private schools. First of all, they are only loans, and secondly, the interest rate is not substantially less than that available from a commercial bank.

Senator PROUTY. Now, under title II of the Elementary and Secondary Education Act, only the use of the materials is given to children in private and parochial schools. Could not this formula be easily applied for equipment and the like provided under title III of NDEA? In this way, while the ownership would be in public hands, the use of the equipment would be made available to over 7 million children who are now attending private schools.

Monsignor LYNCH. This certainly seems a most logical application of an accepted principle. Surely, the private school authorities in no way object to the ownership of the equipment remaining in public hands. In fact, we prefer it that way.

Senator PROUTY. Well, thank you very much Monsignor Lynch. Your testimony this morning has been most helpful to the committee. I am delighted to see you.

Monsignor LYNCH. Thank you, Senator.

Senator PROUTY. We shall be very glad to hear from our distinguished colleague, Senator Cannon, of Nevada, who has a statement which he will make and I am sure the subcommittee will be very glad to receive it.

STATEMENT OF HON. HOWARD W. CANNON, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator CANNON. Thank you very much, Mr. Chairman.
It is a pleasure to be here with you today.

IMPACTED AREAS

I want to thank you and the members of the subcommittee for inviting me to appear to comment on certain aspects of the program of assistance to schools in federally affected areas. The impacted areas

program is large and extremely important to the general welfare of the Nation and it is long lived as Federal education assistance programs go. When a program has these characteristics, it demands the constant scrutiny of the Congress and I commend you for providing the forum for the vital tasks of evaluation and reappraisal. I know this subcommittee is well aware of the history of the impacted area program created by Public Laws 815 and 874. The program was enacted by Congress to remove inequities which resulted from the workings of the basic concept of intergovernmental immunity. Since local and State governments cannot tax Federal property and since the local property tax is the primary source of financing for the American schools, it is obvious that school districts in which the Federal Government has large holdings must operate on an impaired tax basis. In my State, for instance, about 87 percent of the land is owned by the Federal Government. Further, the presence of Federal property within a school district usually leads to the imposition of a distinctly Federal burden on the local schools which must provide education for the children of Government employees who work on the Federal properties.

The fiscal 1967 budget calls for the resources to carry forward the education programs we enacted last year, but it also calls for a radical retrenchment in the federally affected areas program, a program which, since its inception in 1950, has been the very model of wise and efficient Federal cooperation in our Nation's educational endeavor. For fiscal year 1966, the budget called for the appropriation of $347 million to support the program of payments to school districts under Public Law 874, and of $50 million for assistance for school construction under Public Law 815. The new budget requests $183.4 million and $22.9 million, respectively, for these two programs. Thus, the two programs have been hit upon as a likely theater for an economy drive which, if successful, would result in a saving of $190.7 million in a single year. It is my conviction, however, that savings of this scope would be neither advisable nor justifiable.

STANFORD STUDY

The budget states that the proposed reductions in the two programs stem partly from recent studies made at the request of Congress. To the best of my judgment, this has reference to a study done by the Stanford Research Institute and presented as a Senate committee print in August of 1965. I am somewhat familiar with this report and I know many of my colleagues are, also. I know, for example, that the study recommended certain changes in Public Law 874, which would reduce payments under the law substantially. I would point out two facts about this Stanford study.

First, the very spans of the programs being examined made it possible for the study to concern itself in a detailed manner with only a very small percentage of the school districts involved; 54 districts out of about 4,200 under Public Law 874, and only 3 under Public Law 815. I point this out not in an attempt to impugn the Stanford group, which has a deservedly high reputation as a research organization, but rather to stress that the study should be viewed as a sampling only, not as a complete survey.

Secondly, I do not think we have had access to this report long enough to give it thorough scrutiny to which it should be subjected before we use it as a basis for making substantial reductions in these programs. The proposed cutbacks in the budget, for example, do not all seem to follow the recommendations of the report.

For instance, the report concluded that payments for school construction under Public Law 815 were inadequate in many districts and suggested changes in that law which would increase the cost of the program by about $10 million a year. But the budget, as I have noted, calls for a reduction rather than an increase in fiscal 1967 appropriations for the 815 assistance program.

SUBSTITUTES FOR PUBLIC LAW 874 AND 815

The budget also states that the proposed cutbacks are justified in light of the impact of the large new Federal assistance programs on the school. That document goes on to say that Public Law 815 and Public Law 874 assistance should be adjusted periodically to reflect the growth of assistance under Public Law 89–10, the Elementary and Secondary Education Act of 1965. I am not at all convinced that the soundness of the reasoning displayed in these two statements—in fact, I am convinced of just the opposite.

We should not forget that Public Law 815 and Public Law 874 are special programs of educational assistance with special reasons behind them. They may be said to have a dual purpose: to compensate for the weakened tax base which results when a good part of the real property in a school district is federally owned and thus not subject to local property taxes; and secondly, to help local districts to manage the increased outlay necessary for making good schools available to children of Federal employees.

On the other hand, the programs of aid under the 1965 Elementary and Secondary Education Act have nothing to do with federally affected areas. They are intended to raise the quality of educational opportunity in general and especially in economically deficient areas. The key to the Public Law 815 and Public Law 874 program is Federal burden. The key to the other program is a more complex concept involving overall educational standards in poverty. The Stanford group itself recognized the separate purposes of the program when it wrote:

> Thus we conclude that P.L. 874 is a defensible, though somewhat unusual, piece of federal legislation; that it is properly conceived in terms of relieving burdens imposed upon school districts that educate federal pupils, and that permanent payments to impacted areas under P.L. 874 relates entirely to the needs of each district as expressed by its own level of effort. This concept of burden does not take into account educational needs which may be measured in terms of some educational standards or goals. This task has been delegated to Title II, P.L. 89–10, financial assistance to local educational agencies for the education of children of low-income families.

Since the purposes of the programs are manifestly not the same, I see no reason why increases in assistance under Public Law 89–10 should be taken as justification for decreases under Public Law 815 and Public Law 874. Over the past 15 years, the program under Public Law 874 has sought to ease the Federal burden by providing nearly $2.3 billion for use in the maintenance and operation of local schools. Congress has realized that the Federal burden is a con-

tinuing one and it has consequently extended the Public Law 874 program a number of times. Only last year, by provisions of Public Law 89–10, we extended Public Law 874 through fiscal year 1968.

EXTEND PUBLIC LAW 815

Public Law 815, however, with the exception of certain permanent provisions relating to children who reside on Federal property, is set to expire on June 30 of this year. I am convinced that the need for the program of construction assistance under Public Law 815 is fully as great as the need for Public Law 874 assistance, and I have introduced legislation which would extend Public Law 815 for 2 additional years, or through fiscal year 1968. I was joined in sponsorship of my bill by Senator Tydings, and Senator Montoya has introduced identical legislation and has been joined by many cosponsors.

When Public Law 815 was enacted in 1950, the physical facilities of our schools were in extremely poor condition. Throughout the Second World War and the years immediately following it, only the most urgently needed facilities had been built. Consequently, the first few years of operation of Public Law 815 saw the greatest amount of construction assistance rendered. Lately and especially in the 1960's, the amount of assistance has tapered off considerably, ranging from $50 to $60 million a year.

Cumulatively, since 1950, Public Law 815 funds amounting to more than $1.2 billion have provided nearly 62,000 classrooms or enough to house 1.8 billion schoolchildren. This is indeed a growing record of achievement, especially when we consider that it has been compiled with the very minimum of Federal-State-local squabble.

But I would add this: the task is not complete. The need for more and better school facilities in this Nation is still great and Public Law 815 can still play a major role in meeting that need.

NEEDS OF NEVADA

My own State of Nevada affords graphic evidence of the necessity for extending the school construction provisions of the federally affected areas program. The people of my State are firmly dedicated to providing the best possible educational system for their children. But their effort to do so would be seriously hampered if the program of assistance under Public Law 815 were terminated. The reason for this is that the Federal burden rests quite heavily on Nevada and its citizens.

Across the Nation, the Federal Government holds an average of 33.9 percent of the land in each State. But in Nevada, fully 86.2 percent of the acreage, or over 47 million acres, is owned by the Federal Government. Only Alaska has a higher percentage, but that stems from rather special circumstances.

Again, 18 of every 1,000 citizens of Nevada are civilian employees of the Federal Government. This is the fifth highest figure in the Nation, for which the average number is 12. When we add to it the thousands of military personnel assigned to installations in Nevada, it may be seen that the Federal burden on Nevada's schools is a considerable one.

Clark County, in which Las Vegas is situated, is perhaps the most notable example of the nature and extent of the burden and of the valiant attempt of the people of Nevada to cope with it. Clark County has over one-half of our State's population. Since the beginning of World War II, it has been the seat of steadily increasing Federal activities. At present, there are 35 separate Federal activities in the country, including Hoover and Davis Dams, Nellis Air Force Base, the Nevada Atomic Test Site, and the Nuclear Rocket Development Station. Of an area larger than the State of New Jersey, only 1.06 percent of Clark County's land is privately owned and thus taxable for school purposes. Of the 54,000 pupils in Clark County schools, nearly 12,000 are the children of federally connected parents. The single year from April 1964 to April 1965 saw the number of federally connected pupils increase by 1,702 and indications for the years ahead are for continued increases.

In the last 5 years, Clark County has built 2 new high schools, 3 junior highs, 20 elementary schools, and 20 additions to existing facilities. Public Law 815 assistance has been invaluable in helping to finance this construction. But even with such assistance, Clark County has had to pass two bond issues totally $59 million, with the county at the legal limit of bonded indebtedness, the loss of Federal assistance would be a veritable neglect to the efforts to provide adequate school facilities in the country.

What has been true of Clark County has also been the case for the State as a whole. In a recent year, the State and local governments of Nevada collected total per capita taxes of $314.90, the third highest figure in the Nation. Many other areas like Clark County have reached the legal ceiling of indebtedness. Over the last 15 years, 10 Nevada counties have received $9.6 million for school construction assistance under Public Law 815. Yet with this assistance, with high taxes, with high indebtedness, 23,783 Nevada schoolchildren study in school plants with more than 30 pupils per instructional room. An estimated 600 additional rooms would be required to reduce class size to the acceptable level of 25 elementary pupils per room. Since many of these pupils are the children of Federal employees, and since all are citizens of the United States, it is certainly within the purview of Congress to do whatever it can to assure that their education is of the highest quality attainable. I believe that the extension of Public Law 815 would be a vital move toward that assurance and I sincerely hope you will include a recommendation for extension of the program in your report to Congress.

CONCLUSION

In closing, Mr. Chairman, I must state that I have not seen or heard any argument which convinces me of the necessity for massive reductions in the programs under the two laws as requested in the new budget and it would be a false economy indeed to slash these vital programs on no evidence except that economy is needed somewhere. Until I am presented with better reasons, I will oppose these reductions, and hope that my colleagues will do likewise.

In closing, Mr. Chairman, I simply want to reiterate that these programs are in no way substitutes for each other. They are entirely separate and apart and should be considered as such.

Thank you very much for permitting me to appear here today, Mr. Chairman.

Senator PROUTY. Senator Cannon, I think you have made a very effective argument in support of your position, which I understand represents the majority viewpoint in your State.

I have just looked at the subcommittee print, which indicates that under Public Law 874, the State of Nevada would be entitled to $2,787,198. With the proposed amendments to Public Law 874, this would amount to $949,759. That is a reduction of $1,800,000—some odd thousand.

Senator CANNON. Right.

Senator PROUTY. I can understand that would have a very serious impact.

Senator CANNON. Not only would it be serious, Mr. Chairman, it would be disastrous. When you consider an impact in the nature of nearly $2 million to the school district of our State which will have no way of recouping under the new act, you will see that it would just destroy educational progress in Nevada. We do not have the ability to make up this deficit.

Senator PROUTY. I think you share my feeling, perhaps, that if we are going to have cuts in the Federal budget, education is the last place we should start.

Senator CANNON. I certainly agree with the chairman on that point.

Senator PROUTY. I am delighted you were here this morning, Senator Cannon, and I am sure the subcommittee will benefit greatly by your testimony.

Senator CANNON. Thank you very much, Senator Prouty.

Senator PROUTY. At this point, we welcome the statement of Senator Frank Church, of Idaho, on Public Laws 874 and 815.

STATEMENT OF HON. FRANK CHURCH, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator CHURCH. Few Federal expenditure cuts would have the crippling effect that the proposed reductions in Public Law 874 and 815 will have on the smaller rural school districts, and in particular, those in the State of Idaho.

PUBLIC LAW 89–10—AN INADEQUATE SUBSTITUTE

What is most distressing is the apparent implication that title I of Public Law 89–10 is now an adequate substitute for Public Law 874. This is not only inaccurate but was never the intent of Congress in passage of Public Law 89–10. Even had it been the desire of Congress, the very language of title 1 of the Elementary and Secondary Education Act precludes its substitution. This section of the act provides for assistance to school districts having underprivileged children.

Public Law 874 has been a most necessary program designed to have the Federal Government assume a part of the cost of educating youngsters from families living on, or employed on, Federal installations, and who do not contribute to the local school district property tax base.

To say that Public Law 89–10 can span the financial gap being met by Public Law 874 is comparable to substituting a canary for a cow. We're not even talking about the same breed of animals.

EFFECTS OF PROPOSED CUTS ON IDAHO

Idaho today consists of 70 percent federally and State owned land. It has one major military airbase and one of the Nation's largest nuclear installations. Its vast forests and rangelands, all in the public domain, require thousands of employees, most of whom live on Federal property. Yet these service families, and civilian Federal employees, all send their children to be educated at Idaho public schools.

Fifty-one of the more than 150 districts in Idaho have been receiving Public Law 874 funds. These were not school districts in so-called poverty areas. As a matter of fact, most of them were just small rural districts, identical with thousands of other small middle income school districts throughout the Nation. The district property owners paid their taxes each year to pay for the education of their own children. The State of Idaho, which is now supplying a record amount of financial aid to education, paid a portion of the costs.

The Federal installations began to grow. The most graphic case in point among the 51 hard-hit Idaho school districts is the plight of Mountain Home, the nearest community to a big Tactical Air Command base. More than 70 percent of the 3,600 children attending the Mountain Home schools are federally connected. Under the proposed Public Law 874 cuts, that district would lose $370,000, an amount equal to 24 percent of their total operating budget for a year. It would mean cutting out an amount equal to the entire expenditure for 900 children a year. It would mean eliminating the salaries of 70 teachers, or one-third of the entire school district staff.

This is not the way we intend for the Federal Government to improve the lot of public education in the Nation. And just to lay to rest the possible argument that title I of Public Law 89–10 will provide the moneys lost under Public Law 874 funds, Mountain Home will be eligible for only $18,853 under title I of Public Law 89–10. This amounts to a net loss to the district of about $332,000.

I could cite 50 additional examples of financial inconsistency for each of the remaining federally impacted districts in Idaho. But I think the point has been made. I will submit to the subcommittee for inclusion in its written report, a series of letters from educators in Idaho, supporting my contentions.

What must be emphasized, Mr. Chairman, is that the loss of $1,670,365 under the proposed cuts in Public Law 874 disbursements in Idaho in fiscal year 1967, will so seriously cripple our districts that we will, in truth, be denying every one of the students, local and federally connected, diminished educational opportunities.

There is no doubt but that the additional funds Idaho will receive under title I of Public Law 89–10 will provide greater hopes of adequate education for our underprivileged children. But any gains that might be made through this assistance would be completely nullified by the loss of approximately 60 percent of the assistance now given impacted schools under Public Law 874.

I am certain, Mr. Chairman, that the conditions that prevail in

Idaho are reflected in almost every State in the Union. But the effects of the loss of impact moneys will fall heaviest upon the small, rural school districts in the Western States.

It goes without saying that if the Federal Government lives up to its obligation to provide for the education of federally connected children, it must also provide assistance to the school districts in construction of adequate classroom facilities to house the children. Accordingly, Public Law 815 is considered a companion measure for Public Law 874, and as such, has my strong support.

Mr. Chairman, I have been identified as a supporter of measures for the conservation of our natural resources. The most valuable resource this Nation has is to be found in the unplumbed talents of its young people. I was an enthusiastic supporter of the great educational assistance programs enacted by the first session of this Congress, for I believe they are the means to future national progress and enrichment. But they were not meant to be substitutes for then existing programs.

I therefore would urge the subcommittee to recommend continued funding in fiscal year 1967 and subsequent years for Public Law 874 and Public Law 815 at the same levels of support both programs enjoyed in fiscal year 1966.

(The material referred to follows:)

SCHOOL DISTRICT No. 193,
Mountain Home, Idaho, March 4, 1966.

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: The proposed reduction of P.L. 874 Funds to our district would cause a critical curtailment in our educational program. If the information that we have received is correct it would make it impossible for us to continue an adequate program.

Seventy per cent of the 3600 children that attend the Mountain Home Schools are federally connected. A reduction of $360,000.00 in 874 Funds would amount to $100.00 per student per year. This would amount to 24% of our entire M & O budget of $1,500,000.00 or approximately the entire expenditure for 900 children a year. As you are well aware the Funds available for education in Idaho is one of the lowest in the nation already, a drastic cut such as this for our district would cause us to curtail teacher personnel and curriculum to such an extent that our schools would loose their accreditation.

The proposed cut of $360,000.00 could mean the entire salary for approximately 70 teachers which is more than ⅓ of our entire staff. Teacher salaries in Idaho are already among the lowest in the nation. Therefore it would be impossible for us to secure qualified teachers if the salaries are lowered any more. The portion of our budget which is expended for instructional materials, for clerical personnel, for janitors, heat, lights and water is already at a minimum. The main curtailment would have to be largely in the cutting of staff which would be disastrous to our whole program.

The District is making a maximum effort at the local level, we levy 30 mills for M & O purposes which is the maximum levy allowed by the State of Idaho. We receive all of the moneys allowed us under the state foundation program. Under the laws of the State of Idaho we cannot receive any other money from local county or state taxes.

The following figures show a condensed form of our M & O Budget:

RECEIPTS

County Taxes	$320,000
State and County Foundation Program	560,000
Federal Funds	658,000
Miscellaneous Revenue	12,000
Total	1,550,000

EXPENDITURES

Administration	$35,000
Teachers Salaries	1,100,000
Instructional Expenditures	225,000
Operation of Plant	175,000
Other Auxiliary Agencies	15,000
Total	1,550,000

The 89–10 Program under Title I and Title II only brings to our district about $20,000.00 per year and this money cannot be used to replace 874 because this is allotted to us on the basis of our district offering new prgorams over and above the programs that are already in existence. The amount of $20,000.00 is only a fraction of the $360,000.00 that we might loose in the curtailment of the 874 Funds.

We certainly appreciate your efforts in pointing up the need for 874 Funds for districts such as ours and know that you will continue your efforts to maintain these funds at least at their present level.

Yours truly,

LEROY HUGHES,
Superintendent, Board of Trustees, School District No. 193.

INDEPENDENT SCHOOL DISTRICT No. 1,
Nez Perce County, Lewiston, Idaho, April 18, 1966.

Hon. FRANK CHURCH,
United States Senate,
Washington, D.C.

DEAR SENATOR CHURCH: It is most difficult to estimate the numbers of children that federal activity in our area will impact our school system over the next three to five years. We have three areas where the federal government has title to the land which contribute most of the impacted students. They are the Nez Perce Indian Reservation, the federal forests, and the three major dam constructions in the vicinity. The first two sources generally contribute between 150 to 200 students per year. From the information furnished us by the Corps of Army Engineers and from our previous surveys, we have made some conservative estimates. I want to emphasize that these are minimum numbers expected.

Over the next five years we should average an impact of at least 580 per year, starting with 220 in 1966–67 and peaking out at 890 in 1969–70, from the dam projects. If the Orofino School District is not able to increase its capacity those figures would be most low, as the overflows from the Dworshak project are coming our way. The numbers could easily run from 500 in 1966–67 to 1700 in 1969–70. Our district is in the process of planning for the minimum influx. If we can meet the minimum with needed classrooms we will be able to handle the maximums by increasing our class loads from about 30 to 34 students. We would not like to do this, but at least we could survive.

If we take the average of 580 from the dam projects and add our normal 200, we would expect about 780 impacted students as an average over the next five years. In general this district would lose an average of $105,300 per year for a total of $526,500 over the next five years if P.L. 874 is not continued. In addition, we have had to stay bonded almost to our capacity to furnish classrooms for our normal increases.

It would appear that we will receive about $60,000 per year in turn under the Elementary and Secondary Education Act of 1965. This amount will in no way supplant our operations as P.L. 874 funds would do. The amounts we are to receive under ESEA must be spent categorically and the programs must supplement our present one. I recently completed a form from the U.S. Office of Education that simply asked all participants under P.L. 874 if they would receive funds through ESEA. Evidently this information is to be used to show that such schools do benefit from ESEA and therefore do not need P.L. 874.

Since this federal activity will in no way increase our assessed valuation, the strain of this impaction will be terrific. Next year we are going to have to budget for about the same expenditures as this year while increasing our staff by at least 12 teachers, and in addition giving token salary increases. Without P.L. 874 we will have to crowd our classrooms and let our plant facilities deteriorate. The problem will be magnified even more during the succeeding four-year period.

Our budget has not been completed, but I hope this will give you some information concerning the problems we must face.

Sincerely,

ANDREW L. SMITH, *Superintendent.*

JOINT SCHOOL DISTRICT NO. 181,
Challis, Idaho, March 8, 1966.

Mr. FRANK CHURCH,
United States Senator,
Washington, D.C.

DEAR SENATOR CHURCH: Thank you for your letter of February 25th.

Should Public Law 874 funds be provided as requested in the President's budget message, this district would stand to lose not less than $10,000.00.

This figure is slightly more than we will receive this year under P.L. 89–10.

This figure is approximately 5% of our maintenance and operation budget.

It would appear that the gain from P.L. 89–10 would almost offset the loss of funds from P.L. 874.

This, of course, is not true since P.L. 89–10 must be used to expand the present educational program.

Since we have no other local source of revenue available to replace 874 funds (we are taxing the legal limits), it appears probable that the loss of 874 funds would also cause the loss of 89–10 funds, since we could not possibly maintain our present program.

Very truly yours,

IRVIN W. SPENCER, *Superintendent.*

JOINT SCHOOL DISTRICT NO. 304,
Kamiah, Idaho, March 8, 1966.

Hon. FRANK R. CHURCH,
U.S. Congress,
Washington, D.C.

DEAR SENATOR CHURCH: The Joint School District 304 of Kamiah, Idaho will suffer greatly if reductions are made in the P.L. 874 funds.

This little school district with 680 students and 30 teachers has one of the lowest assessed valuations in all north Idaho, due to the fact that, so much of the land in the district is on the non-taxable Nez Perce Indian Reservation.

The assessed valuation is $1,884,215.00 or $2,770.90 back of each child. Our R.S. F–1 P.L. 874 approved claim for this year 1965–66 is $30,246.00.

We have 187 3(B–1) and 3(B–2) federally connected pupils this year at $144.19 rate. Losing this money would take away $26,963.53 from our maintenance and operation budget forcing us to reduce our staff and curtail purchase of elementary and secondary consumables.

Under the Secondary and Elementary Education Act, we have received $13,199.68 for our disadvantaged youth. It is hard to understand how the government could give us $13,199.68 in one hand and then say, "Here, give me back $26,963.53." What kind of game is this?

Add to our situation the fact that Kamiah has 154 students in a junior high school building *condemned* by the U.S. Department of Health, Idaho State Dept. of Education and Kamiah School District, plus an overflow of 200 students expected to move into our school system caused by construction of the Dworshak Dam, any day.

I should point out that Title I Funds under the Elementary and Secondary Education Act do not take the place of federal money used for maintenance and operation. They are used in addition to supplement the budget. Even so, we would still lose $13,763.85.

Please continue your steadfast efforts to see that our Idaho Youth in this poverty area do not suffer, as we cannot exist without this aid.

Yours truly,

DON BLAKELEY,
Superintendent, Kamiah Public Schools.

HAYDEN LAKE, IDAHO, *March 9, 1966.*

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: As a new resident of Idaho, with four children in the public school system, I am very concerned over the request of President Johnson to cut federal aid to our schools.

It is vital to the future of our country, that each child be afforded the best education possible. Without federal aid, Idaho schools will be unable to provide this, as you know. I urge you to do all that is possible to stop passage of this proposed bill.

Sincerely yours,

CAROLYN THIENES
Mrs. Earl Thienes.

SCHOOL DISTRICT No. 59,
Firth, Idaho, February 28, 1966.

Senator FRANK CHURCH,
Senator from Idaho,
Washington, D.C.

DEAR SENATOR CHURCH: We, as members of the local board of Firth School District #59, urge your continued support to Public Law 874 as presently constituted. We need this money most vitally. In fact, this appropriation is the most important federal money we receive.

We appreciate the support you have given us concerning the support of the 874 program. We trust the amendments will be defeated soundly.

We would lose $8,397, this is but a drop in the bucket as compared to neighboring schools. Yet, comparatively, the impact is just as incisive to us as to our neighbors. The point is, should the amendments pass, the schools of Idaho would suffer badly due to decreased funds. Then, too, federal lands within our state are out of proportion as compared to other states. This, the opposition may not be considering.

Thank you for your support and interest.

Sincerely,

FORD COLL, *Board Chairman.*

JOINT SCHOOL DISTRICT No. 233,
GOODING AND TWIN FALLS COUNTIES,
Hagerman, Idaho, March 30, 1966.

Senator FRANK CHURCH,
Washington, D.C.

DEAR SENATOR CHURCH: Thank you for your efforts in trying to stop proposed reductions in impacted areas funds.

Our school budget for this year was $175,778.07 of which amount $4,358 was from P.L. 874. Our impact ADA student average is 15 to 17 per year.

As you can see this reduction in assistance in 874 funds would cause loss of a substantial amount of financial assistance to our District.

Anything that you can do to keep this program in effect for our School District will be greatly appreciated.

Sincerely,

GEORGE M. CARNIE, *Supt.*

BOUNDARY COUNTY SCHOOL DISTRICT NO. 101,
Bonners Ferry, Idaho, March 31, 1966.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: In reply to your letter concerning P.L. 874 funds, I would just like to express my personal appreciation and that of the Board of Trustees of Boundary County School District No. 101 for your concern and efforts on behalf of the School District of Idaho.

The funds we have received under P.L. 874 have become a very vital part of our General Maintenance and Operation Budget. Under the proposed cuts our District would lose $21,871. While the funds we receive under P.L. 89–10, Title I are shown as offsetting this loss, this is very misleading. During the current year we have received money from both sources. The money under P.L. 89–10, Title I was used mainly for new programs or materials which we were unable to provide before and several of these projects are continuing projects which will commit funds past the current year. Basically, then, if we lose our P.L. 874 funds we will have to curtail our program in the amount of the total loss in funds.

Our feeling here is that of the several federal programs available to us, the P.L. 874 is based on the best principles and leaves the determination of how the money can best be used up to the local people.

Another established and proven program is the Vocational Education Program which is also faced with a reduction in funds. I do not feel that this program should be weakened in order to start new programs.

Your continued efforts concerning these programs will be greatly appreciated and if we can be of any help please feel free to contact us.

Yours very truly,

ROBERT A. BURNS,
Superintendent of Schools.

BLACKFOOT SCHOOL DISTRICT NO. 55,
Blackfoot, Idaho, April 1, 1966.

Senator FRANK CHURCH,
United States Senate,
Washington, D.C.

DEAR SENATOR CHURCH: A few weeks ago you sent a letter to us requesting information as to how the cutback of Public Law 874 Funds, under the present anticipated reduction requested by the President, would affect our school district.

At the present time the only figures that I can furnish you with are those in which you used January 13, 1966, in discussing Public Law 874 on the floor of the Senate. As I understand it these estimated figures were furnished you by the U.S. Office of Education. In past years we have found that these estimates are not too far off.

Using the table of figures referred to in the above paragraph, the loss of funds to our district would be 6.79 per cent of our entire Maintenance and Operation Budget, which would be lost. Due to the fact that the Fort Hall Indian Reservation is located within our school system, it is impossible to resort to any other source for funds to supplement this loss. We would have a very difficult time absorbing over $97,000.00 during the 1967 school year under our present set up.

Under the Elementary Secondary Education Act of 1965 89–10, the program is set up so that it is impossible to supplement these funds in place of Public Law 874 Funds. The interpretation given to us is that 89–10 Funds are to be used to innovate and expand services that ordinarily school districts could not afford. This is the way that we are doing it in our school system. Our Board of Trustees takes the attitude that Public Law 874 Impact Funds are monies paid in lieu of taxes because of the Fort Hall Indian Reservation and therefore, this is one area which the Federal Government has an obligation to assume.

We sincerely hope this information will assist you in your deliberations. If there are any other questions that we can answer please feel free to ask us. We appreciate very much your stand on Public Law 874.

Sincerely,

I. T. STODDARD, *Superintendent.*

KOOTENAI SCHOOL DISTRICT NO. 274,
Harrison, Idaho, March 31, 1966.

Hon. FRANK CHURCH,
United States Senator from Idaho,
Washington, D.C.

DEAR SENATOR CHURCH: Relative to your correspondence of March 10, 1966, and the budgetary figures for Kootenai School District #274:

On a cash basis this district received $13,325.00 in P.L. 874 funds this year. Under the proposed amendments our entitlement would be cut to $2,182.00. This district will receive $3,647.00 under the 89–10 Title I law this school year and we have been advised to budget the same amount for the 1966–67 school year. Should the amendments to P.L. 874 pass, this district would have to sustain a net loss of $11,143.00 for the 1966–67 school year. Of course, the true picture is even worse as the Title I monies are categorized and a newly initiated program of testing and counseling must be continued to receive these funds.

The $11,143.00 net loss is approximately eight per-cent of this district's maintenance and operation budget. How we can slice eight per-cent from a very tight budget and maintain a minimum program is beyond my capabilities. It is only through the build-up of 874 funds, due to an influx of patrons in our district and their employment in the National Forest the past two years, that we have been able to "beef" up our curriculum and staff to meet minimum standards. Presently all of our elementary teachers are teaching two grades in one room with an average of nearly thirty students. How am I to reduce staff with this situation? You cannot reduce a small budget by $11,143.00 without reducing curricular offerings and staff. Transportation charges, fixed charges, heat, lights, and water cannot be sliced.

We sorely need new school buses, additional staff (the seventh grade will have thirty-seven students next year for one teacher), and maintenance and repair in our two old elementary buildings is an absolute necessity.

Please do everything in your power to stop any curtailment of P.L. 874 funds. Thank you for past consideration.

Sincerely,

CALVIN H. FARLEY, *Superintendent.*

POTLATCH PUBLIC SCHOOLS,
DISTRICT NO. 285, LATAH COUNTY,
Potlatch, Idaho, March 30, 1966.

Hon. FRANK CHURCH,
United States Senate,
Washington, D.C.

DEAR SIR: School District #285 at Potlatch would not be hit as hard as some of our neighboring school districts by the loss of P.L. 874 funds. We are currently receiving approximately $3800. from P.L. 874 funds and about $4200. under Title I of PL 89–10. Of course, the loss of any funds to a small district could have a rather drastic effect on its educational program.

The loss of $3800. to our educational program would mean 2/3 of a teacher from a staff of 29 teachers. This money could only be replaced by a special levy against school property tax and it would take a 1 mill levy to compensate for this loss.

I can see no relationship between Elementary and Secondary Education act funds and P.L. 874 funds. We were specifically directed to make certain that the P.L. 89–10 funds are to be used to add something new to our present educational programs. These funds would not be allowed to replace something we already have in our program. Under these circumstances it is difficult to see how 89–10 funds can replace 874 funds.

I think the philosophy and objectives of both P.L. 874 and P.L. 89–10 funds are worthy of making every effort to keep both laws in full operation. I feel that there are many bugs to be removed from P.L. 89–10 before it will do what it is intended to do, but the goals are worth the effort.

Sincerely,

JAMES W. BIEKER, *Superintendent.*

MACKAY PUBLIC SCHOOLS,
JOINT SCHOOL DISTRICT NO. 182,
Mackay, Idaho, March 4, 1966.

Hon. FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: In your letter of February 25th you requested budget figures for our School District concerning impact funds under P.L. 874 and what effect it would have before and after.

Senator, my District operates on $1,650,000.00 of assessed valuation. Since last year, our enrollment has increased to 146 students in the high school and we are severely cramped for room. The staff is overloaded, the classrooms are overloaded, I need additional teaching personnel. I cannot continue to operate this District without outside help. The maximum millage of thirty mills will bring me, from the local District, $47,000.00. My teachers' salaries, and we pay very poorly, amount to $114,000.00 for the next fiscal year. The State will furnish $112,000.00 roughly for Maintenance and Operation. Putting them together we have a total of $159,000.00 to perform all of the M & O functions. If I do not receive the full $11,356.00 to which we are entitled, I am going to have to severely cut back our instructional program which is not warranted. We have no frills, Senator. I cannot afford to make a financial mistake. The Clerk, the Board and myself live with a budget in their hands. What services do I sever? I need $169,000.00 for maintenance and operation alone to offer only the basics of education. I need additional members on the staff, I need classroom space, I am bonded to the limit and I do not appreciate the fact that the larger systems, with their huge assessed valuations, can offer courses we do not even dream of. I have the best staff in Idaho and this staff has been working for years on minimum salary schedules, but they have been content. Where do I replace them, Senator? I cannot hope to compete with districts around me. I am now fighting strictly for survival for if the sales tax is defeated in November and I lose $5,000.00 of federal funds and the hot lunch program is not supported one hundred per cent, I stand to lose $25,000.00 and I shall have to close.

I am desperate, frustrated and despondent because I see things that I need and cannot afford. We have made tremendous strides in Idaho since the last Legislature but our taxpayers are burdened with a heavy school tax, we are levying the maximum levy and still to lose a dollar is tragedy for the small school. I do not believe the President intended to hurt us but I can assure you that if we lose these impact funds my program is lost. It would be senseless to go into each minute detail of the budget so, therefore, I have given you large numbers. You can see what I need to operate in M & O without any waste, but with the loss of federal funds, we might just as well seek employment elsewhere.

Thank you so much for your concern. You have done much for our State. I only hope that you and a few other enlightened Senators have the courage to stick by your guns.

Sincerely yours,

GEORGE H. HINDS, *Superintendent.*

JOINT SCHOOL DISTRICT NO. 41,
St. Maries, Idaho, March 4, 1966.

Hon. FRANK CHURCH,
U.S. Senator from Idaho,
Washington, D.C.

DEAR SENATOR CHURCH: I just returned last night from three busy days in Boise and your letter of February 25 was waiting for me.

Our district in total dollars will not be hit so hard—the proposed reduction approximates $8,000.00. However we are a very poor district with but $3600 valuation behind each pupil and this $8,000 item is a big thing in our budget.

This amount will reduce our potential teacher salary offering about $130.00 per teacher. This is not a huge sum but with Idaho teacher salaries already much lower than in the surrounding states these little amounts often add up to the teacher making the decision to stay with us or move to the more lucrative pastures.

The Title I funds of the 89–10 law would approximate $14,000 and the original expected 874 funds would be almost the same amount. The Big difference is, however, that 874 funds paid teachers, heated buildings and swept floors whereas the federal control of 89–10 dictates that all of this money must be for something we were not already doing. Expansion is lovely but FIRST we would like to have the basic education better supported.

At DeSmet, 16 Indians will receive $21,000 according to a Head Start release. If we in our district could get one third this amount per pupil for the basic educational program we could provide a much stronger program. Further, as a school man, I resent terribly Head Start since it bypasses State Department of Education and the local school boards. We are old fashioned enough to believe the true american way is for education to be under the duly constituted authority, namely the state and local Boards of Education.

I hope this helps you and that it will arrive in time.

Sincerely,

ANDY HAWKINS, *Superintendent.*

FREMONT COUNTY JOINT SCHOOL DISTRICT A–215,
St. Anthony, Idaho, March 29, 1966.

Hon. FRANK CHURCH,
United States Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Thanks very much for your letter requesting information about our Federal funds for the above School District.

Under Public Law 874, our District receives about $17,000 per year. This money is used for additional teachers and equipment.

Under Title I of Public Law 89–10 our entitlement is $22,750 this current year and we are budgeting as income for next year this same amount. We use this for up-grading our educational program by additional teachers, teacher helpers, equipment and better libraries. Equipment and help for educationally deprived students is not possible without this help from the Federal Government.

For your information, I do not feel the Government dictates our educational program by accepting these funds; it just makes it possible for us to do a better job educating our future citizens for their tremendous job of being good Americans.

Thanks very much for your help and concern about our Country's educational program.

My kindest regards,

Sincerely,

MAX SNOW,
Superintendent of Schools, Fremont County No. 215.

JOINT SCHOOL DISTRICT NO. 365,
OWYHEE AND ELMORE COUNTIES,
Grand View, Idaho, March 31, 1966.

Hon. FRANK CHURCH,
Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: In regard to the letter of March 10, 1966, which I received March 28, I assume that you still want the information asked. I am quoting what would happen in our school budget if PL 874 funds were reduced as shown per your figure written into the records, March 14, 1966.

As shown on the Congressional record the reduction in funds would be $16,141, if PL 89–10, Title I, funds were given to us in place of the total amount received in PL 874 funds. If this were to happen, our situation would be effected in this manner—we would have to reduce:

Capital Outlay: From $8,600 to 0
Instruction & Consumables: From $10,000 to $5,000
Library: From $3,500 to $1,500
Maintenance: From $3,000 to $1,000

We would also be effected in funds received in Public Law 89–10, Title I, and would probably not be allowed to spend in the areas that PL 874 had been spent, causing a hardship in some of the other areas of our budget.

I hope that you may still be able to use this material, since it is more than two weeks time lapse in your asking for it and my being able to supply it to you.

Sincerely yours,

CHARLES A. BROWN,
District Superintendent.

MINIDOKA COUNTY SCHOOLS,
JOINT CLASS A DISTRICT NUMBER 331,
Rupert, Idaho, March 31, 1966.

Hon. FRANK CHURCH,
United States Senate, Washington, D.C.

DEAR SENATOR CHURCH: I have your letter of March 10, 1966 expressing concern over the present proposed reduction in P. L. 874 funds and how these reductions will effect our school district for next year, and also the present plan to balance this with our entitlement under Title I, P. L. 89–10.

As you may recall, the Minidoka County School District includes the Minidoka Homestead Project. Because of this project we have received sizeable amounts of money under P. L. 874 over a period of some ten years. However, the project is completed at the moment and no funds will be coming to our district after this year. As a consequence, we are no longer concerned with P. L. 874.

It seems to me, however, that P. L. 874 monies involving impacted areas has nothing to do with the allotment under P. L. 89–10 which I understand is to go for educating the disadvantaged child. We received $69,472.00 this year and have the same allotment for next year. Our plans are to use this as the law specifies so could not use it for replacement of P. L. 874. It seems to me there would be much conflict and confusion if Congress attempted to intermix the two laws.

I appreciate very much your interest and consideration.

Sincerely yours,

CAMDEN B. MEYER,
Superintendent of Schools.

BOISE PUBLIC SCHOOLS,
Boise, Idaho, March 30, 1966.

Senator FRANK CHURCH,
United States Senate, Washington, D.C.

DEAR SENATOR CHURCH: This will acknowledge receipt of your recent letter relative to a reduction in P.L. 874 funds.

The Boise School District has been approved for $142,552.00 for this year. As we understand, the cut in these funds would decrease this amount to approximately $18,000.00.

This means a loss of about $150.00 per year per teacher that could be applied to salaries so that our district could better compete with surrounding states for the better teacher for the children of this district. I gets a bit disheartening to our people when they are visiting colleges and interviewing prospective teachers to have cities in surrounding states offering these young teachers $500–$1000 more than Boise and other Idaho schools are able to offer.

I don't feel that P.L. 815 funds are as necessary and important to the school district, except in special cases, such as Mountain Home Air Base, as are the P.L. 874 funds. We are not in such drastic need for building funds in most Idaho communities as we are for M & O funds.

The consensus of opinion in Idaho is that Title I funds under the Elementary and Secondary Education Act could be used to better advantage, both to educationally and economically deprived, and to all students, if this could be handled in much the same manner as P.L. 874 funds. Much of the entitlement is being spent on projects that will qualify when these projects really may be questionable so far as the worth is concerned.

I realize I may be taking an ultra-practical attitude but it does disturb me to see some districts grabbing for their share, putting in projects of no practical value just to get their share of the money when it could be used in much better ways to try and bring their educational programs up to a standard of excellence.

I dislike seeing money taken from established programs such as P.L. 874, and distributed to so many untried programs that may not benefit the young people that are now being helped by the aid from established funds.

We are grateful for your interest in the schools, and your efforts to keep our established funds in effect.

With kindest personal regards and all good wishes, I am,

Sincerely,

T. C. BIRD, *Superintendent.*

CASCADE PUBLIC SCHOOLS,
DISTRICT NO. 422,
Cascade, Idaho, Valley County, March 8, 1966.

Mr. FRANK CHURCH,
Senator, United States Senate,
Washington, D.C.

DEAR SENATOR CHURCH: I received your letter concerning the proposed reduction in Public Law 874 and how the reduction would affect our school district. As you will see from the figures later in the letter any reduction would be a serious blow to our district. Of course the method chosen to make the reduction is very important to us also. The loss of the (b) student, (live off—work on) would almost eliminate us from the P.L. 874 program. This coupled with the fact that our district is not eligible for Title I funds under the Elementary and Secondary Education Act would have a drastic effect on our program.

I am not sure how our program would be cut back but drastic cuts would have to be made. We therefore support whole heartedly your stand to reverse the proposed reduction and commend you for your efforts. Our only hope is that many other congressmen are as concerned as you and will not allow this reduction.

In the 1964–65 school year the P.L. 874 revenue to our district was $9,926.00 out of a total of $143,383.19. This constituted 6.9% of our total general fund income. This current school year we anticipate receiving $12,000. from P.L. 874 out of a total general fund income of $153,381.00 or 7.82%. As you can see the amounts are small but still constitute a significant part of our income. The loss of these funds would deal a crippling blow to our school.

Another fact that should be considered is that P.L. 874 provides a payment in lieu of taxes for these federally connected students whose parents employment is on tax exempt land. This tax exempt land constitutes about 92% of my school district. We are in dire need of some income to help educate the children that are here because of this federal property.

Many are advocating that districts will not be hurt since they are going to get additional money through Title I of the ESEA. This is not true in our case. We are not eligible for any Title I monies.

I hope this is the information you requested and that it will be of some value to you. I again would like to thank you for your efforts in working to reverse this reduction and wish you success.

Sincerely,

JERRY L. EVANS, *Superintendent.*

Comparison of Public Law 874 proposed cuts and Public Law 89–10 entitlements on affected Idaho school districts

	Public Law 874 estimated fiscal year 1967 entitlement	Public Law 874 entitlement if amended	Public Law 874 losses	Public law 89–10 title I available funds	Net change
Ada: Boise No. 1	$184,599	$18,826	$165,773	$206,679	+$40,906
Adams:					
Meadow Valley No. 11	23,100	6,276	16,824	3,820	−13,004
Council No. 13	21,543	8,640	12,903	7,468	−5,435
Bannock: Pocatello No. 25	96,548	0	96,548	133,038	+36,490
Benewah:					
St. Maries No. 41	14,898	6,366	8,532	12,852	+4,320
W. Benewah No. 42	17,259	3,365	13,894	5,731	−8,163
Bingham:					
Snake River No. 52	39,170	17,826	21,344	25,530	+4,186
Blackfoot No. 55	210,650	112,953	97,697	86,840	−10,857
Firth No. 59	12,853	4,456	8,397	9,552	+1,155
Shelley No. 60	36,726	19,736	16,990	22,578	+5,588
Blaine:					
Hailey No. 61	9,939	0	9,939	21,015	+11,076
Boise:					
Garden Valley No. 71	13,674	3,819	9,855	(1)	−9,855
Basin No. 72	18,990	5,457	13,533	(1)	−13,533
Horseshoe Bend No. 73	3,030	1,546	1,484	2,431	+947
Bonner:					
Sandpoint No. 82	56,263	15,461	40,802	70,861	+30,059
Bonneville:					
Idaho Falls No. 91	394,988	222,183	172,805	90,139	−82,666
Swan Valley No. 92	11,202	6,639	4,563	4,342	−221
E. Bonneville No. 93	131,465	75,759	55,706	34,562	−21,144
Boundary: Bonners Ferry No. 101	32,148	10,277	21,871	30,567	+8,696
Butte: Arco No. 111	73,648	37,379	36,269	6,599	−29,670
Clark: Dubois No. 161	18,476	2,910	15,566	6,078	−9,488
Clearwater:					
Orofino No. 171	29,835	5,184	24,651	34,041	+9,390
Elk River No. 172	10,740	2,455	8,285	(1)	−8,285
Custer:					
Challis No. 181	17,570	4,548	13,022	9,031	−3,991
Mackay No. 182	11,346	5,093	6,253	9,552	+3,299
Elmore:					
Glenns Ferry No. 192	12,827	2,911	9,916	7,815	−2,101
Mountain Home No. 193	722,207	370,778	351,429	18,853	−332,576
Franklin: Westside No. 202	2,564	0	2,564	9,205	+6,641
Fremont: St. Anthony No. 215	26,535	5,093	21,442	22,752	+1,310
Gooding: Hagerman No. 233	4,632	0	4,632	8,684	+4,049
Idaho:					
Grangeville No. 241	63,089	26,557	36,532	46,198	+9,666
Cottonwood No. 242	21,039	2,638	18,401	23,967	+5,566
Jefferson:					
Rigby No. 251	54,227	19,827	34,400	49,498	+15,098
Ririe No. 252	10,444	3,819	6,625	9,205	+2,580
Kootenai:					
Coeur d'Alene No. 271	21,135	0	21,135	59,572	+38,437
Lakeland No. 272	7,761	0	7,761	14,068	+6,307
Kootenai No. 274	10,531	2,182	8,349	12,678	+4,329
Morley No. 275	7,076	727	6,349	(1)	−6,349
Latah: Potlatch No. 285	3,858	0	3,858	4,342	+484
Lemhi: Salmon No. 291	26,461	9,368	17,093	41,683	+24,590
Lewis:					
Nezperce No. 302	5,421	0	5,421	5,731	+310
Kamiah No. 304	34,729	10,823	23,906	13,199	−10,707
Minidoka: Minidoka No. 331	34,184	0	34,184	69,472	+35,288
Nez Perce:					
Lewiston No. 1	22,141	0	22,141	60,093	+37,952
Lapwai No. 341	59,020	19,370	39,650	23,099	−16,551
Oneida: Malad No. 351	6,897	0	6,897	16,152	+9,255
Owyhee: Bruneau-Grand View No. 365	38,408	12,368	26,040	9,899	−16,141
Power: American Falls No. 381	30,014	5,274	24,740	8,510	−16,237
Shoshone: Avery No. 394	11,157	1,728	9,429	(1)	−9,429
Valley:					
McCall-Donnelly No. 421	36,168	16,825	19,343	5,210	−14,133
Cascade No. 422	21,443	6,821	14,622	(1)	−14,622

[1] Not eligible.

NOTE.—23 districts (all but 3 are small rural) lose $651,566; 28 districts (all but 7 are rural) gain $357,974.

SCHOOL DISTRICT NUMBER TWENTY-FIVE,
Bannock County, Pocatello, Idaho, March 29, 1966.

Re Public Law 874.

Senator FRANK CHURCH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: The loss of Public Law 874 funds would be a staggering blow for the Pocatello Schools. In our budget for the 1967 fiscal year, we have anticipated $96,548 in Public Law 874 funds. The proposed amendments to this law would reduce our entitlement to ZERO.

If P.L. 874 funds are lost to the Pocatello Schools, we will simply have to dismiss a specific number of teachers and distribute these students to already overcrowded classrooms. This would make little sense in view of the present over-all educational objectives of the Congress.

Our entitlement under Title I of the Elementary and Secondary Education Act for the 1966 fiscal year is $133,038.88. If my understanding of this Act is correct, we could not use these funds to take the place of any cut in P.L. 874 funds.

I urge you to make every effort to see that the Public Law 874 program is funded at its current level.

Sincerely,

RUHLON M. ELLIS, *Superintendent.*

THE STATE OF IDAHO,
OFFICE OF THE SECRETARY OF STATE,
Boise, March 22, 1966.

Hon. FRANK CHURCH,
U.S. Senator,
Washington, D.C.

DEAR SENATOR CHURCH: I have the honor to transmit herewith a certified copy of House Joint Memorial No. 16, passed by the Second Extraordinary Session, Thirty-Eighth Session of the Legislature of the State of Idaho.

Respectfully submitted.

ARNOLD WILLIAMS,
Secretary of State.

Enclosure.

STATE OF IDAHO

DEPARTMENT OF STATE

CERTIFICATE

I, Arnold Williams, Secretary of State of the State of Idaho, and legal custodian of the Great Seal of the State, and of Legislative enactments, do hereby certify that the attached copy is a full, true and complete transcript of House Joint Memorial No. 16 enacted by the Second Extraordinary Session of the Thirty-Eighth Session of the Legislature of the State of Idaho, received and filed in this office the Tenth day of March, 1966.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed hereto the Great Seal of the State of Idaho. Done at Boise, the Capital of Idaho the Twenty Second day of March, A.D. 1966.

[SEAL]

ARNOLD WILLIAMS,
Secretary of State.

[Legislature of the State of Idaho, Second Extraordinary Session—Thirty-Eighth Legislature]

In the House of Representatives

H.J.M. No. 16

BY EDUCATION COMMITTEE

A JOINT MEMORIAL

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

We, your Memorialists, the Legislature of the State of Idaho, respectfully represent that:

Whereas, the impact of federal programs has long been evident in the State of Idaho, and will continue to affect this state; and

Whereas, such federally sponsored programs result in the immigration of large numbers of families, and children of these families must be educated; and

Whereas, the education of these children places great burden upon existing instructional facilities and educational resources of this state; and

Whereas, it is the heritage of our country and the right of all to receive the benefits of a good and competent educational program;

Now, Therefore Be It Resolved, by the Second Extraordinary Session of the Thirty-eighth Session of the Legislature of the State of Idaho, now in session, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States to proceed with all due speed to e xtend Public Laws 81-874 and 81-815, as amended, authorizing the funds for educational purposes in areas burdened by the increased numbers of educable children, caused directly by the impact of federal programs.

Be It Further Resolved, that the Secretary of State of the State of Idaho be, and he is hereby authorized and directed to forward certified copies of this Memorial to the President and Vice-President of the United States, the Speaker of the House of Representatives of the Congress, and to the senators and representatives representing the State of Idaho in the Congress of the United States.

This House Joint Memorial passed the House on the 5th day of March, 1966.

Pete T. Cenarrusa,
Speaker of the House of Representatives.

This House Joint Memorial passed the Senate on the 5th day of March, 1966.

W. A. Drevlow,
President of the Senate.

I hereby certify that the within House Joint Memorial No. 16 originated in the House of Representatives during the Second Extraordinary Session of the Thirty-Eighth session of the Legislature of the State of Idaho.

Dryden M. Acker,
Chief Clerk of the House of Representatives.

Senator Prouty. The next witness will be Mr. William Geer, executive secretary of the Council for Exceptional Children, Dr. Maynard Reynolds, Department of Special Education, University of Minnesota, Minneapolis, Minn. They will appear as a panel and we are delighted to see them.

STATEMENTS OF WILLIAM GEER, EXECUTIVE SECRETARY, COUNCIL FOR EXCEPTIONAL CHILDREN, WASHINGTON, D.C., AND DR. MAYNARD REYNOLDS, DEPARTMENT OF SPECIAL EDUCATION, UNIVERSITY OF MINNESOTA, MINNEAPOLIS, MINN.

Senator PROUTY. I shall be very happy to have you gentlemen proceed in any manner satisfactory to you.

Mr. GEER. Thank you, Senator Prouty, Senator Dominick. The Council for Exceptional Children is certainly grateful to have this opportunity to present testimony to this committee with regard to the amendments to the Elementary and Secondary Education Act.

Senator DOMINICK. Mr. Chairman, before the witness starts, off the record.

(Discussion off the record.)

Mr. GEER. Our statement this morning will be presented in two parts, one statement with regard to the education of the handicapped and the other part with relation to the education of the gifted. At this time, our president, Dr. Maynard Reynolds, who is chairman of the Department of Special Education at the University of Minnesota, will give our statement regarding the handicapped. Dr. Reynolds.

Dr. REYNOLDS. Mr. Chairman and Senator Dominick. I have been asked to indicate that the statement which I offer this morning is made on behalf of the American Foundation for the Blind, the American Association of Workers for the Blind, and the National Federation of the Blind, as well as the Council for Exceptional Children.

We had hoped to be able to present this morning at least one State director of special education programs, but we found we were not able to arrange that. However, the subcommittee will receive letters from Dr. John Melcher of Wisconsin and Dr. Ray Simches of New York, who is currently the legislative chairman of the Association of State Directors of Special Education.

Senator PROUTY. Would you like to have those included in the record or made part of the record when they arrive?

Dr. REYNOLDS. We will appreciate that.

Senator PROUTY. We already have a letter from Dr. Melcher, without objection, I will include it in this record.

(The letter from Mr. Melcher follows:)

THE STATE OF WISCONSIN,
DEPARTMENT OF PUBLIC INSTRUCTION,
Madison, Wis., April 22, 1966.

EDUCATION SUBCOMMITTEE,
Committee on Labor and Public Welfare,
Senate Office Building,
Washington, D.C.
(Attention Mr. Charles Lee).

DEAR SIR: Thank you very much for inviting me to present testimony before the Education Subcommittee of the Senate Committee on Labor and Public Welfare on Wednesday, April 27, 1966. I am very sorry that prior commitments in our state prevent me taking advantage of this kind invitation.

I would like, however, to offer my vigorous support of the modifications contained in S. 3046 since they are sound, logical modifications of P.L. 89–10.

Beyond the proposals in S. 3046 I recommend to your Subcommittee consideration of extending P.L. 89–10 to include fiscal support of public school programs in the amounts made available to residential schools for handicapped children under P.L. 89–313. The latter Act, as one of the first extensions of P.L. 89–10,

is giving valuable assistance to state-supported educational programs in residential facilities for handicapped children. The formula applications and specific grants made possible under P.L. 89–313 should be made available for *all* handicapped children being served by community public school facilities.

P.L. 89–10 clearly permits expenditures for the development of innovative programs for physically and mentally handicapped children in local schools but the primary pupil emphasis is on the financially inadequate and culturally deprived pupil. In the opinion of the state directors of special education throughout the country it is obvious that P.L. is making great strides in the area of deprivation but is *not* making any deep inroads into the problems of programs and services for the physically and mentally handicapped *outside the areas of deprivation.* By applying P.L. 89–313 support criterion to the basic structure in P.L. 89–10, Title I, we could expedite the development of programs for exceptional children and youth throughout all the fifty states.

Simply stated, the present broad category approach does not give the large dose of federal fiscal support, so sorely needed, for the expansion of special education for children and youth who are blind, deaf, mentally retarded, emotionally disturbed, or who have other serious physical and/or mental deficiencies.

Thanks again for inviting me to express my views and those of my colleagues in other state school agencies.

Cordially yours,

BUREAU FOR HANDICAPPED CHILDREN,
By JOHN W. MELCHER, *Director.*

Dr. REYNOLDS. I know your time is limited, Mr. Chairman, so rather than to read through the full statement, I will touch upon the highlights, if that is all right.

AMENDMENTS TO PUBLIC LAW 89–10

First, I wish to indicate that the Council for Exceptional Children supports amendments to Public Law 89–10 pertaining to Indian children and children of migratory agricultural workers. We also believe that the change to the $3,000 family income figure is indicated, that it is realistic in approaching a definition of educational deprivation.

I think the thing that I can do that would be most useful to you would be to come immediately to a focus on handicapped children and what the effect of Public Law 89–10, and particularly title I, has been in that sphere.

IMPLEMENTATION OF PUBLIC LAW 89–10

I should like you to know that the Council for Exceptional Children has constantly supported Public Law 89–10 and that we have engaged in a variety of activities designed to help implement this important legislation. One issue of the journal of the Council for Exceptional Children was given over entirely to the discussion of Public Law 89–10 and related Federal legislation.

Last December, we held a national conference in Chicago on the theme of creative implementation of Federal legislation. I would like to mention and commend to you the excellent support we have had from the staff of this committee and the Office of Education in these activities.

Mr. Geer and I have just returned from the annual convention of CEC which was held in Toronto this year. There were 4,700 special educators at the convention. Very prominent on the agenda of the convention and in the air was the further implementation of Public Law 89–10.

The council has conducted two studies relating to the implementation of this important legislation. One of the studies, the most recent, I shall refer to this morning.

But let me move quickly to title I and focus on the handicapped. May I please refer your attention to table I of my written statement. That table summarizes results of a study conducted in 22 States, covering 6,834 projects for which the total dollar commitment represents about one-third of the total appropriation for title I. It may be observed that there has been very uneven performance among the States in launching programs relating to the handicapped. Some States have done nothing under title I with regard to handicapped and at least one State has allocated about 20 percent of its funds to projects designed to serve the handicapped.

For the 22 States as a whole, it would appear that about 2.4 percent of the funds are going to activities definitely relating to the handicapped. By contrast, we estimate that about 10 percent of the children are handicapped and in need of special instruction and services in the school. In disadvantaged areas—low income areas—we would expect the incidence of handicapped children to be even higher than the 10 percent figure. I think you will understand our concern that the evidence now available shows so few projects serving handicapped children.

We recall with great pleasure the participation of Senator Morse in our convention in Portland, Oreg., a year ago. At that time he reviewed for us what in our organization has become some very famous letters between Senator Morse and Mr. Keppel and between Senator Morse and Mr. Cohen, in which it was indicated that educational deprivation was to be defined to include the handicapped.

SHORTCOMINGS OF PROGRAMS FOR HANDICAPPED

I must indicate to you that what we thought were some very broad doors for opening opportunities to handicapped children have turned out to be less broad than we had hoped. The question immediately arises, Why would this be so? Why is it that less has developed for handicapped children than we all seemed to anticipate? Let me review the reasons as we have been able to assemble them.

First, several administrators have voiced the belief that it really was not the intent of this legislation to include handicapped children since they are not included specifically in the accounting of children which provides the basis for the funding of this act. They have contended that the act relates primarily to educationally deprived children and that the handicapped should not take funds away from these educationally deprived children.

Second, in a few instances administrators have insisted that handicapped children were already benefiting from State programs and hence they should not benefit from this Federal program. We would point out that so far as we know no State has as yet provided a program for handicapped children which is considered adequate to their needs and that children who are not handicapped are cared for much more adequately in every State than are handicapped children.

Third. Definitions from the U.S. Office of Education have led some administrators to believe that handicapped children are to be counted and served only if they are also in the low income group for this

purpose. There has been much talk about programs needing to be organized in so-called target areas. We believe that Office of Education regulations have been misunderstood at this point. However, this has served as a block to children who are handicapped receiving services.

Fourth. In many States the present State department staff and special education component of the department are too small and consultative services cannot be provided to local school systems to be sure that they will understand that 89–10 provisions extend to handicapped children.

Some of these problems are difficult to understand. I would acknowledge the helpful statement which you provided, Senator Prouty, in the editorial printed in the journal of the National Education Association. Despite such efforts, there seems to be some genuine confusion about the applicability of this legislation to the handicapped.

Brief comments are provided in the written statement concerning titles II, III, IV, and V. I shall take no time to comment further on them.

But now, Mr. Chairman, we would like to give our impressions about what it will take to provide handicapped children a reasonable amount of funds from title I. At this time we would call your attention to an amendment of Public Law 89–10, which was included as a part of Public Law 89–313. We refer to the provision extending the benefits of title I of 89–10 to children enrolled in State-operated and State-supported schools which provide on a non-school-district basis free public education for handicapped children. It has become quite clear that once children are adequately counted under this amendment, they are assured financial participation and the benefits of 89–10, title I, the same as other children. There is evidence of good progress under Public Law 89–313. We have demonstrated that the participation of handicapped children enrolled in day school systems varies widely in the attention given to their educational problems. It would appear that the combination of these two varying provisions and their effects would encourage parents and school systems to send more and more handicapped children to residential schools. While we would stoutly maintain that residential schools should be provided for those who need them, we would be equally firm that children able to attend school in their own school district should do so. This is true not only from the standpoint of their continued orientation in their community but also because of economy since residential schools are considerably higher in per pupil costs. We, therefore, recommend the following:

RECOMMENDATIONS

1. That financial aid be extended under title I to all handicapped children in all State and local school systems on the same basis presently extended to State operated and supported schools. All schools substantially supported from State or local public funds should be eligible.

2. That it be made clear that this aid is to go to all school systems which qualify to participate in title I and that specific mention indicate that intermediate or special school districts are included as eligible to receive funds. Such school districts encompass two or more

districts which are organized to provide special services which they individually may not be able to provide.

3. That in providing funds in this manner to all State and local operated or supported schools that it be made mandatory that the participating State or local school system or nonprofit school shall in no way diminish its usual provision for these children nor replace State or local efforts with Federal funds.

4. That a formula similar to that under Public Law 89–313 be utilized in providing for appropriations as well as for making disbursements for the education of handicapped children.

Mr. Chairman, in all of the council activities which we described earlier through which title I funds were discussed, we believe the feeling to be unanimous or almost so that the foregoing provisions should be made for handicapped children. We have also pointed out a certain unevenness of results in the other titles. However, we are willing to wait and see if such inequities as exist in titles II, III, and V will ultimately be remedied in the future administration of these titles. We would hope that the Office of Education might suggest ways in which these improvements could be accomplished.

DEPENDENT AND NEGLECTED CHILDREN

Before concluding, may I mention a problem that has occurred to us in our study. That concerns the apparent omission from provisions of Public Law 89–313 of dependent and neglected children and those who are socially maladjusted or delinquent. There is a great deal of concern about this in my home State of Minnesota and I know it is of no lesser concern in other States. I have a letter before me from Mr. Lee A. Iverson, chief, division of handicapped schools in the State of Illinois. May I read to you two very brief paragraphs as follows:

> In my opinion, Public Law 89–313 should definitely be broadened to include state schools for dependent and neglected children. There may also be some merit for including state facilities for delinquent children.
>
> Since Public Law 89–313 is an amendment to Title I of Public Law 89–10, and since virtually all of the students enrolled in state schools for dependent and neglected children come from low-income families and would be eligible for P.L. 89–10 funds if they were in their home communities, it would appear that the exclusion of such facilities was an oversight from Public Law 89–313.

Finally, we would indicate to the subcommittee our sincere appreciation for your interest in the handicapped and express to you our confidence that through your efforts the children whom we serve will be greatly benefited. It shall be our intention to continue our activities to the end that all members of the Council for Exceptional Children will cooperate with the Congress through assisting in the effective use of this legislation. Please call on us when we can be of service to you.

Senator PROUTY. Dr. Reynolds, your complete statement will be inserted at this point in the record.

(The prepared statement of Dr. Reynolds follows:)

PREPARED STATEMENT OF DR. MAYNARD C. REYNOLDS, PRESIDENT, COUNCIL FOR EXCEPTIONAL CHILDREN

Mr. Chairman and members of the Committee. I am Maynard C. Reynolds, Director of the Department of Special Education at the University of Minnesota and President of The Council for Exceptional Children. The Council is composed of 24,500 educators of handicapped and gifted children. We are pleased

to give our impressions about the Elementary and Secondary Education Act Amendments as contained in S. 3046. In addition, we are addressing ourselves to other amendments which we believe would provide greater assurance that handicapped and gifted children would receive more adequate treatment under these provisions than we are presently able to determine.

We will not dwell at length on the amendments which are already proposed through S. 3046 since we are sure other witnesses have adequately delineated the need for these changes. We would like for the Committee to know that we are sensitive to the problems of Indian children in schools operated by the Department of the Interior as well as some of the general cultural and academic problems which beset some of our oldest native population. We feel sure also that the problems of children of migratory agricultural workers have been sufficiently demonstrated and publicized that we need not comment at length. We, therefore, support the programs envisioned for these children and hope they will prosper under these provisions. We are also of the opinion that the three thousand dollar family income is much more realistic in considering the definition of children who are educationally disadvantaged. The other suggested amendments certainly have a place in providing for a better adminstrative structure for the entire Elementary and Secondary Education Act. Therefore, we support these provisions.

We now turn our attention to the comments we wish to make about the education of handicapped children. I am sure we do not need to remind the Committee that as it considered the passage of P.L. 89–10 assurance was given to the Committee by the Assistant Secretary of HEW and by the U.S. Commissioner of Education that handicapped children as defined in Title III of P.L. 88–164 would be included in the definition of educationally deprived children and that the parents of handicapped children would be eligible to present their children for services in connection with their education under this act. We are pleased to report to you that in some states this participation has been provided, as your Committee intended that it should be. In other states, however, this has simply not been the case and in fact, in many states only a token amount of assistance has been provided to handicapped children.

We shall now present to you some of the information which we have obtained in several activities during the year. The Committee will recall that The Council for Exceptional Children was active from the beginning in the support of the Elementary and Secondary Education Act. We believe that we should support legislation for all children and that the children whom we serve should have an equitable share of all public educational funds. Therefore, as soon as this important education act was passed, we made plans to do all that we could as an organization to bring its benefits to the attention of our members and to provide to them every forum possible to discuss both its benefits and its short-comings. First, we planned a special issue of the Council's periodical, *Exceptional Children*. The November 1965 issue of *Exceptional Children* dealt entirely with federal legislation passed in recent years which has an application to the education of handicapped and gifted children. This publication was mailed to all of our members and to education libraries throughout the country who regularly receive it. In addition, we made copies available to the U.S. Office of Education and to those requesting it from the Department of Health, Education, and Welfare. We have provided to each member of this Committee a copy of this special issue. We understand that this issue of *Exceptional Children* has served as a reference work for many administrators seeking information about federal legislation for exceptional children.

Our second major project was to plan a nationwide conference in December 1965 which brought together administrators, supervisors, classroom teachers, college personnel, researchers, and others to discuss thoroughly the provisions of federal legislation for exceptional children and to solicit the advice of the conference about the creative use of federal legislation for exceptional children. A copy of the report of this conference has also been provided to each of the Committee members.

Our latest program to provide information and an opportunity for discussion of issues was in our annual convention which was conducted in Toronto, Ontario last week. During our convention program we conducted a general session attended by more than 1,500 persons in which administrators from the U.S. Office of Education provided information about the manner in which Public Law 89–10 has been administered in the interest of handicapped and gifted children during this first year of operation. We also held a workshop where more than 300 indicated ways in which they felt legislation could be improved. We were fortunate to have available some of the staff of this Committee who served

as resource people so that our people might have the advantage of knowledgeable consultants in their legislative discussions. I refer to Mr. John Forsythe, Mr. Charles Lee, and Mr. Roy Millenson.

The final source of information to which we shall refer is a survey of state departments of education throughout the country to determine at as late a date as possible the degree to which handicapped and gifted children have benefitted from the various titles of Public Law 89–10. We will not attempt to give an exhaustive account of these efforts. Instead, a precise summary will be presented together with some tabular material which we believe will provide the Committee with the best recent information obtainable about how 89–10 has served to educate handicapped children.

First, we shall consider how the handicapped have fared under Title I of Public Law 89–10. At the time of our Chicago conference in December it was evident that many school systems were simply not planning to include the handicapped in their plans for the use of Title I funds. On the other hand a few state and local school systems have provided *real* assistance to these children. The percentage of funds utilized for handicapped children in the various states prior to April 15 ranges from nothing to almost 20 percent.

From twenty-two states we received information about the total projects funded and the extent to which projects were funded which were specifically for the handicapped and the extent to which the handicapped had benefitted from being included in other projects. Table I shows that in this group of twenty-two states a total of 6,834 projects were reported as having been funded. These projects amounted to more than $300,000,000 or almost one-third of the amount appropriated for Title I. We noted that the handicapped received almost seven and one-half million from these funds and that this total amounted to only 2.4 percent of the total appropriation. By contrast handicapped children are generally conceded to comprise approximately ten percent (10% of the school population and we believe that there is evidence that in culturally disadvantaged areas greater percentages of these children may reside. The 2.4% then is much too small when compared to the percentage of children involved. We also received replies from four states which, while they could not give us all of the information we sought, were in position to indicate the dollar amount for projects which were exclusively for handicapped children. There were 1,459 projects funded to the states in the group. The total amount funded in these states were almost $83,000,000 of which one and one-half million or 1.8% was spent for the handicapped. It would appear that the handicapped have not been adequately provided for in many of the states and that the provisions of this act as it relates to them have not been fulfilled as it was intended. Why have the state and local administrators not provided for more assistance to the handicapped through this act? According to reports from administrators of special education speaking in our conferences and in correspondence from them several reasons or excuses for not giving more attention to handicapped children are presented.

1. Several administrators have voiced the belief that it really was not the intent of this legislation to include handicapped children since they are not included specifically in the accounting of children which provides the basis for the funding of this act. It is contended that the act relates primarily to educationally deprived children and that the handicapped should not take funds away from these educationally deprived children.

2. In a few instances administrators have insisted that handicapped children were already benefitting from state programs and hence they should not benefit from this federal program. We would point out that so far as we know no state has as yet provided a program for handicapped children which is considered adequate to their needs and that children who are not handicapped are cared for much more adequately in every state than are handicapped children.

3. Definitions from the U.S. Office of Education have led some administrators to believe that handicapped children are to be counted and served only if they are also in the low income group for this purpose. We believe that Office of Education regulations have been misunderstood at this point. However, this has served as a block to children who are handicapped receiving services.

4. In many states the present state department staff and special education component of the department is too small and consultative services cannot be provided to local school systems to be sure that they will understand that 89–10 provisions extend to handicapped children.

Table I includes the amounts for various states which we have noted with regard to Title I.

We were unable to get information which is very specific about the administration of Title II funds. In most states, however, it appears that a general plan has been developed which has been designed to take care of the children in the regular grade programs in schools. In some instances it may be possible to include specialized materials for the blind, deaf, and mentally retarded, while in other instances there are indications that these children might not be able to use with any degree of satisfaction the materials which are being provided in their states. We will need more time to analyze this program to determine with exactness how handicapped children are faring. We do believe that these services should be expected to cover all handicapped children for such special needs they may have for library and instructional materials.

We collected information about funds made available to the handicapped under Public Law 89–10, Title III (Table II). Here we were provided with information from eighteen states. In eleven states it was considered that none of the projects were of such nature as to benefit handicapped children. In most of the remaining states the handicapped were quite well provided for. Here we call attenion to the unevenness of distribution which may result in specialized program interests in states with differing goals and aspirations. In time each state should receive counsel from the Office of Education toward providing a balanced program for school children through these innovative projects. At this time we note that from the eighteen states a total of two hundred and three (203) projects were reported amounting to $14,414,463. Of this amount $1,244,423 was considered to be beneficial primarily to the handicapped. This represents a total of 8.7% of the amount reported expended. We would hasten to observe that our observations are based on only fourteen and one-half percent (14½%) of the total appropriation of $100,000,000 and that future study might reveal differences in distribution. Table II indicates the distribution of funds for the handicapped under Title III from the states reporting.

We will pass over Title IV with only one comment. We are pleased that the Congress made it possible for organizations to participate in the planning of research projects eligible for funding under this Title. Heretofore only states and colleges and universities were eligible to apply.

Now we turn our attention to Title V. Twenty of the states providing information to us indicated that they had recsived some benefits under this Title (Table III). The other six reported no measurable benefits of their programs. We noted that fifteen states had increased their staff dealing with special education programs. These increases in staff ranged from one in several states to five members in Texas. Four states indicated that they had added to their clerical staffs. Three states indicated equipment provisions and nine noted other types of benefits including staff studies and other provisions of a general nature which would conceivably benefit all divisions of their departments. It should be noted, however, that in one state where a staff member was added there was a report that two of the special education staff members had been assigned to other duties under Title I resulting in a net loss of one staff member for the year instead of an increase. Again we are inclined to wait and to observe the effect of this title for another year. We hope that those states which are not helping their special education programs through this title will see fit to do so.

Now, Mr. Chairman, we would like to give our impressions about what it will take to provide handicapped children a reasonable amount of funds from Title I. At this time we would call your attention to an amendment of Public Law 89–10 which was included as a part of Public Law 89–313. We refer to the provision which provided the benefits of Title I of 89–10 to children enrolled in state operated and state supported schools which provide on a non-school district basis free public education for handicapped children. It has become quite clear that once children are adequately counted under this amendment they are assured financial participation and that benefits of 89–10, Title I, the same as other children. We have demonstrated that the participation of children enrolled in day school systems varies widely in the attention given to their educational problems.

It would appear that the combination of these two varying provisions and their effects would encourage parents and school systems to send more and more handicapped children to residential schools. While we would stoutly maintain that residential schools should be provided for those who need them, we would be equally firm that children able to attend school in their own school district should do so. This is true not only from the standpoint of their continued orientation in their community but also because of economy since residential

schools are considerably higher in per pupils costs. We, therefore, recommend the following:

1. that financial aid be extended under Title I to all handicapped children in all state and local school systems on the same basis presently extended to state operated and supported schools. All schools substantially supported from state or local public funds should be eligible.

2. that it be made clear that this aid is to go to all school systems which qualify to participate in Title I and that specific mention indicate that intermediate or special school districts are included as eligible to receive funds. Such school districts encompass two or more districts usually recognized for ordinary school purposes.

3. that in providing funds in this manner to all state and local operated or supported schools that it be made mandatory that the participating state or local school system or non-profit school shall in no way diminish its usual provision for these children or replace state or local efforts with federal funds.

4. that a formula similiar to that under Public Law 89-313 be utilized in providing for appropriations as well as for making disbursements for the education of handicapped children.

Mr. Chairman, in all of the Council activities which we described earlier through which Title I funds were discussed we believe the feeling to be unanimous or almost so that the foregoing provisions should be made for handicapped children. We have also pointed out a certain unevenness of results in the other titles. However, we are willing to wait and see if such inequities as exist in Titles II, III, and V will ultimately be remedied in the future administration of these titles. We would hope that the Office of Education might suggest ways in which these improvements could be accomplished.

Finally, we would indicate to the Committee our sincere appreciation for your interest in the handicapped and express to you our confidence that through your efforts the children whom we serve will be greatly benefitted. It shall be our intention to continue our activities to the end that all members of The Council for Exceptional Children will cooperate with the Congress through assisting in the effective use of this legislation. Please call on us when we can be of service to you.

TABLE I.—*Title I funds allocated for handicapped, by State (cutoff dates from Mar. 14 to Apr. 15)*

State	Total projects	Total amount funded	Total for handicapped	Percent of total for handicapped
States providing full information about all projects:				
Alabama	118	27,683,101	385,953	1.40
California	1,597	67,720,540	75,000	.11
Colorado	150	7,580,868	154,078	2.03
Connecticut	114	5,379,105	174,076	3.20
Georgia	219	32,018,383	293,645	.91
Hawaii	67	2,009,343	0	0.0
Indiana	348	16,000,000	1,587,400	9.90
Kansas	349	8,227,876	184,058	2.20
Louisiana	56	18,810,892	1,050,292	5.50
Maine	367	3,064,760	85,495	2.80
Mississippi	295	20,222,622	76,748	.38
Missouri	784	22,099,237	171,232	.77
Nebraska	231	3,863,290	479,533	12.40
Nevada	19	94,900	18,480	19.40
New Hampshire	95	658,736	27,401	4.20
North Dakota	250	2,324,263	107,891	4.60
Oklahoma	750	16,622,644	306,622	1.80
Rhode Island	31	1,575,177	31,000	2.00
South Carolina	189	18,000,000	48,500	.27
Tennessee	250	22,611,558	2,064,122	9.20
Utah	45	2,832,844	7,000	.25
Washington	510	10,300,000	159,860	1.55
Total	6,834	309,700,139	7,488,386	2.40
States showing only projects exclusively for handicapped:				
Florida	153	25,000,000	1,014,730	4.50
Kentucky	203	21,307,236	41,799	.20
Minnesota	720	13,000,000	281,792	2.16
New Jersey	383	23,469,560	171,500	.73
Total	1,459	82,776,796	1,509,821	1.80

TABLE II.—*Funds made aavilable to the handicapped under Public Law 89–10, title III*

State	Total projects	Total amount funded	Total for handicapped	Percent of total for handicapped
Alabama	8	1,015,000		
California	59	5,996,000	402,714	6.7
Colorado	14	383,030	72,808	19.0
Connecticut	9			
Florida	10	1,250,000		
Georgia	8	426,645		
Hawaii	1	438,234		
Kansas	14	816,028	266,951	32.7
Kentucky	4	97,129		
Minnesota	30	1,138,782	51,730	4.54
Mississippi	2	228,010		
Nebraska	5	496,000	151,200	30.5
New Hampshire	4	85,653		
North Dakota	3	37,455		
Oklahoma	10	615,486	183,156	29.75
South Carolina	8	164,115		
Tennessee	4	203,959	115,864	56.8
Texas	10	1,022,937		
Total	203	14,414,463	1,244,423	8.7

TABLE III.—*Improvements noted in handicapped children's component of State education agencies under Public Law 89–10, title V*

State	Number professional staff added	Number clerical staff added	Additional equipment, etc., provided	Other benefits noted
Alabama	2	1		
Georgia	1	1	Yes	Yes.
Illinois				Yes.
Indiana	1			
Kansas	1			
Kentucky	1	1		
Louisiana	3			
Maine	1			Yes.
Minnesota				Yes.
Mississippi	1	1		
Missouri	1			Yes.
Nebraska				Yes.
New Hampshire			Yes	Yes.
New Jersey	1			
Oklahoma	1		Yes	
Rhode Island	[1] 2			
Tennessee	[1] 1			Yes.
Texas	5			
Utah	2			
Washington				Yes.

[1] Proposed.

Senator PROUTY. Senator Dominick, do you have any questions?

Senator DOMINICK. Just a couple.

DEFINITION OF HANDICAPPED CHILD

I wonder if Dr. Reynolds could give the committee a definition of a "handicapped child."

Dr. REYNOLDS. I believe, Senator Dominick, that for official purposes the famous communications between Senator Morse of this subcommittee and officers in the Department of Health, Education, and Welfare defined "handicapped child" by reference to Public Law 88–164, the very large mental retardation-mental health construction

bill of the 88th Congress. In that bill—I do not have it before me—"handicapped children" was defined to include the mentally retarded, blind or partially sighted, deaf or hard of hearing, those with speech problems, serious emotionally disturbed, those who are physically handicapped and those who have combinations of the problem. I believe that was about it.

Now, obviously, these are matters of degree. What we have in mind is children who deviate in any one or several of the ways to such degree that a special provision is required in the schools if these children are to develop adequately.

Senator DOMINICK. You pointed out in your statement that you estimate that 10 percent of the total amount of children attending school are handicapped and that they were only getting 2.4 percent of the fund money under title I. Is this a definition that you used in estimating your 10 percent?

Dr. REYNOLDS. Yes. The study which I reported to you used the definition in Public Law 88–164, so it was definitely in that framework that we collected the data. I think the relationship of the 2.4 to 10 percent figure is quite meaningful, Senator. The 10 percent estimate is quite common and uses a definition about as given in Public Law 88–164.

Senator DOMINICK. Is the 10 percent, then, on a nationwide basis?

Dr. REYNOLDS. Yes. The 10 percent figure might be considered conservative, Senator Dominick. Many specialists in the field would use figures higher than that. But clearly, handicapped children do not occur or live uniformly in all communities, in all parts of the community or in all States. Thus, I indicated to you earlier that if one considers only areas of high impoverishment or the "target" areas the figure of 10 percent would definitely be too low. These target areas hold more than the usual proportion of handicapped children.

DEFINITION DOES NOT INCLUDE IMPOVERISHED

Senator DOMINICK. That was the next question I was going to ask you—whether or not this definition included impoverishment as well.

Dr. REYNOLDS. No, sir; it does not. That is, the Public Law 88–164 definition does not make reference to impoverishment and I did not have this in mind in my testimony.

Senator DOMINICK. You view this bill, then, Public Law 89–10, as being of general aid to the handicapped, although it is not of general aid as far as the school districts are concerned.

Dr. REYNOLDS. Our interpretation, Senator, was that the intent of this legislation was to help school districts get on with opening up new streams for educationally deprived children, those whom we had not served adequately and were not serving adequately.

The definition of education deprivation developed in this subcommittee was such as to definitely include handicapped children. What I have tried to say here this morning is that there has been a genuine confusion about this, however, and that in this first year programs for handicapped children appear not be developing very fully. We believe an amendment to the act is required to clarify the situation.

Senator DOMINICK. You would recommend, then, that we change the provisions of title I to make sure that all handicapped children are

considered to be educationally deprived, regardless of the income problem?

Dr. REYNOLDS. Yes, sir; that was the main point I wanted to make. It seemed to me that the clearest way of handling this, both on the allocation side and on the projects side, would be to identify handicapped children as educationally deprived.

FEDERAL PROGRAMS FOR HANDICAPPED

Senator DOMINICK. Dr. Reynolds, I have only been on the Education Subcommittee for a relatively short time—a couple of years now. How many programs do we have, federally speaking, which benefit the handicapped—handicapped school children?

Dr. REYNOLDS. I suppose if one wanted to do a full count, picking up the small pieces wherever they might exist, Senator, there would be quite a few and I just could not give you a figure. I can describe for you the main programs, but I must emphasize that we have no present program which touches the road—that is, which operates where the "rubber meets the road." We have very fine programs for the training of personnel, such as college professors, research workers, and teachers of handicapped children. This training program is administered by the U.S. Offices of Education under title III of Public Law 88–164, and Public Law 89–105. We have a very fine research and demonstration program, also administered by the Office of Education under Public Law 88–164. We have very fine programs relating specifically to the deaf under other legislation. There are some programs administered by the National Institutes of Health and elsewhere.

But the point I wish to emphasize this morning is that none of these programs carries us to the point of the direct interaction of teacher and handicapped child. We have been falling short of that final point of payoff for the handicapped. In Public Law 89–10, title I, we had pinned our hopes on finally getting support to local school systems.

Senator DOMINICK. I asked you these questions because I have been active in my own State in trying to get things done for the handicapped children in schools, including establishing mental health clinics and getting psychologists in schools and a variety of other things of this kind. But it occurs to me that one of the problems that we in this committee face is the need for some kind of an analysis, Mr. Chairman, and perhaps an outlining of the different programs that there are in all phases of educational assistance. Because as Edith Green said the other day over in the House, the Office of Education has grown like Topsy. There has been an extraordinarily large increase in the past 10 years. Perhaps we ought to take a look at what we are doing in various programs in order to coordinate them and insure that they cover the phases that are needed.

Dr. REYNOLDS. May I say, Senator Dominick, that some of us in the field have found enormously useful the efforts of the Department of Health, Education, and Welfare to coordinate information for us. A special committee on mental retardation for example, under Mr. Babington, has been very helpful in getting out coordinated information. Similarly, we look with great hope to coordinated information in the field of the deaf which should follow upon formation of

a new advisory committee in that field. We have been helped in understanding the diverse legislation and regulations through many good efforts in HEW.

Senator DOMINICK. That is all I have, Mr. Chairman.

COORDINATION OF PROGRAMS FOR HANDICAPPED

Senator PROUTY. Dr. Reynolds, I have been told that much of the meaningful work being done for exceptional children does not involve facilities directly affiliated with education in terms of college and university departmental structures; also, that medical school departments of pediatrics, neurology, psychiatry, ophthalmology, rehabilitation, and preventive medicine are providing research and teaching appropriate for the training of personnel. Departments of psychology and speech pathology and audiology are making important contributions in areas of the exceptional child and these are often done outside of the realm of education.

My question is how can we make certain that any development of Federal support programs for children with learning disabilities takes into account the possible area ability of structure, administration and location of facilities providing training or assistance to these children?

Dr. REYNOLDS. That is a very challenging question. I am not sure that I can answer it fully and adequately, Senator Prouty.

I consider that my assignment in a university framework involves the responsibility to help do just the thing which you are suggesting. Those of us who work in university environments are required in a sense, to turn two ways. First, we must make sure that all the resources of scholarship in the various fields are brought into focus as relates to handicapped children.

One of my responsibilities is to know about what Dr. Kottke is doing in physical medicine and what Dr. Harris is doing in ophthalmology, what Dr. Jensen is doing in child psychiatry and so on. Secondly, it is my duty to turn to the practical world of teaching and to find a helpful way of translating this information for teachers. So, I do believe that those of us who have positions in the universities have a heavy responsibility to consolidate information from all relevant sources and make sure that it is brought to fruition through the teachers who serve handicapped children.

Senator PROUTY. An educator wrote me recently regarding the techniques invented by Drs. Carl H. Delacato and Doman at the Institute for the Achievement of Higher Potential in Philadelphia. Are you familiar with the techniques invented by Drs. Delacato and Doman?

Dr. REYNOLDS. I am, in a general way. I have never visited the center, nor do I have detailed knowledge of the center. It would be extremely useful to many people if a careful evaluation could be made of the theories and techniques you refer to.

PERSONNEL FOR EXCEPTIONAL CHILDREN

Senator PROUTY. We are all aware of the fact that there is a shortage of personnel equipped to deal with exceptional children. How best can the Congress aid in alleviating this shortage?

Dr. REYNOLDS. There is a good effort being made now under title III of Public Law 88–164 to support development of the needed training centers. I have served on several of the advisory committees relating to this broad training program and I think that the progress has been very good and it has been quite orderly.

I believe that we must turn to the States, Senator, in urging a greater responsibility in development of coordinated recruitment and informational programs. Teachers of the mentally retarded do not travel long distances these days to secure the training which they need. Nor do they travel long distances for placement following their training. So, we need strong local and State efforts to recruit and train teachers. I hope that we will do a better job of making training programs visible and in recruiting able young people into work with handicapped children. The partial support offered by the Federal Government is greatly helpful, but we need to strengthen State and local efforts to recruit young people to the field.

Senator PROUTY. Frequently, the layman tends to lump together in this thinking the perceptually handicapped child and the mentally retarded child. Just for the record, would you indicate the distinction between the two?

Dr. REYNOLDS. I note that you will have testimony later today from Dr. Samuel Kirk, who is much more expert on this than I am. I would hope that you might ask him that question. I am quite sure you will get a better answer.

Senator PROUTY. Well, I shall ask him that, certainly.

Mr. Geer, have you anything you wish to add to the testimony?

Mr. GEER. I have a statement on the gifted, sir.

STATEMENT OF MR. GEER ON GIFTED CHILDREN

Mr. Chairman, members of the subcommittee, since our president has just presented information about the council and its programs, I shall not presume upon your time by any repetition in my testimony. Furthermore, since you have a written statement before you, I shall mention only two or three things which will close our testimony.

First, I would like to express the concern of the Association for the Gifted, a division of the Council for Exceptional Children, that in the substantive advances being made in education, specific provisions for the most highly gifted children enrolled in our schools are still at a low level. We did the same survey of title I projects and title III projects for the gifted that we did for the handicapped. So far as we could determine, and some 24 States provided information, only four projects were reported to us from title I sources which were exclusively planned for gifted children. From the four States which reported these Four projects only a little more than $96,000 was involved.

In title III, we noted that there were six projects which had been funded for the gifted, involving $196,000.

In brief, then, we would indicate that these two programs apparently have not extended, to any great extent, to gifted children who, in essence, are the best potential leaders in these culturally deprived areas.

We also noted in title V that so far as we could determine from these 24 States, only one full-time consultant in one State and a secretary to a consultant in another State had resulted. This in spite of the fact that in the Senate report on 89–10, specific correspondence had indicated that the gifted could be included under this provision.

Perhaps the best thing that I can say today is that we would like at some time in the future, when this committee has more time, to bring before you a panel of witnesses from the Association for the Gifted so that a detailed presentation may be made of what we consider to be the needs for educating gifted children. In the meantime, we appreciate the interest of the committee in the gifted as shown in the report on 89–10, and offer our assistance in any way possible in this area as well as in the handicapped area.

Thank you, sir.

(The prepared statement of Mr. Geer follows:)

PREPARED STATEMENT OF WILLIAM C. GEER, EXECUTIVE SECRETARY, COUNCIL FOR EXCEPTIONAL CHILDREN

Mr. Chairman, since our president has just presented information about the Council and its programs, I will not presume upon your time by repeating in my testimony.

I am speaking for The Council for Exceptional Children regarding programs for the gifted. I am also authorized to speak for a division of our organization—The Association for the Gifted. This division of the Council includes more than 400 educators of gifted children, many of whom are outstanding leaders in this field. The Association for the Gifted has expressed great concern that in the substantive advances being made in education, specific provisions for the most highly gifted children enrolled in our schools are still at a very low level.

We feel sure that this committee intended that the gifted, like the handicapped and like all other American children, should benefit from the Elementary and Secondary Education Act of 1965. We are sure that the committee intended that programs for educationally deprived children include the gifted. In Senate Report No. 146 a listing was made of some of the services which might be included under Title I, and classes for talented elementary students and the early identification of the gifted and handicapped among the disadvantaged were included. The very nature of some other listed program activities would indicate that they could be extended to gifted children.

In a survey of 24 states and in other legislative activities the Council has conducted, we received opinion and evidence that gifted children have received little attention for their special needs through PL 89–10. Only four projects were reported to us from Title I sources which were exclusively planned for gifted children. In 20 of the 24 states providing information on these programs, there were no special projects. Neither had the gifted been specifically included in the planning of general projects except in one state. From the four states which did report special projects for the gifted, only a little more than $96,000 was involved. You can see that the specific involvement of gifted children has been negligible.

In Title II of Public Law 89–10, some state consultants have indicated that the gifted might receive some benefit by using the materials selected for the general educational program. Special provisions were not noticed in any state for the most highly capable group of our population.

We have noted that the gifted fared better in Title III than in the other programs of PL 89–10. Six projects for the gifted were reported through this title. These projects involved $196,000. It was felt that there were several other projects which might provide some benefit to the gifted.

We now turn to Title V. In only two states was there an indication of Title V assistance to programs for the gifted. In one state a fulltime consultant was employed to work with the gifted who will begin his duty July 1, 1966. In another state a secretary is being provided for the present consultant for the gifted. We must conclude, Mr. Chairman, that the gifted will derive relatively little benefit from PL 89–10 unless the provisions of this act are more specific for them or the administrators at federal, state, and local levels become more sensi-

tive to their needs. It is extremely important at a time when maximum demands are being made on intellectual manpower that the gifted be given more consideration in this and other legislation. We will grant that substantial benefits have accrued to gifted students through some of the provisions of the National Defense Education Act, the Higher Education Act, and perhaps other legislation. However, there is much yet to be done if our gifted children are to be adequately challenged.

We know that it is not the purpose of the committee at this time to make an extensive assault on this problem. We encourage that in some way the provisions of 89–10 be specifically indicated for the gifted. We also request that in the future when this committee may not be so pressed for time, we be permitted to bring a panel of witnesses from The Association for the Gifted to make a detailed presentation of the needs for educating gifted children. We appreciate the interest of the committee in the gifted and offer our assistance in any way possible.

Senator DOMINICK. Mr. Chairman, I wonder if I may ask just one or two questions.

Senator PROUTY. Senator Dominick?

Senator DOMINICK. Mr. Geer, is it your understanding that title I was designed to take care of the gifted children regardless of their income level?

Mr. GEER. No, sir; this is not my understanding in that instance.

Senator DOMINICK. Then your comments are merely devoted to the activities under title V as opposed to title I?

Mr. GEER. My comments refer to both; to title I as it relates to the culturally deprived, and in this area, there are gifted children as well as in other areas. But they also refer to title III, which was supposed to be for all children, and to title V, which was for all children and in which the gifted were specifically mentioned in the Senate report.

Senator DOMINICK. Do you think that the problem is that there are in title III and title V, troubles related to the State boards of education or the guidelines laid down by the Office of Education?

Mr. GEER. So far as I know, they are problems of the States in developing staffs. I am sure that the States have given priorities as they have thought they existed.

UNEVEN DEVELOPMENT OF STATE SERVICES FOR GIFTED

There has been an extremely uneven development of State consultative services for the gifted. In fact, I think only about—I shall not give a specific number of States, but let us say that in not more than half of the States, so far as we know, are there specific consultants for the education of gifted children.

Senator DOMINICK. There is considerable diversity of opinions, is there not, among most educators as to the value of the tracking system?

Mr. GEER. Yes, I believe that is true at any time.

Senator DOMINICK. Is not the tracking system designed to be for the gifted children, among others?

Mr. GEER. Not entirely. It differentiates among the various types of children. In presenting this testimony, we are not making a plug for a tracking system specifically. There are other kinds of programs for the gifted which perhaps are as productive, or more so, than the tracking programs.

At the same time, I should say to you that some of the school systems have had special classes for the gifted for years which tend to pull them

out of the general population and give them increased opportunities and curriculum.

FEDERAL CONTROL

Senator DOMINICK. Let me ask you maybe the most typical question. How does the Federal Government as such determine what the States are going to do in their educational field with regard to gifted children without usurping authority and control over the curriculum of the local schools?

Mr. GEER. In our opinion, this can be done through general guidelines which state the intention of the Congress that certain programs be for certain children. We believe this has to be done, because we might as well face the entire issue that, given complete authority to carry out the use of Federal funds, the varying interests among the States will result in an unevenness of development so far as the children themselves are concerned. We feel that general guidelines, and perhaps specific enough, however, to assure that funds allocated by the Congress will be spent for specific purposes as they are felt to be needed, is not out of order.

GENERAL FEDERAL AID TO GIFTED

Senator DOMINICK. Are you not saying to us again that what you would like to see is a general Federal assistance program for gifted children?

Mr. GEER. Yes; we believe there is a basis for this, which would take considerable time to develop for you, and we would like to have the privilege of doing that in the future.

Senator DOMINICK. The only problem that I can see with this is that it brings up the age-old struggle we have had before on the question of general aid to education.

Mr. GEER. We are prepared to help you struggle with that so far as our part is concerned.

Senator DOMINICK. I just wanted to get your viewpoint on it. Thank you.

Mr. GEER. I have no feelings personally, and I am sure the organization does not, about adequate Federal support in the States. I think at this time, although it may not come to fruition soon, I should say to you that the council is presently seeking funds for conducting a study of State legislative provisions for exceptional children and to attempt to develop some guidelines that we can follow in recommending both to the States and to the Federal Government what we believe are roles that should be followed in the education of these children.

Senator DOMINICK. Do you extend your theory on this to independent schools, whether they be parochial or otherwise?

PRIVATE SCHOOLS

Mr. GEER. We are in a somewhat unique position compared to other fields of education, in that, in many of the States, support has been provided to various private schools for over a hundred years for the education of children in the States who needed special education provisions. This is particularly true in the eastern part of the country, where not many State schools exist, but in fact the arrangements for

these children are conducted through contracts with private schools.

I know this goes as far back as to an early use of the Perkins School for the Blind in Massachusetts, as one such facility.

Senator DOMINICK. This is aid given by the States, however?

Mr. GEER. That is right. And on this point, we advocate that the States be permitted to spend Federal funds within the legal structure permitted as they would ordinarily provide for their children.

Senator DOMINICK. Well, I used to be a lawyer, but I have much difficulty finding the difference between the Federal Government doing it and the Federal Government providing means for the States doing it. I can see ourselves in the same problem again.

Senator PROUTY. Mr. Geer, I am sure that the subcommittee will be very happy to have you and your associates appear at a later date and discuss this question in more detail.

We are very grateful to both you and Dr. Reynolds for appearing here this morning.

Mr. GEER. Thank you.

Senator PROUTY. The next witness is Senator Lee Metcalf, of Montana.

I might say that both as a Member of the House and as a Senator, he has been very active in the field of education in trying to find solutions for these most important problems. He has served as a very distinguished and able member of this committee. We are delighted to have him back this morning and will be happy to hear his statement.

STATEMENT OF HON. LEE METCALF, A U.S. SENATOR FROM THE STATE OF MONTANA

Senator METCALF. Thank you very much, Mr. Chairman.

I appreciate this opportunity to appear before the Education Subcommittee to testify on S. 3046, the Elementary and Secondary Education Amendments of 1966.

INDIAN SCHOOLS

I would like to speak briefly on some of the proposed amendments. I am opposed to the provision which would broaden the coverage of title I to include children attending Federal Bureau of Indian Affairs schools. If enacted, this extension of title I would foster the continued existence of a separate set of Indian schools and would slow down the assimilation of Indians into our public schools, an assimilation that is essential if Indians are going to have the opportunity to participate in the main current of America's economy and culture.

JOHNSON-O'MALLEY ACT

The Johnson-O'Malley Act provided that the Bureau of Indian Affairs should actively promote the enrollment of Indian children in the public schools. Further weight was given this policy by the extension of Public Laws 815 and 874 to cover Indian children living on reservations. This extension provides a tremendous incentive and support to local school districts and enables them to finance additional construction and provide the additional teachers and equipment

needed to integrate Indian children into the public schools. An amendment included in Public Law 89–77 removed the prohibition, originally in Public Law 89–10, against counting federally connected children from families under $2,000—which applied almost entirely to Indian children—and further enables public schools to serve more Indian children and to serve them better than previously.

Now the administration has recommended this amendment to make Federal Indian schools eligible for title I funds. This proposal goes in the opposite direction from the policy the Congress has established to accelerate the enrollment of Indian children in public schools.

Between one-quarter and one-third of our Indians in school attend Federal schools. They attend school only with other Indians, often far away from their families, and are cut off from the stimulating day-to-day association with students coming from far different backgrounds than they. These day-to-day associations are as important a part of the educational process as the teacher's lessions, and without them the Indian continues to be isolated from the total community in which he lives.

On the other hand, when local school districts have been encouraged to serve Indians and Indians have enrolled in local schools there have been heartwarming successes. School district No. 9 in Browning, Mont., near Glacier Park in my own State, is an example of what can happen when a community has access to adequate funds to provide for Indian students who formerly attended a Federal boarding school. With the availability of Public Law 815 and 874 money, Browning was able to construct new schools and devise programs so that Indian children could participate in school activities and attend classes along with the other children of the community. Their parents became involved and several of these Indian parents have been elected to the school board and have worked actively with other members of the community toward better education for the citizens of the area.

ELIMINATION OF FEDERAL INDIAN SCHOOLS

I am not suggesting that Federal Indian schools be abandoned immediately, although I wish they could be. In many instances, geographic distances, climatic conditions, lack of adequate local financing and a recalcitrant Bureau of Indian Affairs make this a slow process. But, as a Congress, we should discourage segregated schools for Indians in the same way we work to eliminate them for Negro students.

If the Bureau of Indian Affairs needs additional funds to support its schools, and to carry out its end of the two-sided problem of encouraging Indian children to attend public schools, then let us appropriate additional funds for the BIA. But let us not take funds allotted to title I and spread them even thinner to another Federal agency when there are thousands of local educational agencies, for whom title I was originally and specifically designed, in great need of funds. The Congress should not acquiesce in a proposal which would openly encourage the continued existence of federally operated, segregated Indian schools and which, in the bargain, would distort

a law drafted to strengthen local-State-Federal relations by providing for a Federal-to-Federal relationship.

INCENTIVE GRANTS

I note in reviewing the testimony the subcommittee has received thus far that Dr. Adron Doran of the National Education Association has urged the creation of a national committee composed of public school educators, school finance experts, BIA officials, Indian citizens, members of the House and Senate Education and Indian Affairs Subcommittees, to study and evaluate the education of Indian children and set forth a program for the future of existing separate Federal Indian schools. I completely concur with Dr. Doran's proposal and feel that the Congress must make clear the directions it wishes the BIA to take.

On another amendment, the administration has proposed to eliminate the "incentive grant" program provided for under Public Law 89–10, stating that such repeal would save $400 million in funding incentive grants for fiscal 1967 and avoid significant abuses, as in communities where the incentive grant would be significantly greater than the basic grant. School districts are now committing themselves to a budgetary level for fiscal 1967. Some of these districts are planning on receiving an incentive grant, based on an increase in their expenditures between fiscal years 1964 and 1965, under a law that has been on the books over a year. The incentive grant provision can rightfully be considered a contract between the Federal Government and local school districts and this Congress should not back out of it. When abuses are discovered in the process of administering a law, but the principle remains good, we should amend the law, certainly not repeal it.

As the members of this subcommittee know, I have long supported a broad general program of Federal support for school construction and the expansion of school facilities and teachers' salaries. We do not have such a program now.

We do have a number of programs aimed at specific problems or groups of people. Among the most important of these are Public Laws 815 and 874.

PUBLIC LAWS 815 AND 874

As the chairman mentioned, I used to handle that bill on the floor of the House while I was a Member of that body. Until we enact a general Federal aid program for school construction and teachers' salaries, there is no valid reason for severely curtailing the funds available to local educational agencies under the impacted area laws. These proposed cuts remind me of hearings held by the Education Subcommittee in the House in 1958 in which the administration, then of a different party, suggested that Public Laws 815 and 874 be allowed to expire since all the schools that needed to be built had been built.

I would like to enter into the hearing record at this point a letter I received from Montana's State Superintendent of Public Instruction Harriet Miller, regarding the proposed cutbacks in Public Law 815 funds.

(The letter referred to follows:)

STATE OF MONTANA,
SUPERINTENDENT OF PUBLIC INSTRUCTION,
Helena, April 25, 1966.

Hon. LEE METCALF,
United States Senate,
Washington, D.C.

DEAR LEE: I'm sorry for the delay in replying to your recent letter requesting information on the proposed amendments to Public Law 874.

In Montana there are 99 federally-owned properties which are eligible under the provisions of Public Law 874. These federally-owned properties comprise 20,620,350 acres, or 22% of the land area of Montana. Ten percent of our school districts were eligible applicants for fiscal year 1965, which resulted in total net entitlements exceeding 2.9 million dollars to the applicant districts. These net entitlements for Montana applicants were based on a federally-connected average daily attendance of 13,429 pupils, which represents over 8% of the average daily attendance of all pupils during the 1964–65 school year.

While the net entitlements received under the provisions of the Act were just under 3% of the total expenditure for operation and maintenance for Montana schools in fiscal year 1965, the proposed amendments pose serious problems for individual applicant districts.

The 1967 estimated entitlement of $88,764 to the Hays and Lodge Pole schools of District No. 50, Blaine County, would decrease under the proposed amendments to $47,056. Last year the total average daily attendance of pupils was 193.166. A breakdown of this average daily attendance reveals that the 3(a) pupils established an average daily attendance of 152.261, and the 3(b) pupils an average daily attendance of 30.885. The parents of these pupils live and work on the Fort Belknap Indian Reservation. With a taxable valuation of $52,653 it is clear that local sources of revenue are very limited. Public Law 874 monies supported 43% of the district's budget for 1965.

The 1967 estimated entitlement to Box Elder High School District, Hill County, would decrease from $30,964 to $8,004 under the proposed amendments. During the 1965 school year this district established a total average daily attendance of 54.800 which when broken down, shows an average daily attendance of 28.852 for 3(a) pupils and an average daily attendance of 3.272 for 3(b) pupils. The parents of these pupils live and work on the Rocky Boy Indian Reservation. Public Law 874 monies for fiscal year 1965 supported 44% of the district expenditures.

It would appear that the proposed 1.3 million dollar reduction in available revenue sources for our Montana applicants would result in a reduction in the basic education programs offered by these individual districts since the funds received under the provisions of this Act have become an integral part of their operational budgets. It should be noted that the provisions of this Act are intended to be in the nature of payments in lieu of taxes by the federal government. It is not an Act for the educationally deprived.

The present status of Public Law 815 also presents a problem to the school districts of Lincoln County and surrounding area. It is expected that most of the children of the construction workers employed on the Libby Dam project will be children in the subsection 5(a)(2) category. That is, pupils whose parents work on federal property. The provisions of subsection 5(a)(2) expire June 30, 1966. Therefore, only children who live on federal property and whose parents work on federal property, subsection 5(a)(1) can be counted under future applications. Since it is expected that there will be few subsection 5(a)(1) children in the area as a result of the construction of Libby Dam, eligibility of future Public Law 815 for construction assistance appears doubtful.

Thank you for the copy of the Congressional Record of March 2 and the copy of your letter to superintendents of schools affected by the proposed amendments to Public Law 874. I am sure your interest in the program will be appreciated.

Sincerely,

HARRIET MILLER,
State Superintendent.

It is always amazing to me that no matter what administration we have, they come up here to the Congress suggesting that we repeal or curtail the operations of one of the most popular and one of the

most effective laws that we have, Public Laws 815 and 874. I am going to give a very startling figure. It is redundant to say in a year when more than $6.74 billion is devoted to support for education, including basic research, that there is a need for a continuing Federal role in education. However, the administration has not construed this role in terms of providing adequate funds for existing programs which are working smoothly and effectively. The great temptation is to layer on newer and bigger programs and cut back on older, less exciting programs which nonetheless are working well and have the support of those school officials working with them.

SIMPLIFY GUIDELINES IN PUBLIC LAW 89–10

I would like to address myself to one further aspect of Public Law 89–10. Every time a major program of Federal aid to education is enacted, critics complain about Federal interference with the basic rights of the States and local schools to make the crucial decisions about education, what it will cost, how it will be financed, who will administer it, who will teach and what they will teach. These critics have had a field day with Public Law 89–10. From my experience in corresponding with the local superintendents in Montana and with our able and dedicated State Superintendent Harriet Miller, I have become increasingly aware of the confusion and misunderstanding which exist between local and State agencies and the Office of Education regarding the administration of Public Law 89–10. I have urged the Office of Education and I urge this committee that the Federal guidelines be evaluated in an effort to simplify them and make relentlessly sure that they conform with the intent of Congress.

I would like to enter into the hearing record at this point a memo prepared by Superintendent Miller on this subject.

Senator PROUTY. That will be included in the record as part of your statement.

(The memorandum referred to follows:)

MEMORANDUM FROM HARRIET MILLER, SUPERINTENDENT OF PUBLIC INSTRUCTION, STATE OF MONTANA, PREPARED FOR FOURTH ANNUAL NATIONAL OE–CEDS CONFERENCE, APRIL 4–7, 1966

RE: MAJOR ISSUES CONCERNING MEETING THE FEDERAL GOVERNMENT'S INCREASING NEED FOR INFORMATION

Although I had to cancel plans to attend this meeting, I believe its importance to be such that, with your permission, I should like to contribute a brief statement I had prepared for the panel discussion of major issues concerning meeting the federal government's need for information, as I see them.

In my judgment, the major issue is the question of whether our principal goal is advancing educational progress or collecting information. Certainly we all agree that there are basic information needs which must be met if adequate planning is to be done and intelligent decisions are to be made. But decisions *can* be made without counting the number of hairs in the gnat's eyebrow, and it is high time for distinguishing between what is basic and what is merely supplemental.

Disproportionate emphasis on data collection is, in my judgment, the greatest deterrent to the progress we all had hoped to achive with the new federal programs. Surely the experiences of the last year should be ample proof that every added piece of paperwork forces someone in education to leave the production line for hours, or days or—too often—permanently. There are already too few competent people available to carry on the work of education; yet we are asking them daily to depart from productive activity to climb the paper mountain.

The states, which still bear the major responsibility for educational activity, have long been obliged to see that productive work is done, and not merely programed. Until now, of course, federal programs have affected a very small fraction of the total activity. But when, as with Title I of ESEA, 27% of the state agency's total professional staff-time is required for a program representing less than 3% of school expenditures, it is clear that both the objectives and methods of attaining them are in need of serious re-evaluation.

I am not opposed to collecting information. As one who is responsible for recommending, formulating and defending education legislation, I know the value of facts which are accurate and timely. My concern is for achieving a proper balance between the need for information and the need to further the educational activities to which the information pertains.

With the rapid growth of federal programs, I believe that the states should be able to look to the U.S. Office of Education for a greater degree of coordination at the federal level. It makes little sense to use precious manhours collecting the same facts over and over, for the use of separately-organized programs. The Basic Educational Data System project which the chief state school officers enthusiastically supported at its inception appears to have been allowed to fall by the wayside at the Office of Education scurried about implementing new programs, all with information needs which could have been served to a significant degree by the BEDS project, with much less cost in time and effort at all levels. It seems to me that the states may well ask why the Office of Education has failed to devote the resources necessary to carry out its part of the mutually-agreed-upon BEDS project.

Finally, it seems to me that, before expanding its information collection further and further interfering with productive educational activity at the state and local level, the Office of Education has a responsibility to assess its objectives, to establish priorities based on vital goals and the realities of the resources available for meeting those goals, to organize for coordination *within the Office*, to acquire new knowledge and understanding of the real world outside the Office, and to design and implement an information system which will play a valuable and positive role in the total effort to improve education. My state stands ready to cooperate in this effort, as I am sure most others do, but it must be recognized that the road to cooperation is a two-way street.

Senator METCALF. In this regard, I think the administration is to be commended for recommending that local school districts be permitted to use part of their grants for planning, including planning for school construction. Further, I believe that authorizing funds for more than 1 year will inspire local and State school officials to plan longer range and more effective programs and enable them to recruit the skilled personnel to implement these programs.

STATE ADMINISTRATIVE BUDGETS

However, the administration has still not made sufficient allowance for the expenses of administering programs under Public Law 89–10 at State and local levels. This will continue even if the law is expanded in the ways proposed in S. 3046. Last year we succeeded in amending Public Law 89–10, through an amendment included in the School Disaster Relief Act, so that the State departments of education would receive a minimum of $75,000 to administer title I. Seventeen States received additional funds because of this amendment. I urge that the committee adopt a similar amendment for title II, the library resources title. The administration bill provides 3 percent of the State's allotment under title II or $30,000, whichever is greater, for administration of the program at the State level. This minimum should be substantially increased. I request permission that a recent letter I have received on this subject from Montana's excellent State Superintendent of Public Instruction, Harriet Miller, be entered into the hearing record.

This letter points out that in a State such as Montana, with 150,000 square miles, the number of legal entities operating schools is 833, and she has named an administrative budget of $112,000 necessary to administer this law effectively. As I pointed out, I think that we from the sparsely populated, large Western States should receive a minimum of $75,000 to adequately administer this title, just as we received a large amount to administer title I. If this additional money is not available, it will be impossible for Montana, and I anticipate Alaska, Nevada, Colorado, Wyoming and many other States, to participate at all in title II after the end of the fiscal year.

(The letter referred to follows:)

STATE OF MONTANA,
SUPERINTENDENT OF PUBLIC INSTRUCTION,
Helena, April 5, 1966.

Hon. LEE METCALF,
U.S. Senate, Washington, D.C.

DEAR SENATOR METCALF: As you know, the administration has recommended a $30,000 minimum for state administration of ESEA, Title II. This amount is totally unrealistic in the light of the demands the USOE places on the schools and state educational agency under Title II. (In this connection, you may wish to refer to my letter of February 7, 1966, to Commissioner Howe.)

In our discussions when I was in Washington, you indicated that you would be willing to try for $75,000 for Title II (the same minimum that applies to Title I). So that you will have information to assist you in this regard, I am pleased to provide the following:

State of Montana	150,000 square miles; fourth largest state.
Number of legal entities operating schools.	833.
Number of private schools	93.
Number of communities with school librarians.	84.
Administrative budget required	$112,000.[1]

[1] See attached; funds required to provide the services demanded by the USOE in the light of the number of units with which the state educational agency must deal and the present status of library development in Montana. This budget was prepared approximately two months ago. Note the similarity between it and the projected amount based on Oklahoma-USOE contract.

On the basis of the allocations to the states under the present law we have developed the attached table. The amount for administration is 3% of the state's allocation. I have noted on the chart the cut-off point for the proposed $30,000 minimum and the $75,000 minimum.

This is a very serious problem for us. Frankly, I see no way that we can participate in Title II after June 30 unless we receive a minimum of $75,000 for administration or unless the approach of the USOE is changed completely.

Sincerely,

HARRIET MILLER,
State Superintendent.

ESEA II estimated needs for 1967 based on:

	Amount
ESEA II: Supervisor (administrative), secretary, travel, and office expense	$20,000
ESEA II: Library consultant, secretary, travel, and office expense	25,000
ESEA II: Library evaluation team, e.g., contracted services	20,000
ESEA II: Assistant for information and administration and expenses	8,000
ESEA II: Clerical, administrative and processing staff	15,000
Miscellaneous expenses	5,000
Printing	2,000
Conferences	2,000
Development of new State plan and formula	15,000
Total	112,000

Senator METCALF. Mr. Chairman, I appreciate the opportunity to give you these views on certain specific amendments. As you know, I am in favor of this general Federal aid to education. I have supported it ever since I came to Congress. I feel that many of the programs that we have put in have been beneficial to education. I feel that at this time, this subcommittee and the Congress itself should take a look at some of the administration that is being done. We should exercise our legislative oversight to be sure that the Office of Education and the Department of Health, Education, and Welfare are actually carrying out the provisions of the laws we have enacted rather than conducting studies and surveys and so forth for the benefit of some other group.

INDIAN SEGREGATION

Senator DOMINICK. I just want to affiliate myself with the Senator's remarks on the schooling of Indians. ButI want to warn him that he may find himself in the same position that I was in when I was on the Indian Subcommittee and tried to bring some of the Indians into the mainstream of American life. Immediately, I was called by the so-called friends of the Indian a Birchite using Communist tactics. You may find yourself in the same boat. I think this puts us right in the middle of the mainstream, frankly, but they use every way possible to continue segregating the Indians.

Senator METCALF. The Bureau of Indian Affairs.

Senator DOMINICK. The Bureau of Indian Affairs and many of the so-called friends of the Indians do the same things. Having talked with the senior Senator from New Mexico, I know that in New Mexico they had a system already in effect whereby the Indians, the Navahos, were being taught in the public schools; they were being bussed into those areas. All of a sudden, the Secretary of the Interior decided to go along with the Indian Bureau and they are setting up separate schools and taking them out of the public schools right now.

So it seems that your comment that giving a special gift to Indian schools on reservations is going to further this type of segregation instead of trying to stop it. I completely agree with you on this.

PUBLIC LAW 874 AND 815

I also agreed with your statement on Public Law 874 and Public Law 815. I might say to you, and I do not know whether Miss Miller has brought this up in the letters to you or not, but we found in Colorado that one of the problems with title I programs seems to come from the combination of two factors: One, a shortage of personnel, and two, the added incentive that it gives to schools to go in a new program. When you combine the two of them, the result is that you create new programs in order to get the Federal funds and thereby decrease the availability of skilled personnel to continue existing and sound curriculum and programs. I do not know whether Miss Miller mentioned that at all, but I would be interested in knowing whether you have any comments from your own schools on this.

Senator METCALF. This was the very point that I was raising when I suggested that we have a consistent policy of trying to create new

programs, when many of the older programs, if we actually appropriate enough money and try to make them work, instead of layering a new one on top, are adequate and sufficient. We have had a great deal of difficulty finding adequate personnel to carry out some of the necessary teaching loads. I do not know whether Miss Miller raises it—she does not raise that specific issue in the letter. But I have written the school superintendents all over the State of Montana because of the great overload of paperwork and the fact that we have a great deal of testing that I do not think was anticipated by the Congress, and many of the local school superintendents do raise the question that you raised.

SUPPLEMENTAL STATEMENT OF HON. LEE METCALF, A U.S. SENATOR FROM THE STATE OF MONTANA

In my recent testimony before the Education Subcommittee I did not touch upon the proposed amendment to the Elementary and Secondary Education Act which would place a minimum of $5,000 on Title I projects.

It appears that this amendment would be within the scope of the Act which states, in Section 205:

"That payments under this Act will be used for programs and projects * * * which are of sufficient size, scope and quality to give reasonable promise of substantial progress toward meeting those needs * * *."

However, if enacted it would seriously hinder the participation of Montana school districts in Title I programs.

Of the Title I projects approved in Montana as of 19 April 1966, 221 out of 303, or more than 70 percent, were for an amount less than $5,000. Out of 906 operating and non-operating school districts in Montana, only 129 have allocations of $5,000 or more. All of the remaining 777 districts (a few of these do not have the minimum number of children from low income families and therefore have no allocation) would have to join together with other districts in cooperative projects in order to meet the $5,000 requirements.

Joint programs are definitely encouraged by the ESEA and I am in support of this objective. I think that the sharing of services and equipment makes a good deal of sense in any area characterized by a sparse population, small schools and limited curricula. However, there are serious problems here too.

The several hundred school districts with allocations of only a few hundred dollars would be forced into designing projects applicable to a large number of districts in order to reach the $5,000 amount. Then the area involved would be too large, geographically, for a cooperative project of around $5,000 to be possible. In five counties (Golden Valley, Granite, Liberty, Mineral and Treasure) the combined allocations of thier respective districts amount to less than $5,000. These five counties together cover an area larger than that of the state of Connecticut. With the exception of Treasure County, each of these counties is larger than the state of Rhode Island.

Many other school districts located at the county seat have sufficient allocations, but the rural districts in the same county, even if they were to combine forces, do not. In these cases the "urban" districts have quite different problems from the rural districts and it is unlikely that single projects could be designed which would be mutually beneficial.

The only course for the rural districts in these cases would be to join with rural districts in neighboring counties, but again this would often prove not to be logistically sound. Individuals and mobile units can only effectively serve a limited geographical area. When spread too thin or forced to spend too much time going from place to place, their potential contribution to education is greatly diminished. The same decrease in benefits would occur in some of Montana's more sparsely populated counties where cooperative projects within the same county would not be practical due to the vast distances, poor roads and severe winters.

I strongly urge that the subcommittee take a second look at this proposal. While I realize that it can be argued that projects under $5,000 are not of suffi-

cient consequence "to give reasonable promise of substantial progress" in meeting Title I goals, I feel the disadvantages to such a minimum grant outweigh the advantages and believe the amendment should be dropped. Should it not be possible to delete the $5,000 minimum entirely, I hope that the subcommittee will consider either lowering the minimum or exempting areas with low population density from its effect.

It would be unfortunate if rural school districts with small allocations were to lose them if cooperative projects do not prove feasible. Often the children in these schools are among those with the greatest educational deprivation and any assistance, however small, would help to narrow the gap.

I would be most pleased to discuss this matter with you.

Senator DOMINICK. Thank you. I think the points you make are not only well taken, but are specifically designed to help us in our effort to try to see whether an amendment should or should not be made on this bill.

CONTINUING PROBLEM OF INDIAN SEGREGATION

Senator METCALF. Mr. Chairman, may I comment a little bit more on the Indian thing? I am a very junior member of the majority side on the Interior Committee. By virtue of the fact that I am a junior member, I earned the distinction of being the chairman of the Indian Affairs Subcommittee. That is something that is awarded to the lowest man on the committee. I have long felt that the way to take care of the Indian problem is to transfer many of the services that we give to the Indians from the Bureau of Indian Affairs to the other agencies that give these services to the non-Indian populations. One of the most successful things that we have done was to transfer Indian help from the Bureau over to the Public Health Service. Another very successful program has been to provide Public Law 815 and Public Law 874 instead of the Johnson-O'Malley Act so that the Indians get the same service under Public Law 815 and 874 that the non-Indian population does.

I feel very strongly that if we continue to segregate the Indians, we are going to continue to have a situation that has existed as long as I can remember. When I was first in the legislature, 30 years ago, Indians came down from Great Falls, Mont., and they complained about the situation, and we just shrugged it off in the legislature. The problem is still with us, a whole generation later.

It seems to me that if we can continue our policy of putting Indian children in nonsegregated schools into public schools, where they go to school with their non-Indian colleagues, we are making one of the most important advances. And when the Bureau of Indian Affairs comes in and asks for more money, or when the administration comes in and asks to use title I money for segregated schools, I feel that we are doing a great disservice to the Indians by acquiescing in it.

Senator PROUTY. Senator Metcalf, you have made an excellent and thought-provoking statement which will be a great help to the members of the subcommittee.

Senator METCALF. Thank you.

Senator PROUTY. I am most pleased to receive statements from my distinguished colleagues, the junior Senator from California the Honorable George Murphy, the able senior Senator from the State of Washington the Honorable Warren G. Magnuson, and his equally dis-

tinguished colleague the junior Senator from the State of Washington the Honorable Henry M. Jackson, the distinguished junior Senator from the State of Kansas the Honorable James B. Pearson, as well as a statement from a distinguished colleague in the House of Representatives, the Honorable Edward J. Gurney of Florida.

STATEMENT OF HON. GEORGE MURPHY, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator MURPHY. Mr. Chairman, I previously spoke on the Senate floor expressing my opposition to the administration's proposals regarding Public Law 874 and Public Law 815. At this time, I want to call to the attention of my colleagues what may be the real sleeper in S. 3046, the administration's elementary and secondary education proposals of 1966.

Specifically, I direct my colleagues' attention to sections which would eliminate the eligibility of federally connected children in the 13th and 14th grades. This means, of course, that the junior colleges would no longer be eligible for federally impacted aid assistance.

I, of course, am extremely proud of the educational system in my State which, in my judgment, is the best in the entire Nation. In addition to its outstanding universities and 4-year colleges, California has been the leader in the junior college movement in the United States. There are now 75 junior colleges in California and it is expected that there will be 100 by the early 1970's. At least 30 junior college districts are presently threatened with the loss of much needed funds. The present enrollment in California's universities and colleges is 340,000 students and this figure will nearly double by the year 1970.

I cite these statistics, Mr. Chairman, only to illustrate the great challenge that the schools are facing now and will continue to face in the future.

The National Commission of Technology, Automation, and Economic Progress on February 2, 1966, issued a report following its yearlong study into the effect of technological change on American life. Included within the recommendations of the 14-member Commission, which was appointed by the President, was the recommendation that there should be an opportunity for 14 years of free public education.

California, as the Commission recommended, is already providing free educational opportunity through 14 grades. California's experience in so providing will undoubtedly influence other States in their consideration of expanding their junior college opportunities. That is why I am concerned when I receive many letters from junior colleges advising me that the elimination of their eligibility under Public Law 874 and Public Law 815 would threaten some of the junior colleges in my State. Apparently without consulting with the junior colleges and apparently unaware of the hardship that will be caused by the elimination of junior college eligibility in some areas, the administration made this proposal and I sincerely hope that the committee will not accept this recommendation.

Mr. Chairman, I would like to ask unanimous consent that sample letters that I have received from junior colleges be inserted in the record.

LIVERMORE JOINT UNION HIGH SCHOOL DISTRICT,
Livermore, Calif., April 20, 1966.

Hon. GEORGE MURPHY,
Senate Office Building, Washington, D.C.

DEAR SENATOR MURPHY: Thank you for your letter of March 28, 1966, regarding Public Law 874. We have been advised that the Senate Sub-Committee hearings regarding proposed changes will commence on April 26, 1966. We have authorized the representatives from San Diego Unified School District to speak on our behalf. We have sent to them materials so that they are familiar with our districts position.

It would be greatly appreciated if you could appear and express your position regarding Public Law 874 to the committee at the hearings.

With kindest regards,
Sincerely yours,

WALTER KILLION,
Business Manager.

LIVERMORE JOINT UNION HIGH SCHOOL DISTRICT,
Livermore, Calif., April 20, 1966.

Hon. THOMAS H. KUCHEL,
Senate Office Building,
Washington, D.C.
(Attention of John E. Merriam, legislative assistant to Senator Thomas H. Kuchel).

DEAR SENATOR KUCHEL: Thank you for your letter of April 13, 1966 regarding Public Law 874. We have been advised that the Senate Sub-Committee hearings regarding proposed changes will commence on April 26, 1966. We have authorized the representatives from San Diego Unified School District to speak on our belief. We have sent to them materials so that they are familiar with our districts position.

It would be greatly appreciated if you could appear and express your position regarding Public Law 874 to the committee at the hearings.

With kindest regards,
Sincerely yours,

WALTER KILLION,
Business Manager.

LIVERMORE JOINT UNION HIGH SCHOOL DISTRICT,
Livermore, Calif., March 25, 1966.

Hon. GEORGE MURPHY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MURPHY: I would like to point out that any deficiencies in appropriations for Public Law 874 and 815 would seriously impair the educational system in the Livermore Joint Union High School District. At this time, because of election laws, it will be impossible for the district to ask the voters through an election to increase the local contribution to recover any deficit received under the federal acts.

The proposed legislation designed to amend PL–874, the Federal impact act, has resulted in a great deal of confusion about the issue. PL–874 was designed to assist school districts in the cost of educating children of parents that are employed of federal type installations. If these installations were not federal type, the firm would be private and would be supporting the schools through their taxes. Since they are federal type, the installation does not pay local taxes, therefore, the school districts file for assistance under PL–874. PL–874 money does not pay the entire cost of educating the students involved, the largest portion of cost is still paid by local taxes.

Part of the confusion arises because there are three issues facing Congress regarding the act: (1) Proposed amendments to the act; (2) Insufficient funds allocated by Congress to cover the claims for 1965–66; and (3) Insufficient funds in the President's proposed budget for 1966–67 to cover the anticipated claims.

In order to best show the effects of these issues on the local school districts the following estimates of losses were prepared using the latest figures available.

1. *Proposed amendments to PL–874.*—The main feature of these amendments would be that the school districts would have to absorb federally connected students up to a total of 6% of their total attendance. The Livermore Valley Unified School District would lose approximately $87,331.00 in 1966–67. It would require approximately *16.6¢* of additional local taxes to offset this loss.

2. *Insufficient funds allocated by Congress for 1965–66.*—It is estimated that the allocation by Congress is 15% short of the claims. To the local school districts this means a reduction of income of approximately $94,589.00 for 1965–66.

3. *Insufficient funds in the President's proposed budget for 1966–67.*—It has been estimated that the proposed budget will meet 56% of the anticipated claims. To the Livermore Valley Unified School District, this represents approximately a $314,276.00 reduction in anticipated income in 1966–67. It would require approximately *59.8¢* addition to the local tax rate to offset this loss.

Any of the three items above would create an extreme hardship on the local schools and would deter the total educational program. The children of our community would be the ones that will lose the most. All means possible should be utilized to prevent any of the measures from occurring.

I am sure that it has been pointed out to you that monies available to the district under Public Law 89–10 are clearly earmarked for additional programs to those already in operation. Those monies must be spent for additional education of students that are qualified under the terms of "poverty". Clearly this means those monies usually will not be available in any way for federally connected children. Therefore, those funds cannot be used to assist in phasing out any of the monies received under Public Law 874 and 815. Our community is vitally concerned about any changes in our program necessitated by any reduction of funds. More than 50% of our students have parents that are employed under federal contracts, mainly AEC contracts with Lawrence Radiation Laboratory and Sandia Corporation. Any reduction in our school program will seriously effect the recruiting of employees for those facilities. Those firms are concerned about the proposed cutback as we are in the schools. I am sure that you can see that this is a serious problem to our educational program and community, and that you will use your influence among your colleagues to see that no Public Law 874 and 815 deficit exists for this year or next year, and that the program extends indefinitely.

Thank you for your assistance and cooperation.

Sincerely yours,

WALTER L. KILLION,
Business Manager.

U.S. SENATE,
Washington, D.C., March 28, 1966.

Mr. WALTER L. KILLION,
Business Manager, Livermore Joint Union High School District, Livermore, Calif.

DEAR MR. KILLION: I received your communication regarding Public Law 874 and Public Law 815, which provide for federal assistance for schools in federally-affected areas. I am well aware of the necessity and importance of this program for the many school districts in California and for that reason, on March 2nd, I joined other members of the Senate Labor and Public Welfare Committee in voicing strong opposition to the proposed reductions.

At the conclusion of my remarks I stated:

> "I hope that the educators and the American public across the country will not be fooled by this and other administration budget maneuvers. The administration knew full well that the Congress would not accept these recommendations, but they proposed them in an effort to produce the low and possible unrealistic deficit of $1.8 billion.
>
> "Surely, Mr. President, if the administration feels that our resources are sufficient to embark on a global great society, then the funds are available to permit us to continue with these proven programs for the American people."

You may be assured of my cooperation in seeking restoration of thees funds, and I appreciate your writing and letting me have the benefit of your views on this most important issue.

Sincerely,

GEORGE MURPHY.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 31, 1966.

RALPH T. WATTENBURGER,
Superintendent, Livermore Joint Union High School District,
Livermore, Calif.

(Attention of Walter L. Killion).

DEAR MR. KILLION: This is in response to your March 24th letter with further regard to the P.L. 874 and P.L. 815 programs.

As I stated in my earlier letter and again in my March newsletter (copy enclosed), I think the proposed cut in impacted aid is intolerable. I am going to fight for restoration of these funds and I believe we have a good chance of success. The effect of any serious change in the federally-impacted aid program would be so drastic for local school districts like yours, that I am confident that there will be no substantial changes made by the 89th Congress. What happens in the future will be partly determined by the amount and kind of opposition expressed this year, but I predict that if revision of the P.L. 874 program is necessary in the opinion of a later Congress, the essential features of our present aid to impacted schools program will be retained.

I am happy to report that the question of insufficient funds for the current Fiscal Year has already been favorably resolved by the House. I am enclosing the Tuesday Congressional Record containing the hard-fought debate and votes on the Supplemental Appropriations bill. We worked like the very devil to keep the Southern Democrat-Republican coalition from killing the Teachers Corps funds, as well as the $41 million remommended by the House Appropriations Committee to make up the shortage in P.L. 874 funds for the remainder of Fiscal 1966.

I welcome your frank discussion of this or any other matter of interest to you which may be pending before the Congress.

With kindest regards.

Sincerely,

DON EDWARDS,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 5, 1966.

MR. WALTER L. KILLION,
Business Manager, Livermore Joint Union
High School District, Livermore, Calif.

DEAR MR. KILLION: This will acknowledge receipt of your recent letter concerning appropriations for payments to school districts under the provisions of Public Law 874 and 815, the program of aid for Federally impacted areas.

I have always supported aid to Federally impacted areas program and certainly am in agreement that every effort should be made toward maintaining support for the program in line with previous levels. I have contacted Congressman John E. Fogarty, Chairman of the Labor-Health, Education and Welfare Appropriations Subcommittee which handles this budget request, to urge support for this program.

As you many know, an appropriation of $41,000,000 additional funds to carry out the provisions of Public Law 874 during the remainder of fiscal year 1966 is included in the Second Supplemental Appropriation bill for 1966 which passed the House of Representatives on March 29 by a vote of 269 to 122. Enclosed is a copy of House Report 1349, the House report accompanying that bill. The discussion on this section of the bill appears on Page 16 of the report.

With all good wishes,

Sincerely yours,

GLENARD P. LIPSCOMB,
Member of Congress.

PUBLIC LAW 874

The proposed legislation designed to amend PL–874, the Federal impact act, has resulted in a great deal of confusion about the issue. PL–874 was designed to assist school districts in the cost of educating children of parents that are employed on Federal type installations. If these installations were not Federal

type, the firm would be private and would be supporting the schools through their taxes. Since they are Federal type, the installation does not pay local taxes, therefore, the school districts file for assistance under PL–874. PL–874 money does not pay the entire cost of educating the students involved, the largest portion of cost is still paid by local taxes.

Part of the confusion arises because there are three issues facing Congress regarding the act: (1) Proposed amendments to the act; (2) Insufficient funds allocated by Congress to cover the claims for 1965–66; and (3) Insufficient funds in the President's proposed budget for 1966–67 to cover the anticipated claims.

In order to best show the effects of these three issues on the local school districts the following estimates of losses were prepared using the latest figures available.

1. *Proposed amendments to PL–874.*—The main feature of these amendments would be that the school districts would have to absorb Federally connected students up to a total of 6% of their total attendance. The Livermore Valley Unified School District would lose approximately $87,331.00 in 1966–67. It would require approximately 16.6¢ of additional local taxes to offset this loss.

2. *Insufficient funds allocated by Congress for 1965–66.*—It is estimated that the allocation by Congress is 15% short of the claims. To the local school districts this means a reduction of income of aproximately $94,589.00 for 1965–66.

3. *Insufficient funds in the President's proposed budget for 1966–67.*—It has been estimated that the proposed budget will meet 56% of the anticipated claims. To the Livermore Valley Unified School District, this represents approximately a $314,276.00 reduction in anticipated income in 1966–67. It would require approximately 59.8¢ addition to the local tax rate to offset this loss.

Any of the three items above would create an extreme hardship on the local schools and would deter the total educational program. The children of our community would be the ones that will lose the most. All means possible should be utilized to prevent any of the measures from occurring.

STATEMENT OF SENATORS WARREN G. MAGNUSON AND HENRY M. JACKSON, U.S. SENATORS FROM THE STATE OF WASHINGTON

We are pleased to take this opportunity to emphasize to the subcommittee our grave concern over the possible expiration of Public Law 874 and the proposed cuts in appropriations for this program. We urge the subcommittee to extend Public Law 874 without crippling amendments and to report favorably S. 3046, the elementary and secondary education amendments of 1966.

IMPACTED AREAS

The subcommittee is well aware of the damaging results which would occur around the country if the amendments proposed to the impacted areas program were approved. In the State of Washington these amendments would reduce the Federal assistance to schools by $9.5 million or about 75 percent, from a 1967 total without amendments of $12,877,545 to only $3,371,262 with amendments.

This sharp reduction would affect urban school districts. It would hurt districts adjacent to military installations. It would also seriously affect rural school districts with very limited sources of revenue which are located in national forests. One district in Pend Oreille County, for example, would be cut back from $6,000 to less than $50.

Many school superintendents in our State have already contacted us about the seriousness with which they view the proposed changes in the impacted areas program. We share their view and strongly recommend to the subcommittee that this program be reauthorized in its present form.

Any sharp change in Federal Public Law 874 funds in the coming year would be particularly injurious to Washington State school districts. Under the State's system of allocating these Federal funds, the proposed cuts would affect not only the federally impacted areas, but every school district in the State.

Moreover, the State legislature meets biennially and its next regularly scheduled session is expected in January 1967. This would not be in time to permit the authorization and appropriation of additional State assistance to make up for any lost Federal funds. In addition, it is already April and many school districts in Washington and elsewhere have decided on their budgets for the coming school year. Insufficient time is available to draw up new budgets, plan new sources of revenue, and hold the necessary elections.

DO NOT CUT PUBLIC LAW 874 FUNDS

It has been suggested that Federal assistance under Public Law 89–10, the Elementary and Secondary Education Act of 1965, makes up for the proposed cuts in the impacted areas program. We do not agree with this thinking. Aid under Public Law 89–10 has been of great assistance already to the eligible school districts. We cosponsored this important education program last year; we believe it is a useful and necessary supplement to State and local support of education, and we intend to vote for 1966 legislation to extend this program.

But it should be clear that this aid, directed to the poorer school districts and to the provision of special and supplementary educational services, does not take the place of Public Law 874 funds which are not allocated to specific uses and which can be used where the local school district needs the assistance most. Public Law 89–10 funds which could be used, for example, to keep a school library open on Saturdays are not an adequate solution for losing Public Law 874 funds, which could be used to keep the library open during the week.

In short, we believe it would be unwise to cut the impacted areas program so sharply at this time and on such short notice. We are convinced that that program as well as the Elementary and Secondary Education Act program are both vitally needed. They are different programs, they serve different purposes, and they are both important.

At the close of our statement, we would like printed in the subcommittee's hearing record a statement by the Washington State Superintendent of Public Instruction's Office commenting on the impact of the proposed changes in Public Law 874.

PREPARED STATEMENT OF THE OFFICE OF THE WASHINGTON STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

OBSERVATIONS AND COMMENTS OF THE PROPOSED AMENDMENTS TO PUBLIC LAW 874 AS OUTLINED IN H.R. 13160, TITLE II (PART A)

Proposal 1 (*Section 201a*).—Require absorption of 3% of total attendance of "A" category children and 6% in case "B" category children, with payment made for only those numbers above the absorption level in each category.

Comments

Congress in enacting this impact legislation 16 years ago recognized that there was a burden on schools which served children connected with federal property, due not only to the tax exempt status of the property and the financial loss therefrom, but also because governmental activity in a community inevitably brought substantial numbers of families and school children to be educated the same as would any other industry. This principle has been solidly recognized by Congressional members of both our great political parties and has been a very popular federal support program. Several years ago, the "A" category of

this impact legislation was made permanent and applicant school districts have been able to collect for any number of "A" pupils providing the basic percentage or numerical requirements were met. Indeed, I would observe that even now there are clusters of "A" category children for whom no payment is received since the district of residence is unable to meet the qualifying percentages of the Act. Even this restriction should be removed so that *all* "A" category children can be supported from these funds, since the principle of "permanent impact" is the same for one child or a thousand children.

This absorption proposal would work great hardship on many of our schools in the State of Washington, in both the "A" and "B" categories. And even though the impact legislation is permanent for the "A" type child, fewer than 10 of the 123 schools now being reimbursed for "A" children could continue to receive such payments, and 118 of the 123 would lose 3,071 "A" type pupils in attendance in their respective districts. Certainly the dollar loss is staggering (in excess of three-quarters of a million dollars), but the basic intent of the permanent provisions of the Act is defeated. It is incongruous to permanentize a school support program and then make it impossible for virtually all schools to realize any benefits from such a program.

The absorption clause alone would remove 80 school districts from PL 874 entitlement completely, and in conjunction with anticipated loss from other sections of this bill (H.R. 13160) would remove all 20 applicant districts from King County, which includes Seattle, and is our most populous county.

This is budget preparation time at home as it is in many other states, and schools are facing tremendous tasks of finding sufficient revenue to meet the needs of a growing region, in light of mounting costs, increased enrollments, industrial expansion, limited State support, legislated salary increases, and related fixed costs. There has even been a suggested need for a special legislative session to resolve educational problems facing the schools of our state.

The proposed cutbacks in PL 874 impact funds for 1966–67 would indeed be crippling to all our applicant schools, requiring even greater reliance on local special levies (a most unbalanced way of providing an adequate educational system). Reduction in PL 874 revenue at this time would seriously hamper the local educational agency's ability to maintain fiscal effort as required by Title I of PL 89–10, inasmuch as these impact funds are considered as "non-federal" money for this purpose.

Proposal 2 (Section 201b).—Require the Commissioner to group all schools in the state into several comparable groups and establish a rate equal to the average local contribution rate for the entire group.

Comments

The State of Washington has been among the top states to provide, from state sources, substantial support for the education of all children in the state, with a view to providing equal opportunities for all children regardless of location, size of school, local economy and taxing ability. Consequently, the local per pupil effort will reflect a much lower figure than in other states, and yet all our citizens pay the sales and excise taxes, and other taxes, which generally support our common schools.

Use of the local contribution rate for purposes of PL 874 payment would be quite illogical in our state, and in areas where federal property exists is already much lower than elsewhere. We have had school districts with a local per pupil effort of less than ten dollars (counting both federal and non-federal pupils), and currently have ten districts below $50 local contribution rate. Only eight of our larger districts (more than 600 enrollment comprising 149 districts) were contributing more than $200 per pupil in the base year 1963–64 for which 1965–66 PL 874 rates are computed. The four lowest first-class districts in per pupil valuation during 1964–65 are all PL 874 districts, three of them heavily impacted. The per pupil valuation in our largest PL 874 applicant district is approximately one-half that for all first-class districts in the State of Washington.

The reason for this situation should be readily apparent. Federal property and activity, as desirable as they are to our economy, reduces the school district's ability to finance its program locally. I may also point out at this juncture that a heavy turnover problem exists in all our military impact areas as well as in agricultural areas of Indian Reservation country.

A reduction in the "A" category rate from the present $250 to $100, or $150 at most, per child, would further compound the problem of adequately financing the local educational programs. This would actually affect every child in all our common schools since an adequate support is guaranteed by appropriations from the State's general fund (subject to pro ration).

Proposal 3 (*Section 202*).—Provide that any property which is leased from the federal government no longer would be considered "federal property" for purposes of the Act.

Comments

I will speak only briefly on this point since somewhat limited information is currently available on the specific impact this amendment would have on the applicant schools of our state.

Recent announcement of the impending sale to the Boeing Company of the remaining federally-owned portions of the Boeing Company's Plant 2 complex (known in PL 874 circles as Air Force Plant #17), when coupled with possible loss of other leased federal properties of this nature will serve to make serious inroads into PL 874 entitlement in more than 40 school districts, if this amendment is adopted. Major losses will ensue to schools which serve our Indian communities since considerable acreage and faciilties on our twenty-two Indian Reservations are out leased to private individuals and concerns. One school district which is considered to have the greatest percentage of its own total enrollment in migratory workers' children would be completely removed from PL 874 entitlement by this proposal. Several schools in the Yakima Valley would be unable to maintain present level of education services to the Indian and Spanish-American children who annually flood the communities, as well as for their own children. Other schools serving children from National Forest resort areas and logging communities may likewise be seriously affected, if this amendment is enacted and the regulations narrowly interpreted.

The fact that certain federal properties, or portions thereof, are out-leased to private concerns does not change the tax-exempt status of the federal property itself. The state is still unable to tax such property, although "personal property" assessments can be made against privately owned improvements located on federal property. In these situations, the payments received by local educational agencies become deductible items from their PL 874 entitlements, so the financial burden originally created by the federal property is not altered by virtue of the out-lease arrangement.

OTHER COMMENTS RELATED TO THE PUBLIC LAW 874 AMENDMENTS

I would like at this time to call to your attention an action taken by the Congress in 1958 when several amendments were made to the impact legislation, some of which had the effect of liberalizing the law and removing certain inequities.

One of the major changes enacted in 1958 was to permit school districts which serve Indian children connected with Indian Reservation or Indian trust land to count these children for purposes of PL 874. This had not been possible before 1958, since the Bureau of Indian Affairs' Johnson O'Malley program, in operation since 1934, was providing some support for Indian children. It was recognized by Congress that the rationale of the BIA's program and that of the USOE impact legislation was quite similar and as a result this change was effected. Consequently, the impact laws have assumed the major responsibility for "footing the bill," so to speak, for the JOM program, instead of the BIA. The Johnson O'Malley program, or Indian Education fund, was retained and placed on a supplemental basis and has truly been a continuing bulwark to Indian-area schools. We are greatly indebted to the Bureau of Indian Affairs and to Congress for the availability of this supplemental support and are appreciative of the manner in which the JOM contracts have been handled. The inclusion of the Indian children in the PL 874 impact program has been most welcome and has proven beneficial to all the school districts which are located on or adjacent to Indian Reservations or Indian allotment lands, and certainly it was in good faith that such changes were made, particularly as the "A" type child was made permanent.

Now, however, these amendments to PL 874 would have serious adverse effects on some 40 school districts which are providing education for substantial numbers or percentages of Indian children, by either removing them entirely from PL 874 benefits, or reducing the entitlements so that hardly a pittance would remain to benefit the Indian children as well as all other enrolled pupils. In fact, if the intention of the thirty-two year old JOM Act were to be fulfilled, the State of Washington would find it necessary to request funds from the JOM source equal to at least $250,000.

At least 10 of the 40 school districts formerly involved in our JOM contract agreements would lose support for *all* their Indian children, while the total loss

could exceed 1,200 Indian children. A majority of the Indian families are classified in the "A" category of double connection with tax exempt federal property, but about one in four are of the single connection type, or the "B" category.

I do not not feel it would be the desire of Congress to endanger that portion of the impact legislation which affects the Indian children particularly when they were specifically included in the 1958 adjustments to the Act.

Reference has been made to the idea that some degree of coordination exists between this impact legislation of long-standing duration and the Elementary and Secondary Education Act of 1965, particularly Title I, also known as Title II of PL 81–874. I am honored to have had the opportunity to testify on behalf of the 1966 Amendments to the ESEA (Title I of HR 13160) and, as a member of the National Advisory Council on Disadvantaged Children, I am wholeheartedly in support of the Title I, ESEA program. However, very little correlation actually exists between these two educational support programs even though the "property impact" legislation and the "poverty impact" program are technically Titles I and II, respectively, of the same law.

Title I serves to strengthen the general fund of a school district for its day-by-day operation. Title II is specifically earmarked for special programs beyond the regular operation, and must be considered categorical aid (albeit of a broad variety). Districts must maintain fiscal effort in order to qualify for Title II funds. It is therefore illogical, in my opinion, that Title I, PL 874, assistance be cut back as proposed in this bill with the reasoning that the impact districts will recover this loss from the newer Title II, PL 874 program.

I have prepared a chart which I would like to submit for your review which compares 73 of our larger school districts—first-class and the more heavily impacted second-class schools—as to PL 874 impact entitlements and the 1965–66 allocations made under the provisions of Title I, ESEA. These districts are listed, from left to right, in order of size of the PL 874 impact receipts anticipated for the current school year, with the "low-income" program effect superimposed thereon.

It is noted that our most heavily impacted district, Clover Park, Pierce County, receives 1.4 million dollars from the PL 874 source, but only $109,000 from Title I, PL 89–10. The neighboring district of DuPont, also serving the Fort Lewis area, receives nearly one-half million dollars from PL 874, but only $6,600 from the "low-income" Title of the ESEA. Seattle, on the other hand, has been allocated more than 1.66 million dollars in Title I, PL 89–10 funds, but annually collects about $650,000 impact funds.

Several of our larger first-class districts, each with an allocation of 80–100 thousand dollars under Title I, ESEA, have not been eligible for any federal property impact funds.

It should be evident then from this chart that very little positive correlation exists between the two programs, and either one could hardly be expected to take the place of the other. In my judgment, then, there is very little logic in trying to relate these two programs. Improving the second floor of a building, for example, can be a most worthy and necessary project to undertake, but would be ineffectual and meaningless if at the same time a portion of the structure's foundation were removed.

We are pleased to see schools opening their library doors to needy children during the evening hours and on Saturdays as a result of this new *categorical* aid, but it would be a paradox, indeed, if they should have to close them during the school day because of withdrawal of *basic* PL 874 impact funds.

COMMENTS ON OTHER PROPOSED AMENDMENTS TO HR 13160, TITLE II, PART A

In addition to the three major amendments being proposed to cut back PL 874 impact revenue, several other minor adjustments have been proposed which would presumably eliminate certain inequities in the law. Some of these technical changes could easily be made in the present law without endangering the basic program.

We would encourage acceptance of several of these minor amendments including the following:

(a) Any child who has a parent on active duty in one of the uniformed services would be counted in the "B" category for the purpose of computing PL 874 entitlement.

Comment

While the concept of federal property connections remains basic, there is logic in this proposal since such duty is ordinarily connected with some federal pro-

perty somewhere, and precludes that parent from being employed in a civilian capacity on non-federal property. Thus the connection with federally tax exempt property can be maintained and justified. This proposal is incorporated in Section 211a of the bill under question.

(b) Taxes and other federal payments made with respect to federal property would be deducted from the gross entitlement of the local educational agency only to the extent that the federal property has children "connected" with it.

Comment

At present, payments made from U.S. Forestry Reserve funds are deducted only when made available for current expenses and then only to the extent that children are claimed against that specific National Forest. Other taxes, or payments in-lieu-of taxes (PILOT), are now deducted from district entitlements even though no children are claimed from the property.

This amendment would remove this inequity by limiting such deductions to the extent that children are claimed from that property, in the same fashion as presently exists for federal forest funds. No deduction should be made when any of these taxes or other federal payments are not made available to the school district's general operating fund, by action of the County Commissioners or other appropriate agency, as is presently the case.

The suggestion that a minimum be established for deduction purposes ($1,000) in order to avoid excessive administrative costs in determining deductions of smaller amounts is entirely acceptable and should permit much more efficient supervision of this aspect of the impact legislation. This amendment is known as Section 211b.

(c) Any federal property conveyed by the U.S. to some other party or agency could still be considered as federal property for purposes of this Act for a period of one year after the title to the property is transferred.

Comment

The purpose of this amendment is to remove the inequity which now exists between the provision as it now applies to federal *housing* projects, in recognition of the one-to-two year lag before tax revenues are actually realized from the property, and *non-housing* federal property.

It is quite apparent that the same justification applies to both types of property disposition, and I therefore respectfully urge inclusion of this amendment, which is identified as Section 214a of HR 13160.

(d) Any federally owned property used to provide benefits to the local community would be considered as federal property for purposes of the Act.

Comment

This is a much-needed revision in the impact legislation to bring the actual administrative practices more nearly in line with the basic intent of the law. While there may appear to be some benefits derived from federal properties used for dam construction, county or port activity, or school services, there is no recoupment of tax loss by the school district, and the enrollments of the schools still reflect increases in the same fashion as military or other governmental activity and create a similar financial burden to the school district so far as available revenue is concerned. This is Section 214b of the bill.

(e) The proposed amendments relating to the interpretation of free public education as excluding children beyond grade 12 level (Section 214c), and the proposal to give the U.S. Commissioner of Education authority to prescribe a uniform system of counting children to determine ADA of federally connected children (Section 214d) are generally acceptable, but the State laws regarding attendance and membership must be respected. In our state, where state support is based on a guaranteed amount of money per child in membership, rather than in daily attendance, it must be permissible for the local educational agency to compute the ADA from actual or average membership counts.

COMMENTS ON PROPOSED AMENDMENTS TO PUBLIC LAW 815 (PART B OF TITLE II, H.R. 13160)

I would be remiss if I failed to commend the Stanford Research Institute for their thorough study of this impact legislation, and while the proposals presented by them do not, in my judgment, reflect either the basic intent of the legislation, or the actual operation of the laws over the past 15 years, they do reveal the necessity for occasional evaluation of the impact programs.

While the major amendments to PL 874, Title I, would cause crippling effects to every applicant school district in our state, the amendments proposed to PL 815, as a result of the Stanford Research Institute survey, are much more acceptable and realistic as well.

It has been recognized that the operation of PL 815 has been more restrictive, preventing many local school districts from obtaining federal assistance for construction of much needed facilities, largely because of the two-year limitation on the increase period. Certainly, a 4-year increase period as recommended in Section 221 of HR 13160 would be more realistic and permit districts to more effectively plan for serving federally-connected children as well as all other children. This would also more closely correlate with our own State regulations for facilities projections into future years.

I cannot stress too strongly the importance of continuing this PL 815 legislation beyond June 30, 1966 for both the "A" and "B" categories of pupils. Any extension of this construction assistance without including the "B" children would, in my judgment, cause serious damage to the ability of the local schools which serve substantial numbers of federally-counnected children to provide adequate school facilities to all their children. It is with this assumption in mind that I speak in favor of these PL 815 amendments. I have noted that the distinguished Senators from New Mexico and Nevada, Senator Montoya and Senator Cannon, respectively, have submitted bills to extend PL 815 for two years so it will correlate with the PL 874 extension. These bill are numbered S. 2914 and S. 2919, and there may well be similar bills introduced by other members in the congressional hoppers.

The other proposed adjustments are generally acceptable except Section 224 which refers to exclusion of federal property leased to other agencies from PL 815 eligibility. This amendment corresponds to the third major amendment to PL 874 (Section 202, Title II, Part A) and has been covered in my earlier comments on that proposal.

I have brought with me some additional material which was prepared in July 1963 by a member of my staff and, with your permission, I would submit for your review and inclusion in the records of this hearing. While this material was compiled nearly three years ago, it still, in my judgment, has considerable merit in exposing the underlying intentions of the impact legislation, and suggesting possible liberalizations or amendments, some of which have been discussed during the course of these hearings.

STATEMENT OF HON. JAMES B. PEARSON, A U.S. SENATOR FROM THE STATE OF KANSAS

PUBLIC LAW 874

Mr. Chairman, Public Law 874 has played an important role in the development of post-World War II education in Kansas. The total amount of funds spent in Kansas under this law in 1951–65 was $60,440,086. And there has been an increase in use of these funds in every one of the 15 years the program has been in existence. This continued and substantial program growth is due to the increase in the number of school children, both federally connected and nonfederally connected, liberalization of the legislation, continued high Federal expenditures for national security and domestic development, and the increased cost of education.

Growth in the impacted areas program reflects national trends to a substantial degree. In each of the 15 years federally connected enrollments amounted to about 15 percent of the total enrollment, and the Federal payments approximated 5 percent of the operating costs in the eligible districts.

Mr. Chairman, this law was initiated 15 years ago as a means of aiding school districts burdened by the enrollment of children connected with Federal activity in the district. Our local school boards

do not complain of this burden; they fully accept their responsibilities of providing the best education possible for their children. But even under Public Law 874, the Federal funds distributed do not begin to pay the cost of educating federally connected children. To cut these funds as proposed in the amendments to Public Law 874 would be a gross injustice.

In 1967 an estimated 139 Kansas school districts in every part of the State will participate in this program as it now stands. Funds received will range from $2,115 in five of our school districts, to $2,083,569 in the city of Wichita School District No. 1. If the proposed amendments to Public Law 874 were to be put into effect, 33 of our currently eligible school districts would receive no aid at all. And all of our other districts would suffer under the new cuts.

Mr. Chairman, the need for Federal assistance to local education—in the form of impacted aid—is still present. Federal activity in local areas is not decreasing. And there is no justification for decreasing the Federal aid badly needed by local school districts to provide for the children involved.

In recent weeks I have received numerous letters from my constituents objecting to the cuts involved in the proposed amendments to Public Law 874. These letters explain the problems faced by the local school boards and the even greater problems which would come with cuts in this vital program.

Mr. Chairman, I submit two of these letters as evidence for the need to continue the impacted aid program as it now stands.

UNIFIED SCHOOL DISTRICT NO. 453,
BOARD OF EDUCATION OFFICE,
LEAVENWORTH PUBLIC SCHOOLS,
Leavenworth, Kans., February 9, 1966.

Hon. JAMES PEARSON,
Senator from Kansas,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PEARSON: I am writing to express my personal concern and the concern of the Board of Education of Leavenworth, Kansas, as expressed in a resolution adopted in regular meeting of the Board, February 7.

Our concern is based on information coming to us that the Bureau of the Budget submitted to Congress on January 24 an estimate cutting appropriations to finance Public Law 874, commonly known as the federal aid to impacted school districts law, from $416 million needed this year down to $183 million for next year.

As you know, this law originally was passed to provide funds to educate children from families in a community brought to the community as the result of federal activity in the community. This aid is provided by the federal government in lieu of property taxes that would be available if private or corporate property requiring the same number of families were to pay property taxes in the community in which they were doing business.

In Leavenworth last year this aid amounted to $335,000. If recommendations from the Bureau of the Budget are followed, and reductions are made straight across the board to all school districts, Leavenworth stands to lose $187,000 in P.L. 874 funds. To replace these funds from our local property taxes will require an additional property tax of 7 mills.

We believe Congress was wise and reasonable when money was provided to local school districts to help educate children brought to the local community because of government activity impact on the community. This activity still is very evident in Leavenworth, primarily because of the Command and General Staff College at Fort Leavenworth. We have nearly 350 students coming to our high school directly from the Fort, and known as 3A type children. We have nearly 1800 other children whose fathers cannot be housed on the Fort grounds

and who attend our schools. These are the children classed as 3B. The federal money provided to us under P.L. 874 doesn't begin to pay the cost of educating these children. Rent paid by their fathers, part of which is available in taxes doesn't provide the difference in the cost. We are not complaining about conditions as they are now. But we wish to assure you that our district is not "profiting" from having these children in our schools. For the federal government to reduce the amount we now are receiving would be a gross injustice.

Money which we receive under P.L. 874 is combined with money we raise from all other sources and spent as our Board of Education directs to provide the best educational program we can afford in Leavenworth. I mention this point because it is my understanding that some opponents of P.L. 874 point to the new and controversial P.L. 89–10 and say it is a better program. With this we strongly disagree. There are so many regulations surrounding ways in which money under P.L. 89–10 can be spent that it represents federal control regardless of the way in which it is described.

Why reduce a program such as P.L. 874 which is based upon the logical obligation of the federal government to educate children who are placed in a community as the result of federal activity; then try to substitute a program with so many government regulations and limited to so-called "poverty" needs?

If our country can afford both programs, we certainly can spend wisely all available funds yet provided. But we strongly urge that P.L. 874 not be reduced in favor of P.L. 89–10, or any other program whose basis is less logical than the premise upon which P.L. 874 funds are sent to local schools.

Respectfully yours,

GORDON A. YEARGAN,
Superintendent of Schools.

UNIFIED SCHOOL DISTRICT NO. 305,
BOARD OF EDUCATION,
Salina, Kans., February 3, 1966.

Hon. JAMES B. PEARSON,
Senate Building,
Washington, D.C.

DEAR SENATOR PEARSON: It has come to our attention that the Bureau of the Budget presented the federal budget to the Congress. We understand the amount recommended to finance Public Law 874, concerning the education of military connected people, is less than one-half of the amount needed. If this is true, then the local school district will be left with the responsibility of educating the dependents of military personnel who are actually the responsibility of the federal government.

The Salina Public Schools for the past fifteen years have had a considerable number of federally connected pupils through the Schilling Air Force Base. During the year following the announcement that Schilling Air Force Base was to be closed, the Salina Board of Education was told that there would be no dependents of military personnel in the schools after the 1965–1966 school year. A new picture is now taking form, through the opening of the Schilling Capehart Housing facilities to the families of military personnel who are in the service overseas. The area in which these people reside is still federal property and is outside of the school district. All of the children in grades kindergarten through twelve living at Schilling are being transported to Salina public schools every day. As of this date they number 344. We have been given to understand from newspaper reports, apparently originating in Washington, that this number may increase considerably in the near future.

About a year ago the rate for Kansas under Public Law 874 was increased, but at the same time, transportation for such children as are living at Schilling and attending Salina schools was considered to be a part of the rate. As a result, the Salina Board of Education is paying a penalty for having to transport the elementary pupils to schools in the city. The cost of transportation must be paid whether the Federal Office of Education receives enough of an appropriation to cover 100% of the needs or not. For example, if our school should be entitled to $115,000.00 under the present rate and the cost of transportation is $25,000.00, the actual amount remaining for instructional, or operational costs would be $90,000.00. If the budget appropriation should be cut 50%, the results would be $67,500.00 minus $25,000.00. This would leave $42,500.00 for operational costs.

We urge that the Appropriation Committee members be contacted and urged to supply enough funds to pay full entitlements. We also ask that you let us know what you learn from the committee which is involved in the construction of the budget which includes funds under Public Law 874.

We shall deeply appreciate any information and help you may be able to give us.

Yours sincerely,

Dr. M. SCOTT NORTON, *Superintendent.*
D. E. LINDBERG, *Clerk.*

STATEMENT OF HON. EDWARD J. GURNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. GURNEY. Mr. Chairman, I appreciate this opportunity to testify on behalf of the public schools in my district and other affected areas of the Nation.

IMPACTED AREA FUNDS

I would like to discuss with you the reasons for my opposition to sections 201, 202, 214, and 229 of title II of the amendments under consideration.

Sections 201 and 202 curtail drastically the amount of money available to impacted school districts. Two of the counties I represent in Florida are good examples of the problems which enactment of these sections would cause. Under Public Law 874 Brevard County would receive $2,524,706 in aid. If the amendments are accepted, they will receive less than half of that, $1,111,011. In other words, they will have $1,413,695 less than they were promised.

Orange County, also in my district, was to have received $834,520. Under the proposed changes, they will only get $136,205, less than one-sixth of the amount they had expected.

Brevard County, with its constant influx of Federal families and their children has a difficult enough job trying to determine in advance how much money it will need for its next term. Now it cannot even depend on how much it can get. Now, local school boards have to make plans and budgets in advance. It is almost impossible to do this when, after making plans and investments, they learn that they may not be receiving over a million dollars in Federal aid that they had been led to expect.

This is not an idle give-away program. It is a responsibility of the Federal Government to assist those localities which are hard pressed by the tremendous numbers of students brought suddenly into an area by a Government installation.

This program began in 1950 and since that time has raised the educational standards in thousands of school districts, in effect paying a tuition equivalent for those parents whose homes and jobs were not a source of tax revenue to the community where their children were educated. More than 61,000 classrooms serving almost 2 million children were built. The Government recognized and lived up to its responsibilities to localities whose tax bases were cut. The grants enabled them to meet the added requirements for more schools. This is not a charity grant, it is a matter of paying the increased costs that the Government has precipitated.

Impact aid to education was sound when it began many years ago. It was sound when it was continued year after year by Congress after

Congress. How, at a time when the Federal Government is committing itself more and more in interest and dollars to education, can we say that this vital program has become unsound and unnecessary?

I would also like to discuss the objections to sections of the amendments forbidding the use of these funds for public junior colleges. Mr. Chairman, I feel that this provision is discriminatory and penalizes those States which have set the sights of public education high.

The public junior college is a worthy and commendable attempt on the part of many forward-looking communities to raise their levels of education and provide further training, especially in the fields of vocational education.

The community junior college is an integral part of the effort of many areas to bring their educational standards up to better meet the needs of both the student and the labor market which will employ him when he leaves school.

(The following correspondence was subsequently received for the record:)

Senator PROUTY. The next witness will be Mr. Charles R. Petrozzi. For the record, will you please give your name and state the organization you are representing.

STATEMENT OF CHARLES R. PETROZZI, CHAIRMAN, NATIONAL COMMITTEE FOR MULTI-HANDICAPPED CHILDREN

Mr. PETROZZI. Yes. My name is Charles R. Petrozzi. I am the chairman of the National Committee for Multi-Handicapped Children.

Senator PROUTY. I see you have a prepared statement. We are running a little bit short of time. I wonder if it would be possible for you to summarize your statement and the full statement, of course, will appear in the record.

Mr. PETROZZI. Yes, I can. I have so many things that I want to say, Senator. I will try to limit it to 15 minutes. We feel that the invitation for us to appear here today is a major step forward in our efforts to assist in solving the growing and almost completely ignored problems of the forgotten children we represent.

MULTIHANDICAPPED UNACCEPTABLE FOR PROGRAMS

The children we represent are children who have two or more serious disabilities and for whom no programs are available. We define the multihandicapped child in operational terms as any child who has two or more serious disabilities, whereby one or the other is responsible for excluding him from existing programs. We are addressing ourselves to a problem of children in this country for whom no programs whatever are available.

I would like to give you an example: You may have a child who is blind and emotionally disturbed. He is not accepted into our State schools for the blind because of the emotional disturbance, and he is not accepted into our State institutions for the emotionally disturbed because he is blind. He literally has no place to go. There are no provisions for his education. Our State education departments and State departments of mental health both refuse to accept the responsibility for these children.

I first became aware of this problem when I worked in the Batavia School for the Blind in New York as a psychologist for 3 years. During this time, I came into contact with a large number of youngsters who, because of an additional problem—mental retardation, emotional disturbance, orthopedic defects, or brain damage—were not acceptable into our program.

This was realistic, Senator. It was realistic, because we did not have the facilities to meet the needs of these youngsters. But by the same token, when we reject their application for admission into our school, we are sending them out into a no man's land, because there are no programs whatever for these kids.

We feel that programs should be provided for these youngsters. We feel that we should provide some kind of hope for the families of these youngsters.

In the October issue of the New Outlook for the Blind, which is a publication that goes to the administrators and teachers working with blind children, was an article on the multihandicapped blind child, and in the article it said:

> Educators of the blind have been viewing with alarm the growing problem of multihandicapped blind children for 125 years.

So the problem is 125 years old, at least in the field of the blind, and nothing has been done about it.

Our committee was formed in order to provide a little push in the right direction so that these committees which have been going on for 125 years will find their expression in a realistic kind of program for these multihandicapped children.

Our group does not limit itself to only the multihandicapped blind children. We are concerned with all children who have dual handicaps for whom no programs are available. Of course, this would include youngsters who are deaf, mentally retarded, brain damaged, cerebral palsied, or otherwise mentally handicapped, compounded with something else.

MULTIHANDICAPPED CANNOT WAIT

It is the feeling of our group that the multihandicapped child cannot afford to wait another hundred years. If you stop to think what can happen to a child in a hundred years, it is a very pathetic thing. I am sure that Helen Keller would not have become the great lady that she is had we not provided for her educationally. If she were in New York State at that time, there would be nothing available for her and she would end up in one of our institutions, a vegetable, like some of our kids are. We wait for them to die. We do not provide anything for them. We put them in an institution; we clothe them, we feed them, we administer to their health needs and wait for them to die. And a part of humanity is lost. This is true not only in New York State—actually, we are better off than most other States.

Handicapped children do not starve to death in this country. We feed their bodies, but we allow their minds to go without vital nutrients until they perish intellectually.

The lack of educational and recreational programs creates the vegetables which are crowding our State institutions today.

Education is more than the 3 R's, Senator. I am sure you are aware of this—I also have read your article in the NEA Journal. I would like to congratulate you on that. I would like to comment on the last paragraph in your article. I am here to answer your solicitation for consultation and advice. We feel that we do have a serious problem here and we would like to ask this subcommittee to provide somehow, perhaps under section 19, part D, called the Cooperative Research Act Amendments under S. 3046. Perhaps somehow we could insert something in there to provide a survey to determine the number of multihandicapped children in the country and also to determine the various combinations of handicapping conditions.

SURVEY OF AVAILABLE PROGRAMS

Our group, a couple of months ago, sent out over a thousand letters to various organizations throughout the country. We sent them to State education departments, State departments of mental health, to the various national organizations dealing with handicapped children, and to their local and State counterparts. In this letter, we requested incidence figures. Could they tell us the numbers of multihandicapped children in their community or in their State who were not in programs?

I would like to call your attention to the several appendixes that I have here which give the results of our survey. We had 28 respondents that gave us statistical data. That is the first part of the appendix. If you go through it in the first column we list the source; in the second section we list the numbers that they gave us, and in the third column the comments that the particular agency makes.

It is interesting that most of the people that I have talked to in the field of special education are agreed that the State of Illinois is by far the leader in providing programs for multihandicapped children.

The State of Illinois gives up the largest figure. They say they have 7,000 out of 15,347 multihandicapped children in Illinois for whom no programs are provided. These figures were obtained from an educational survey that was conducted in 1962. Out of the 28 respondents that did give us numbers, I think this Illinois figure indicates that State is the one which is most fully aware of the problem.

So it seems that because of Illinois being the best informed, their statistics are the most meaningful.

We also have another appendix which lists typical types of responses that we got from the people who were contacted, telling us how difficult it is to get the information. We have the quote here from the Department of Health, Education, and Welfare saying there are no national statistics available.

Many of the respondents feel that there is a tremendous need in this area, but they have no way of determining the numbers of youngsters that are in inadequate programs or the adequacy or inadequacy of programs that are available for only some of the youngsters. What we are looking for are numbers. We are asking for a survey. It seems that every time we turn around, somebody is doing a survey on something we all know exists. But it seems important in this case, because we have to know the numbers and identify the problem before any realistic planning or programing can take place. I think this is a very modest request. I feel it is extremely important.

As I say, they have been having meetings for 125 years about the multihandicapped blind child, and if you go to New York State today, you will find all kinds of them around for whom no programs are available. I know a boy named Jimmy who lives a short distance from where I do. I have worked with him for several years. He is 12 years old and is not able to talk. He is blind and is brain damaged. But I am wondering, if we had provided for him, would he be able to talk today?

This youngster can listen to the radio and hum tunes. He can hear a tune a couple of times and hum it and you will be able to understand what he is humming—the Marine Hymn and this song they had a couple of years back about Henry VIII, which is a weird song and has very different inflections in it. But this young boy is able to hum this song.

It seems to me the kind of abilities that are required to hum a song are perhaps more difficult than those that are required for speech. He can say "mom," and that is about it. His mother feels that he can say other words because she can understand them, but when he says them to me, they do not mean anything.

But here is a boy who is blind. His major avenue of communication with the world is the world of speech and he cannot talk. I am wondering, had we provided for him, would he be able to talk? I think we should find an answer to this question. Hopefully, after this survey is completed, after we have determined the needs in the area, we can work with the various departments of education and the various specialists in the field; for example, the field of the blind. We can encourage them to expand their programs so they can provide for kids like Jimmy. We can talk to the people working with the deaf and encourage them to expand their programs so they can provide for youngsters who have deafness as a major handicap, plus an additional one.

RUBELLA BABIES

We have another problem. I understand that the rubella babies that were born last year because of a German measles epidemic numbered 20,000. I talked to a gentleman yesterday who informed me the figure is 30,000. These are 30,000 kids who tend to be multihandicapped. These are difficulties which usually involve the central nervous system—mental retardation, brain damage, blindness and deafness are extremely common in this area as are orthopedic defects and heart defects. The medical profession gives us this statistic—30,000 kids. What are we going to do for these kids in 4 to 5 years when they are going to need some kind of therapeutic and educational program? We have to start some effective program now in order to assist them to become effective, productive members of our society.

I would like to leave this subcommittee with a feeling of urgency, because it is an urgent problem. Something should be done and something should be done soon so that we can meet the needs of these youngsters and other youngsters like them throughout the country. Unfortunately, the moneys that were provided for handicapped children under the amendment to the Elementary and Secondary Education Act were not used for the most part for the youngsters I am talking about today. These moneys were used to strengthen and intensify existing programs.

EXPANSION OF EXISTING PROGRAMS

It is interesting after the testimony we heard this morning by Dr. Reynolds and Senator Metcalf that the intent was to create new and bigger programs. Here the money was spent to intensify existing programs. What we want is exactly what the Elementary and Secondary Education Act is trying to encourage, to expand programs. This is what we are asking for. We want the people in the field of the blind to expand their programs to take in multihandicapped blind children. We want people in the field of the deaf to expand their programs to take in a multihandicapped deaf child. As it exists today, the various agencies say that the major handicap should determine where the child should go. Every other agency feels that every handicap is a major one. If a child is blind and mentally retarded, the blind people say "it is not our responsibility, because his problem is retardation." The retardation people say, "Obviously blindness is the main problem." Perhaps if we had a Federal program, they would not argue so much about whose responsibility he is. Surely he is the responsibility of the Federal Government.

Surely it seems the basic American birthright is the right to rise to your highest potential. Surely if there are no educational opportunities available to a child, this right is being denied him.

The very fact that I cannot inundate you with figures here today shows how much this child has been ignored. It shows how great the need is to provide programs and begin some kind of effective planning for these youngsters.

I would like to conclude my testimony with the story of a little boy who received a globe as a birthday present. He loved it and of course he took it to bed with him at night. Before retiring, his father went into the boy's bedroom to kiss him good night and he found the boy lying there with the sheets all over the floor, the way kids sleep. But he was hugging his globe. The father went over and gently kissed the boy and took the globe out of his hand and began to walk out of the room. Whereupon, the boy woke up and said to his father, "Daddy, where are you going with my world?"

I would like to leave you with that question. Where are we going with the world of the multihandicapped child? He has nothing to say about the programs he will be subjected to and the adequacy or inadequacy of these programs; the goodness or the badness are our responsibility, because we are the big people of this world, we are the adults. People do not listen to children. So we have the responsibility of providing for these youngsters.

It seems to me that a national survey will prove an important first step toward achieving the goal of providing needed services for these children.

NATIONAL SURVEY

Senator PROUTY. Mr. Petrozzi, I agree with you completely that a national survey is of primary importance so that we shall have facts relative to the numbers involved and the difficulties. Then perhaps we can come up with meaningful correctional programs.

I am very grateful to you for your reference to the article which I wrote in the NEA Journal and in which I expressed the opinion that there should be an educational bill of rights for these youngsters with handicaps of one kind or another.

Do you find that there is quite a great deal of difficulty in the field of determining the problems faced by some of these youngsters? For example, perhaps many of them have some physical or emotional problems and they are classified, frequently, as retarded children, when, as a matter of fact, they are not retarded? Given proper therapy they could overcome these handicaps and become productive citizens. Do you think that is a major problem?

Mr. PETROZZI. Well, that is part of the problem. Another problem is this, that if we did provide programs for our multihandicapped retarded children, they can become productive. I have a boy who is working in Rochester, N.Y., making $105 a week, and he cannot tie his shoelaces. But he is a piano tuner. He is blind and he is retarded. He is working on piecework making $105 a week. He is paying both State and Federal taxes. He is contributing to the kind of programs that I would like to see set up for him and other kids like him. If he were 5 or 6 years old today and tried to gain admission into the State school in Batavia, he would not be accepted. He was accepted under a quirk, because they had no psychologist at that time and they could not determine that he was retarded, or the extent of his retardation. That was at the time we had all the retrolental fibroplasia youngsters.

Senator PROUTY. That is a problem. I am sure we are fortunate to have people like you and many of your associates facing up to this most important problem.

Senator Yarborough?

Senator YARBOROUGH. I want to congratulate you, Mr. Petrozzi, on this very moving statement. I have read it all and studied the appendixes while you were testifying there. As a member of this subcommittee, I assure you that my absence here has not been due to lack of interest in the subject matter of the hearing this morning, but because we had a Public Health Subcommittee also, a subcommittee of this same committee, meeting on a general hospitalization bill for the entire Nation. Secretary Gardner testified. I was away only through necessity. We have several committees meeting.

I thank Chairman Prouty for coming and chairing this meeting so as to keep them all going at one time.

Senator PROUTY. I might add that that is one of the great problems that all of us as Senators face. There are so many subcommittees meeting at the same time that it is just impossible for us to be everywhere at the same time.

(Mr. Petrozzi's prepared statement with attachments follows:)

PREPARED STATEMENT OF CHARLES R. PETROZZI, CHAIRMAN, NATIONAL COMMITTEE FOR MULTI-HANDICAPPED CHILDREN

Mr. Chairman and members of the subcommittee, we of the National Committee for Multi-Handicapped Children consider your invitation for us to appear here today a major step forward in our efforts to assist in solving the growing and almost completely ignored problems of the forgotten children we represent. I wish to express my appreciation to Senator Morse and Mr. Lee and to Senator Javits and Mr. Millenson for this cooperation and assistance in making our appearance here today possible. I would also like to thank Senator Robert Kennedy for the active interest he has taken in our committee, through correspondence, and his expressed concern about the plight of multi-handicapped children.

Our group defines the multi-handicapped child in operational terms; as any child who has two or more serious disabilities whereby one or the other is responsible for excluding him from existing programs. In other words, we are addressing ourselves to the problems of children who can profit from instruction but for whom no educational programs are available. Let us take the example of the blind emotionally disturbed child. He is not accepted into our state schools for the blind because of his emotional problems, and he is not accepted into our state institutions for the emotionally disturbed because he is blind. For the most part, neither our state departments of education nor our state departments of health will accept the responsibility for his training. These children literally have no place to go. There are no schools designed specifically to meet their needs. The parents of these youngsters have been frustrated in every effort to obtain appropriate assistance. In many cases they have been shuffled from one agency to another receiving little or no help.

I first became aware of this problem at the New York State School for the Blind in Batavia. For three years I worked as the school psychologist at that institution. During that time I came into contact with a substantial number of youngsters who, because of mental retardation, brain damage, and/or emotional disturbance, were not accepted into our educational program. We simply did not have the facilities or the personnel which would be required to meet the needs of these youngsters. Our rejection of their applications for admission into our program dooms them to a wasted, unproductive existence. For the most part these children remain at home, receiving no instruction or professional care, or they are inappropriately placed with severely retarded sighted children. In either case the lack of an educational and therapeutic program permits the existing problem to compound itself, with a resultant deterioration in social, emotional, and academic areas.

This problem is a very serious one and one which warrants our immediate attention. The longer these children remain without treatment, the more serious and complicated their problems become and the poorer are the chances of their responding to future treatment. Beyond a point, the problem in fact becomes irreversible. It is also extremely important for us to offer some hope and assistance to the families of these unfortunate youngsters.

For 125 years, according to the October, 1965 issue of the publication "The New Outlook for the Blind", educators of the blind have been "viewing with alarm" the growing problem of multi-handicapped blind children, yet little has been done about it.

Our committee concerns itself with not only the multi-handicapped blind child, but with *all* multi-handicapped children denied educational opportunities. This would include youngsters who have deafness, mental retardation, brain damage, cerebral palsy, etc, as their major handicap.

The multi-handicapped child cannot afford to wait another century for help. Do you know what happens to a child in 100 years? Today's cute little endearing type, so affectionate and so vulnerable, turns into a gaunt, grotesque vegetable the sight of whom repulses us. We are afraid to look at them because it is not pleasant. We must wait for them to die. So we feed them and clothe them and wash them and minister to their health needs and we wait for them to die. And every day these multi-handicapped children die a little and a part of humanity is lost. Society's indifference is killing them.

Handicapped children do not starve to death in this country. We feed their bodies, but allow their minds to go without vital nutrients until they perish intellectually. The lack of educational and recreational programs creates the vegetables which are crowding our state institutions today.

It is ironic, we think, that in our own state of New York, where it is mandatory for children between the ages of seven and sixteen to attend school there are, on the other hand, countless thousands of boys and girls against whom the educational gates of opportunity have been closed.

Picture this paradox if you will. It is against the law in New York State, and many other states, for normal children *not* to attend school. Yet for some reason it is legal for some handicapped children not to attend school. In fact it is impossible for them to attend school because the proper facilities are not available. This is a regressive situation inasmuch as the youngsters most in need of assistance receive little or none at all.

Much has been said in recent years about the "drop-out" problem in our educational systems. Yet nothing has been said or done about the "put-out" problem where these handicapped children literally beg for an education, but are

evicted from all existing programs because they have the misfortune to be afflicted with more than one handicap.

I sincerely wish I could stand before you today and inundate you wth figures to prove our point. I wish I could tell you there are X number of thousands of children in the United States today who, because of existing laws and lack of programs, have been reduced to pulsating masses of human flesh, uncommunicative and waiting to die while their exasperated parents can do nothing but watch.

Yes, I wish I could cite figures but I cannot. The multi-handicapped child has been so grossly ignored that there are not even reliable statistics available to them. Our group sent out one thousand letters to various agencies requesting incidence figures on multi-handicapped children. We received more than four hundred replies. Of these answers, fully seventy-five percent frankly admitted no such figures were available. These letters were sent to State Departments of Education, Public Health Departments, Social Welfare Agencies and national organizations which deal with physical and mental handicaps. I call your attention to the appendix of my prepared statement.

Those who did provide figures freely admitted that those figures were estimates or educated guesses. A table is provided in the appendix listing 28 respondents that included statistical estimates. The Illinois Department of Mental Health, for instance, quotes a 1962 survey in which there was an indication that there are "approximately" 15,347 multi-handicapped children in the state. The letter goes on to say that of these, an estimated 7,000 "are not in attendance at public schools". Another Illinois survey showed that 18% of the children not attending schools suffered from multiple disabilities. It also showed that there are 11 children out of every 1,000 in the age range seven to seventeen who suffered multiple disabilities.

Surely these figures are not conclusive. Yet taking them at their face value, it is easy to ascertain that the problem of the multi-handicapped child is not one to be ignored.

In Michigan, the Department of Public Health said that there are "between one hundred and five hundred severely handicapped children for whom proper placement is not available". The Department of Education in Michigan concurs with this figure, more or less, when it says there are "four hundred children of all types of multiple handicaps of school age in Michigan who are neither in institutions nor in public or private programs". The same letter estimates that there are a total of eight hundred to one thousand children with multiple handicaps of a serious nature in Michigan who could "be better served by more creative use of professional workers".

We must bear in mind, gentlemen, that we are not dealing with statistics, but with children. These statistics have freckles on their noses. There is a spark within them that represents their individuality and they deserve the right, through education, to realize their full potential as human beings. Surely, this is a basic American birthright, the right to rise to our highest potential. Yet through neglect, it has been denied the multi-handicapped child.

Take Jimmy for example. I know Jimmy. I worked with him. He is twelve years old. He suffers from blindness and brain damage. Jimmy has been denied entrance in every institution, school, and special class in New York State. Jimmy, at the age of twelve, cannot speak a word. The most complete sentence he has ever uttered in his life has been "Momma". Yet Jimmy is an avid radio listener. He is an amazing child in that he can hum a popular tune note for note after he has heard it but a few times.

If Jimmy had had proper guidance in his formative years, could he have been taught to talk? He can hum complete tunes. Could he have been taught to talk? We will never know.

Perhaps some of you may have read recently where a young boy spent years in a school for the mentally retarded. Through a quirk of fate it turned out that the boy, in truth, was not mentally retarded at all, but was actually, by a subsequent test, a genius. He merely was deaf.

While in this vein, I would like to remind you gentlemen of a recent medical estimate that last year's epidemic of German measles may produce 20,000 rubella babies for this nation to cope with in future years. According to the medical profession, these rubella babies can have any number of combinations of multiple handicaps. Brain damage, heart defects, blindness, deafness, mental retardation, and orthopedic defects.

Here are some statistics. Twenty thousand babies this year alone could be born with multiple handicaps. And yet, as I have noted previously, this great

nation is not in any way prepared to cope with them. If we continue our present course, these babies are doomed to a future of a crib, four walls and an occasional breath of fresh air. There is not even a small chance that they can be a productive, contributing force in our society.

If I appear to induce a sense of urgency, it is purposefully done. In 125 years this nation has ignored the problem of the multi-handicapped child. We have reached the point where we cannot afford to continue this ostrich-like existence any longer.

The National Elementary and Secondary Education Act could be, in time, classified as one of the most significant pieces of legislation ever enacted by Congress. But like all great pieces of legislation, including our original Constitution, it needs amending in order to carry out its full intent.

That is why I am here today. I am here to speak for the countless thousands of Jimmies who have nowhere to turn. I am here to plead the cause of the parents of all those Jimmies—frustrated and helpless.

I am asking you gentlemen to include some provisions in the Elementary and Secondary Education Act which will give these unfortunate people hope.

Unfortunately, the monies provided for handicapped children under the amendment to the Elementary and Secondary Education Act were not used, for the most part, to start much needed programs for the multi-handicapped child. Rather, it was used to intensify existing programs, leaving our multi-handicapped children out in the cold.

There are no federal statistics on the subject dealing with the number of multi-handicapped children in the United States. Therefore, as a starting point we must first determine the numbers of multi-handicapped children and the various combinations of handicapping conditions. This must be accomplished before any effective planning can take place.

Perhaps this subcommittee can request the appropriation of funds under 53046 Section 19, Part D—Cooperative Research Act Amendments, thereby enabling the various states to obtain this vital information. Or perhaps, the federal government through the Department of Health, Education and Welfare can undertake this survey itself, and share its findings with each state.

My request for a national survey is connected with the federal government's expressed goals in the field of education. To quote Francis Keppel, former assistant secretary in the office of Health, Education and Welfare, "One of the national goals in education is to bring equality of educational opportunity to all Americans no matter what their color, creed, national origin or handicap". And I join Senator Prouty in his quest to obtain an "Educational Bill of Rights" for handicapped children.

I should like to conclude my testimony with the story of the little boy who received a globe as a birthday present. He loved it and, of course, took it to bed with him that night. Before retiring, his father went in to kiss him goodnight. He found the boy deep in sleep, hugging his treasured globe. After kissing him goodnight the father gently took the globe and started to leave the room. Whereupon the boy sat up and said, "Daddy, where are you going with my world?"

Gentlemen, I would like to leave you with that question. Where are we going with the world of the multi-handicapped child? The adequacy or inadequacy of the programs which he is subjected to are our responsibility. We have the responsibility and the opportunity to see to it that adequate programs are established to meet the needs of these unfortunate youngsters. A national survey will prove an important first step toward achieving this goal. Thank you.

National survey statistical data

Source	Numbers	Comment
1. State of Connecticut, State Department of Health, Hartford, Conn.	2,000 exclusive of those in institutions.	It is most difficult to come up with a figure for multihandicapped children for which there is no existing program or for which existing programs are generally inadequate.
1a. State of Hawaii	38	We feel this is the area where we need additional funds for personnel and training to work with these children.
2. Idaho Department of Health, Statehouse, Boise, Idaho.	2,200 mentally retarded	Only about 1,300 of the 3,500 children estimated to have some degree of mental retardation are enrolled in special classes.
3. State of Illinois, Department of Mental Health.	7,000 out of 15,347 multihandicapped children in Illinois.	These figures were obtained from an educational survey conducted in 1962.
4. State of Indiana Department of Public Instruction, Indianapolis, Ind.	286	Results of letter survey. Leaves much to be desired. These are only approximate numbers.
5. State of Indiana, State Board of Health, Indianapolis, Ind.	66 deaf mentally retarded or deaf and physical or emotional symptoms.	These figures represent 18 percent of applicants to the Indiana School for the Deaf. Of 370 applications 263 were accepted (71 percent) and 66 rejected (18 percent).
6. State of Maine, Department of Education, Augusta, Maine.	150 to 200	Maine has few facilities which are able to provide even minimum services for children having two or more handicaps.
7. Massachusetts Department of Education, Division of the Blind.	26 blind multihandicapped.	State laws provide for emotionally disturbed blind children, but the majority of schools do not accept totally blind students.
8. Massachusetts Department of Mental Health, Division of Mental Hygiene, Boston, Mass.	2,000 to 3,000 ages 0–19 years.	These children need intense specialized help.
9. Massachusetts Department of Public Health, Division of Maternal and Child Care, Boston, Mass.	About 250 in Boston area	In Massachusetts there does not seem to be a lack of resources for treatment, but rather a lack of funds to pay for treatment.
10. Division of Children's Medical Service, Lansing, Mich.	455 blind multihandicapped.	We do not have required reporting of blindness in Ohio and I would give a conservative estimate that we know of three-fourths of the existing cases.
11. State of Michigan, Department of Education, Lansing, Mich.	400 not in programs. (400 to 600 in other programs which are not appropriately meeting their needs.)	An estimate.
12. State Department of Education, Division of Public Schools, Jefferson City, Mo.	350 (estimate)	Unable to provide for these children under existing legislation.
13. State of Montana, State Board of Health, Helena, Mont.	310 with 2 handicaps; 111 with 3 handicaps; 72 with 4 handicaps.	How many of these youngsters need other programs to supplement ours (health services) we do not know.
14. State of New Hampshire, Department of Education, State House Annex, Concord, N.H.	449 receiving no instruction. 98 receiving home instruction. 7 receiving telephone instruction. 161 no information.	Total handicapped children reported, 3,185.
15. State of New Hampshire, Department of Health and Welfare, Division of Public Health, Concord, N.H.	610	There are certainly many needs for children, whether their severe handicaps be single or multiple.
15a. Publications: Services to Blind Children in New York State by William M. Cruickshank and Matthew J. Trippe, Syracuse University Press, 1959.	677 (conservative estimate) multihandicapped blind children.	(Paraphrased) The unmet needs of the multihandicapped blind child have been demonstrated in the study data to constitute a large and important segment of the total population of blind youth in the State of New York.
16. North Carolina State Board of Public Welfare, Raleigh, N.C.	100 blind-retarded	I have been endeavoring to locate data on multihandicapped children and find very little available.
16a. Department of Public Instruction, State of North Carolina, Raleigh, N.C.	2,464 (source 1960 handicapped children survey).	Of school age, but receiving no education or training.
17. Department of Public Welfare, Division of Services for the Blind, Columbus, Ohio.	455 blind multihandicapped.	We do not have required reporting of blindness in Ohio and I would give a conservative estimate that we know of three-fourths of the existing cases.
18. Pineland State Training School and Hospital, Columbia, S.C.	150–200	

National survey statistical data—Continued

Source	Numbers	Comment
19. State Commission for the Blind, Austin, Tex.	20 percent ineligible	Slightly less than 20 percent of the known preschool blind children (158) have multihandicaps which would prevent them from enrolling in an existing special education program which is adequate to meet their needs.
20. Texas State Department of Health, Austin, Tex.	545	(Not clear whether excluded from existing programs).
21. State of Vermont Department of Social Welfare, Division for the Blind, Montpelier, Vt.	72 blind multihandicapped.	We certainly do not have adequate facilities to serve these youngsters.
22. Virginia State Board of Education, Richmond, Va.	160 known blind-retarded	The General Assembly of Virginia has just appropriated funds which will be used for children in this classification of exceptionality.
23. State of West Virginia Department of Education, Charleston, W. Va.	25 in 1 county alone	I have no idea of how many multihandicapped children actually exist in West Virginia, nor any practical method of estimating the number at this time.
24. Cerebral Palsy of Greater Milwaukee, Inc., Milwaukee, Wis.	1,200 (approximately) cerebral palsied children.	These are the more seriously handicapped.
25. State of Wyoming Department of Education, Cheyenne, Wyo.	23 blind and retarded, etc.	Only 1 program in the State to assist them and it is a school for the mentally retarded.

APPENDIX

Excerpts from letters received in response to the National Committee for Multi-Handicapped Children's request for information concerning the number of multi-handicapped children known to them.

RE: INABILITY TO OBTAIN STATISTICS AND/OR LACK OF STATISTICAL INFORMATION

"There are no Federal statistics on the subject dealing with the numbers of multi-handicapped children in the United States."

"I would personally hope that the committee would extend its efforts to include how one convinces State programs under discrete heads and sometimes boards to work together to provide services for the multi-handicapped. Certainly under new Public Law 89-313 which gives money to State-operated and State-supported schools for the handicapped there is a possibility for all kinds of innovation. I would think that your committee would be most helpful in encouraging State agencies to cooperate in providing these much needed services for the multi-handicapped child."

Quotes: Morvin A. Wirtz, Deputy Ass't Commissioner, Dept. of Health, Education and Welfare.

"We are very pleased to receive your letter inquiring about programs for multihandicapped children. I have discussed this matter at some length with Dr. Harry Sands, our National Program Director and his comment was that to the best of his ability he knows of no statistics concerning this problem. This, too, has been our experience in the general program area, and we all realize the desirability and need for such statistics. From time to time we have seen limited studies in this area. However, the samples are very small and unfortunately do not provide any valid general statistical information."

Quote: Harry D. Borbe, Director Community Services, Epilepsy, N.Y.

"I think we in California are somewhat in the same position you are. We know that great numbers of such youngsters are not receiving an education program; but in the absence of a comprehensive study of the problem, we have not come up with any accurate estimate of numbers in our State."

Quote: F. W. Doyle, Deputy Supt., Dept. of Education, California.

"I am deeply interested in federal legislation for the multi-handicapped children. It is my feeling there are a great many children who are not getting services. I sincerely wish there was some way of making a study on a state-wide basis so we could actually learn the number of children who need a special service. This information our Agency does not have."

Quote: Valerie Brakel, State Supervisor, Services for the Blind, Seattle, Wash.

"Unfortunately, I cannot tell you the number of these children for whom there is no existing program. At one time, our State at intervals took a handicapped census. We were then able to identify the child you are inquiring about. This census was discontinued some years ago, and we can no longer be sure of those in need. However, I can tell you that I have personally spoken to many parents in the past few years who were looking for a facility for a multi-handicapped child. Most of these people had to settle for a most inadequate program."

Quote: Elliot E. Lapin, Supervisor Special Education, Maryland.

"In our state there exists, unfortunately, a complete void in this area. There has not been any survey conducted in Mississippi which specifically concerns itself with this area."

Quote: Harry R. Scott, Ex. Director, Assn. Ret. Children, Mississippi.

"We are sorry to inform you that we have no collected statistics in this area. Because of serious staff shortages, it is impossible for us to assemble these figures for you."

Quote: L. C. Norlin, Director, Child Welfare, Wyoming.

"I am sorry that it is not possible for us to give you any statistical data relative to the numbers of multi-handicapped children in North Dakota. I would guess that approximately one percent of the handicapped children in North Dakota would not now qualify for the special programs we have operating in public schools. This lack of ability to qualify would be due to multi-handicapping conditions which would make it impossible for the child to accommodate himself to a specific type of instructional programing. I know of a few cases personally. I hope that this information is helpful at least in identifying the need for additional information."

Quote: Janet M. Smaltz, Director Special Education, Dept. of Public Instruction, Bismarck, North Dakota.

"Unfortunately, there are no accurate statistics available that we know about. I'm sorry not to be more helpful, but, as you probably know, accurate statistics of this kind are very hard to come by. As far as we know there has never been a real census of all mentally ill and emotionally disturbed children in the state."

Quote: Ellen Switzer, Assn. Mental Health, Inc., Connecticut

"I am sorry I cannot furnish you with specific data on multi-handicapped children in Connecticut. As far as I know a census has never been done except perhaps where these children show up in a local school census."

Quote: Ann Switzer, Ex. Director, Assn. Ret. Children, Connecticut

"Case finding and case registry is in such a primitive stage, that your request for the number of children with multi-handicaps, cannot be answered directly. There is an acute need for surveys that will tell us something about the disposition of children with different functional capacities resulting from one, two or more disabilities and when the quantity of these children are determined by methods that might be encouraged via facilitating federal grants, the newer concept of determining their educational category—rather than physical or psychological category—must also be encouraged."

Quote: Isabel P. Robinault, Coordinator, United CP, New York

"I have been endeavoring to locate data on multi-handicapped children and find very little available. We have learned that there has been a register established for about 100 children who are both blind and retarded for whom there is no residential facility in our state. We are aware of a great number of children who are under six years of age for whom there are no residential facilities to speak of. We feel that many of these children are multi-handicapped children but have been unable to obtain statistical data about them."

Quote: Carl C. Stanley, Jr. Asst. Director, Public Welfare, Raleigh, N.C.

"Many of the parents have had considerable experience with residential institutions and are very much aware of the difficulty encountered in gaining receptively for these challenging children. Insofar as we know there are no accurate statistics on the number of multihandicapped children in the United States. There is however considerable interest among the public and voluntary

agencies and the profession (especially medicine and education) in these children."

Quote: Sumner G. Whittier, Ex. Dir., Nat'l Society Crippled Children, Chicago.

"We regret to inform you that we just don't have any data on this. We realize that there is a need for this information and hope that you are successful in obtaining it elsewhere."

Quote: Barbara J. Seymour, Admin. Ass't., Public Welfare Com., Oregon.

"Unfortunately, we do not have information through which we could identify individual cases or compile statistics on persons who, because of multiple handicaps, do not seem to be eligible or feasible for services of our Division or other agencies know to us in Florida. You understand, of course, that it is very difficult to obtain specific information unless there has been a classification which would identify cases or some means of tabulating the data contained in the individual files."

Quote: Claud M. Andrews, State Dir., Voc. Rehab., Tallahassee, Fla.

"I am sorry that our statistics are no better than they are in this particular area, but I imagine we are in about the same position as most states."

Quote: C. G. Fairchild, Ass't Com., Voc. Rehab., Austin, Tex.

"At present we are serving 114 persons in the above categories. We are sure that this does not represent the total population of such children in the District of Columbia, but we have no way of ascertaining the correct number of additional children who need service."

Quote: Norman W. Pierson, Director, Dept. of Voc. Rehab., Washington, D.C.

"I hope that the above information is useful to you. I regret that I do not have additional information available, but like in the majority of other states, true statistical data regarding this problem is not available or quite inaccurate."

Quote: Jack Steneck, Dir. Community Mental Health Div., Boise, Idaho.

"Your letter of February 10, 1966 requests information of numbers of children with two or more serious disabilities. The fact that you identify a group of children for whom there are no existing programs, or for whom the programs are inadequate or inappropriate suggests the difficulty there is in finding accurate data about them."

Quote: Jules H. Berman, Chief, Div. Welfare Services, Washington, D.C.

"We do not have any exact figures on the number of multi-handicapped children in Indiana. However, we do estimate that there are about 140,000 who are mentally retarded with about 15 to 25% having multiple handicaps."

Quote: Owen C. Wemheff, Exec. Dir., Assn. Ret. Children, Indianapolis, Indiana.

"The health interview program of the National Center for Health Statistics obtains information about the number of school and pre-school children who have a disease of impairment sufficiently serious to cause them to be unable to go to a regular school or unable to engage in normal play with other children. There are about 133,000 such children in the population of about 62,000,000 non-institutionalized children. Most of these handicapped children have only one condition serious enough to cause the degree of disability mentioned. There were 182,000 disabling diseases or impairments reported for the 133,000 children. It is roughly estimated that about 95,000 children had only one condition, approximately 30,000 had two, and about 8,000 had three or more. There are certain qualifications to be attached to these figures. First, the data we derived from a sample of the population, and a figure of about 38,000 children with multiple handicaps has a relative standard error of about 20% resulting from sampling variability. We may be quite confident that the true figure lies between 20,000 and 55,000 such children. Second, the survey did not include children who reside in institutions such as resident schools and long-term hospitals for the diseased, impaired, or disabled. And finally, we do not have any information as to the numbers of handicapped children who may have been accepted or rejected for service programs. I am sorry that we are unable to provide more precise data, but the means of obtaining this do not exist."

Quote: Philip S. Lawrence, Chief, Div., Health Interview Statistics, Public Health Service, Washington, D.C.

APPENDIX

"EXCERPTS FROM SURVEY RESPONDENTS"

RE: AWARENESS OF:

Needs, interest, and general information

"In our state it is estimated that we have approximately 1,000 multiple handicapped children. This particular number refers only to the physically handicapped-mentally retarded. I cannot give you the number that is presently being served since many of these are reported in just a program for physically handicapped children. We, of course, have many other types of multiple handicapped children; some of whom I admit are not being cared for. In general, these children are placed in programs designed for the area of the major disability. Whatever you can accomplish in this area of the multiple handicapped child will certainly be a contribution since very little appears to be known about them, either in terms of incidence or program arrangements."

Quote: William R. Whiteside, Ass't. Director, Special Projects Department of Special Education, Springfield, Ill.

"I am sure that you are aware that it has been reliably estimated that no more than ¼ of the nation's handicapped children in elementary and high schools have adequate opportunities to pursue educational programs suited to meet their needs. We still must provide for educational needs of the remaining exceptional children. We are working, as are many voluntary agencies, with the skillful leadership of the Council for Exceptional Children and the U.S. Office of Education to meet these needs. While dollars are very essential, the critical need is for personnel. The fact that we have only 20% of required teachers and educational personnel is a real problem in helping all of our handicapped children."

Quote: Sumner G. Whittier, Executive Director, Society Crippled Children and Adults, Chicago, Ill.

"We do have, in this State, some nursing homes for children where multi-handicapped, both physical and mental, are taken care of. These institutions care for the very young child, and have little in educational programs for them. We have, at the present time, about 500 beds for such children. These homes give adequate service for the physical needs, but, as stated above, do not have educational programs. We have, in addition, residential schools, with a total bed capacity of about 1,100. Of this number of beds, there are approximately 200 reserved for the care of mentally retarded children with multiple-physical handicaps."

Quote: Miss Edith Heide, R.N., Nursing Consultant, Aging and Chronic Illness, Department Public Health, Springfield, Ill.

"The area of the multi-handicapped child is a grossly neglected one in our state particularly for those children who reside outside our urban areas. This is a great concern to a number of us and preliminary steps have been taken to do a complete survey of needs with the issuing of indicated recommendations to appropriate authorities. Therefore, we may be calling upon your organization in the future for possible guidance and assistance."

Quote: Charles W. Falls, Dir., Special Ed., Lincoln, Nebr.

"I am aware that this is quite a problem in many areas of our country, but it would require a rather exhaustive survey. I might suggest that this might be something in which your Committee might wish to engage, and it is suggested that you anticipate contacts with either State Dapartments of Education or State Departments of Health, or State Departments that have a Bureau for Handicapped Children or a crippled children's program in which they are concerned with both educational and physical restoration programs."

Quote: Lucy Blair, Exec. Dir., American Physical Therapy Association, New York.

"We too, are concerned about the problem of multi-handicapped children. For the past several years we have been aware that a number of children who are blind or deaf have other disabilities that prevent them from being served through existing programs. During the past year concern has become rather widespread. A committee with representation from certain agencies of state

government has spent considerable time exploring the problem, especially methods of identifying these children. A procedure for developing and maintaining a registry of the multi-handicapped will be one of the first activities undertaken by the interagency commitee."

Quote: A. C. Offutt, M.D., State Health Commissioner, Indianapolis, Ind.

"Because there is so little information about numbers of multiple handicapped children and about programs for them, the American Foundation for the Blind is presently conducting a nationwide survey of visually handicapped children who have multiple handicaps. The data are now being tabulated, but will not be available for some time. For future information you may write to Dr. Milton Graham, Director, Research Department."

Quote: Ferne K. Root, Director Program Development Division, N.Y. State Commission for the Blind, New Yor.

"The need for special programs serving children with more than one disability is well recognized in this State. Your concern for and support of this important issue is deeply appreciated."

Quote: S. H. Frazier, Commissioner, Mental Health, Austin, Tex.

"Our Commission and others in government are concerned with the lack of specially designed programs for the multi-handicapped children. This concern has recently been expressed in information provided to our Legislative Council Committee who is studying services to children receiving care outside their own homes."

Quote: Parker McBride, Exec. Sec'y., Tennessee Commission Youth Guidance.

"Your study, therefore, should be extremely helpful to those of us who are constantly aware of the need to evaluate our activities in the light of changing demands and to facilitate long-range planning that is a continuing process."

Quote: Eleanor J. Bader, Director, Care & Treatment Society Crippled Children and Adults, Chicago, Ill.

"We would certainly be interested in knowing of any legislation of Federal activity you are proposing in this field since it seems to me that there is great need for a most careful analysis of this problem in order not to box in handicapped people as has been done in the past. So many times the writing of legislation becomes restrictive and is the deterrent to service rather than the door to new programs and activities for the more seriously disabled.

Quote: Harold Parker, Director, Division Social Administration, Family and Children Services, Atlanta, Ga.

"I am in favor of your proposal for funds, since many of these children from the less populated areas are denied services."

Quote: Mrs. Francis Davis, Director, Department of Public Welfare, Jacksonville, Fla.

"From my own observations, I am sure there is a need for facilities for children who are either blind or deaf and are also mentally retarded; in fact, it is difficult to get accurate information on the intelligence level of such children. There is also a lack of residential facilities for children with such physically handicapping conditions as cerebral palsy, which would combine medical care and education facilities. We recently found two children eleven years of age with urinary incontinence, one who was also deaf, neither of whom had ever attended school. This points up the need of home teachers and investigation by school authorities, as to why children are not attending school. Both of these children should have been directed to an agency which could provide medical rehabilitation."

Quote: Margaret A. Limper, M. D., Medical Director, Commission for Handicapped Children, Louiville, Ky.

"The existence of this problem, together with the dearth of resources is recognized. Possibly a census similar to the one conducted on blind persons could be instituted."

Quote: Harold Parker, Director, Division Social Administration, Family & Children Services, Atlanta, Ga.

"It has been our experience that a major problem with multiple handicapped children is that government supported specialized services are limited, and provision has not been made appropriately to purchase from tax funds services for these multiple handicapped children from special agencies which already exist."

Quote: V. Terrell Davis, M.D., Dir. Div. Mental Health, Trenton.

"The American Cancer Society has tried to obtain similar data on handicapped, even though one of the associated difficulties such as mental retardation find. I have gone through the medical literature and have been unable to find any material which would be useful to your organization."

Quote: Edwin Silverber, Project Statistician, Research Section Medical Affairs Department, New York.

"The majority of Cerebral palsied are multiply handicapped. In Michigan between the age of birth and 21 there are approximately 4,390 noted cases. In this age range, the actual number is, of course, considerably higher. It is my personal opinion from experience and observation that where a child is multiply handicapped that the program in which he is placed is often inadequate; it is usually designed for a specific kind of handicapping condition, i.e., orthopedic or mental retardation. The multiply handicapped cerebral palsied child is usually first placed in a public school program for the orthopedically handicapped, even though one of the associated difficulties such as mental retardation may be the prime factor in his inability to progress in a school setting. Our state homes and training schools contain large numbers of multiply handicapped cerebral palsied persons and because the institutions are primarily for the mentally retarded, sufficient attention is not always given to ameliorating the physical aspect of the disability. This is not due to a disinterest on the part of directors of the institutions or of our Department of Mental Health. It is due to a very slow process of change which tends to keep children in single disability categories rather than attacking the *whole* problem faced by the child and his parents. It is obvious that if we are going to do the best possible job of habilitation for the cerebral palsied and similarily afflicted children that we are going to have to approach the problem from the standpoint of a multiply handicapped child needing a *whole* program."

Quote: Robert P. Mayberry, Assoc. Dir., United CP, Flint, Mich.

"Only 1 in every five state mental hospitals make any provision at all for mentally ill children. And of those that do, only a very few provide the special attention, the separate and special care and treatment, the special schooling these children need. Of the 4,000 children now in state mental hospitals, fewer than 1,000 are getting the kind of help they need."

Quote: Brochure (enclosure) via Michael E. Freelund, Dir., Childhood Mental Illness Service, Nat'l Assn. Mental Health, NY.

"It is hoped that this survey will lead to the development of educational classes for students who are improperly placed or for whom no classes exist. We want you to know that this number represents the multi-handicapped blind children who are known to us. We believe there are many others who have not come to our attention."

Quote: Oscar Friedensohn, Director Commission for the Blind, New York.

"The questions that you ask are vital and important ones, but impossible for us to answer with exactness. If the focus is on medical program, there are no children that could not be receiving service because of a multiplicity of handicaps. We have never excluded children from our programs on the basis of a second diagnosis regardless of the severity. If the focus is on education, there may be children who cannot receive help because of multiple diagnoses, but I would have no way of knowing numbers. In Wisconsin, there are about 1500 children receiving homebound instruction, some of whom have multiple handicaps and cannot fit into any other program, but for some of these the homebound instruction program *is* the best one. The exact figures on these I do not have either."

Quote: Horace K. Tenney III, M.D., Medical Director, Department of Public Instruction, State of Wisconsin.

"I wish to acknowledge your letter, regarding the problem of multiple handicapped children and to assure you of the interest of the National Association for Retarded Children in this important and largely unmet problem. I am aware of the structural rigidity, jurisdictional jealousy and communication difficulties that impede your fine efforts and worthy goals."

Quote: Van R. Hinkle, Director, Consultative and Community Services, Nat'l. Assn. Ret. Children, New York.

"Exclusion from services because of the severity of two or more disabilities does occur in relation to needed community services other than medical and health and corrective care (i.e., from some school programs; recreation programs,

etc.). While our Maternal and Child Health Programs and Crippled Children's Programs have advised us of the lack of availability of some of these community services which are essential to the development of a total program for the multi-handicapped child, we have no real index of the extent of the problem nor a clear picture as to precisely which community service is lacking most. We do know that there is considerable variation from one community to the next, even with the same type of a multi-handicapped child. This higher prevalence of associated physical handicaps among the retarded has been the prime factor in requests from clinical programs that started as special services for the mentally retarded to shift their focus to a children's rehabilitation center, which serves primarily multi-handicapped children."

Quote: Arthur J. Lesser, M.D., Deputy Chief, Welfare Admin. Washington, D.C.

"However, there are many areas of the state not involved with direct programs, and many of the existing programs would have to be classified as inadequate."

Quote: Robert Langbehn, Consultant Physically Handicapped, Des Moines.

"The only two Cerebral Palsy Centers in Maine are working on unrealistically small budgets which, of course, limit the amount of services which can be provided. I speak for this agency, UCP of Northeastern Maine, when I say that we are further limited by our critical lack of physical space. This information, of course says nothing for those children living in the more rural areas which are not within commuting distance of these schools and these children are not even always able to have the services of a home-bound teacher on a part time basis. As you can see, the picture is not rosy for the multihandicapped children in Maine. With this in mind, we wish you every success in your appearance before the U.S. Senate Sub-Committee on Education."

Quote: Mrs. Ruth P. Mitchell, Ex. Sec'y., United CP of Maine, Inc.

"There is a tremendous need for an organized homebound work program to give these children, who, after evaluation, proved too severely handicaped to function in a sheltered workshop, constructive work centered activities to perform at home; there is a need for additional and more specialized sheltered workshop facilities; there is a need for appropriate transportation to transport these children to sheltered workshop facilities; and there is a need for more extensive psychiatric care and treatment facilities, with personnel trained especially to work with psychiatrically disturbed adolescents. And there is a tremendous need for an organized program for parents because the children suffer from over protection and, in some instances social deprivation, unfortunately."

Quote: Norman W. Pierson, Director, Department Vocation Rehabilitation, Washington, D.C.

Senator PROUTY. The next witness is Mrs. Fitzhugh W. Boggs.

Mrs. Boggs, for purposes of the record, would you please identify yourself and the association you represent?

STATEMENT OF MRS. FITZHUGH W. BOGGS, CHAIRMAN, COMMITTEE ON GOVERNMENTAL AFFAIRS, NATIONAL ASSOCIATION FOR RETARDED CHILDREN, INC.

Mrs. BOGGS. Thank you, Senator. I appreciate the opportunity to submit the statement for the record and I will just refer to some aspects on our presentation as you suggest.

THE NATIONAL ASSOCIATION FOR RETARDED CHILDREN

I am Elizabeth M. Boggs, and I am representing the National Association for Retarded Children, which is an organization having well over 100,000 paid members, parents, professional people and other citizens in all 50 States and several military outposts overseas, all being very interested in promoting the welfare of the mentally re-

tarded, of which education for the mentally retarded is one important phase.

Since the inception of our organization in 1950, we have been concerned with all the mentally retarded, regardless of what other additional handicaps they may also have.

We do want to thank you, Senator Prouty, and the other members of the committee for the action you took last year in pointing up the importance of handicapping conditions as a cause or source of educational deprivation.

Like the majority of the members of NARC, I am a layman, not a professional educator, but I have had the privilege of serving on the President's Panel on Mental Retardation and more recently I have served as one of two lay members on a commission on the education of the handicapped in my own State of New Jersey. The other lay member was a member of the legislature. We hope as a result of the activities of this commission, appointed in 1963, that within the next 10 days or 2 weeks the State of New Jersey will revise its laws pertaining to special education. I might mention in this connection that the multiple handicapped will be expressly mentioned in this legislation.

Going beyond New Jersey, I have traveled recently in Vermont, Texas, Colorado, Nevada, and Illinois among other States.

I came from Texas this past weekend, Senator Yarborough. I had a rousing time with the Texas ARC.

Senator YARBOROUGH. Were you at that State convention?

Mrs. BOGGS. I was.

Senator YARBOROUGH. I was at the State convention there last year at Amarillo. I could not go this year.

Mrs. BOGGS. They are a lively group of people, and I was very heartned with the progress that is being made there and with the splendid cooperation that is developing between the various State agencies and the citizen groups.

Senator YARBOROUGH. Yes. Well, our citizens volunteer group is one of the most advanced in the Union, one of the two or three first States to organize to that extent. But they have been unable to get the State government to cooperate enough to get the matching Federal funds that would be available if the government, the State government, would make funds available. Our volunteer groups are far out in advance in Texas.

Mrs. BOGGS. I am sure there was a great deal of cooperation on everyone's part in our convention.

Senator YARBOROUGH. I am certain that you found that there. I know those active there expressed their regrets to me within the last 2 weeks that $5 million had been lost in matching Federal funds in Texas in the past year due to the failure of the State government to move in this area of retarded children to get that money. While the State, the private organizations, were urging it and they were there before the State government passed the State laws, through a grant, a farsighted request to the University of Texas by the late Will Hogg, the Hogg Foundation—the Hogg family, descendants of former Governor Hogg, were quite wealthy. His children had no children. So they gave the whole fortune away and a generation ago they got advice on what field this was needed most in. Some farsighted advisers over the

country told them that the field of mental retardation, the field of study of the mind generally, the field of mental health was one of the most neglected fields in American life and before World War II, to set up this great grant, this great foundation for mental health research at the University of Texas, the Hogg Foundation. And under the stimulus of the Hogg Foundation, its leadership, we have these wonderful voluntary groups in Texas who have done so much. It was that farsighted grant that stimulated it.

As I say, within the past 2 weeks, members of these voluntary groups have told me of their great regret that the State did not put up any money, but lost $5 million in grants in the past year. This is one field where the difficulty is not due to the lack of awareness of the people themselves, because there are many volunteer chapters all over our State who work in behalf of mentally retarded children.

Mrs. BOGGS. I concur in your testimony on that, Senator.

I also would like to say I had the privilege of being in Vermont in connection with a panel set up in the State of Vermont. I also visited the Mount Laurel School at Manchester, which was under construction at the time.

We have found that there is great diversity in the problems confronting the special educators in the various States and great diversity in the modes which the States have devised for meeting the problems in special education. Some States are much more advanced than others. But I have found in going around that everywhere there is a common recognition of the needs which are still, to a large extent, unmet in the area of education of the handicapped, and that there is a widely held view that the idea and principle of a Federal-State partnership should be extended more emphatically and clearly into the area of education of the handicapped.

Last year we in NARC did a breakdown of the approximately $300 million which the Federal Government identifies as being spent for programs closely related to the subject of mental retardation under HEW. Of this amount, only 10 percent goes into any kind of Federal aid for direct services to the handicapped people. Three-quarters of that is accounted for either by vocational rehabilitation funds or the Children's Bureau funds in the maternal, child health, and crippled children's programs. Until the Elementary and Secondary Education Education Act of 1965, practically nothing was going into assistance in the area of education, which is a very important part of the total program for the mentally retarded, as of other handicapped children.

You have heard the testimony of the Council for Exceptional Children on the experience under title I. In general, we sustain that analysis. It is compatible with our observation and experience also. We mention this in the prepared statement. I am not going to recapitulate that here.

I would, however, for the sake of emphasis, like to stress two paragraphs in our testimony.

FEDERAL AID TO STATE AND LOCAL PLANNING

It is our hope that a Federal aid formula may be devised by this subcommittee which will enhance cooperative State-local planning and action within the States and encourage each State education agency to

tie together the various facets of education of the handicapped in various settings—regular public school, special school, hospital, home, public residential institution, and approved nonprofit publicly supported private school. The object of this would be so that all such children may have the advantages of sophisticated case finding, early evaluation, preschool training, individualized programing through supplemental instruction, and/or special class placement, together with appropriate vocational counseling and education. We need a program of Federal incentive aid which will stimulate State agencies to study the educational problems of the handicapped in their statewide context, and to act so as to maximize the resources and efforts of local educational agencies to meet these needs at the community level as far as possible.

AID FORMULA

Because of the variety of special organizational problems confronting special education in urban and rural areas, we recommend that allotments be made to States on the basis of estimates (by the Commissioner) of the numbers to be served and overall cost factors.

In this connection, we call attention to the language about estimates by the Commissioner which are included in the sections of S. 3046 relative to migratory children. We would prefer to have an estimate of the presumptive number of handicapped children used as the basis for an allotment here rather than an attempt at a nose count. If you wish me to, I will elaborate on why we think that might be more valuable.

No local allotment formula should be mandated on a nationwide basis. We believe there should be some obligation and opportunity for the States to develop a plan in this area and to permit a plan which would, of course, be subject to Federal approval if it were used as a basis for a Federal application.

We believe that State plans should include procedures for making funds available for projects in the State, projects which could be awarded to applicants who are local educational agencies in the broadened sense which you have included in S. 3046, and also providing, however, that both the State educational agency itself and other State agencies responsible for education of the handicapped could apply on a project basis.

We believe that the design of such a program of aid for the extension and improvement of educational services to handicapped children will require some careful thought so as to steer between the Scylla of inflexibility and the Charybdis of dissipating resources in peripheral areas, but the past record of this committee has earned our respect and our confidence that, seeing the challenge, you will wish to act and therefore will act. The Nation's children are already in your debt and we know will remain increasingly so in the future.

(The prepared statement of Mrs. Boggs follows:)

PREPARED STATEMENT OF MRS. FITZHUGH W. BOGGS, CHAIRMAN, COMMITTEE ON GOVERNMENTAL AFFAIRS, NATIONAL ASSOCIATION FOR RETARDED CHILDREN, INC.

The National Association for Retarded Children is vitally interested in those handicapped children and youth whose educational deprivation results from a greater or less degree of mental retardation. There are upwards of 2 million such children in this country today. We are grateful for the opportunity to discuss with you the effects of P.L. 89–10, The Elementary and Secondary Educa-

tion Act of 1965, on the future of these children and the needs yet unmet which we foresee, with special reference to what might be further accomplished through pending legislation.

For your action in introducing S. 3046 and more particularly for the action of the Chairman and members of the Committee last year in insisting on explicit provision for handicapped children in the landmark legislation of 1965, we in NARC extend to you our warmest thanks.

Provisions of S. 3046

As we understand it, S. 3046 is intended, (insofar as it affects the Elementary and Secondary Education of 1965, as amended), to strengthen the act, extend it to 1970, and otherwise firm it up without major changes in its course and intent. In this light we find particular merit in several of its provisions; for example:

Section 109, clearly permitting a planning grant to be requested prior to an application for funding the project itself

Section 114, broadening the definition of "Local Educational Agency" (both with respect to the "impacted areas" act and with respect to the Elementary and Secondary Education Act,) and also providing for adjustments of allotments between districts where there is a sending-receiving or other transfer or interchange relationship, a situation which arises frequently in the education of the handicapped

Section 141, permiting contracts as well as grants to be made for educational research, a provision which has proved its value in the health and defense research fields.

Section 143, broadening the definition of construction

Section 103, identifying the responsibility of the state educational agency for mobilizing educational opportunities for migratory children, through local educational agencies or otherwise

With respect to *Section 143*, we would like to see a common broadened definition adopted by Congress for the term "construction" as it applies to all public and non-profit activity in the health, education, and welfare fields, this definition to include acquisition of land as well as those elements mentioned in *Section 143*.

We are pleased with *Section 103*, not merely because we have reason to believe that there are many mentally retarded youngsters among migratory children, but also because we see this section as providing a possible rough model for a program of identifiable aid to state and local educational agencies for programs for the education of the handicapped.

The need for identifiable Federal aid for special education

The Board of the National Association for Retarded Children recently adopted as one of the Association's objectives the following:

"Provide identifiable federal aid for special education services at pre-school, elementary, secondary, and supplementary adult education levels; include aid for strengthening state and intermediate consultation and supervision by specialists qualified in special education; structure aid to encourage coordination with other health, welfare, and rehabilitation services and inter-district coordination."

That aid specifically tied to need and performance of educational agencies in respect to handicapped children must be provided is a conclusion which we have only recently reached. It results from the mixed and often frustrating experiences we have encountered under Title I during the past 8 months. It had been our bright hope that education for the handicapped living at home would prosper, following the report of this Committee last year, which, as we thought, clearly set forth the legislative intent that such children, being educationally deprived, should share in the benefits without respect to the economic conditions of their neighbors. This hope has, alas, been attenuated by regulations at the federal level, interpretations at the state level, and lack of administration interest at the local level.

Sifting through some of the confusion and contradictory statements, one finds the key in the concept of a "school attendance area" as applied to special education. The applicant district is required to define and give priorities to its localized internal areas, based on their relative poverty and to direct its projects to these pockets. To benefit, therefore, a handicapped child must be doubly deprived,—both handicapped and from a poor neighborhood,—and school administrators are being told that, to all intents and purposes, only such children may be included in a special education project under Title I.

The effectives of this approach are quite destructive of good special education practice. Not only does it accenuate segregation of children living in low income

neighborhood from other handicapped children but it also tends to prevent optimum grouping of handicapped children for educational purposes. Good practice in special education brings together children with similar handicaps living in several different school attendance areas (without regard to their economic characteristics). Indeed, in many moderate size communities, it would be appropriate to consider the entire school district (or even several districts) as the "school attendance area" for special education purposes. We recommend that, as a matter of policy, special education operations be considered at least district-wide for the purposes of Title I and that all handicapped children be considered eligible as educationally deprived, regardless of where within the school district they may live.

The response to the amendments added by PL 89-313 relative to state-operated or state-supported schools for the handicapped has demonstrated that, where attenuation of Congressional intent to help the handicapped is controlled, significant advances can be made. One important by-product of this amendment has been to accelerate a healthy involvement of state education agencies in the educational problems of other state agencies. There is, however, a potential hazard in protecting the channels of support to state-agency-operated schools while leaving the support of local programs for the handicapped on an optional, competitive, or "also permissible" basis. As things now stand, when a state operated residential school accepts a handicapped pupil, it is enhancing its potential federal aid on a per capita basis; the local district which relinquishes responsibility for this same pupil, however, loses nothing in federal aid. Thus an incentive may be set up which could, in the future, inadvertently work against the interest of the child and also of the taxpayer.

It is our hope that a federal aid formula may be devised by this Committee which will enhance cooperative state-local planning and action within the states and encourage each state education agency to tie together the various facets of education of the handicapped in various settings—regular public school, special school, hospital, home, public residential institution, and approved non-profit publicly supported private school—so that all such children may have the advantages of sophisticated case finding, early evaluation, pre-school training, individualized programming through supplemental instruction, and/or special class placement, together with appropriate vocational counseling and education. We need a program of federal incentive aid which will stimulate state agencies to study the educational problems of the handicapped in their state-wide context, and to act so as to maximize the resources and efforts of local educational agencies to meet these needs at the community level as far as possible.

Because of the variety of special organizational problems confronting special education in urban and rural areas, we recommend that allotments be made to states on the basis of estimates (by the Commissioner) of the numbers to be served and overall cost factors. No local allotment formula should be mandated on a nation-wide basis. State applications should include a plan for making funds available for projects within the state to applicant "local educational agencies" (as defined in Section 303(6)(B) of Title I as it is proposed to be amended) with the State educational agency itself also being eligible to use part of the funds (in accordance with its approved plant) for projects directly related to the provision of special education services.

The design of such a program of aid for the extension and improvement of educational services to the handicapped children of this country will require some careful thought so as to steer between the Scylla of inflexibility and the Charybdis of dissipating resources in peripheral areas, but the past record of this Committee has earned not only our respect but our confidence that, seeing the challenge, you will wish to act and, therefore, will act. The nation's children will remain in your debt for many years to come.

Senator PROUTY. Thank you very much, Mrs. Boggs. Your testimony has been most helpful, and I am sure the members of the subcommittee will be very grateful.

At this point in the record I shall insert a prepared statement from George W. Fellendorf, executive director, Alexander Graham Bell Association for the Deaf, Inc.

(The prepared statement of Mr. Fellendorf follows:)

PREPARED STATEMENT OF GEORGE W. FELLENDORF, EXECUTIVE DIRECTOR, ALEXANDER GRAHAM BELL ASSOCIATION FOR THE DEAF, INC.

Mr. Chairman and members of the Committee: I am George W. Fellendorf, Executive Director of the Alexander Graham Bell Association for the Deaf. This Association of approximately 7,000 members includes among its membership parents, teachers, and educators concerned with the education of hearing handicapped children through the development of their oral communication skills; namely, speech, lipreading, and the use of residual hearing. We are pleased to have this opportunity today to offer to this Committee the endorsement of the Alexander Graham Bell Association for the Deaf for the proposed amendments to the Elementary and Secondary Education Act as contained in S. 3046.

In support of Public Law 89–10, as well as in support of other legislation dealing with the training of teachers of the deaf and the establishment (P.L. 89–36) of a National Technical Institute for the Deaf, we have emphasized the tremendous needs of the child who has been denied the power of hearing, particularly if this has occurred in infancy. Because of this recognition, the Alexander Graham Bell Association for the Deaf was indeed pleased and thrilled at the passage of P.L. 89–10 with its particular emphasis upon the educationally deprived child when such definition was clearly set forth as to include the child with a hearing and speech handicap.

IMPACT OF LEGISLATION

Unfortunately, to date the impact of this legislation upon the children with whom we are most concerned has not been felt in very many areas. I am aware of the survey conducted by the Council on Education for Exceptional Children and reported to you in the testimony of Dr. Maynard C. Reynolds, April 27, 1966. The survey conducted by the Council on Education for Exceptional Children has concluded that handicapped children have not received the benefits expected from Public Law 89–10. While this Association has not endeavored to conduct a similar survey with relation to the hearing handicapped, nor are we in a position to verify the statements in the C.E.C. survey, the advices and communications received in our office have revealed that such a survey would undoubtedly reveal similar conclusions. It had been hoped that preschool programs would be initiated in an effort to offset the severe educational retardation which immediately besets the hearing handicapped child. It had been hoped that programs for the parents of deaf children, specifically relating to their share in meeting the educational needs of their youngsters, regardless of the age level, might be initiated for Saturdays and for summer programs. To date this has not taken effect in any but a limited way.

Many educators and parents hoped that through the impact of Title III, innovative programs would be rapidly established in which existing educational technology would be applied to the problems of the hearing handicapped and that new techniques, perhaps borrowed from other areas of exceptionality and from special programs in other countries would be explored. To date this has not resulted in any such studies of significance. The paucity of specially trained state consultants concerned with the hearing handicapped was to be relieved by the passage of Title V of P.L. 89–10. Yet to date results indicate that very few states have taken advantage of this legislation.

PLANNING GRANTS

It is with a great deal of anticipation, therefore, that we find in S. 3046, under Section 109, a proposal for the establishment of planning grants that would enable appropriate educational agencies to obtain funds to actually organize and plan programs which, in turn, would be the subject of grant requests under the provisions of P.L. 89–10. Time and again, when local agencies had been questioned as to why they had not taken advantage of the provisions of P.L. 89–10, the response has been that there has simply not been enough time to carry out the administrative and daily teaching tasks assigned to our best educators and also to gather the information, organize it, present it, and, if necessary, negotiate the provisions of an award. Thus local administrators and parents whose children are in these various school programs have been finding themselves in the uncom-

fortable position of knowing that funds are available, recognizing full well the needs, and yet not being able to actually prepare the necessary applications to take advantage of these funds.

If it is indeed the intent of Section 109 of S. 3046 to assist local and state groups toward taking advantage of P.L. 89–10, then this could be one of the most significant steps of this fiscal year. On behalf of the parents of deaf children, who represent a substantial portion of the membership of the Alexander Graham Bell Association for the Deaf, I believe I can safely offer the fullest cooperation, including the use of the special talents certain parents have available in the fields of education, psychology, law, and medicine. Ultimately, however, the preparation and submission of such grant requests must come from those who are directly concerned with the local school or state programs, and have the advantage of full coordination of all the state agencies and facilities involved at the local level.

If the interpretation and application of P.L. 89–10, as amended, tends to influence the expansion of state-operated and supported residential school populations and reduce the number of hearing handicapped children being educated in well-organized day schools and classes, then we would also recommend further legislation to correct this tendency. Those local school districts which have an interest in establishing and maintaining suitable programs for handicapped children should most certainly receive aid in like proportion to the state-operated and-supported residential schools. This makes good sense, both educationally and socially, and should be encouraged by legislation just as it is being encouraged by educators and parents of handicapped children.

INDIAN AND MIGRANT CHILDREN

The Alexander Graham Bell Association for the Deaf is fully in accord with the other provisions of S. 3046 with relationship to the Indian and migratory workers' children, and in the proposed change in level of definition of low-income families to make the benefits of the Elementary and Secondary Education Act of 1965 available to more and more needy children in this country.

I should like to conclude these remarks by expressing sincere appreciation to this Committee for its interest in the handicapped and to also express confidence that, through your efforts and your interest, the program of assistance to meet the needs of handicapped children will continue to grow and be more beneficial as time goes by. The Alexander Graham Bell Association for the Deaf will be happy to cooperate in the development of background and, in any way, assisting this Committee toward the continued development of programs to aid all of the handicapped and, more specifically, the handicapped whose primary difficulty is the loss of hearing.

The next witness will be Rabbi Morris Sherer.

Rabbi Sherer, will you please state your name and the organization you are with?

STATEMENT OF RABBI MORRIS SHERER, EXECUTIVE VICE PRESIDENT, AGUDATH ISRAEL OF AMERICA

Rabbi SHERER. My name is Rabbi Sherer. I am the executive vice president of Agudath Israel of America, and I speak to you in behalf of our national membership, which includes many thousands of parents of the Jewish faith as well as the foremost scholars and leaders of Orthodox Judaism throughout the United States. I am grateful for this opportunity to present to you several brief observations on S. 3046, the Elementary and Secondary Education Amendments of 1966.

In view of the fact that this statement will go into the record, I think I will be doing what you like me to do by just presenting a brief highlight of this prepared statement.

Senator PROUTY. That will be very helpful and your complete statement will appear in the record.

Rabbi SHERER. Thank you, sir.

PARTNERSHIP OF PUBLIC AND NONPUBLIC SCHOOLS

First of all, I would like to express our warm appreciation to your subcommittee for writing and assuring the passage of the Elementary and Secondary Education Act. We feel in this activity the Congress rose to historic heights, not only because of what you have done for the schoolchildren of our Nation, but also now that a year has passed since the act has become a Federal law, we notice something new on the American scene: a sense of awareness that the public and nonpublic schools are partners in the mosaic of the American educational structure.

When we spoke about this 1 year ago, we spoke in general philosophical terms. Today, 1 year later, the implementation of Public Law 89–10 has brought about a realistic collaboration between the leaders of the public and the nonpublic schools in a spirit which years ago would have been unthinkable. This close liaison between the public and private school authorities will, in our opinion, have far-reaching effects in enhancing the overall effectiveness of the entire American educational structure.

I would like to bring to your attention, Mr. Chairman, that if in some areas of our Nation there have been temporary breakdowns in the lines of communication between the public and private school authorities, this blockage stems from the fact that a handful and only a handful of public education officials still have not received the message of the Great Society and want to turn the clock back to discredited, narrow educational concepts which are no longer relevant. However, we know full well that these occasional difficulties do not reflect at all the thinking of your committee and of the Congress whose legislative intent is there for all with open minds to see.

VIEWS ON S. 3046

Now, some comments on S. 3046. We support wholeheartedly the extension of the various benefits of the act through June 1970. We also unequivocally support your increasing the low-income factor after June 1967 to $3,000. Already last year, when we testified before your committee, we urged you to change this low-income factor to a more realistic yardstick of poverty and we pointed out that the original $2,000 figure unjustly eliminates many families that should be helped.

The other amendments in this bill also meet with our favor, Mr. Chairman, so long as we constantly bear in mind the basic guideline that the needs of the non-public-school children are to be considered comparably and equitably with those of the public schoolchildren.

In closing, I feel it necessary to urge your committee not to be misled by the voices of dissent from various groups which want to contain and narrow down the Federal aid to education law. As a Jew, especially, I deplore the fact that many of our countrymen have a false image of the viewpoint of the Jewish community about the bill and the historic work accomplished by this committee and by the Congress. I simply want to go on record that if some Jewish organizations with high-sounding names come before this subcommittee and the public and seek to emasculate the meaning of the legislation, they do not speak for the broad masses of the American citizens of the Jewish faith.

In closing, Mr. Chairman, may I state that we shall all be eternally grateful to the Congress and to your subcommittee for having helped make the American dream a meaningful, attainable aspiration for every American child.

(The prepared statement of Rabbi Sherer follows:)

PREPARED STATEMENT OF RABBI MORRIS SHERER, EXECUTIVE VICE-PRESIDENT, AGUDATH ISRAEL OF AMERICA

Mr. Chairman and Members of the subcommittee: My name is Rabbi Morris Sherer. I am the executive vice president of Agudath Israel of America. I speak to you in behalf of our national membership, which includes many thousands of parents of the Jewish faith as well as the foremost scholars and leaders of Orthodox Judaism throughout the United States. I am grateful for this opportunity to present to you several brief observations on S. 3046, the "Elementary and Secondary Education Amendments of 1966."

However, I would be remiss if I would not first express our warm appreciation to your Committee and to the Congress for your having risen to historic heights in writing and passing the Elementary and Secondary Education Act of 1965. Through this Act you demonstrated your keen understanding that the schools of our nation are not to be utilized merely to impart information to children, but rather as vehicles for the transformation of our children into constructive citizens able to make concrete contributions to our country's national purpose.

Now that a year has passed since this Act has become a federal law, we note with intense satisfaction a corollary result of the events that have since transpired: a new sense of awareness that the public and non-public schools are partners in the mosaic of the American educational structure. One year ago we spoke about this partnership in philosophical terms; today, the implementation of P.L. 89–10 has brought about a realistic collaboration between the leaders of the public and non-public schools in a spirit of mutual understanding which years ago would have been unthinkable.

This close liaison between the public and private school authorities not only is gradually making it possible to carry out the spirit of the Elementary and Secondary Education Act of 1965, but will have far-reaching effects in enhancing and strengthening the effectiveness of the entire American educational structure.

If in some areas of our nation there have been temporary breakdowns in the lines of communication between the public and private school authorities, this blockage stems from the fact that a handful of public education officials still have not received the message of the Great Society, and want to turn back the clock to discredited narrow educational concepts which are no longer relevant. These occasional difficulties do not reflect at all on the historic accomplishment of your Committee and the Congress, whose legislative intent is there for all with open minds to see.

And now, some comments on S. 3046. We support wholeheartedly the extension of the various benefits of the Act through June 1970. The impact of the Act's accomplishment to radically improve the entire gross human product of our nation will first be felt in its long-range pull, and its extension therefore is a matter of necessity. We also unequivocally support your increasing the low-income factor after June 1967 to $3,000. In our testimony before your Committee last year we already then urged you to alter the low-income factor to a more realistic yardstick of poverty, and we pointed out that the original $2,000 figure unjustly eliminates many families that should be helped.

The other amendments in this bill also meet with our favor, so long as we constantly bear in mind that the needs of the non-public school children are to be considered comparably and equitably with those of the public school children.

In closing, I feel it necessary to urge you not to be misled by those voices of dissent from doctrinaire groups which denounce the intent and results of the federal aid-to-education law. As a Jew, I especially deplore the false image in the minds of many Americans about the position of the Jewish community regarding the implementation of the education act. In the continuing campaign of harassment waged by the American Jewish Congress and other secular groups against the implementation of the law, and in their obvious desire to emasculate its meaning and narrowly confine its application, they do not speak for the broad masses of American citizens of the Jewish faith, and certainly not for those interested in the problems of children atending the Jewish-sponsored all-day schools.

Mr. Chairman and members of the committee, we shall be eternally grateful to you for having opened new doors of opportunity for American children, which will make the American dream not a nightmare of want and deprivation for the disadvantaged, but a meaningful, attainable aspiration for every American child.

Senator PROUTY. Rabbi Sherer, I am sure I speak for all members of the committee in expressing my appreciation for your commendation of our efforts. Certainly these efforts would obviously have come to naught had it not been for the support we received throughout the country from organizations such as yours.

I noticed in your statement, you recommend increasing the low-income factor to $3,000 after June 1967. Some of us believe that this should be increased during the next fiscal year, which begins July 1. What would your attitude be on that?

Rabbi SHERER. I felt it should have been increased in the previous year already, and I so testified before your committee. But I simply was following the amendment that was being proposed to the committee, which I believe wants its started in 1967.

Realistically, knowing the facts from the State of New York where I reside, I feel that the yardstick of poverty as it now exists in the bill is not feasible and eliminates many people unfairly who should benefit. So I go along with those who want to advance the date of increasing this yardstick, sir.

Senator PROUTY. I am glad to hear you say that, because I share that view.

Thank you very much.

Rabbi SHERER. Thank you, sir.

Senator PROUTY. This will complete the meeting this morning. We will recess until 2 o'clock, when Dr. Samel Kirk will be the first witness.

(Whereupon, at 12:30 p.m., the subcommittee recessed, to reconvene at 2 p.m.)

AFTERNOON SESSION

Present: Senators Kennedy of New York, Prouty (presiding pro tempore), Javits, Williams of New Jersey, and Kennedy of Massachusetts, members of the full committee.

Senator PROUTY. The subcommittee will come to order.

INTRODUCTION OF DR. KIRK

The first witness will be Dr. Samuel A. Kirk and two colleagues.

We are indeed happy to hear from this panel, which will outline for the subcommittee learning problems of children. These represent a rapidly developing area in the field of special education.

Dr. Kirk, I understand that you were recently honored at Toronto by your colleagues through the award of the 1966 Wallin Award, and for the record I should like to read the citation which accompanied it. It will serve to demonstrate your undoubted competence as an authority in this very important area.

In recognition of outstanding professional leadership, The Council for Exceptional Children presents the 1966 Wallin Award to Samuel A. Kirk, Professor of Education and Psychology and Director of the Institute for Research on Exceptional Children, University of Illinois. He has made an immeasurable contribution to special education through his scholary publications, the prepa-

ration of teachers and research personnel, and his extensive research efforts, particularly in the areas of mental retardation and learning disabilities. His role in the development of the Division of Handicapped Children and Youth, United States Office of Education, merits particular commendation.

An internationally recognized authority in his field, Dr. Kirk has contributed of his time and talents to lay and professional organizations. He is past president of the Council, and his continuous service is reflected in CEC's publication, research, convention, and legislative activities.

Conferred upon him, by his professional associates in appreciation of his scholarship, leadership, service, and dedication is CEC's highest honor.

Under date of April 21, 1966.

Dr. Kirk, I am delighted to read this into the record and congratulate you most sincerely on this signal honor.

Now, you may proceed in any manner and I wish you would introduce your colleagues first.

Dr. KIRK. Thank you, Senator Prouty.

I certainly appreciate the opportunity to appear before this subcommittee and to discuss with you problems of children with learning disorders.

I have brought with me two experts that I would like to call on a little later to present their points of view: Dr. Richmond S. Paine, who is a neurologist at the Childrens Hospital of the District of Columbia and professor of pediatrics and neurology at George Washington University School of Medicine. Dr. Paine is also chairman of a national task force organized by the Public Health Service on neurological diseases of blindness, the Office of Education, and the National Society for Crippled Children and Adults.

I also have with me Dr. Jeanne McCarthy, who is director of special services in the Schaumburg School System in Illinois, who represents an ongoing program in one representative school system.

STATEMENT OF SAMUEL A. KIRK, PROFESSOR OF EDUCATION AND PSYCHOLOGY, DIRECTOR, INSTITUTE FOR RESEARCH ON EXCEPTIONAL CHILDREN, UNIVERSITY OF ILLINOIS

CHILDREN WITH LEARNING DIFFICULTIES

Dr. KIRK. Children with learning disabilities have only recently begun to receive the attention that they deserve from parents groups and public schools. The reason for the neglect of this group is the complexity of the problem and the diverse disabilities which come within this category. Societies in general usually begin their provisions for handicapped children by supporting the handicaps that are obvious to them. Blindness, for example, is readily recognized by both lay and professional personnel. For that reason schools for the blind were organized in Boston and New York as far back as 1832. Since that date we have organized State schools for the deaf and the blind and for the crippled and the mentally retarded, and other handicapped children.

The groups of children who are not so readily diagnosed and identified by either lay or professional personnel naturally tend to be neglected and enter the arena requesting help at a later date. One of these groups we have entitled "Learning Disabilities."

Children with learning disabilities as defined educationally are those who have a retardation, a disorder, or a developmental defect in one or more of the processes of speech, language, reading, spelling, writing, arithmetic, or other school subjects, who do not appear to profit or develop under ordinary instructional procedures, and who require special remedial instruction—special education—for the amelioration of their disability. The Association for Learning Disabilities, a national organization concerned with this problem, defines this group as—

children or youth with normal or potentially normal intelligence who have learning disabilities of a perceptual, conceptual, or coordinative nature or related problems.

These children are in our schools and are in general failing, particularly in some aspect of behavior or communication. They do not fit into the traditional categories of the blind, the crippled, the deaf, the gifted, the mentally retarded, or special health problems. Actually this group of children cuts across various disability groupings. Thus, learning disabilities are found among children who are otherwise average in intelligence as well as among children who are below average or superior in intelligence. It is not uncommon to find a child with an IQ of 130 who has attended school for several years and who has, for example, not begun to learn to read. Many such children fail in school, become discouraged, and join the ranks of the school dropouts. We also find children who are diagnosed as mentally retarded, but who are better classified as learning disabilities since they have normal abilities in some areas and markedly limited abilities in other areas, giving the appearance of mental retardation. Remediation programs for some of these children when successful remove them from the classification of mental retardation.

The child with learning disabilities has now become recognized as a special problem in education. He certainly does not fit into any one of the traditional categories of handicapped children. When a teacher finds a child in class who is not performing normally she may refer him for an eye examination. The specialist finds that the child can see, so he does not fit into the class for the visually handicapped. When his hearing is checked it is found that he hears, so he does not fit into the class for the acoustically handicapped. His intelligence is normal or near normal so he cannot be placed in a class for the mentally retarded. Furthermore, he is not crippled and does not have a health problem that requires attention. He needs help—he needs special education—but not in the classes for other handicapping conditions.

MANY FACETS TO LEARNING DISABILITIES

If these children all presented the same picture, their identification and remediation would be made easier, but there are many facets to learning and the same cause may affect differing facets in different children. Consider the following three children, each of whom has a learning disability.

(*a*) One child was examined by three different opthalmologists who each declared the boy's vision to be normal. Yet he could not recognize different objects. He could not even recognize his classmates until they spoke to him. He is a child who requires intensive

remediation in visual perception and visual recognition. Without training in this area he could not succeed in school.

(*b*) Another child could hear tones normally. Repeated ear examinations resulted in the diagnosis of normal hearing acuity, yet he could not understand the spoken word. He acted as if he were deaf, but he was not deaf. He also needs intensive instruction in auditory understanding.

(*c*) There are many children who are normal in intelligence but are unable to learn to read by the ordinary methods. Yet under special remedial instruction these children are capable of learning to read and to spell. This severe reading disability, sometimes called dyslexia, is the most common form of learning disability.

During the last decade such children have attracted the attention of research workers in education, psychology, and medicine. Specialized examinations have been developed, and remedial procedures have been and are being organized. Personnel are being trained in small numbers; and parents groups have organized a national association entitled "The Association for Children With Learning Disabilities."

I notice that Mrs. Louise Mesirow, who is the president of the National Association for Children With Learning Disabilities, is here today, and she is available to answer questions relating ot the national organization that has evolved only in the last 2 or 3 years.

Because many children with learning disabilities have been diagnosed as brain damaged, and because many brain-damaged children have learning disabilities, these terms are sometimes thought of as synonymous. It should be pointed out, however, that a dysfunction of the brain may have widely different effects in different people. Some are crippled physically like the cerebral palsy, but may have brilliant minds. Some are extremely retarded mentally. Some have difficulties of attention and concentration or difficulty inhibiting physical activity. Still others may perform normally in most situations but have special areas of difficulty, such as in understanding numbers and quantitative concepts or in getting meaning from the printed page. Some can understand concepts but have difficulty in communication. Some are blocked, or have deficiencies in visual or auditory perception.

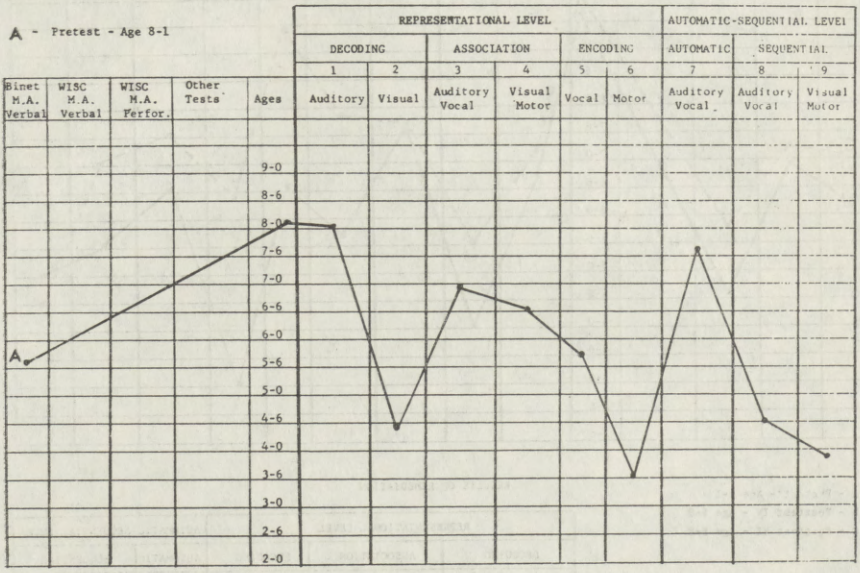
Similarly, there are many children for whom no definitive diagnosis of brain damage is possible but who have abnormal learning problems. Sometimes the child seems normal in every other respect—physically, intellectually, emotionally—but has great difficulty learning by routine methods. Children with severe reading disabilities—dyslexic children—are a case in point. Every school has them, and many schools provide special help for them. They cannot learn in the classroom by the usual group methods. Careful diagnosis can usually pinpoint behavioral characteristics which explain the difficulty and point the way to remediation.

SPECIAL CATEGORY—LEARNING DISABILITIES

I would like at this point to show several slides just to point out that these children differ from the normal child, and also differ from mentally retarded children because of the discrepancies in growth.

We now have methods of examining children to delineate the different abilities and disabilities which these children show in their psychological makeup.

RESULTS OF REMEDIATION



This child is 8 years old. You notice that on some of the points in the profile this child is normal in some respects, but is very defective in visual perception and what we call here "motor encoding" and in some of the other visual areas. This child, according to the profile, is at the 4-year level in some areas and at the 8-year level in other areas.

Senator PROUTY. How old was the child, Doctor?

Dr. KIRK. Sir?

Senator PROUTY. How old was the child?

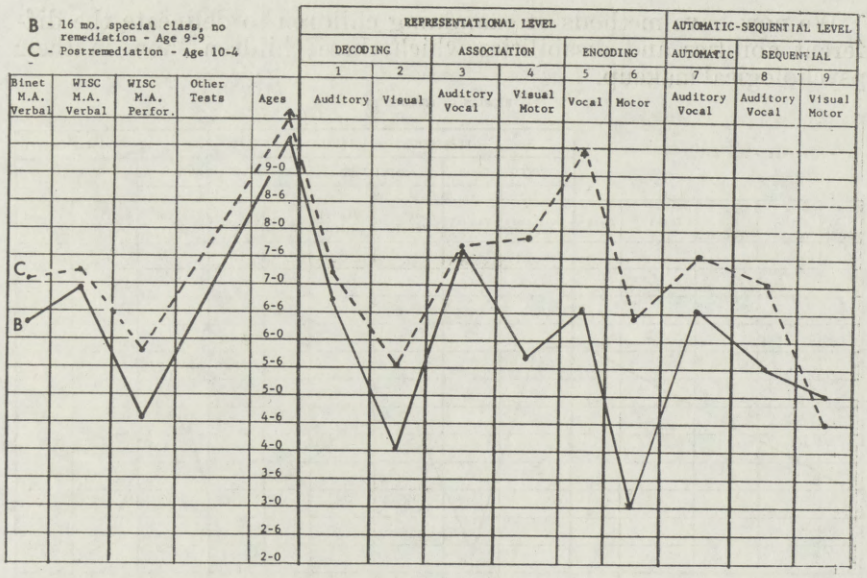
Dr. KIRK. This child was 8 years old when we first examined her.

Senator PROUTY. Eight years old?

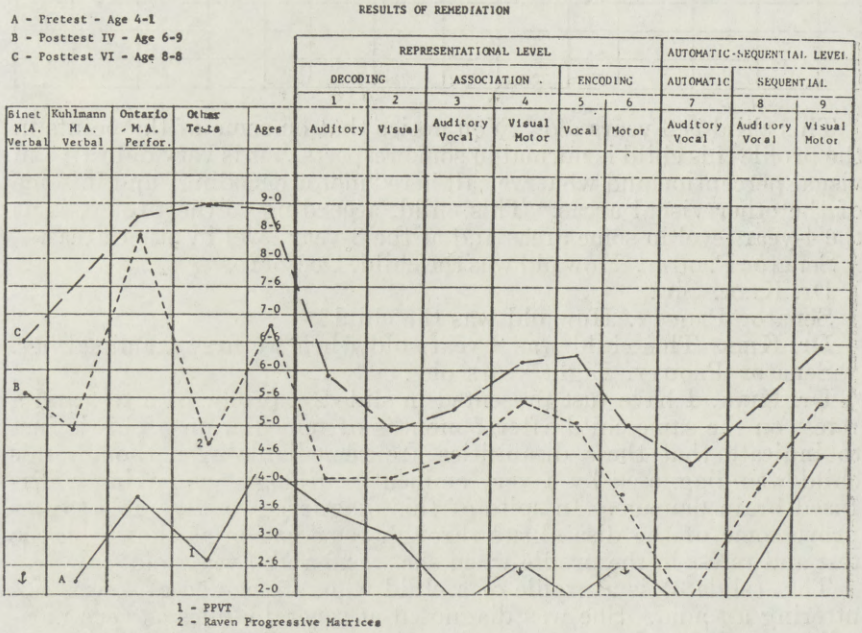
Dr. KIRK. I have just presented in slide 2 a profile of a test and a retest on the same child after 7 months of remediation. This is just to indicate that these disabilities are remediable even though this child was diagnosed by a very eminent neurologist as having a diffused brain damage. In spite of this diagnosis we were able to improve some of the disabilities through remediation as shown on the test and retest in the profile when she was 8 and 9 years old.

This (slide 3) is a profile of a child who, at the age of 4, was not uttering a sound. She was diagnosed at several clinics as very mentally retarded and recommended to a State institution but never got there because of the waiting list.

On intelligence tests she was below 2 years of age at the age of 4. We put her under intensive training as an experiment to determine whether this severely mentally retarded child—who had some normal abilities at the 4-year level and some very severe disabilities—could be trained. Children who possess some normal abilities, in spite of severe disabilities can thusly be differentiated from a mentally retarded



RESULTS OF REMEDIATION



1 - PPVT
2 - Raven Progressive Matrices

child. According to this philosophy, if the child has certain abilities that are normal and some that are very abnormal or deficient, then this child may be classified as a case of learning disability rather than as a case of mental retardation. A mentally retarded child would be relatively low on all points in such a profile.

This child was put under intensive instruction for several years. You will notice that the top profile is approximately 4 years above

the first graph. Incidentally, all of the tests show similar acceleration. According to our calculations this child developed 1 year in all of these functions for every year of training. During a 4-year period she wound up in the third grade at the age of 8. She was placed in the regular grades since at the age of 6 she was too high to be placed in a class for the mentally retarded.

I present this case to show that some children classified as mentally retarded are better classified as cases of learning disability rather than as mentally retarded, and that remedial instruction with these children can in some cases remove them from the category of mental retardation.

REMEDIAL TRAINING

Senator PROUTY. Doctor, could you explain the nature of this intensive training?

Dr. KIRK. You will notice from the profile on the last column (9) that this child tested normal in a test of the ability to remember things seen in sequence. We call it visual sequencing. At the age of 4 this child was a little bit above normal in sequencing ability. She could see things and sequence things and discriminate them visually. She could also understand what she heard (test 1). She is not a visual perceptually handicapped child, but she has other disabilities as shown in the lower points in the lowest profile.

What we did was to try to train her to speak spontaneously. We found that, and because of her ability to understand language (test 1, auditory decoding), and because she could sequence (test 9) we were able to train her to read before the age of 6. This achievement a severely mentally retarded child cannot do. We then taught her to speak through reading. For example, we would say "How old are you?"

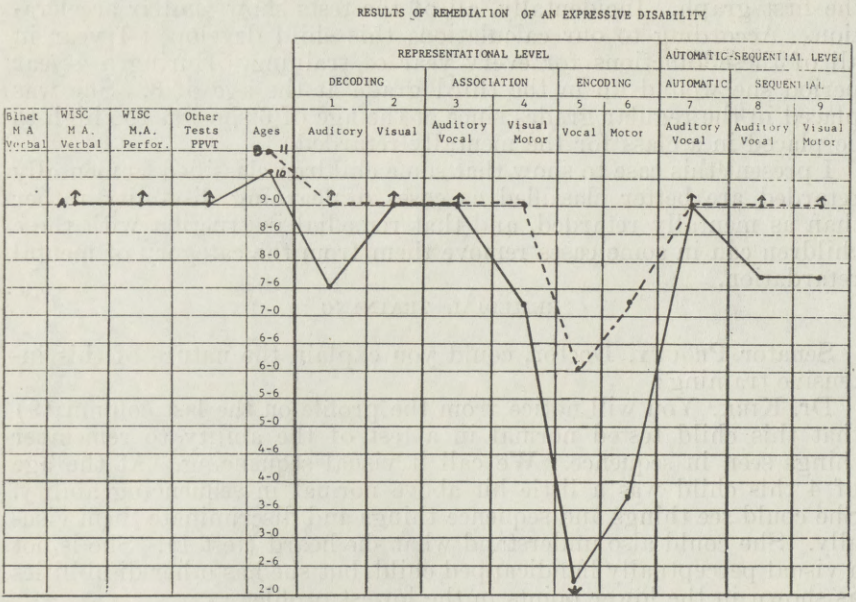
Her answer was, "6."

We then wrote on a card: "I am 6 years old," and by saying to her: "How old are you," and presenting her with a card, which says, "I am 6 years old," she could read the sentence: "I am 6 years old," Then we would take the card away and ask her again: "How old are you," and from memory she would say "I am 6 years old." In other words, we used her abilities to train her disabilities. That is why it is necessary to analyze abilities as well as disabilities. This is only one phase of the methods used with her.

Actually at the age of 4 we sent a teacher to the home to tutor her in an attempt to ameliorate her disabilities. At the age of 6½ she was admited to the first grade rather than to a class for the mentally retarded since at this time she tested above the classification of mental retardation. We continued tutoring for a while in the first grade and then dropped her. She continued to progress. She is now at the third-grade level at the age of 8½ and reading and writing at that grade level. She is not considered completely normal, but she certainly is not mentally retarded.

Slide 4 represents the profile of a boy who was normal or above normal in intelligence.

The reason I present this case is to demonstrate that learning disabilities constitute different kinds of defects in children; that is, one child may have great difficulty in hearing and understanding, but he



can see quite well and interpret what he sees; another child may be just the opposite, without any defect in hearing or in vision.

This boy had been in school to the age of 9. He was known as the boy who does not speak. He could repeat what you said to him. He did not have a speech defect. But he did not speak spontaneously or converse. For example, when the teacher asked a question in class he would raise his hand, but when the teacher called on him he stood up but nothing came out. He could not express his ideas.

That is a disability in expressive ability, both in motor expression, the ability to express himself by gestures or in writing, and in the ability to express himself in words spontaneously.

The profile shows the test-retest results after 7 months of training. He had been in school up to the ago of 9 with little progres in expresive ability. You will notice from the profile that he improved from an expressive disability of 2 and 3 years of age to 6 or 7 years, an improvement of over 3 years in 7 months. He has been progressing very well in class without further tutoring.

This is a case which some people would call expressive aphasia. He understands, but he cannot spontaneously express himself. He learned to read, but he could not learn to express himself in writing. Without special help for his disability he could become a dropout in school, but he is now progressing quite normally.

The method of teaching him was technical and complicated. Briefly, we used a typewriter and a tape recorder. Lessons were programed through computors using a sequence of statements that he could read, listen to what he read, and type this missing parts. For example, he would be presented with the sentence, "The ball is round" He would read that sentence, then press a button to activate the tape rcorder and hear what he read. The next sentence presented was: "The ball is r-o-u-n—." He had to fill in with the typewriter the

"d." For the next presentation he had to fill "n-d." And later fill in the words in the sentence, "The —— is ———." In other words, we taught his spontaneous speech on a typewriter and a tape recorder. He made marked progress as shown in the retest with this particular method. This case has resulted in further research on the programing of materials for this particular type of disability.

DIAGNOSIS OF LEARNING DISABILITIES

The point I wish to make with these cases which were presented is that a learning disability is a discrepancy in growth within the child in speech, language, reading, writing, arithmetic, and other areas. When we are able to examine the psychological processes of these children and determine wherein they have abilities and disabilities we can then organize remedial programs to ameliorate the deficiencies that exist.

Because different professions are concerned with different aspects of the problem, numerous names and labels have been evolved. The medical profession tends to label in terms of etiology—brain-injured, cerebral dysfunction, minimal brain damage, and so forth.

Those whose prime concentration is on "what it is and what to do about it" tend to use behavioral terms such as "perceptual disorders," "reading disability," "conceptual disorders," "learning disorders," and so forth. To most educators the term "learning disability" is the most appropriate since it is necessary to organize learning materials to teach the child.

FEDERAL PROGRAMS

Several years ago I had the privilege of administering the newly created Division of Handicapped Children and Youth, in the U.S. Office of Education. The congressional act, title III, of Public Law 88–164, allowed for the training of teachers of the mentally retarded and other handicapped children. This act authorized the training of professional personnel for the mentally retarded, the deaf, speech impaired, and so forth, and added "crippled or other health impaired children who by reason thereof require special education." Parents and school personnel interested in children with learning disabilities were disappointed that the group called "learning disabilities" per se was not included in this list of handicapping conditions. We were, however, able to interpret the law in the U.S. Office of Education to include this group and notified colleges that applications for work in this area would be considered. Only four colleges proposed programs for learning disabilities in 1964. Two years later, in 1966, approximately 10 such programs are being partially supported under this Federal legislation.

PROPOSALS

It is my opinion that it would be appropriate for Congress to consider giving this type of child an identity in legislation for handicapped children. This could be done by inserting the term "and/or learning problems" in existing legislation. Wherever the phrase "crippled or other health problems" appears, it could be expanded to read "crippled or other health and/or learning problems."

The term "or other health problems" used in section 301, title III of Public Law 88-164 was used to include children with epilepsy, cardiac disorders, and so forth, without naming all health problems. The term "learning problems" would then also include a series of learning disorders in children without naming each one, as aphasia, agraphia, and many names that have been given.

Giving congressional recognition to an existing problem in the schools today could lead to (*a*) improving diagnostic procedures; (*b*) developing more fully effective remedial procedures; (*c*) organizing programs in schools for such children, and (*d*) training a corps of remedial specialists to cope with this problem.

Senator Prouty, may I call on my colleagues here or would you prefer asking some questions?

Senator PROUTY. No. Why not go right ahead.

Dr. KIRK. I would like to call on Dr. Richmond Paine, who as I indicated earlier is professor of pediatrics-neurology at George Washington University and also a neurologist at Children's Hospital of the District of Columbia, to present his point of view regarding this problem.

STATEMENT OF RICHMOND S. PAINE, M.D., NEUROLOGIST TO CHILDREN'S HOSPITAL OF THE DISTRICT OF COLUMBIA, AND PROFESSOR OF PEDIATRIC NEUROLOGY, GEORGE WASHINGTON UNIVERSITY SCHOOL OF MEDICINE, WASHINGTON, D.C.

Dr. PAINE. I appreciate the honor of being invited to appear before this subcommittee.

Since my testimony is provided or was provided in mimeographed form, although it may not have turned up here, may I omit those parts of it which to some extent duplicate Dr. Kirk's testimony?

Senator PROUTY. Yes. Your statement will be included in the record.

(The prepared statement of Dr. Paine follows:)

PREPARED STATEMENT OF RICHMOND S. PAINE, M.D., NEUROLOGIST TO CHILDREN'S HOSPITAL OF THE DISTRICT OF COLUMBIA, AND PROFESSOR OF PEDIATRIC NEUROLOGY, GEORGE WASHINGTON UNIVERSITY SCHOOL OF MEDICINE, WASHINGTON, D.C.

Probably the most common disorder of the nervous system in childhood and one of the major educational problems is a condition variously referred to as "minimal cerebral dysfunction", "minimal brain malfunction", or "special educational difficulties". (The first two are medical terms and the last-mentioned an educational designation.) This refers to an admittedly non-homogeneous group of children who nevertheless suffer from closely similar disorders of coordination, perception, thought, learning, and behavior. To describe some of the characteristics of these children is to provide some idea of their probable educational needs and of the importance of taking these into account in planning.

Clinical psychologists typically report much greater discrepancies between best and poorest areas of performance than would correspond to the good and bad subjects which most of us can recall having had at school. Typically, tests dependent on verbal ability, on rote memory, and on familiarity with everyday situations are much more successfully performed than those dependent on certain types of abstract reasoning or on hand-to-eye coordination in certain types of performance tests. (Which other children, the discrepancy is just as great but performance tests may be better executed than verbal ones.) The typical pattern of irregularity may be superimposed on a formal full-scale I.Q. of almost any level although children who score in the frankly mentally

retarded range are best considered primarily retarded, for practical purposes. We are now speaking, rather, of children whose intelligence quotients are in the average or even in the superior range but who show disproportionate deficits in specific areas of function. Such a child will experience particular difficulty in the perception of size, shape, pattern, assembly of parts into a whole, and in spatial relationships. He will tend to think concretely and have difficulty with abstract concepts. There is much greater difficulty with arithmetical problems requiring the decision whether to add, subtract, or multiply than in memorizing the multiplication tables. There may be what is called perseveration, a difficulty in efficiently shifting from one type of thought or calculation to another, with a tendency to continue along the same track instead. Coordination is frequently normal for such functions of large muscles as running or swimming but coordination of fine finger movements and particularly of hand and eye together is disproportionately poor in comparison with that expected for age and level of intelligence. Handwriting is slow and unavoidably messy. Drawing, or the reproduction of geometrical figures by copying or from memory, suffer both from impaired perception and from poor coordination in reproduction.

Certain behavioral characteristics add to the educational problem created by the difficulties just referred to, and in some instances the child's behavior is the principal complaint of parents and school teachers alike. Even more than might be accepted as normal for small children of preschool age, such youngsters continue into the school years with seeming inability to concentrate for longer than a minute or less, are readily distracted by every trivial thing seen, heard, or felt, and readily become overstimulated and overactive. They have a low tolerance for frustration and often lapse into uncontrollable temper tantrums. They are frequently socially inept and seem to lack judgment as to the consequences of their actions and not to know how to get on with other children or with adults. Impaired hand-to-eye coordination makes them not good at games, particularly those involving the use of a ball, and children of this type are no more successful on the playground at recess than they are in the classroom.

The psychological findings and behavioral characteristics are those conventionally associated with certain types of brain damage. Some degree of the patterns is usually encountered in the case of children with spastic cerebral palsies, for example. Yet the group of children under discussion do not have cerebral palsies and are in fact much more numerous than the cerebral palsied. Neurological examination may or may not show minor abnormalities of the reflexes and conventional neurological signs. Careful observation however usually documents instability of posture and incoordination of movement of the hands and feet, disability in tasks such as assembly of block designs or three-dimensional construction, all of these considered in the light of the child's age and overall intelligence. The electroencephalogram (recording of brain waves) is frequently abnormal but far from always so.

The proportion of patients with abnormal electroencephalograms and with minor abnormalities of neurological signs make one wonder whether there may have been some insult to the brain in the past which was not severe enough to be followed by obvious residual damage in the form of cerebral palsy or mental retardation. Perhaps as many as half but probably somewhat less of the children referred to do have medical histories of some potential cause of brain injury such as difficult births, head injuries, infections such as meningitis or other circumstances similar to those encountered in the histories of patients with more obvious brain damage. Others who have no such history may reflect our inability to identify some potential causes of this type of problem or it is equally probable, if not more so, that some of them represent irregular maturation of brain function in different areas. In any event, the physician rarely indentifies any condition susceptible to direct medical or surgical treatment. Certain medications sometimes improve behavior and ability to concentrate but in most cases the physician's principal function is to interpret the nature of the problem to the child's family and to those responsible for his education and management.

Special educational methods and approaches are known which to some extent can get around the difficulties described in learning and thought. Sometimes simple concessions are helpful such as allowing the affected child to be the one who is designated to get up to erase the blackboard or open the windows, in order to minimize demands that he sit still for protacted periods. In regard to handwriting, it is often reasonable to give him extra time to finish or grade him on

what he can do in the allotted period, in either case without marking him down too severely for unavoidable lack of neatness. These approaches, combined with acceptance of the problem by all those concerned and perhaps with medication of some sort, may make it possible for the child to function satisfactorily in a normal classroom, at his age level or perhaps a grade behind. Other children fail to learn under these circumstances or prove too much of a disturbing influence for the other pupils in the class. Special classes of small size and with specially trained teachers are needed for these. A variety of arrangements and of special educational approaches exist in various parts of the country but are very far from universally available.

It is usually estimated that children with the type of brain malfunction referred to comprise at least five percent of the total child population of school age. Some authorities have placed the figure at ten percent or even up to twenty. The majority of these children probably inevitably must, and probably can be more or less satisfactorily managed in normal classrooms, provided a certain amount of flexibility and of extra help with points of special difficulty is available. Even under these circumstances a larger proportion of teachers need to be better trained and better informed about the problem. (It is to be acknowledged however that the medical profession has also been slow to recognize this problem and has taken an active role concerning it for not much more than a decade, whereas a few pioneer educators and psychologists were working in the field as far back as the 1930's.) A certain proportion of children, the exact number depending on the nature of educational facilities in an individual region, will need one or another type of special class, at least for a number of years, and more such classes should be available.

Although not to be considered catastrophic neurological problems, the children under consideration are a numerous group, are probably the most hopeful group of neurologically impaired in terms of what can be done for them in the long run, and have been subject to many types of unfortunate but largely avoidable consequences. The large majority are eventually capable of taking competitive places in the world, earning their livings, managing their personal affairs, and being good citizens. However, they are so much like the general run of children (yet not quite, and constantly in difficulties) as not to receive any of the recognition or concessions accorded for obviously handicapped children. It would thus be surprising if there were not considerable overlay of emotional disturbance in many cases. The children we have been discussing are found with all too disproportionate frequency among school dropouts, and in the populations of child guidance clinics, psychiatric units, juvenile courts, and as unsuccessful adults whose contribution to society is less than it might potentially have been.

Considerable research is currently being conducted concerning the nature of these perceptual and learning difficulties and in the development of more effective ways of dealing with them. In the foreseeable immediate future however it is probable that most will have to be dealt with by accepting the difficulties and attempting to get around them by appropriate educational methods, and the need for more adequate provision for special education is not likely to diminish in the near future.

CLASSIFICATION OF LEARNING DISABILITY

Dr. PAINE. The conditions variously referred to as "minimal cerebral dysfunction," or "minimal brain malfunction," or "special educational difficulties," or "learning problems," are perhaps not precisely the same. They are an admittedly nonhomogeneous group of children who, nevertheless, suffer from somewhat similar disorders of coordination, perception, thought, learning, and behavior. To describe from the medical point of view some of their characteristics is to provide some idea of their probable educational needs.

The psychological tests show irregularities from one area of learning performance to another, which Dr. Kirk has alluded to. These, to some extent, are comparable to those which we associate with organic damage to the brain and to those found among many children with cerebral palsy.

BEHAVIORAL PROBLEMS

Certain behavioral characteristics add to the educational problem created by the difficulties just referred to.

In some instances the child's behavior is the principal complaint of parents and teachers alike. Even more than might be accepted as normal for small children of preschool age, such youngsters continue into the school years with seeming inability to concentrate for longer than a minute. They are readily distracted by every trivial thing seen, heard, or felt, and readily become overstimulated and overactive. They have a low tolerance for frustration and often lapse into uncontrollable temper tantrums; they are frequently socially inept and seem to lack judgment as to the consequences of their actions and do not know how to get along with other children or with adults.

Impaired hand-to-eye coordination makes them not good at games, particularly those involving the use of a ball, and children of this type are no more successful on the playground at recess than they are in the classroom.

The psychological findings and behavioral characteristics are those conventionally associated with certain types of brain damage. Some degree of the patterns is usually encountered in the case of children with spastic cerebral palsies. But the group of children under discussion do not have cerebral palsies and are, in fact, much more numerous than the cerebral palsied. Neurological examination may or may not show minor abnormalities of the reflexes and conventional neurological signs. Careful observation, however, usually documents instability of posture and incoordination of movement of the hands and feet, disability in tasks such as assembly of block designs or three-dimensional construction, all of these, of course, considered in the light of the child's age and overall intelligence.

DIAGNOSIS OF ABNORMALITIES

The brain waves are recorded in an electroencephalogram. These are frequently abnormal but far from always so.

The proportion of these patients who have abnormal electroencephalograms and minor abnormalities of neurological signs make one wonder whether they may have had some insult to the brain in the past which was not severe enough to be followed by obvious residual damage in the form of cerebral palsy or mental retardation. Perhaps as many as half of them do have medical histories of some potential cause of brain injury such as difficult births, head injuries, infections such as meningitis or other circumstances similar to those encountered in the histories of patients with more obvious brain damage. Others who have no such history may reflect our inability to identify some potential causes of this type of problem or it is equally probable, if not more so, that some of them represent irregular maturation of brain function in different areas. In any event, the physician rarely identifies any condition susceptible to direct medical or surgical treatment. Certain medications sometimes improve behavior and ability to concentrate but in most cases the physician's main function is to interpret the nature of the problem to the child's family and to those responsible for his education and management.

EDUCATIONAL METHODS

Special educational methods and approaches are known which to some extent can get around the difficulties described in learning and thought. Sometimes simple concessions are helpful such as allowing the affected child to be the one who is designated to erase the blackboard or open the windows, in order to minimize demands that he sit still for long periods. In regard to handwriting, he may need extra time to finish or to be graded on what he can do in the allotted period, in either case without marking him down too severely for lack of neatness. These approaches, combined with acceptance of the problem by all of those concerned and perhaps with medication may make it possible for the child to function satisfactorily in a normal classroom, at his age level or perhaps a grade behind. Other children fail to learn under these circumstances or prove too much of a disturbing influence for the other pupils in the class. Special classes of small size and with specially trained teachers are needed for these. A variety of arrangements and of special educational approaches exist in various parts of the country but are very far from universally available.

NUMBER OF DISABLED

It is usually estimated that children with the type of brain problem comprise at least 5 percent of the total child population of school age. Some authorities have placed the figure at 10 percent or even higher. The majority of these children probably inevitably must, and probably can be more or less satisfactorily managed in normal classrooms, provided a certain amount of flexibility and of extra help with points of special difficulty is available. Even under these circumstances a larger proportion of teachers need to be better trained and better informed about the problem.

I must acknowledge, however, that the medical profession has been slow to recognize this problem and has taken an active role concerning it for not much more than a decade, whereas a few pioneer educators and phychologists were working actively in the field as far back as the 1930's.

REHABILITATION

Although these children are not to be considered catastrophic neurological problems, they are a numerous group, probably the commonest neurological problem of childhood, even though many of them may not be identifiably organic now, and they are also probably the most hopeful group of any neurological impaired children to work with in terms of what can be done for them.

The statistical likelihood of making a competitive useful adult of a child of this type is considerably better than with a mentally retarded or cerebral palsy child or multihandicapped one, for example.

The large majority of the children I am referring to are eventually capable of earning their living, managing their personal affairs and being good citizens in a competitive world.

However, they are so much like the general run of children, yet not quite like them, as not to receive any concessions of the type accorded the more obviously handicapped children.

It would thus be surprising if there were not considerable emotional overlay in many cases, and this type of child is found with all too disproportionate frequency among school dropouts and in the populations of child guidance clinics, psychiatric units, juvenile courts and frequently as unsuccessful adults in society. Others who are more fortunate or better managed merge into the general normal population and I am sure we meet them on the street every day without being aware of it.

Considerable research is currently being conducted concerning the nature of these perceptual and learning difficulties and in the development of more effective ways of dealing with them. In the foreseeable immediate future, however, it seems that most will have to be dealt with by accepting the difficulties and attempting to get around them by appropriate educational methods and the need for more adequate provision for special education is not likely to diminish in the near future.

Senator PROUTY. Thank you, Doctor.

Dr. KIRK. I would like to introduce Dr. McCarthy.

STATEMENT OF JEANNE McRAE McCARTHY, PH. D., DIRECTOR OF SPECIAL SERVICES, SCHAUMBURG COMMUNITY CONSOLIDATED SCHOOL DISTRICT 54, COOK COUNTY, ILL.

Dr. MCCARTHY. Thank you, Dr. Kirk.

I, too, am very pleased to be able to share with the members of the subcommittee our experience in a small public school district in attempting to provide special programs for children with perceptual learning difficulties.

COOK COUNTY SCHOOL DISTRICT NO 54

Although the testimony to be given today is drawn from the experience of Schaumburg Community Consolidated School District 54, Cook County, Ill., the facts can be generalized to thousands of similar suburban districts throughout the United States. Schaumburg Township is located 30 miles northwest of Chicago. Ten years ago, the area was primarily agricultural, broken into large farms of 200–300 acres. Because of the strategic location in close proximity to O'Hare Field and toll roads leading to Chicago, large real estate developers laid out planned communities within the township and built hundreds of homes per year.

Ten years ago district 54 consisted of 1 white frame schoolhouse, with 77 students. In September 1966, we will open the doors of 13 buildings to 7,500 students.

Over this 10-year period, the average increase in student population has been thirty-two percent per year. The average assessed valuation per enrolled student has ranged between $10,000 and $11,000. Of the 119 school districts in Cook County only 4 have a lower assessed valuation. I bring up this point to indicate that Schaumburg School District 54 is not a wealthy district. The brick-and-mortar problems involved in building 13 new schools in the last 10 years are duplicated in many suburban communities adjacent to large cities throughout the country.

The problems of curriculum personnel, and program development are probably also typical. The solutions which have evolved in district 54 under the direction of Dr. Kenneth Underwood, superintendent, and the board of education may not be quite so typical. In spite of limited funds, and prior to the passage of mandatory legislation in Illinois, district 54 united with nine other school districts to form the Northwest Suburban Special Education Organization, in an effort to meet the educational needs of all children who deviated sufficiently from the norm that they could not be served adequately in the regular classroom.

SPECIAL CLASSES

Through this joint agreement district 54 was able to place in special classes those children whose disability occurred with such low incidence that we would not have enough children in our district to provide a sequential educational program. During the 1965–66 school year district 54 has 27 children enrolled in special classes for educable mentally handicapped children (fig. 1). Eight other children are enrolled in classes for trainable mentally handicapped children. Seven children are included in the itinerant program for partially sighted children. One deaf child is placed in a special class, as are five hard of hearing children. One blind child is sent to another district for the specialized training he needs. Three physically handicapped children are receiving physical therapy and a modified educational program in a day-school program outside of the joint agreement district. In addition, three physically handicapped children have received home or hospital instruction. Three social workers provide service for 120 socially maladjusted children each month. Four hundred children receive speech therapy from four speech correctionists each month. The children in these programs may vary from month to month, so these figures reflect average case load, rather

FIGURE 1

Program	Number enrolled in individual program	Percentage rate based on total enrollment	
Educable mentally handicapped	27	0.005	(1)
		.02	(2)
Trainable mentally handicapped	8	.001	(1)
		.002	(2)
Perceptually handicapped	11	.002	(1)
		.01	(2)
Partially sighted	7	.001	(1)
		.0006	(2)
Hard of hearing	5	.001	(1)
		.007	(2)
Blind	1	.0002	(1)
		.0003	(2)
Deaf	1	.0002	(1)
		.001	(2)
Socially maladjusted	120	.002	(1)
		.05	(2)
Emotionally disturbed	2	.00001	(1)
		.01	(2)
Physically handicapped	3	.00001	(1)
		.001	(2)
Multiply handicapped	0	----------	(1)
		.0005	(2)
Speech	400	.007	(1)
		.05	(2)
Home and hospital	3	.00001	(1)
		.0025	(2)

than the total number of children served. Two children who have been diagnosed as emotionally disturbed are being tutored individually within the district.

The needs of these children with observable disabilities are being met adequately within school district No. 54.

As these programs have been developed, and the most obviously handicapped children provided for, another group of handicapped children has emerged for whom no service was available. This is the group of children with severe learning disabilities. These are children and youth with normal or potentially normal intelligence who have learning disabilities of a perceptual, conceptual or coordinative nature, or related problems. The child with normal intelligence and reasonably adequate emotional adjustment who is not learning in school, despite the finest teaching that we have been able to provide, presents the greatest unsolved problem in the public schools of our district.

PSYCHOEDUCATIONAL DIAGNOSTIC CENTER

In an effort to provide service to our principals, our teachers, these children, and their parents, last spring the board of education authorized the establishment of a phychoeducational diagnostic center. A director, a school psychologist, and two psychoeducational diagnosticians were employed. In addition, two resource rooms for perceptually handicapped children, or children with severe learning disabilities, were established and trained teachers employed. During the recent school year 18 children have been diagnosed as needed placement in the resource room for perceptually handicapped children. Placement in the resource room program requires that the child be transferred from his school of attendance to Hillcrest School in our district, where he is placed in a regular classroom and seen by the specially trained resource room teacher for an hour each day. In the special program, methods and materials are modified to meet the specific disabilities of the child. All of the children present an educationally significant discrepancy between apparent capacity and achievement, associated with cerebral dysfunction or perceptual impairment. Since special classes are available for the mentally retarded, the emotionally disturbed, and those with peripheral sensory handicaps, the children in the program for severe learning disabilities have problems not primarily caused by any of these factors.

Although 18 children were served in the resource room programs, the demand from the principals for service for similar children who were continuing to baffle teachers in their buildings made it necessary to place maximum emphasis on the work of the two psychoeducational diagnosticians.

By November 1 of this year, the two psychoeducational diagnosticians had seen a total of 47 children individually in one or all of their three capacities:

(1) Diagnosis.
(2) Clinical.
(3) Consultation to the regular classroom teacher.

However, by the same date, 97 children had been referred as children with severe learning disabilities. After careful diagnostic study and full evaluation, involving school social workers, speech correc-

tionists, school nurses, the school psychologist, the classroom teacher, and other professional workers auxiliary to the schools, approximately 80 percent of those children referred for study have been found to meet the criterion established for both the modified itinerant program and the resource room progam for children with learning difficulties.

The two psychoeducational diagnosticians have seen a total of 200 children this year. In most cases, the diagnostic testing done by the school psychologist has been supplemented by additional educational testing done by the two psychoeducational diagnosticians. Following the intensive diagnostic study, these two teachers have functioned in a clinical teaching capacity, both verifying the diagnostic hypothesis and setting up a workable clinical teaching program geared to the specific learning patterns of each child. This program is then broken into small units which can be handled by the regular classroom teacher. Thus, the child is seen twice a week by the psychoeducational diagnostician, and the program carried out 5 days a week in the regular classroom, as soon as the classroom teacher feels it to be feasible.

DIAGNOSIS OF LEARNING DISABILITIES

The purpose of the modified itinerant program is to diagnose so carefully that a specific diagnostic hypothesis emerges which leads directly into a clinical teaching program. After such a program has been devised, it is tested for a short period with the child, and broken into units which can be handled in the regular classroom.

A child who consistently writes numbers and letters backward, reverses syllables within words, or words within a sentence, for example, may be diagnosed as having a problem in the visual-motor channel.

The areas of visual perception which are impaired will be specified as, for example, difficulties in spatial activities, or in determining the position in space of a visual stimulus. The child's eye-hand coordination may be poorly developed for his age. In addition to these disabilities, which are essentially perceptual in nature, he may have conceptual disabilities which prevent him from abstracting the information from what he sees. Although he may look at a picture of two automobiles about to hit head-on as they come around a curve he may only be able to give the names of the two objects, and be unable to "see" the relationship between them. If his visual channel deficit is pervasive, he may be unable to remember sequences of visual stimuli, like the letters within a word. Reading, to a child like this, is virtually impossible, unless thorough information about his disability is available to his teacher so that she can teach him differently; that is, with an auditory approach to reading, until remediation of his disabilities can be effected.

In school district No. 54, children like this have previously been the responsibility of the classroom teacher who has neither the time nor the training to effect change in their deviant learning patterns. In some of our buildings, the principal or a teacher may have had special training in remedial reading, and may attempt to teach such a child individually. In most of our buildings reading instruction is completely individualized and crosses grade lines. A sixth grade child may be taught by a fourth grade teacher in a group composed of children from several grade levels.

In some cases, the parents have sought diagnostic and tutorial assistance from university reading clinics, child guidance centers, or the community mental health clinic.

Many children, whose reading problems are due to factors external to the child, can be helped in this way. A child whose learning problem is due to a series of poor teachers, or who has transferred from school to school, can be expected to benefit from routine corrective or remedial teaching techniques. But the child whose problem is due to a specific learning disability of a perceptual, conceptual, or coordinative nature cannot be served except in a special program in which the methods and materials are designed to circumvent or remediate his specific learning disability. The child with an educationally significant discrepancy between ability and achievement, due to perceptual impairment, cerebral dysfunction or severe learning disability, requires specialized skills in diagnosis and remediation which are beyond the financial reach of most public school districts.

PURPOSE OF TESTIMONY

Which brings us to the purpose of this testimony:

1. Children exist in large number (5–10 percent) in every public school district in the country whose needs are so great that they exceed the financial ability of the school district to provide special programs.

2. In districts like Schaumburg Community Consolidated School District 54 in which the balance between local, State, and Federal funds is already skewed (37.5 percent local, 58.8 percent State, and ½ percent Federal), the only answer is increased Federal support for special programs for children with perceptual learning disabilities.

3. Although names, dates, and places may differ it seems reasonable to assume that a similar state of affairs in regard to children with perceptual learning disability exists in almost every school district in the United States.

The program I have described to you will cost school district 54 $40,500 this year or an average cost of $225 per child served. This is one and a half to two times the cost of educating a child without such problems in our school district.

SOURCE OF FUNDS AND FEDERAL SUPPORT

Now, in districts like Schaumburg Community Consolidated School District 54, in which the balance between local, State, and Federal funds is already skewed (37.5 local, 58.8 percent State, and one-half Federal), the only answer is increased Federal support for special programs for children with perceptual learning disabilities. Some of the information included in the index of the written material indicates that 37½ percent of our funds are derived from local sources, 58 percent from State sources, and one-half of 1 percent from Federal sources.

The only answer is increased Federal support for special programs for children with perceptual learning disabilities, as provided in the

amendments under consideration and in the recommendation contained in Dr. Kirk's testimony.

Thank you.

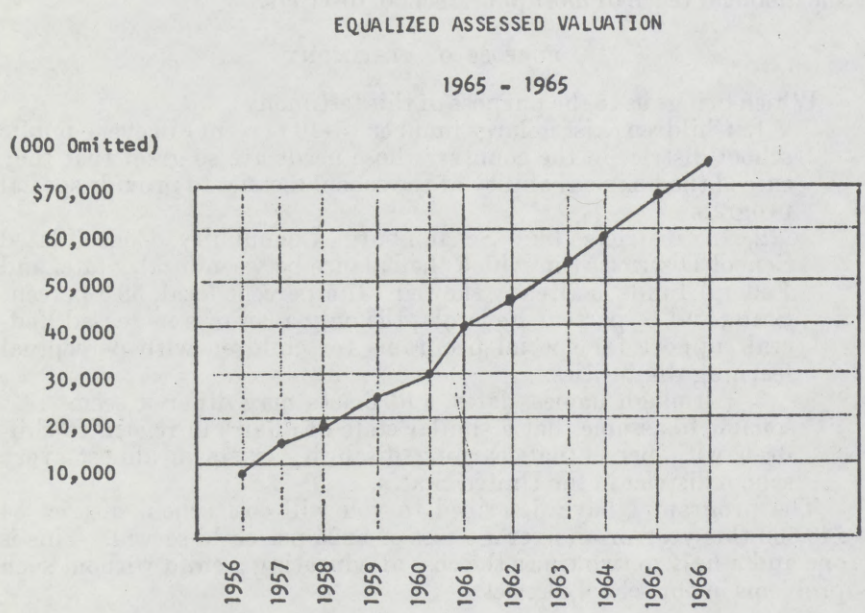
(The material submitted by Dr. McCarthy follows:)

Educational cost per enrolled pupil, 1960–65

School year	*Per pupil cost*
1965–66 [1]	$425.97
1964–65	412.09
1963–64	406.67
1962–63	401.37
1961–62	384.46
1960–61	390.63

[1] Based on this year's budget.

NOTE.—Includes operating expenditures of all funds, capital outlay, and interest cost on debt retirement. Does not include depreciation of buildings or equipment.



Levy year	Assessed valuation	Percent of increase
1966 (estimate)	$75,000,000	10.2
1965	68,616,645	17.0
1964	58,613,681	10.4
1963	53,069,715	13.9
1962	46,589,318	19.0
1961	39,159,208	33.3
1960	29,371,802	20.9
1959	24,287,157	48.8
1958	16,326,452	36.5
1957	11,962,124	55.1
1956	7,712,154	

The cost of education index, 1965–66 budget—Average cost per pupil

Budget categories	National average	Percent	School District 54	Percent
Administration	$15.40	3.9	$18.71	4.9
Instructional salaries	290.35	73.5	275.60	72.8
Instructional materials	20.80	5.3	19.22	5.2
Health	2.30	.6	2.92	.8
Operation of plant	38.25	9.7	31.14	8.2
Maintenance of plant	12.50	3.2	[1] 22.54	6.0
Fixed charges	15.00	3.8	6.58	1.7
Student and community services	.10		1.69	.4
Total, operating expenditures	394.70	100.0	378.40	100.0
Transportation	18.15		16.00	
Capital outlay	9.30		14.36	
Debt services	40.55		17.21	
Total, expenditures	462.70		425.97	

[1] Due to extensive roof repairs, $80,000

$22,200,000,000 FOR EDUCATION—HOW IT WILL BE SPENT

Our nation's public elementary and secondary schools will spend more than $22 billion during the current fiscal year, excluding loan funds for new school buildings. The chart below shows how that money will be allocated.

	National (in thousands)	Percent	School District 54 [1]	Percent
Administration	$721,230	3.3	$105,700	4.4
Instructional salaries	13,895,860	62.6	1,557,150	65.2
Instructional materials	679,287	3.1	108,575	4.5
Health	112,440	.5	16,500	.7
Operation of plant	1,817,780	8.2	175,935	7.4
Maintenance of equipment and buildings	610,000	2.7	47,350	2.0
Fixed charges	712,120	3.2	37,200	1.6
Student and community services	210,713	.9	70,875	2.9
Total, operating expenditures	18,759,430	84.5	2,119,285	88.7
Transportation	850,023	3.8	90,400	3.8
Capital outlay and debt service	2,600,000	11.7	178,436	7.5
Total, expenditures	22,209,453	100.0	2,388,121	100.0

[1] 1965–66 budget.

Senator PROUTY. Thank you, Dr. McCarthy.

I think the figure which you have just quoted with respect to Schaumburg Community Consolidated School District 54 in which funds appropriated are 37½ percent local, 58.8 percent State and only one-half of 1 percent Federal funds is somewhat shocking.

Dr. MCCARTHY. It was to me.

Senator PROUTY. And I wonder if that is typical throughout the country? Would you say that was generally true?

Dr. MCCARTHY. I do not know about the financial status of other school districts but I do think that the districts such as district 54 are a little slow in getting started in the federally funded programs.

We have a proposal in now and we hope that it will be funded and that our proportion will change.

I think that school districts like ours are conservative and slow in moving until we are quite sure what they are doing.

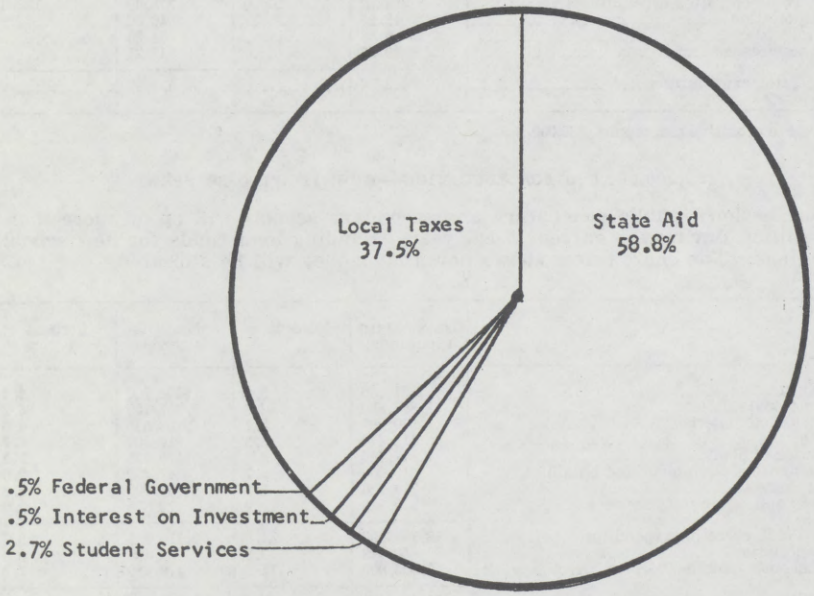
Senator PROUTY. Now, school district 54 is not a slum area, is it?

SOURCE OF ONE DOLLAR OF INCOME

EDUCATIONAL FUND

ACCRUAL BASIS

1965 - 66



Taxes (net)	$ 864,500	37.5%
State Aid	1,355,859	58.8%
Federal Government	11,800	.5%
Interest on Investments	10,000	.5%
Student Services	63,325	2.7%
	$2,305,484	100.0%

Dr. McCarthy. No; it is——

Senator Prouty. Local?

Dr. McCarthy. It is not the North Shore area of Chicago either. We are not in the high rent district. We are probably in the low- or middle-income branch.

Senator Prouty. Incidentally, your complete statement, together with the chart, will be included in the record.

SOCIAL MALADJUSTMENT

I notice in your statement you indicated there were 120 socially maladjusted children who are involved in this particular program. Now, to what do you attribute that social maladjustment? Is it home environment or a combination of factors or——

Dr. McCarthy. The 120 figure is a little misleading because this is based on the average caseload of our school social workers and their caseload changes from month to month so that the figure 120 is minimum, but at the same time during the school year we will have 120 children at least who are being seen by our school social workers.

The problems, in general, I think are typical child guidance kinds of problems. They are based on family relations and the carryover, as we see it, in the schools.

Most of these problems, I think, are problems of adjustment to suburban communities, problems of typical families, fathers who are success-oriented and on their way up, without quite enough time for the children.

Senator Prouty. That is a responsibility which I think too many parents obviously fail to measure up to.

Senator Kennedy?

Senator Kennedy of New York. Let me congratulate you on your statement, Mrs. McCarthy, which I think is very helpful to the subcommittee.

PROPORTION OF FEDERAL FUNDS

You have the figures here for what exists throughout the country, Mr. Chairman. You know the points that are raised which indicates, going back to 1953, 1954, as 4.5 percent Federal, 37.4 percent State, 58.1 percent local. And now I think the last date they have here, 1964–65 is 4.3 Federal, just a little bit lower. It is in that range for the 10-year period. 38.7 percent for State, 56.9 local. So it is about the same during that 10-year period.

The Federal, I think, is a little higher average than what it is in your school district.

But in the legislation to be passed, last year we went rather extensively into the elementary school education bill; we went in rather extensively and the commitee accepted unanimously the idea that these funds which were to be used in the poverty area are to be used equally among those children who are handicapped, and I ask the counsel to put the figures in the record, or maybe there is somebody from HEW to find out what percentage of the Federal funds that we are appropriating, or that have been used for the handicapped.

Do you have those?

Mr. Lee. We have some of the testimony. Mr. Green and Mr. Wirtz in the Office of Education will supply it.

Senator Kennedy of New York. Could he give it? Is Mr. Wirtz here now?

Mr. Wirtz. Yes, sir.

Senator Kennedy of New York. Would that be all right, Mr. Chairman? Do you have that figure—what you are using now—for the handicapped children?

Mr. Wirtz. I do not have it at my fingertips. I will be happy to give it to you, sir.

Senator KENNEDY of New York. Do you have any approximation of the percentage?

Mr. WIRTZ. I believe that figure was given in Mr. Howe's testimony earlier and I believe they indicated 14 percent under title I. It is the Office of Education figure.

Senator KENNEDY of New York. Fourteen percent?

Mr. WIRTZ. If I am not mistaken, that is the figure we put in.

Senator KENNEDY of New York. Evidently that is what they gave to the Council of Exceptional Children. They had a much lower figure.

Mr. WIRTZ. That is correct.

Senator KENNEDY of New York. Could you obtain the figures so that we would have those?

Mr. WIRTZ. Yes, sir; we will be happy to do that.

The following memorandum was subsequently supplied for the record:)

MEMORANDUM FROM OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ON PROPORTION OF FUNDS FOR HANDICAPPED

As yet, we do not have any firm data on the expenditure of funds under Title I, but we do have a preliminary analysis of some 484 project applications. This analysis shows that 68 of these 484 project applications included some element of services or programs for handicapped children. On examination of the applications, however, it was found that usually these 68 were not special education projects, but general projects for the educationally deprived which included some services for handicapped children. This same analysis indicated that less than 5% of the additional teaching personnel employed in Title I projects (135 out of 2,846) could be categorized as special teachers for the handicapped.

A subsequent inspection of 1,510 project applications involving expenditures of $77.7 million in Title I funds indicates that 120 of these 1,510 applications are providing an estimated $2 million in services to 16,500 handicapped children. This would show that 2.7% of the Title I money is going to children identified as handicapped by the applications.

Senator KENNEDY of New York. Because I think it is extremely important. This was the intent of the commitee and it was the intent of Congress that these funds be available for the handicapped, the retarded and for the kinds of children that you have described so eloquently before the subcommittee, the ones who would have these particular kinds of problems.

That was the intent of this subcommittee; it was the intent of Congress that these funds be used for that purpose.

I am sure that we will reemphasize that if it appears that you are not receiving the funds.

Dr. MCCARTHY. If I may answer, the figure was based on a tabulation as of February. We may have a later figure at this point. It would be a more equitable figure.

IMPORTANCE OF AID TO HANDICAPPED CHILDREN

Senator KENNEDY of New York. It is awfully—extremely important—because the testimony that has been given here shows that these are the children who really need help throughout the United States and we should really have the program developed so that we carry out the congressional intent and so that the funds for people such as Dr.

McCarthy who, as they carry out these programs to help these children—will have the funds to finance them.

So I congratulate you in bringing this to the attention of the subcommittee and also the other witnesses who have preceded you.

Senator PROUTY. I think it would be appropriate to have the figures which you are going to get here in the record so they will be available to anyone who is interested.

PERSONNEL NEEDS

Dr. Kirk, in your judgment, how many trained personnel do we need to really take care of this problem at the national level?

Dr. KIRK. Up to this point, Senator Prouty, we have not had accurate surveys of the prevalence of this kind of child with learning disabilities in the public schools. So it is rather difficult to estimate the number of teachers needed for this program. My offhand guess at the moment would be that this group constitutes between 2 and 5 percent of the school population. If we can have the figures for the school population and divide it by a certain figure, such as 1 teacher to 8 or 10 such children. We could arrive at some sort of a figure with respect to the numbers of professional personnel needed to cope with this problem.

We have at the present time very few highly trained people in this field because of the lack of training centers and because of the late recognition of this problem in the public schools.

Senator PROUTY. Well, you certainly believe that a survey should be made so that we will have some idea of the magnitude of the problem?

Dr. KIRK. Yes, sir.

Senator PROUTY. I think you have all contributed a great deal to our understanding of this problem.

I understand we are due to have a rollcall vote in a few minutes in the Senate so probably we will have to take a recess until that has been completed.

I do feel that you have made a real contribution and certainly I am sure we are going to call on you all again for guidance in this very important matter.

Senator Kennedy of Massachusetts, do you have any questions or observations at this time?

Senator KENNEDY of Massachusetts. No. Thank you very much, Senator.

Senator KENNEDY of New York. Thank you.

Senator PROUTY. At this time, we shall have a statement from Senator Williams of New Jersey which relates to S. 3046. It relates to the training of migrant children.

STATEMENT OF HON. HARRISON A. WILLIAMS, JR., A U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator WILLIAMS. Mr. Chairman, members of the subcommittee, I appreciate the opportunity to appear before the subcommittee today to express my support and urge favorable consideration of S. 3046, the Elementary and Secondary Education Amendments of 1966.

S. 3046 for the first time provides Federal grants to the states for educational assistance and construction of school facilities for migrant children within the framework of our regular school systems. I am pleased to commend the sponsors of the bill for carrying out a program first recommended by the Migratory Labor Subcommittee 4 years ago.

STATE AND RURAL COMMUNITIES

During the past 6 years, as chairman of the Migratory Labor Subcommittee, I have visited migrant homes and farm labor camps and have observed firsthand the educational deficiencies suffered by migratory children because of their abject poverty and nomadic way of life. These children travel with their parents from State to State following the harvest of our Nation's crops, quite often remaining as little as 2 to 6 weeks in the same place. Educators in our Nation's large agricultural States such as California, Oregon, Michigan, and New Jersey, to name a few, can readily confirm that the arival of migrant children in large numbers may cause serious overcrowding of already burdened school systems.

States and rural communities with their severely strained budgets cannot be expected to construct school facilities and hire extra teachers that will only be needed for short periods of the year. As a result, the burden of providing adequate education for these 150,000 children has fallen on the shoulders of the migrant section of the poverty program. The limited educational programs provided under the Economic Opportunity Act have been most commendable; however, child day-care centers and education by part-time teachers can never take the place of the educational opportunities provided by existing State school systems and full-time teachers. The Office of Economic Opportunity can at best provide a valuable supplement to our regular school programs.

The bill before you, S. 3046, provides Federal funds to increase educational opportunities within existing school systems—the construction of school facilities, the hiring of competent teachers, money for the purchase of textbooks, all of the aids so long available to other schoolchildren.

The bill for the first time provides aid to equalize as much as possible the education of migrants with that of the rest of our Nation's schoolchildren.

DEFICIENCIES IN PRESENT SYSTEM OF MIGRANT EDUCATION

The deficiencies inherent in our present system of migrant education are best shown by tests given to migrant children in Colorado public schools during the 1964–65 school year. Of the over 1,000 children tested, only 25 percent had achieved their normal grade level in reading and arithmetic. Average retardation was 1.62 years in reading and 1.5 years in arithmetic. I now ask unanimous consent to insert into the hearing record the statistics on migrant children in the Colorado public schools during 1964–65 school year as prepared by the Colorado Department of Education.

Statistics on migrant children in Colorado public schools during 1964–65 school year

Age	Normal grade	Number of children	Where teachers could estimate achievement					
			Reading			Arithmetic		
			Number	Average retardation (years)	Percent on normal grade	Number	Average retardation (years)	Percent on normal grade
5	K	13						
6	1	83	52	0.23	75	53	0.21	78
7	2	130	85	.69	33	90	.63	39
8	3	123	96	1.12	21	93	1.03	23
9	4	127	100	1.59	91	101	1.49	19
10	5	122	101	1.53	30	98	1.44	29
11	6	104	87	2.04	11	86	1.79	14
12	7	113	83	2.59	7	82	2.48	7
13	8	66	41	2.56	5	41	2.37	5
14	9	68	29	2.69	14	29	2.66	14
15	10	42	13	2.85	8	12	2.50	8
16	11	30	3	4.30	0	3	4.30	0
17	12	11						
18	+	2						
19	+	1						
Unknown		31						
Total		1,066	690	1.62	23	687	1.50	25

Other information on the 1,066 migrant children:

Days membership in Colorado schools	42,478
Days attendance in Colorado schools	39,183
Percent membership days absent	7.8
Average days attendance per child	36.8

Home base locations:

	Number	Percent
Texas	586	55
Colorado	330	31
Other States	60	6
Mexico	3	
Unknown	87	8
Total	1,066	100

Source: Colorado State Department of Education.

Adequate schooling for migrant children is even more important when it is realized that education is one of the major avenues through which poverty can be overcome in the United States—probably the most important single factor. Not only does retardation reduce the possibility of social and psychological enrichment, but it also places significant limitations on occupational adjustment, job retraining, and success in life. Unless adequate educational levels are achieved, one of the root causes of poverty will remain operative. For the migrant child, even more than his city counterpart, education is the springboard to achievement and the opportunity for a better way of life.

The average adult migrant farmworker today earns only $1,500 a year—far below the $3,000 level, our Nation's guideline for poverty living. Unless adequate educational opportunities are made available to his children, the results will be continued high incidents of poverty, unemployment, dissatisfied teenagers and adults, and an extensive

drain on our general economy and on community welfare and school programs in particular.

Only by giving the migrant child the same educational opportunities we give the rest of our Nation's schoolchildren can we begin to build a foundation for a brighter future for the most economically and culturally deprived of our Nation's citizens.

I, therefore, give my full support to S. 3046, which is the first step in correcting these long-standing deficiencies in the education of our Nation's migrant children.

Senator JAVITS. Mr. Chairman, may I ask unanimous consent to ask certain written questions of the witnesses who will appear and then have those questions and answers appear in the record?

Senator PROUTY. Without objection.

Senator JAVITS. I thank you.

RESPONSES OF THOMAS J. CURTIN, DEPUTY COMMISSIONER, DEPARTMENT OF EDUCATION, COMMONWEALTH OF MASSACHUSETTS, TO QUESTIONS SUBMITTED BY SENATOR JAVITS

1. Q. Do you agree that there is no constitutional or other reason to exclude racial imbalance from the incentive grant and technical assistance coverage of Title IV?

Answer. I do not believe there is any constitutional or other valid reason to exclude racial imbalance from coverage under Title IV of the Civil Rights Act.

2. Q. Do you agree that such coverage would not require local school authorities to take any particular action in regard to racial imbalance but would only offer Federal help if they wish to take such action?

Answer. Senate 2928 would serve to enhance our state efforts to eliminate racial imbalance in most constructive and positive ways. We appreciate the *voluntary* features of S. 2928.

3. Q. Do you believe such assistance as S. 2928 would provide can be provided by the Commissioner of Education without impairing his ability to enforce the mandatory anti-segregation provisions of Titles IV and VI? Should there not be an added amount for administration alone?

Answer. While I do not believe that the administration of S. 2928 would seriously impair the Commissioner of Education's enforcement of the anti-segregation provisions of Titles IV and VI, I do feel that a modest additional amount of supplementary staffing should be provided for S. 2928 purposes.

4. Q. New York State has developed Statewide plans for achieving racial balance. Should not this bill permit the States to obtain assistance as well as the local school districts?

Answer. I concur strongly in the desirability of permitting the states to obtain assistance in as much as our own state statute re racial imbalance (see enclosure) incorporates provisions for some help to local communities *through Commonwealth channels.* Our efforts would be considerably enhanced if federal support were available beyond our foundational efforts.

I trust that these comments will prove helpful in your total evaluation of what I believe is a significant legislative act.

CHAP. 641

AN ACT PROVIDING FOR THE ELIMINATION OF RACIAL IMBALANCE IN THE PUBLIC SCHOOLS

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to eliminate forthwith racial imbalance in the public schools, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 71 of the General Laws is hereby amended by inserting after section 37B the following two sections:—

Section 37C. It is hereby declared to be the policy of the commonwealth to encourage all school committees to adopt as educational objectives the promotion

of racial balance and the correction of existing racial imbalance in the public schools. The prevention or elimination of racial imbalance shall be an objective in all decisions involving the drawing or altering of school attendance lines and the selection of new school sites.

Section 37D. The school committee of each city, town and district shall, annually, at such time and in such form as the commissioner shall determine, submit statistics sufficient to enable a determination to be made of the per cent of non-white pupils in all public schools and in each school under the jurisdiction of each such committee. Whenever the state board of education finds that racial imbalance exists in a public school it shall notify in writing the school committee or regional school district committee having jurisdiction over such school that such finding has been made. The school committee shall thereupon prepare a plan to eliminate such racial imbalance and file a copy of such plan with the board. The term "racial imbalance" refers to a ratio between non-white and other students in public schools which is sharply out of balance with the racial composition of the society in which non-white children study, serve and work. For the purpose of this section, racial imbalance shall be deemed to exist when the per cent of non-white students in any public school is in excess of fifty per cent of the total number of students in such school.

Said plan shall detail the changes in existing school attendance districts, the location of proposed school sites, the proposed additions to existing school buildings, and other methods for the elimination of racial imbalance. Said plan shall also include projections of the expected racial composition of all public schools. Any plan to detail changes in existing school attendance districts, the locations of proposed new school sites and proposed additions to existing school sites and proposed additions to existing school buildings with the intention of reducing or eliminating racial imbalance, must take into consideration on an equal basis with the above-mentioned intention, the safety of the children involved in travelling from home to school and school to home. Said plan may provide for voluntary co-operation by other cities and towns in rendering assistance and in making available facilities to effectuate said plan.

No school committee or regional school district committee shall be required as part of its plan to transport any pupil to any school outside its jurisdiction or to any school outside the school district established for his neighborhood, if the parent or guardian of such pupil files written objection thereto with such school committee.

Said board may, from time to time, require each school committee to submit to said board a report on the progress of the plan and its implementation.

The supreme judicial and the superior court shall have jurisdiction in equity upon petition of the board of education to enforce the provisions of this section.

SECTION 2. Chapter 15 of the General Laws is hereby amended by inserting after section 1H the following three sections:

Section 1I. The board of education shall provide technical and other assistance in the formulation and execution of plans to eliminate racial imbalance, made pursuant to section thirty-seven D of chapter seventy-one. Whenever the board determines that a school committee or regional school district committee has failed to file a plan in compliance with the provisions of said section, it shall consult with and make specific recommendations for a plan by such school committee or regional school district committee.

If, following the receipt of notification from the board of education that racial imbalance, as defined in section thirty-seven D of chapter seventy-one, exists, a school committee or regional school district committee does not show progress within a reasonable time in eliminating racial imbalance in its schools the commissioner of education shall not certify the amount of state aid for such city or town or for such towns which are members of such regional school districts, as required by section nine of chapter seventy, and the school building assistance commission upon receipt of notice from said board that racial imbalance exists shall not approve any project for school construction for such city, town or regional school district under chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, as amended, and the commissioner of education may notify the commissioner of corporations and taxation and the comptroller to hold such funds as have been so certified under said section nine but have not been disbursed. The commissioner of education may thereafter upon receipt of a plan acceptable to the board of education notify the commissioner of corporations and taxation and the comptroller to pay any such withheld funds to such

city or town in such amounts and at such times as he may designate, and the school building assistance commission upon receipt of notice from said board that a plan acceptable to it has been received may approve such projects.

The school building assistance commission shall, notwithstanding any contrary provision of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, as amended, increase the amount of grants for schoolhouse construction to sixty-five percent of the approved cost, whenever the board of education is satisfied that the construction or enlargement of a schoolhouse is for the purpose of reducing er eliminating racial imbalance in the school system and so notifies the school building assistance commission.

Section 1J. Within thirty days after (1) a school committee or regional school district committee declines to accept the recommendations submitted to it by the board or (2) the board disapproves a revised plan submitted to it by a school committee or regional school district committee, said committee may file a petition for judicial review in the superior court for the county in which it is located or in the supreme judicial court for Suffolk county. The court may affirm the board's determination of the recommendations submitted by it or its determination of disapproval of a revised plan submitted to it, and order compliance with the recommendations of the board by appropriate decree, or if it finds and rules that the determination by the board is (*a*) in excess of the statutory authority or jurisdiction of the board, or (*b*) based upon an error of law, or (*c*) arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law, then it may set aside such determination by the board and remand the matter to it for further action.

The supreme judicial and the superior court shall have jurisdiction in equity upon petition of the board of education to order funds withheld as provided in section one I for such period of time as the court may determine.

Section 1K. The board of education with the advice of the commissioner, shall appoint an advisory committee on racial imbalance and no individual shall be appointed to this advisory committee on racial imbalance who has been listed in any state or federal document as being a member of a communist front organization. The members of the committee shall serve without compensation except that they may be reimbursed for the necessary expenses actually incurred in the performance of their duties. *Approved August 18, 1965.*

INTRODUCTION OF NEXT PANEL

Senator KENNEDY of Massachusetts. In the next panel, we have two citizens of the State of New York who, I am sure, the Senator from the State of New York would like to welcome.

Senator JAVITS. Very much, and that is what I did; and I would ask, Senator Kennedy, if you would like to call them and give us a chance to say a word about them in the record.

Senator KENNEDY of Massachusetts. I ask that Mr. Oscar Cohen, the national program director of the Anti-Defamation League of B'nai B'rith, Dr. Theron Johnson, administrator, division of intercultural relations, Department of Education of the State of New York, and Mr. Thomas Curtin, deputy commissioner of education for the Commonwealth of Massachusetts be called.

Senator JAVITS. Mr. Chairman, may I have the privilege of introducing to the subcommittee, joining with my colleague, Senator Kennedy of New York, in introducing to the committee Mr. Theron Johnson, administrator, division of intercultural relations, Department of Education, State of New York.

Mr. Johnson has explained to me that James Allen, the commissioner, is engaged in Albany in connection with a meeting of the board of regents and therefore could not be with us.

And may I also have the privilege of introducing Mr. Oscar Cohen, national program director for the Anti-Defamation League of B'nai

B'rith of New York which has a worldwide reputation for dealing with problems of civil liberties, civil rights, and the general rights of minorities and of individuals, and I commend the testimony of both to the committee.

Senator KENNEDY of New York. May I also extend a welcome to Dr. Cohen and tell him how pleased we are, welcoming him before the committee, and Dr. Johnson; we appreciate his coming.

I am sure their testimony will be very valuable to all of us and we are grateful to both of them.

Senator KENNEDY of Massachusetts. I want to note, as Senator Javits has pointed out, that Dr. James Allen, as well as Dr. Kenneth Clark, who is a professor of social psychology, City College of New York are both attending the meeting of the Board of Regents of New York State. Dr. Clark is the first Negro to be appointed to the Board of Regents and, of course, is a man of great understanding in this area and he would add a great deal to the matter which this subcommittee is considering.

I have a statement of Dr. Clark which will be put in the record at the appropriate time.

I am delighted to welcome Dr. Thomas Curtin, who is the deputy commissioner of education for the Commonwealth of Massachusetts. He is well respected in the Commonwealth as a man who has a deep, abiding passionate interest in the problems of education for young people. He has had a profound understanding and background in the field. He has been one of the most active and knowledgeable people in the area of racial imbalance and brings to the problems which this subcommittee will be considering this afternoon a very broad background.

NEGRO GROUPS

So we are delighted to welcome him.

Senator JAVITS. Mr. Chairman, may I make one other suggestion?

My people tell me something which is rather disquieting, that considering the nature of these bills, we have had very little testimony from Negro groups and I would respectfully suggest—I know the Chair is as anxious as I am to get that point of view expressed—I do not say it for that reason, but may I suggest to the Chair that before we lock up the hearings, the Chair might make some additional effort to get at least a statement from such of these organizations as we have not heard from—again, I repeat—and I know the Chair is just as diligent about that, as anxious as I am, but let us give them one more chance before you lock up the hearings, to hear from them.

Senator KENNEDY of Massachusetts. We had Miss June Shagloff, director, education program, NAACP, scheduled to appear today on this panel. We were notified this morning that she was unable to make her appearance, but she will be submitting a statement for the record.

I have personally written to about 100 of the different civil rights and Negro organizations for their comments on this bill. We have received response from a number of those organizations, with many more expected.

Senator JAVITS. Could it be put in the record?

Senator KENNEDY of Massachusetts. I would hope that all of these responses will be made a part of the record.

Senator JAVITS. Keep it open, if you would, Mr. Chairman, for a week or so to try to get as much as we can.

Now, Mr. Chairman, I had earlier requested that a series of questions on title VI of the Civil Rights Act, addressed to Secretary Gardner and his replies thereto, be printed in the record. Because they are appropriate to the matter at hand, I ask unanimous consent that they be printed at this point along with two memorandums received from Secretary Gardner.

Senator KENNEDY of Massachusetts. So ordered.

(The questions and responses follow:)

QUESTIONS OF SENATOR JAVITS REGARDING ENFORCEMENT OF TITLES IV AND VI OF THE 1964 CIVIL RIGHTS ACT

1. By letter dated February 18, 1966, I requested that Secretary Gardner report on the complaints filed with the Department charging continued discrimination in hospitals, school segregation and discrimination in welfare practices. I ask unanimous consent that my letter, and Special Assistant to the Secretary F. Peter Libassi's reply of March 28, 1966, be printed in the record of the hearings at this point. Are you familiar with this material and, if so, would you please detail the additional steps which you believe should be taken to enforce Titles IV and VI of the 1964 Civil Rights Act in order to achieve desegregation of schools?

2. The Civil Rights Commission report in February concluded that "the number of Negro children in the deep South who are actually attending school with whites is still very low" . . . actually "not more than one Negro child out of every thirteen." This amounts to 92% segregation, 12 years after the Supreme Court desegregation decision and two years after the 1964 Civil Rights Act. Is this figure accurate, according to your own surveys?

3. The Civil Rights Commission made seven specific recommendations for improving the Office of Education's procedures and policies in this regard. Can you tell me whether and how these specific recommendations have been implemented?

4. Am I correct in saying that the major change in the Department's policies in regard to school desegregation as a result of the March 1966 revised statement of policies is in the emphasis upon desegregation of faculty? What changes were made in the so-called "free choice" system, which has been the Department's policy since the 1964 Act was enacted? How many actions has the Department recommended that the Attorney General initiate or intervene in under Title IV of the 1964 Act? How effective has been the threat of litigation?

February 18, 1966

Honorable John Gardner
Secretary
Department of Health, Education
and Welfare
Washington 25, D. C.

Dear Secretary Gardner:

I have received copies of the complaints recently filed with you by the N.A.A.C.P. Legal Defense and Educational Fund, Inc. concerning implementation of Title VI of the Civil Rights Act of 1964 in regard to hospital discrimination, school desegregation, and welfare funds. These complaints, presented to you successively in November and December of last year and in January of this year, contained recommendations for 1966 and in the last case a request for a hearing.

In addition, the U. S. Commission on Civil Rights issued a report this week concluding that "the number of Negro children in the deep South who are actually attending school with whites is still very low"...actually "not more than one Negro child out of every thirteen". The Commission made seven specific recommendations for improving the Office of Education's procedures and policies in this regard.

As the ranking Minority member of the Senate Labor and Public Welfare Committee, and as one who has had a long and deep commitment to denying Federal aid of any kind to racially discriminatory State or local activities, I would very much appreciate your full report both as to the facts asserted in these complaints and Commission report and as to the extent to which the recommendations have been carried out.

With warm regards,

Sincerely,

Jacob K. Javits, U.S.S.

JKJ:skv

63-285 O-66-pt. 5-11

M E M O R A N D U M November 15, 1965

TO: Hon. John W. Gardner
Secretary
Department of Health, Education and Welfare
Washington, D. C.

FROM: American Friends Service Committee
160 North Fifteenth Street
Philadelphia, Pennsylvania

NAACP Legal Defense and Educational Fund
10 Columbus Circle
New York, New York

SUBJECT: REPORT ON THE IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 IN REGARD TO SCHOOL DESEGREGATION. RECOMMENDATIONS FOR 1966-67

This year for the first time the South was the focus of a major demonstration for school desegregation as the nation watched the unrest in Crawfordville, Georgia. Less public attention was devoted to a demonstration in Forest City, Arkansas, or to school boycotts earlier in the year in Georgia and Mississippi. Few persons knew about the scores of southern Negro students who stayed home for a few days when the full term began as a silent protest against the segregated schools to which they had been assigned.

Are these events harbingers of the future? Demonstrations, school boycotts and other forms of protest against segregated education have increased across the nation in recent years. They must be understood as expressions of the hopes, anxieties,

expectations and frustrations of Negro citizens: the yearnings by Negroes for full citizenship and their deep anxieties that a segregated and inferior education will permanently exclude their children from meaningful participation in American society; the high expectation when the Civil Rights Act of 1964 became the law of the land; the frustrations as children began yet another term locked into segregated and inferior schools eleven years after the Supreme Court decision of 1954 and a full school year after Title VI of the Civil Rights Act forbade discrimination in programs receiving Federal funds.

As lawyers, community workers and American citizens, we are concerned about the potential danger in mounting despair with democratic processes when Negroes see Federal laws, regulations and court orders flagrantly or subtly violated and observe Federal officials too timid, unwilling or powerless to enforce them. We appeal, therefore, for affirmative, courageous and vigorous enforcement of Title VI by the Department of Health, Education and Welfare. We urge you, Mr. Secretary, to give personal leadership to a national effort to abolish discrimination in education - so that the struggle for equal educational opportunities will not have to be waged in the streets.

We represent two important aspects of private agency effort to promote integrated education. The NAACP Legal Defense and Educa- Educational Fund has handled virtually all of the litigation in the last quarter-century to abolish all aspects of segregation in education. For fifteen years, The American Friends Service Committee

has conducted community action programs to promote school desegregation, beginning with work in Washington, D. C. Excited by the potential in Title VI for extensive desegregation in public schools across the South and heartened by new breakthroughs as a result of successful litigation, AFSC and the Fund co-sponsored in 1965 a School Desegregation Task Force the goal of which was to inform Negro families of their rights and to provide assistance to local communities. We disseminated 3,000 school desegregation kits and over 85,000 copies of a brochure, "A Message to Parents About Desegregated Schools." We joined with other organizations in sponsoring state leadership training conferences on school desegregation. We provided information and technical assistance to local leaders. Since January, 1965, when our representatives met with Commissioner Francis Keppel, we have taken the initiative to maintain contact with the Office of Education. In many cases we were able to serve as a liaison between local civil rights leaders and Federal officials and to interpret developments both ways. A major new Federal initiative requires the cooperation of private agencies and we were eager to play a responsible and helpful role in the effective implementation of Title VI.

During the summer our two agencies had about twenty persons working in the field on school desegregation in addition to our legal staff. Our combined efforts of our two agencies reached thousands of Negro families in several hundred school districts in the Deep South which are desegregating under Title VI regulations

as well as under orders of Federal courts. We are pleased that we contributed to the registration of about 4,000 Negro children in previously all-white schools. We are convinced that without our efforts most of these students would still be in segregated schools.

Our experience would lead us to support the recent findings of the Southern Regional Council that fewer than 6% of the Deep South's Negro pupils are in desegregated situations. This is not just a statistic. This is a human tragedy. We have witnessed the deep disappointment in the hearts of Negro parents many of whom took unbelievable risks and yet failed to get a nonsegregated education for their children. We know of the agony of children who registered to attend formerly all-white schools but were rejected, or who enrolled but were subjected to such unbearable treatment that they have returned to segregated schools.

We know of our own frustrations and failures as we sought to get effective compliance to Title VI in the school districts in which we were working. We feel that we have an obligation to record our experience and to make recommendations based on it. We trust that they will contribute constructively toward a more successful implementation of Title VI in 1966-67.

Machinery for the implementation of Title VI as it affects the desegregation of public schools was created late and has been inadequate to the task of restructuring one of our major institutions. Although the Civil Rights Act was signed in July 1964, the implementing Regulation was not published until the end of that

year. The guidelines did not appear until one month before the end of the 1964-65 school term, after months of rumors and speculations about what the first instructions, memoranda and often conflicting off-the-cuff statements of Federal officials in public and private meetings really meant. It was late summer before a model school desegregation plan was prepared and the Regulation affecting hearings was not published until late August. Now in the second school year since passage of the Act thousands of Negro children are still denied their rights. We still have no tangible indication of the vigor with which the Administration will handle defiant school districts.

The delays in publishing the Regulation, in announcing guidelines, and in processing plans and the conflicting information from HEW officials can perhaps be understood in view of the enormity of the job and the lack of experience in the Office of Education in programming for civil rights. However, the Office did not seek wisdom and assistance from private groups with experience in school desegregation. To those of us on the outside, it appeared that the operation was conceived as a matter between the Office of Education and school officials.

Result: paper compliance and continued segregation.

The operation has been complaint-oriented even though this approach to achieving meaningful nondiscrimination has been admittedly unsuccessful in other Government agencies. Effective compliance machinery which should have been developed as soon as the

regulations went into effect is still not functioning. Even now complaints which were filed weeks ago have not been investigated or resolved on a voluntary basis. No school district has had Federal funds terminated pursuant to the procedures implementing the Act.

That American citizens who are also school officials would deliberately violate the spirit and the letter of the Act and the guidelines is to be regretted but should have been anticipated and prevented or nullified. That they were permitted to succeed because there was neither the understanding, the support nor the machinery for an effective compliance program is the direct responsibility of the Department and the agency with the mandate to guarantee education without discrimination. HEW must accept the blame for flagrant noncompliance, the resulting tokenism and the despair in the hearts of Negro children.

The confusion and delay from the Government level is one thing: when it is observed in its impact on the humble citizen seeking his rights, it is another. We observed the process of implementing Title VI from both places. As we compared notes from our field experience, we discovered that certain inadequacies and violations kept reappearing. We list below the most common ones:

Poor community relations

Negro leaders not consulted about plans and had difficulty in getting information before plans were approved.

Inadequate notice

In some communities with zoning plans it was difficult to get maps or information about zone lines.

Notice about plans and procedures was often vague.

Insufficient time between published notice and the transfer period.

Problems with court orders

Confusion about whether Negroes in communities desegregating under court orders would get the benefits of HEW requirements.

Poor court orders for one district hampered voluntary compliance in other districts.

Problems with plans

Plans as published often did not include all the requirements of the guidelines.

Some combination zoning and freedom of choice plans seemed clearly devised to limit desegregation.

Illegal or inadequate implementation of plans

Use of tests to determine whether pupils were eligible to transfer.

Discriminatory use of enrollment requirements re birth and health certificates.

Inconvenient or burdensome arrangements for transferring to desegregated school: parents had to appear personally; sometimes forms had to be notarized; or forms available at times and places inconvenient for working people.

Negro parents received transfer forms with name of Negro school already designated as choice.

Negro pupils permitted easy transfer back to Negro schools

Negro pupils rejected for transfer for reasons incompatible with guidelines; not given opportunity to make other choices.

School officials: inadequacy of their efforts; violations

Actively discouraged Negro children from enrolling.

Held meetings at which Negro transferees told they would fail, would have problems, would not get protection.

Interviews required with school officials intimidating.

Negro teachers interfered with the desegregation process, thwarted attempts of Negro pupils to transfer to all-white schools.

Responsibility for affirmative compliance shirked by some state boards of education; some worked actively against compliance.

Problems faced by Negro pupils in desegregated schools

Negro children segregated in classrooms, lunchrooms, playgrounds.

Abusive treatment from teachers.

Harassment from white pupils.

Incidents with resulting expulsion of Negro victims.

Problems with extracurricular activities

Students desiring desegregation told they would not be permitted to participate in athletics.

In desegregated schools Negro pupils not allowed in band, clubs, sports.

Transportation problems

Negro children told transportation to desegregated schools not available.

Buses still segregated.

Incidents on buses sometimes involving drivers.

Schedules not re-routed to provide for Negro pupils.

Harassment, intimidation, violation

Intimidation (sometimes by police and public officials) reprisals, harassment after registering children; shootings, beatings, job loss, threat of harm to children, threats of loss of welfare, evictions.

Priority right of white pupils to attend traditionally all-white schools not challenged.

Cases where white students received transfer forms earlier undoubtedly in an effort to fill school before Negroes attempted to enroll.

When schools became overcrowded because of desegregation, burden still on Negro to prove his right to attend.

* * *

RECOMMENDATIONS

I. HEW's Responsibility to Inform Citizens of Their Rights.

We recommend a broad national program to inform citizens about the requirement of nondiscrimination in all educational programs and facilities which receive Federal funds. This informational program should include: posters in all Federal buildings; radio and television announcements and programs featuring Federal officials; the requirement that every school which is a recipient of Federal funds should prominently display a standard notice prepared by the Office of Education which would

I. (Cont'd.)

state simply what the law is, how individuals can get further information about it and how complaints may be filed; the mass dissemination of simple brochures, etc.

II. Assurance of Compliance (HEW #441)

School boards could qualify to receive Federal funds in 1965-66 by three different methods: by filing an Assurance of Compliance, by transmitting a final court order requiring the desegregation of a school system, or by submitting a voluntary school desegregation plan.

This year the confusion about HEW #441, the Assurance of Compliance, was centered in the Deep South, where a large number of school districts, especially in Georgia, either as a result of misinformation or deliberate misunderstanding, filed Assurances of Compliance. After weeks of confusion, political pressure and delay, it was finally clarified that these districts would have to prepare school desegregation plans because Assurances of Compliance are valid only for fully nonsegregated school systems.

The growing tension in border and northern communities over segregated schools and the allegations about gerrymandering, racial assignments of teachers and school site selection and construction which reinforce segregation should be sufficient reason to question whether many systems outside the South can honestly claim to be fully desegregated. Therefore, we

II. (Cont'd.)

recommend that the Office of Education should clarify and tighten its rules and regulations concerning eligibility to execute Assurances of Compliance. A national compilation of information on racial practices would undoubtedly indicate that many northern and western school districts should be required to file desegregation plans instead of the Assurance.

III. Court Orders

HEW has agreed to accept a final court order in satisfaction of a school district's obligation to desegregate. The word "final" has no clear significance because in fact virtually no court orders have "finally" disposed of the desegregation controversy in the community. Moreover, the word "final" has no technical legal significance either because all desegregation decrees are open-ended and susceptible to applications for further relief. For all practical purposes the word "final" has come to mean that HEW accepts all or virtually all court orders.

This position has several damaging consequences. First, the reason why Title VI was passed and authority was delegated to HEW is that it has the administrative expertise in the field of education to analyze and understand desegregation plans which the courts do not possess. By accepting the court order, HEW abdicates its special role. Second, the court order has occasionally been justified by HEW as a binding mandate upon it with which it cannot interfere, but this misconceives the role

III. (Cont'd.)

of a court order in approving a school board's plan. The court order has not disposed of the underlying constitutional rights, but merely has accepted, as courts frequently must, the administrative judgment of school officials which is often the only judgment of educators submitted to it upon which it can act. It is an interference with no one's rights for the Department with its expertness in the field of education to assert its statutory responsibility and inform the school board that in HEW's opinion it is administratively feasible to proceed more rapidly and comprehensively. Finally, HEW's approval of court orders has created the ridiculous situation in which HEW approves a plan because a court has approved it and then the school board argues to the court that it cannot change the plan because HEW has approved it. Consequently, Negro children are caught in the predicament of running in circles.

One reason why authority was given to the Department is that many Federal judges take an extremely narrow view of how rapidly and how comprehensively school desegregation must proceed. Unquestionably, the reason why authority was given to the Department was to free the process of desegregation from the complexities of litigation and the limited views of many district judges on how fast and far desegregation must proceed.

The failure to amend HEW's policy in this regard can only lead to more situations such as that existing in Arkansas where, at the start of the 1965-66 school year, only 5 school

III. (Cont'd.)

districts were covered by Federal court orders all of which, in one respect or another, fell short of HEW standards. Each of these 5 districts obtained HEW approval of its plan based on court orders, even though other school districts required to meet HEW standards as a prerequisite to obtaining Federal funds had to do more. Thus, Negro parents with the courage to file suit were rewarded with less effective school desegregation plans than required by HEW in those districts where no suits were filed.

Why should HEW be obligated to accept a court-approved plan from a district such as Lee County, Florida, which provides for the desegregation of only one grade in 1965? Office of Education staff can testify about the difficulties of negotiating with school officials when their counterparts in neighboring districts, sometimes in the same county, are operating with court-ordered plans which are below HEW standards. The Darlington court order which served as a model plan for token desegregation in South Carolina in 1964 and which has very limiting features was used as an excuse this year by other school districts in the state submitting similarly restrictive voluntary plans. We know from the experience of working in Greenville and Orangeburg, South Carolina, that Negro parents could not understand why children were rejected for transfer for reasons apparently permissible under the court orders but contrary to the HEW guidelines.

III. (Cont'd.)

Louisiana is another example where mass reliance on the HEW policy of accepting court orders threatened to frustrate the effectiveness of Title VI. The following candid statement appeared in the Shreveport Journal on July 1, 1965:

> The local school boards prefer a court order over the voluntary plan because HEW regulations governing the voluntary plans or compliance agreements demand complete desegregation of the entire system, including students, faculty, staff, lunch workers, bus drivers, and administrators, whereas the court-ordered plans can be more or less negotiated with the judge.

After HEW policies were made public, new school desegregation suits were initiated in approximately 20 Louisiana communities in most of which quick consent decrees were obtained providing for desegregation at a rate far slower than that provided in HEW standards. In most of these cases relief was obtained from the Fifth Circuit requiring amendment of the plans to meet HEW requirements.

In addition the Fifth Circuit, recognizing the danger inherent in a conflict with HEW, set its own minimum standards to conform with the HEW guidelines. The Eighth Circuit has recently taken similar action. Their rulings prove that Federal courts look to HEW for guidance and will welcome and not resent the setting of standards by HEW for receipt of Federal funds which are applied to all school districts which seek them.

IV. New Desegregation Plans

HEW should prepare guidelines for 1966-67 which will reflect not only the Administration's mandate to abolish segregation in education, but practical understanding about what will and what will not accomplish this end. School districts, including districts under court orders and non-southern districts, which have clearly not complied with Title VI should be required to submit new or amended school desegregation plans. The new guidelines should be available by January 1966, in the hope that plans can be negotiated and approved by late spring.

V. Community Involvement in the Preparation of Voluntary School Desegregation Plans

A school board should be required to submit a statement that it sponsored, prior to the adoption and submission of its school desegregation plan, at least one public discussion of the plan in an open, well publicized board meeting. The presence of an HEW representative at such a meeting might help to make it an honest effort to involve the community. School officials should keep parents and the community in general advised of the plan as it develops and should welcome comments. Meetings with Negro and white groups to explain the Federal regulations and the proposed plan and the use of the mass media should be encouraged.

V. (Cont'd.)

"Frustrated - have been completely ignored!" This comment from South Carolina clearly expressed the exasperation of Negroes across the South who were ignored by both local and Federal officials as plans for the desegregation of schools were prepared and negotiated. HEW officials should not be guilty of the kind of one-sided negotiations which occasioned another Negro leader to remark appropriately that "everything is being decided by white folks!"

Where face-to-face negotiations about desegregation plans between HEW representatives and local school officials are necessary, Negro members of the community who are not school officials should be invited to participate, especially when negotiations are carried on in the field (in the school district, at regional meetings or in the state capital). In fact, a public announcement of the presence in the state of a Federal official and the invitation to submit material and recommendations to him should be standard practice.

Where negotiations are carried on in Washington and where it would otherwise be difficult to get the point of view of the Negro community, representatives should be brought to Washington at Government expense.

Secrecy by public officials in conducting this business which is of such vital interest to American citizens should

V. (Cont'd.)

not be tolerated. Our recommendation is for negotiations which are open and public. Therefore, concerned local citizens and agencies, public and private, should have access to plans which have been submitted and to information concerning negotiations. In contrast to the situation this year when it was very difficult to get information locally or in Washington about plans prior to their approval, school desegregation plans should be considered by HEW to be public documents while they are being negotiated.

VI. The Adequacy of Various Kinds of School Desegregation Plans

There are several kinds of desegregation plans: zoning, freedom of choice, school pairings, the closing of segregated schools, the ending of the practice of educating pupils outside the district on the basis of race, various combinations of these, etc. No one kind of plan can suit all situations. A plan acceptable at one state of the desegregation process may be ineffective later. HEW should actively seek the views of concerned groups including civil rights organizations on the adequacy of various kinds of desegregation plans in different kinds of situations. HEW should take the specific responsibility on the basis of information gathered from all available sources to determine what kind of plan can indeed accomplish the intent of Title VI in a given district. The

VI. (Cont'd.)

standard should be what will desegregate the system. This will require an annual review of the numerical results of the desegregation plan and other factors affecting desegregation (school construction, teacher desegregation, etc.)

In 1965-66 the individual school board determined the kind of plan it wanted to adopt. Freedom of choice and tokenism generally resulted in the South. For 1966-67 HEW should determine which school districts may or may not use freedom of choice or any other plan.

Our experience with voting has indicated that some kind of automatic device is needed to short-circuit protracted proceedings, delays and obstructionism. If fewer than 20% of the Negro pupils are currently enrolled in desegregated schools after freedom of choice has been in effect, this should be considered sufficient justification by HEW that a different kind of plan should be required for 1966-67. Even in small towns and rural areas of the Deep South we have witnessed the intense feelings and the desperation of Negroes who seek equal and nonsegregated educational opportunities. Where at least one out of five Negro children has not been able to translate this desire into actual enrollment in a desegregated school, we are convinced that something must be wrong with the plan.

Even where more than 20% of the Negro pupils are in desegregated schools, plans should be evaluated as to the feasibility of completing the job immediately (e.g., in areas where there is a small Negro population or where inefficient, substandard segregated schools should be closed).

A school desegregation plan based on geographic attendance zones should also be re-evaluated as to its effectiveness. The concept of "natural boundaries" in the present guidelines is too vague. There are often alternative ways of zoning a school district so that a "single, nonracial" system of attendance zones will be achieved. HEW should accept zoning plans only if they accomplish integration in the district.

Furthermore, the implementation of zoning plans needs to be carefully watched. Clarksdale, Mississippi's school zoning plan resulted in no desegregation during the first year. The comment below from a citizen in Oklahoma City shows how a zoning plan can be undermined:

> Neighborhoods in Oklahoma City change rather rapidly from white to non-white, and the city has been remarkably unsuccessful in maintaining stable, integrated neighborhoods. The schools change even faster, as white parents use whatever ruses they can to transfer their children to other schools. In the past they were helped by the School Board's policy of permitting the transfer of white children from schools in which they were the minority to schools in which they were the majority. Obviously, as soon as a school contained more than 50% non-white children, a tremendous exodus of white children occurred, hastening resegregation of the school.

VI. (Cont'd.)

> But since last year as a result of a court order resulting from a suit brought by a Negro man in behalf of his son, this kind of transfer is no longer permitted. As a matter of fact legal transfers within the city school system are now difficult to obtain.
>
> But this does not stop resourceful parents. White parents have rented apartments for one month near the school they wish their children to attend, enroll the children, and of course never live in the apartment. White parents have also used the State law to transfer their children from the Oklahoma City school district to county schools which actually may be located within Oklahoma City boundaries. They have made use of a provision of that law which states that children may be transferred if it is in the interest of their health. Parents have gone to physicians, who have signed the necessary certificates, frequently without examining the children, and no questions have been asked by the school officials. Most of us know this is a subterfuge, that the children are not sick and that this is a way to remove children from schools in which sizeable proportions of Negro children attend. The Oklahoma City School Board knows this, but has generally been unwilling to protest this tactic, which they can do under law.

The results of combination zoning and freedom of choice plans need also to be assessed. This year civil rights leaders felt that some of the combination plans were not only difficult to understand but seemed designed to capitalize on the potential limiting features in both zoning and freedom of choice. We have had specific complaints from Muscle Shoals, Alabama, Palm Beach County, Florida, and several South Carolina districts. Here again HEW's obligation is to determine whether a particular plan will actually desegregate the system.

VII. Freedom of Choice

> "Those few Negroes isn't integration. . . . Just a make-like... Negroes' homes have been shot in. That why more didn't because quite a few Negroes live on white people farms and they were afraid they wouldn't have no place to live... But more than that has got to take place for those that is enrolled to come out. I am planning to die before I take my son out..."

This perceptive comment tells the story of freedom of choice in southern communities: the make-like quality of the official posture of compliance but the hard realism of the obstacles.

Freedom of choice plans provide for procedures set up by the school board for pupils in designated grades to register for enrollment in desegregated schools, usually during a fixed and limited registration and transfer period. Ideally, freedom of choice should mean the maximum amount of freedom, clearly understood choices, guaranteed and unimpaired rights and protection in the exercise of these rights. Although there are undoubtedly southern communities that have had an authentic freedom of choice process, what is reported below from our files is typical of the general experience with freedom of choice in 1965.

It was often very difficult for Negro leaders and parents to get accurate and specific information in their community about their rights and about the plan under which their school district is desegregating. Some were met with vagueness and

VII. (Cont'd.)

evasiveness. Others, such as in Wheeler County, Georgia, reported intimidation by school and law enforcement officers when they sought information. In some cases the problem of getting information was cleared up once HEW accepted the plan and the required public notice was published. In many cases, however, the full plan never was published. Just a few days ago one of our representatives, visiting an Alabama superintendent at the request of local leaders who had been unsuccessful in their efforts to see the full plan, was told that all the information he would give was that the plan had been approved.

Even after plans were approved, many Negroes never knew that they were entitled by HEW's guidelines to certain rights which were not mentioned in the public notices. Thousands of Negro pupils never knew that they could have sought transfer to get courses not available to their segregated schools. Nor do Negro families whose children are still being sent out of their district to segregated schools know that this practice is expressly forbidden by HEW. Certain stipulations or agreements made by HEW with local school officials as conditions for acceptance of plans were often not communicated to the public. Tishomingo County, Mississippi, which began its school year with a split session in July was advised to

VII. (Cont'd.)

have a new transfer period with the beginning of the fall term if no Negro children were registered in desegregated schools in the summer. Nothing has happened.

The process of informing Negro parents and children individually was undependable. The public notice was often just a brief announcement in the legal notice section of a weekly newspaper with limited circulation among Negroes. Even where the public notice was adequate, there were often no individual notices to Negro parents. A leader in Fitzgerald, Georgia, reported that "parents were not notified by education officials that this plan even existed." There was no general distribution of the letter of notification which local officials said was being sent out.

Since the burden is on Negro families to take the initiative and on local organizations to inform citizens of their rights and of the procedures, questions of mechanics become vitally important. We know of communities where only a few days were available between the announcement in the newspaper and the end of the transfer period. Or forms could only be secured at the school board office during business hours. Or forms had to be notarized (Athens, Georgia). Or, only parents could pick up forms. Or, the signature of both parents was required. Our contact in Fitzgerald also told us of one

VII. (Cont'd.)

family with seven children who wanted to register but could not do so because the parents work and could not pick up the forms. He referred to this situation as "outrageous. The Negroes were the only ones to whom the transfers were desirable and they couldn't get them." Often the mechanics for registering for segregation were provided conveniently, as in Canton, Mississippi, where buses took Negro first-graders to register at Negro schools but not to desegregated schools.

Our workers found the discriminatory use of routine requirements to prevent Negro children from registering in the formerly all-white schools. In many Mississippi communities, there were problems because health certificates could only be secured from clinics on certain days. But clinics would be "out of forms" so the Negro children could not qualify in time. In Moultrie, Georgia, a child, denied admission to the first grade of a white elementary school because of the results of a readiness test, was admitted without difficulty to a Negro school. A number of Mississippi children were denied permission to transfer because they were being retained in their previous grade.

Activities of school personnel which resulted in discouraging enrollment were widely reported. In Newberry, South Carolina,

VII. (Cont'd.)

after interviews with the superintendent, a third of the Negro students who had registered to attend desegregated schools withdrew. We heard of a meeting called by a school official in Florence, S. C. in which transferring students were told that most of them would probably fail and that there would be incidents about which authorities could not do very much. In Waycross, Georgia, where one of our representatives had worked very hard with local leaders to encourage 100 students to seek transfer, three-fourths of them withdrew after the superintendent sent letters to them requesting interviews. In Coffee County, Alabama, we were told that many Negro children wanted to transfer. Of the 39 who actually registered, only four are currently enrolled. Apparently, students were called together by school officials and told that the integrated school would be hard for them and that they could change their minds.

We heard of Negro officials who worked against integration. Some closed their offices when they should have been open to provide transfer forms or neglected to forward completed forms to the superintendent.

Our representatives, visiting school districts where there is no desegregation although Negro pupils had registered this summer, have reported threats and intimidation. It was reported

VII. (Cont'd.)

to us that the school superintendent in Coosa County, Alabama, had sent a Negro principal to the homes of the 16-19 children who had applied to transfer to formerly all-white schools. He reportedly used the loss of welfare benefits and the possible firing of Negro teachers as a threat. In Berrien County, Georgia, where all 34 Negro children who registered to attend the white schools withdrew, the accounts of intimidation reported to us involved school board members. Often, as in this community, intimidation is not just the impulsive act of a few individuals but is a well organized campaign.

Threats and acts of intimidation, economic reprisal and violence occurred throughout the South - sometimes to terrorize Negroes before the registration period; sometimes to discourage the Negroes who had become identified when they registered their children; sometimes to force the withdrawal of Negro pupils after schools had been desegregated. Willie Lamons, severely beaten in Mitchell County, Georgia, is still under medical care. The home of Martha Holmes who is enrolled in a desegregated school in Burke County, Georgia, was shot into late in September. Several persons lost their jobs in Houston County, Georgia, after enrolling their children in desegregated schools. The mayor sent the police chief to a family in an Alabama community with a message that they would "hang those

VII. (Cont'd.)

children up by a tree if they tried to go to the white school." Accounts of evictions have been especially poignant, such as the story of the Mississippi family who were not only forced to move; a ditch was dug across the road of the home to which they relocated.

Some of the intimidation accomplished its purpose. Families like the V's in southern Alabama town, after a weekend of white visitors who included two city councilmen, finally changed their minds. Yet other parents have not permitted their suffering to change the course to which they have committed themselves and their children, in spite of having their homes shot into.

The problems continue, however, and we are particularly concerned about the continued humiliations to which Negro pupils are being subjected in some desegregated schools, undoubtedly in an effort to force their withdrawal. We have had reports, especially from Mississippi, of Negro pupils who are ignored or abusively treated by their white teachers, who have been denied admission to school events, who are segregated in class and who have been heckled or attacked by white students. We know from our experience in Baton Rouge that unresolved problems of this kind hamper future efforts to promote desegregation.

VII. (Cont'd.)

Freedom of choice places a heavy burden on the modest resources of local organizations and national agencies that are concerned about school desegregation. One of the communities in which our School Desegregation Task Force worked this year was Houston County, Georgia, an impacted area, desegregating under a court order. In spite of the history of police brutality in the county and although desegregation was strongly resisted by white leaders who were actively involved in a private school movement, Negro citizens were eager to desegregate their schools and requested some assistance. We developed with them a community action program and were deeply involved in it. We devoted about 45 staff days to this project. Officials from the Justice Department, HEW and the Community Relations Service were watching developments closely. 109 Negro students desegregated schools in Houston County as a result of a major, well coordinated effort. The numerical amount of desegregation is still token in spite of this involvement of agency resources.

National private agencies do not have the resources and the manpower to sustain many local community projects requiring this staff investment. Local organizations are also strained by the demands of the freedom of choice process. Excellent local community projects with commendable results were

VII. (Cont'd.)

organized in many southern school districts, such as Beaufort County, South Carolina, Macon, Georgia, Florence, Alabama, and Savannah, Georgia. However, leaders in such communities felt that freedom of choice places unreasonable burdens on private groups, as is indicated in the following comment from Athens, Georgia:

> With regard to the Freedom of Choice Plan in Clarke County, I think the most important point to be made is how difficult it is to get students to transfer to predominantly all-white schools. In Athens I headed up the school transfer program and it was certainly a full-time job for the month of July. Besides myself we had three full-time SCOPE workers who recruited the students in the Negro community and encouraged them to transfer. They compiled a list of several hundred families who filled out transfer forms in their homes. We then broke these families down into groups and had twelve workers who contacted each of the families. We then had to get the families to the Board of Education Office on three days to make application. We provided transportation (we drove eight cars) and at that we only got 50 percent of the people to the Board of Education who had filled out the transfer forms in their homes. There was additional intimidation and difficulty at the Board of Education Office and all-in-all it was very difficult to implement the plan. We were successful in having 205 students transfer but in order to achieve this it took a tremendous effort by at least thirty people. So much time and energy would not be available in a community that would not have university personnel with the free time to devote to such a project. It also took two trips by the Justice Department and one by HEW to make sure that the plan was implemented. I could give you complete details if necessary but I think this should point out that for most communities Freedom of Choice means freedom to remain segregated.

VII. (Cont'd.)

Theoretically, there is nothing wrong with the concept of freedom of choice. Nor do we wish at this time to comment on the potential value of freedom of choice under certain circumstances as part of an affirmative program to maximize integration. What we are concerned about here is the adequacy of freedom of choice plans as vehicles to disestablish the system of racial segregation in schools created by past compulsory pupil assignment policies and practices. Federal judges have called freedom of choice an experiment, "an interim measure, the adequacy of which is unknown." So-called freedom of choice as we have seen it in the South is an experiment which has left intact the unconstitutional system it was never intended to transform.

What should be HEW's attitude toward freedom of choice plans in 1966-67? The concurring opinion by Judges Sobeloff and Bell in Bradley v. School Board of the City of Richmond, 345 F2d 310, 322-323 (4th Cir. 1965) suggests an approach to freedom of choice:

> "....the initiative in achieving desegregation of the public schools must come from the school authorities. The paper Resolution (of the Richmond School Board) is not being hailed as the attainment of the final goal. The defendants have only stated an hypothesis - that once Negro pupils are given the right to choose where they want to go to school they will be in a position to avail themselves of the opportunity and the segregated school system will disappear. The majority opinion permits that hypothesis to be tested

VII. (Cont'd.)

against the realities of the Richmond situation to determine whether it will in fact achieve the desired result.

"Only experience will show whether the so-called plan represents a real change in the officials' attitude toward their constitutional duty, or merely a strategic retreat to a new position behind which the forces of opposition will regroup.

"While we join in permitting this experiment, we are not fully persuaded that the plan will be enough to enable the Negro pupils to extricate themselves from the segregation which has long been firmly established and resolutely maintained in Richmond. A procedure which might well succeed under sympathetic administration could prove woefully inadequate in an antagonistic environment. The procedure cannot be separated from the spirit that produced it and will motivate its application...

"Affirmative action means more than telling those who have long been deprived of freedom of educational opportunity, 'You now have a choice.' ....A court, before approving a plan, must scrutinize it in detail to satisfy itself that the assumptions upon which the plan is predicated are actually present. The district judge must determine whether the means exist for the exercise of a choice that is truly free and not merely pro forma. This may involve considering, for example, the availability of transportation, the opportunity to participate on equal terms in the life of the school after the pupil's arrival, and any other circumstances that may be pertinent.

"All recognize that the problems of education are not simple and are intertwined with problems in other areas of public and private activity. But while a complete solution does not lie in the hands of the present defendants, there is much they can do in their own sphere of responsibility to disestablish the heritage arising from imposed racial discriminations of the past.

"It is now 1965 and high time for the court to insist that good faith compliance requires administrators of schools to proceed actively with <u>their</u> nontransferable duty to undo the segregation which both by action and inaction has been persistently perpetuated."

VII. (Cont'd.)

If the courts are looking at the intent of school officials and the realities of community situations to determine whether desired results will be achieved and are requiring affirmative action to undo segregation, HEW cannot afford to do less. HEW has a further responsibility to announce standards by which intent, effectiveness and affirmative action to undo segregation will be measured. We have already suggested a numerical standard by which the 1965-66 plans should be evaluated. Needless to say, we do not believe that HEW can fulfill its mandate simply by accepting again in 1966-67 the so-called freedom of choice plans which are currently in effect.

A. Recommendations for 1966-67:

1. HEW should make it clear that a freedom of choice plan is a transitional device which will be evaluated as to its potential for moving a school system toward complete desegregation by 1967. School officials should be required to justify how their particular plan can be expected to do so. Where there is insufficient justification for the approval of a freedom of choice plan in a given district, the school board should be required to present a different kind of plan which has greater potential for genuinely desegregating its system.

VII. (Cont'd.)

2. HEW should assess the intent and the ability of school officials to have a genuinely free choice program by requiring school officials to justify in advance that free choice can take place in their districts without intimidation. HEW should have indications that officials are taking an active role to create a climate favorable to desegregation and that they are getting support from other public officials, law enforcement officers, business, religious, and community leaders, etc.

3. HEW should permit the fewest possible restrictions on the exercise of choice to attend desegregated schools. An indication of good faith intent would be the willingness to incorporate such requirements as the following which remove some of the burdens and inconveniences from Negroes:

   a. Plans should provide for the desegregation of all grades in 1966-67. There is no justification for limiting the number of grades in a freedom of choice plan. Selection of grades is arbitrary and the splitting up of children is an unreasonable burden on Negro families. If school officials

plead that overcrowding would result, the.. this is a clear indication that freedom of choice is not the answer. Zoning or school pairings could be more feasible.

b. The execution of a choice form should be accomplished by mail without the necessity for parents or children to appear in person. Individual notices should be sent by mail with self-addressed stamped envelopes enclosed. Families should be given adequate time to exercise choice.

c. Copies of the plan, notices and choice forms should be easily available to concerned groups, the public, and to parents and children.

d. Since 7th grade students make many decisions about their school program on their own, a pupil above the 6th grade should be permitted to execute his own choice form. His signature would be sufficient unless specifically disavowed by his parents.

e. All students should be required to exercise choice and no student should have a

VII. (Cont'd.)

prior right because of custom, previous attendance, or race, to attend a particular school.

f. Where schools become overcrowded as a result of desegregation, the definition of "overcrowded" should not be different from that affecting any other school in the district. If schools become overcrowded, preference should be given to pupils residing closest. Other students should be given opportunities to make other choices. If no effective second choice is possible because of a limited number of schools or limited space in certain grades, school officials should be required to grant all first choices (the equality of inconvenience!), institute school pairings or assign pupils on a nonracial basis.

4. The main sign that the school board is accepting its "nontransferable duty to undo segregation" is evidenced by the speed with which it eliminates, in fact, its dual school systems. Merely dropping the name "colored" or "white" from a school does not change the expectation that most

VII. (Cont'd.)

children of a certain race will attend a certain school. The customary identifications remain, against the background of segregation in the community and with teachers assigned on a racial basis. School districts should be required to demonstrate their good faith by meeting minimum standards which HEW should set for 1966-67 in the following areas:

a. The nonracial assignments of teachers is an important factor in changing the racial identification of schools and in ending the dual school system;

b. The nonracial assignment of pupils as an affirmative act of the school board should be incorporated into freedom of choice plans and HEW should indicate minimum requirements for 1966-67. We would recommend:

(1) Where students do not exercise freedom of choice, the school board should assign them on a nonracial basis. "The continuation of the dual attendance areas wherein whitesare required to attend the all-white schools and

VII. (Cont'd.)

Negroes are required to attend the all-Negro schools should they fail to elect otherwise is unconstitutional and must be remedied." (Kemp v. Beasley, 8th Cir. No. 18,050, Oct.27, 1965, Slip Opinion, P.15).

(2) There are certain situations where freedom of choice should not be permitted, at least with respect to certain schools. The choice, for example, to attend a small, unaccredited segregated school in a district where there are more adequate nonsegregated facilities should not be tolerated. Such schools should be closed and the pupils assigned elsewhere on a nonracial basis.

(3) Where students have been sent out of a district to segregated schools and where nonsegregated education is available in the district, students should be assigned in their home district on a nonracial basis.

VII. (Cont'd.)

(4) Where there is overcrowding as the result of desegregation, and where no effective second choice can be made (e.g., where there is only one "white" high school), there should be non-racial assignments of the pupils involved.

(5) School boards should indicate they are moving toward a completely desegregated system by 1967-1968 by beginning in 1966-67 to assign pupils on a non-racial basis in all schools in at least one unit of the system, e.g. all elementary, or all junior high, or all senior high schools.

The test of the good faith of freedom of choice plans for 1966-67 would depend, therefore, on: 1) an assessment of the intent of school officials, 2) an estimate of the predictable success of freedom of choice given the community situation, and 3) tangible evidence that this plan speeds up the transition from a dual segregated system, that it is not a strategic retreat but is a genuine device for undoing the evils of the past. If HEW continues to accept freedom of choice plans as a transitional device, care must be taken that they do not be-

VII. (Cont'd.)

come a holding operation until changing housing patterns and new school construction for segregated neighborhoods permit boards to institute zoning for neighborhood schools which will in fact be segregated.

VIII. Teacher and Staff Desegregation

Teaching staffs, administrative and supporting personnel throughout the South remain totally segregated with perhaps a rare exception here and there. This, in turn, exercises a dominant influence on the process of pupil integration. The "all-Negro" teacher school will, given the realities, tend inevitably to be the all-Negro pupil school.

Freedom of choice is absolutely meaningless if by manipulating the racial composition of faculty, school boards label schools "Negro" or "white" as effectively as if a large billboard were placed in front of them stating for whom they are intended. The total integration of school "systems" which the Supreme Court intended cannot come into being unless the teachers who shape the attitudes of the pupils are themselves in integrated situations.

Apart from the question of the influence of personnel assignment practices on the student, grave injustices have been visited upon Negro teachers by racial assignment practices. For no reason other than their race large numbers

VIII. (Cont'd.)

of Negro teachers have been discharged when Negro schools have been closed or Negro pupils have been transferred to white schools. Hiring and assignment practices should include all staff members, current and new.

So-called nonracial assignments which result in the demotion of qualified Negro teachers should be forbidden. We have heard of Negro teachers who were transferred to desegregated schools but were assigned as teachers' aides, library assistants, study hall supervisors, etc. There should be no active recruitment of new white teachers as long as Negroes are not being considered for nonracial assignment.

School desegregation plans should include policies and practices affecting all employees, including bus drivers and cafeteria workers, as well as the teaching, clerical and administrative staff. We are currently working on complaints from Negro cooks in a South Carolina school district who are aware of discriminatory treatment they face so far as wages and upgrading to managerial jobs are concerned.

HEW should not only state minimum requirements for 1966-67 but should give school districts specific ideas for accomplishing staff desegregation. The Oklahoma City plan as ordered by a Federal Court is suggestive in this regard. It requires that a certain percentage of Negro teachers based on

VIII. (Cont'd.)

the population ratio should be in each school.

The Office of Education prepared a model plan last August which provided in its "Attachment C" some useful suggestions, including the appointment of pioneer teachers who will be given special training preparatory to nonracial assignments. We do not know of any systems which have voluntarily adopted these suggestions.

The program suffered this year because of the Office of Education's lack of clarity about its mandate to promote and require staff desegregation in view of Sec. 604 of Title VI.

This legal confusion should be ended immediately.

Although the law appears to be crystal-clear, at some time in the past questions were raised concerning HEW's authority to require nonracial standards in all relations between school boards and teaching personnel. The Legal Defense Fund has furnished the Department with a comprehensive legal memorandum defining HEW's responsibilities. The Department has raised no question concerning the validity of the statement of law in the memorandum. In summary, the memorandum states:

> The right of Negro pupils to have Negro teachers hired and assigned free of discrimination to bring about full and effective desegregation of public schools is now incontrovertible. It must be emphasized that this is a right of the pupils themselves,

VIII. (Cont'd.)

quite independent of any right the teachers may have. The Fifth Circuit has so held in Board of Public Instruction of Duval County, Fla. v. Braxton, 326 F.2d 616 (5th Cir.1964), cert. denied, 377 U.S. 924. The Braxton decision (which was cited by Senator Humphrey in introducing Title VI on the floor of the Senate, (see infra,) was based on language in Brown v. Board of Education, viz:

> While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with our May 17, 1954 ruling. Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date. To that end, the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis. 349 U.S. 294 at 300-301. (Emphasis added.)

Numerous decisions in the Court of Appeals support this conclusion.

Turning to the legislative history of Title VI, those responsible for the Civil Rights Act share the view expressed by the Courts. The Title requires that the commissioner of education take steps to eliminate racial discrimination and segregation in all schools receiving federal grants under various programs. It was said that plans of desegregation instituted under Title VI could include the ending of discrimination in both hiring and assigning of teachers where it was found that such discrimination affected the rights of students who were the beneficiaries of such programs. Thus, Senator Humphrey in his speech introducing the Civil Rights Act in the Senate, said:

VIII. (Cont'd.)

> In such cases the Commissioner might also be justified in requiring elimination of racial discrimination in employment or assignment of teachers, at least where such discrimination affected the educational opportunities of students. See Board of Education v. Braxton... (110 Cong. Rec. 6325 (Daily Ed. March 30, 1964).

An exhaustive study of the legislative history of Title VI has revealed nothing that would contradict this clear statement of intent by the floor manager of the bill. HEW has followed this statement of Senator Humphrey insofar as requiring that assignment of teachers and other employees must be made on a nonracial basis. See General Statement of Policies Under Title VI of the Civil Rights Act of 1964 Respecting Desegregation in Elementary and Secondary Schools. Apparently, however, the position of the Department is that this policy will not apply to the initial hiring of teachers. The reason or the basis for this distinction is not made clear.

Some have asserted that Sec. 604 of the Civil Rights Act contradicts these conclusions. But the legislative history of Title VI demonstrates conclusively that Sec. 604 in no way was intended to, nor does it, detract from the power of the department as stated by Senator Humphrey. Indeed, it is clear that the section has no application whatsoever in circumstances such as the North Carolina teacher problem.

Section 604, which was not in the bill as originally introduced in the Senate, was added as part of the Dirksen-Mansfield substitute, basically the form the act finally took. It was put in to meet a problem raised numerous times during the course of the debate on Title VI. The question was, what would be the effect of Title VI on a person who received federal assistance under some program and who hired persons in the normal course of his business. The most common example was that of a farmer who received price support subsidies under the soil bank program. Would he, it was asked, be cut off from federal funds if he discriminated on the basis of race in hiring workers? Section 604 was included to quiet such doubts concerning the coverage of Title VI. That it was not intended to make any substantive changes

VIII. (Cont'd.)

in Title VI is absolutely clear. In this regard Senator Humphrey stated: "We have made no changes of substance in Title VI." (110 Cong. Rec. 12288 (Daily Ed. June 4, 1964).

IX. Transportation

If child has a right to attend a desegregated school, the school board has an obligation to see that he is transported to it, if it is not in walking distance. A desegregated education should not be dependent upon the financial ability to provide private transportation. Bussing for special purposes is not new. Children in some southern school districts have been transported many miles daily, sometimes across several counties and at public expense, in order to preserve segregation. White children in Crawfordville, Georgia, are bussed to neighboring counties at public expense.

The lack of clear information about transportation to desegregated schools was a major factor in limiting enrollment in some districts this year. Students were told that transportation would not be available to desegregated schools, although it had been provided to the Negro school. (This was the problem in Muscle Shoals). Buses were not desegregated or routes were not altered to accommodate the Negro students attending the formerly all-white schools. In some cases there have been attempts to segregate the children on the buses. In

IX. (Cont'd.)

Como, Mississippi, a white bus driver, informing a parent that he would not pick up a child because the bus could not turn around in the street, said, "Let your friends from the North put down gravel."

School boards should be required to guarantee that bus routes and scheduling will not be a barrier to desegregation. Buses should be routed so that no child will be denied the right to be transported to a desegregated school on a desegregated bus. Assigning bus drivers by race should also be prohibited.

X. Nondiscrimination in School-Affiliated Services, Programs, Activities, etc.

It should be made explicit that 4-H Clubs, social affairs, PTAs and all other school-affiliated activities are covered by the regulations prohibiting discrimination. Rules prohibiting transferring students from participating in sports during their first year should be waived where the transfers were part of the process of desegregation.

Whether or not a particular school becomes desegregated when the system is desegregated, the use of its sports arenas, auditoriums, libraries, etc., and participation in its programs and its cultural, sports and other events should not be denied on racial grounds.

XI. Preparation of Pupils, Teachers and the Community

School boards should be required to give written instructions to personnel about the desegregation plan and about what is required and forbidden so far as staff performance is concerned. Prohibition of staff influence in school selection and of discriminatory treatment of students should be put in writing. Boards should be required to indicate what kind of affirmative preparation of teachers and the community is being undertaken. HEW should indicate certain minimum steps which should be required and should offer specific suggestions.

XII. Notice

School boards should be required to publish the full plan as adopted plus any amendments or subsequent agreements with HEW, such as conditions of acceptance. The plan should receive prominent coverage in newspapers with wide circulation in the community, including Negro newspapers. Individual notices should be sent to parents and students and should include a clear summary of all important features of the plan. School boards with zoning plans should be required to publish in all newspapers serving the area and to post in prominent places full information about the attendance areas, including maps showing those areas, and to inform each child by letter of the school to which he has been assigned. HEW should spell out what constitutes notice in reasonable time.

XIII. Transfer and Assignment Periods

Transferring for desegregation should normally be as routine as any other kind of transfer and should not be tightly restricted to a certain period. Since there may be an administrative advantage during this transition stage in having an official transfer period, we would recommend at least a month in the late spring or early summer, with additional registration periods at the opening of the fall term and the second semester. The transfer and registration periods should not be held prior to the official acceptance of the plans by HEW. There was considerable confusion this year because the transfer process in many communities took place before plans were approved which often meant that the requirements in the guidelines were not met.

XIV. Use of Total School Facilities in Desegregation Process

A desegregation plan in which all formerly all-Negro schools remain in fact all-Negro though technically desegregated should be challenged. The time has arrived for the assignment of white pupils to Negro schools. This must be faced realistically. School boards should not be permitted to avoid the issue or to deny Negro pupils their rights in order to prevent assigning white children to Negro schools. This is particularly true in communities where there is only one "white" high school, for example, which could easily become

XIV. (Cont'd.)

overcrowded with desegregation. The most efficient solution in such a situation would be nonracial assignments to both Negro and white schools.

Therefore, the question of the quality of the formerly all-Negro schools must be recognized as an important factor in desegregation. Unequal services and facilities, worn-out, out-dated and/or non-existent educational materials, are not only deterrents to desegregation, they are a clear violation of the law. Corrections of these violations must be a part of a meaningful desegregation plan.

There are situations, such as in Enterprise, Alabama, where a fine new accredited under-utilized Negro junior-senior high school would be a real asset in that community's process of school desegregation.

XV. Site Selection and New Construction

School site selection and decisions about new construction and major renovations are often crucial for the future of desegregation. School districts should be required to submit information about short-run and long-range building plans, about the termination of facilities which have been used as schools and about decisions which have the effect of converting white or desegregated schools to Negro schools.

63-285 O-66-pt. 5-14

XV. (Cont'd.)

In Bertie, N. C., for example, concerned Negro leaders reported that a formerly all-white school, which would have been integrated, was closed. The children were transferred and then the school was designated as a Negro school.

Where it appears that new building, relocation or expansion plans would result in schools where most of the pupils and staff would be of one race and would, therefore, tend to maximize segregation and discourage integration, the school board should be required to justify these plans within the framework of the overall desegregation effort. HEW should determine whether these plans interfere with the prospects for effective desegregation to such an extent that the desegregation plan should be rejected.

HEW should be particularly concerned during this transition period about long-range plans for school consolidation and new building construction which appear not to be racially inclusive. Negroes in Vance County, N. C. have complained that new high school construction is not being planned to accommodate the Negro as well as the white students.

Conversely, HEW should help those districts with plans for new construction which would enhance desegregation. Pursuant to a consent decree secured in February as a result of

XV. (Cont'd.)

litigation by the NAACP Legal Defense Fund, Monroe County, Fla., effected a reorganization of its system which involves closing Negro schools and fully integrating Negro students and teachers. Since the largest formerly all-Negro school is being turned into a junior college, new construction is planned. Recently Monroe, which is an impacted area, applied for Federal funds for this purpose and was turned down because there had been no increase in the overall number of pupils. A narrow interpretation by HEW has penalized this school district in spite of its efforts to forward school integration.

XVI. Rate of Desegregation

Fall, 1967 should be considered the target date for complete desegregation. All practices currently characteristic of a dual or segregated system based on race should be eliminated by that time. HEW should state specifically what the minimum requirements are for 1966-67. We have already referred to minimum requirements for communities using freedom of choice plans. In addition HEW should announce minimum requirements for staff desegregation for 1966-67. We recommend further that the education of students out of the district, under any plan the results of which are discriminatory, should be prohibited after this year. Although the guidelines this year forbid this practice, it is apparently continuing and has slowed the desegregation process.

XVII. Appeal Process Following Rejection From Enrollment

HEW should provide for a process of direct appeal to a Federal official from a pupil whose application for enrollment at a desegregated school has been rejected. This year large numbers of children who registered to enroll in desegregated schools were rejected in some communities. According to questionnaires which were returned to us from South Carolina communities, out of 301 pupils who applied in Greenville, S.C., 143 were rejected; out of 152 in Orangeburg, 73 were rejected. 35 were rejected in Florence, S. C., and 41 in Richland District #1. In Mississippi many children were rejected for apparently very frivolous reasons. Many of these obviously unfair rejections could have been corrected had there been a procedure for immediate, on-the-spot investigation. Most freedom of choice plans have no provisions for hearings after children have been rejected or for appeals for reconsideration.

XVIII. Role of State Agencies

Inasmuch as considerable Federal funds are channeled through state education agencies, their role in effecting compliance can be central. HEW has an obligation not only to indicate what it expects of these state agencies but to suggest how they can play an affirmative role in securing genuine compliance. Our human relations colleagues in Kentucky have

XVIII. (Cont'd.)

said that there are officials in their state who would have been glad to play an affirmative role had they known what was expected. On the other hand, civil rights workers in Georgia believe that their state agency worked actively to secure only minimum compliance. Particularly in the areas of teacher desegregation, the elimination of unaccredited segregated schools and consolidation to promote integration state agencies have a role to play and HEW should be supportive to those making an honest effort.

XIX. HEW's Reponsibility re Intimidation, Reprisals and Violence

The lack of a vigorous, coordinated approach to the problem of the intimidation of and reprisals against Negroes who seek a nonsegregated education is the major weakness in HEW's implementation of Title VI. The greatest single obstacle to desegregation is fear: that children will be harmed and that their parents will lose their jobs, property, or even their lives. The Federal Government has an obligation to protect persons who seek to enjoy their constitutional rights. Yet, although HEW's Regulation specifically prohibits acts of intimidation, coercion and retaliation by recipients (i.e. school officials) and other persons against Negroes who seek their rights under Title VI, officials communicate a sense of helplessness when informed of these acts.

XIX. (Cont'd.)

An affirmative approach is urgently needed which should include:

1. An immediate announcement that acts of intimidation will not be tolerated and will be considered justification for citing school districts for noncompliance. It should also be made clear that freedom of choice will not be acceptable as a plan of desegregation in a community where intimidation and reprisals exist.

2. The development of extensive contacts with private organizations so that HEW will have reliable sources for accurate, prompt reports of acts of intimidation and reprisal.

3. Prompt involvement of the Department of Justice upon receipt of complaints so that an immediate investigation can take place and so that appropriate civil or criminal action can be instituted.

4. The use of HEW's compliance officers and/or the Community Relations Service for the kind of on-the-spot resolution of a crisis which is frequently possible when skilled persons are brought in at an early stage. Complaints, particularly those involving school officials and students, often lend themselves

XIX. (Cont'd.)

to remedial action within the framework of a conciliation effort.

The successful resolution of a crisis involving intimidation in Iuka, Mississippi, suggests the ingredients of a sound approach: close cooperation with civil rights groups, effective coordination with other Federal agencies and prompt action. Iuka is one of the communities in which we worked this summer. We discovered Negro families who had been inconvenienced by having their children educated out of the district (Iuka has no Negro schools) and who wanted to take advantage of Iuka's four-grade desegregation plan. On registration day Negro children, accompanied by their parents and our representative, were intercepted by a prominent white businessman and told to return home. Within a few hours, complaints about this act and reports of efforts by school officials to intimidate and prevent Negroes from exercising their rights were sent by telephone and wire by our national office and by local citizens to the President, to HEW officials and to the Department of Justice. They in turn involved state officials in Mississippi and the Community Relations Service. The matter was resolved in a few days. 31 Negro children were enrolled in formerly all-white schools.

XX. Compliance Machinery

The availability of large Federal funds, the exploitation of traditional fears of Federal control and the lack of commitment to integration on the part of many educators and citizens combine to produce a situation which could be manipulated to undermine a compliance program. The money is desired but efforts to establish controls which guarantee constitutional rights will be resisted in many communities. HEW is indeed challenged to be tough, skillful, imaginative and persuasive!

What is needed first is a philosophy behind the compliance program which will reflect an awareness that we will be confronted with racial discrimination in education for some time but probably in varying and more subtle and sophisticated forms.

The compliance machineryshould be a realistic implementation of that concept. It should be geared for a difficult and long haul. Permanent compliance machinery is needed staffed by persons who have background in this problem, plus the capacity to become increasingly more expert in their ability to take preventive and corrective measures.

Obviously, an extensive field operation is required. Between now and the target date of 1967 there should be teams of compliance officers based in the most strategic

XX. (Cont'd.)

areas who should be relating to all of the involved parties: school officials, community leaders, civil rights agencies, parents, children, law enforcement officials, other Federal agencies, etc.

There is a rightful concern to get voluntary compliance to Title VI but HEW should recognize that it takes staff and expertise to get good faith compliance and to change institutional patterns by persuasion. Furthermore, the Federal Government has access to more than moral suasion; it has sanctions provided under the Act. Both are needed and are closely interrelated. The potential for voluntary compliance in the long run will be enhanced if sanctions are exercised promptly against noncomplying school districts.

CONCLUSION

We are fully aware that the desegregation of a school system is sometimes a complex matter. Nowhere is this more true than where poverty and discrimination are intertwined. As a courageous Negro parent, a tenant farmer in Mississippi, has written us after sending her children to a previously all-white school and suffering all manner of reprisal as a result, "It hard for the poor to do what right!"

CONCLUSION (Cont'd.)

But the complexity of the process is not a justifiable reason for delaying the constitutional rights of Negro children or the opportunity to build a better school system for all American children. The challenge is before us to do both for the tasks are inseparable.

Experience has shown that delays at one stage may make successful integration even more difficult to achieve later. School systems and communities are not static; what may be an acceptable plan one year may be completely inadequate a year later. Federal responsibility should be, therefore, to achieve immediate maximum integration, periodically to review developments and to require those changes which will meet new situations and our expanding understanding of what nondiscrimination means.

The essential purpose of the court rulings and of Title VI as they relate to segregation in education has been to release Negro children from the bondage of segregated education. Neither administrative problems nor narrow political pressures should obscure this.

To be concerned about the Negro pupil is just one aspect of a larger concern for the future of all of America's school

CONCLUSION (Cont'd.)

children. The broader task before us now is to secure the right of every American child to the full and impartial benefits of the best school systems we can create.

Education in a democratic society centers on the individual child -- respecting him as a person and providing the conditions which will help him to develop his own uniqueness. Integration establishes the atmosphere conducive to such an education. The child is no longer blind to others because of an artificial barrier, no longer humiliated as an outcast. There is a new sense of dignity and a new feeling of freedom. What has made our difficult work so thrilling is that we have seen children blossom as the bonds of segregation have been broken.

We have worked with many during our project this past summer who share this concept of the right of every child and of the role of education in a democratic society. Among these were dedicated and hard-working Government officials in the Department of Health, Education and Welfare, in the Department of Justice, and elsewhere. We have found local educators in the Deep South who share this concern. And we have certainly had our belief in the vitality of the democratic process confirmed by those vulnerable citizens, often struggling under the twin handicaps of poverty and race, who

CONCLUSION (Cont'd.)

yet seek to secure for their children their right to the best education available. As we noted in the introduction to this memorandum, the aspiration of these parents represents both the best hope for our democratic system and perhaps the most serious threat to its future, if aspiration turns to disillusion.

We submit this full and frank report and these recommendations in the hope that aspirations may more nearly become reality in the next school year.

N. A. A. C. P. LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

10 Columbus Circle, New York, N. Y. 10019

JUDSON 6-8397

MEMORANDUM

TO: HON. JOHN W. GARDNER
Secretary
Department of Health, Education and Welfare
Washington, D. C.

December 16, 1965

FROM: NAACP Legal Defense and Educational Fund, Inc.
10 Columbus Circle
New York, New York

SUBJECT: REPORT ON THE IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 IN REGARD TO HOSPITAL DISCRIMINATION. RECOMMENDATIONS FOR 1966.

Legal Action

An end to exclusion or unequal treatment of Negro patients and physicians in the South was envisioned when the Legal Defense Fund won a decisive victory in a suit against two North Carolina hospitals, upheld by the U. S. Supreme Court last year, outlawing discrimination in any institution receiving Federal aid.

Virtually all hospitals have received funds under the Hill-Burton Hospital Construction Act, including approximately 2000 hospitals and clinics in the South.

Unfortunately, after Fund lawyers had filed more than a dozen suits challenging discrimination in hospitals, clinics and medical societies, it became apparent that unequal practices were abandoned only in the institutions or organizations that were actually sued.

We faced the disheartening prospect of filing suit against virtually every health facility in the South to gain equal treatment for Negro citizens.

The 1964 Civil Rights Act

Passage of the 1964 Civil Rights Act promised a breakthrough in the struggle against hospital discrimination. Lengthy and expensive lawsuits could be bypassed. Complaints of discrimination could be filed directly with HEW and relief for Negroes who had been unfairly treated could be obtained on a much broader scale and more rapidly than heretofore.

The implications of Title VI for the treatment of Negroes in American hospitals and medical facilities are profound.

Most American hospitals, whether owned by government or nonprofit organizations, receive financial assistance from the Federal government for: hospital construction; vocational rehabilitation; treatment of indigents; and research.

The Medicare Program will shortly increase the character and extent of Federal assistance. It has been estimated that over 2,000 medical facilities have received Federal funds in states where segregation and other forms of discrimination against Negroes is customary.

In order to implement Title VI, Civil Rights groups began filing complaints with the Department of Health, Education and Welfare shortly after implementing regulations for Title VI went into effect.

Many hospitals throughout the South refuse to admit qualified Negro physicians to the staff, which means that the

Negro physician must turn patients requiring hospitalization over to white doctors, that he is excluded from the teaching opportunities of the hospital and from any scientific exchange with white colleagues.

Despite the national shortage of nurses, many Southern hospitals exclude Negroes from nurses training courses.

By early 1965, Legal Defense Fund lawyers had prepared a procedure for receiving and filing complaints which had been referred to Fund lawyers and civil rights groups throughout the South. By early November, a total of 135 documented complaints had been transmitted to HEW by the Fund. Approximately 100 complaints had come from other sources, including the Medical Committee for Human Rights, the NAACP and the National Medical Association.

The first 12 complaints were filed with the Department February 11, 1965. The hospitals in question segregated Negro patients and staff members from white patients and staff members in rooms, wards, restrooms, waiting rooms, cafeterias and other facilities.

Some of the hospitals segregated newborn babies, others provided inferior facilities for Negroes. One hospital had refused to permit a Negro to visit a white patient in the white section of the hospital.

Following the 12 original complaints filed with the Department on February 11, 1965, the NAACP and the Legal Defense Fund filed an additional 125 complaints alleging discrimination against Negro patients, doctors, nurses and others in hospitals in every southern state. In addition to complaints filed by the NAACP

and the Legal Defense Fund it has been estimated that complaints have been received by the Department from other sources including MCHR amd tje NMA making the total of over 300.

These complaints attacked a wide variety of hospital practices and have been characterized by Assistant Secretary of HEW, James Quigley as " legitimate in that the hospitals in question were either totally or partially segregated."

To date the Department has found only about 35 of the facilities as to which complaints have beer filed in compliance with Title VI of the Civil Rights Act of 1964.

No action has been taken with respect to the remainder despite the fact that many of these facilities have been investigated and reinvestigated by the Department and have refused and and are refusing to end discrimination.

The Department has in no case sought to cut off Federal funds to these hospitals although many are in open defiance of Title VI. We understand thay four hospitals in Mississippi which refused to sign compliance forms with the Department, have not received payments because of Title VI

In short, Department policy seems to be that if a hospital or state agency disbursing Federal funds executes a piece of paper stating that it will not discriminate it is safe from a cut off of Federal funds.

This is made clear by the fact that in addition to refusing to commence proceedings to cut off Federal funds the Department has in no case taken legal action to force the hospitals to comply with their representations in the compliance form.

Unless some examples are made, Title VI violations will continue to remain widespread.

HEW has interpreted the authorization to cut off Federal funds to apply only to new requests. Hospitals against which complaints of discrimination have been lodged and verified by investigation continue to receive funds allocated prior to complaints.

The NAACP Legal Defense Fund has made extensive reports to the Department of Health, Education and Welfare, including recommendations for improving investigative and enforcement procedures. Understandably, the Department, in launching a new program on such a vast scale, had had difficulty providing qualified staff. Investigators drawn from the South often fail to observe discriminatory practices which have long represented the southern way of life. The Fund has asked that Negro investigators be employed.

The Pattern

HEW has consistently taken a narrow view of its obligations under Title VI. A number of startling examples illustrate this point.

1. One of the hospitals complained about in the February 11, 1965 series of complaints, the King's Daughter Hospital in Canton, Mississippi, not only refused to comply with Title VI, but has reduced the number of beds in the hospital so that no Negroes and whites will have to share rooms.

   Ironically, the hospital continues to receive funds from the Department to finance future expansion of its facilities and is presently con-

63-285 O-66—pt. 5—15

structing a new hospital building with Federal funds which will contain only private rooms. Federal money has, therefore, been employed by this hospital for the purpose of maintaining segregation and because all rooms will be private will not add hospital beds to those available to the community.

The Department has refused to make available to the Legal Defense Fund its reports regarding this hospital despite the fact that we represent persons who have complained about segregation of its facilities and have made repeated requests for the reports.

2. The Department has apparently adopted a construction of Title VI which permits HEW investigators to accede to the position taken by some southern hospitals that they may refuse to hire Negro nurses or may hire them and pay them less than white nurses for the same work. This is justified on the basis that Title VI excludes consideration of employment practices.

But, Negro patients are obviously denied the benefits of hospital assistance programs covered by Title VI, and subjected to discrimination, when treated by nurses chosen or paid on a racial basis.

Indeed, (when one considers the national shortage of nurses) the policy of refusing to hire nurses

because of race so clearly effects the well being of patients at Federally assisted hospitals that even a white patient should be able to object to the practice.

3. After being informed by Mr. Quigley in August 1965 that a large number of the hospitals, as to which complaints have been pending, have been investigated and reinvestigated and still refusing to comply with Title VI, we requested notice of such standards, if any, as have been formulated to determine when the sanctions of Title VI will be applied.

We also requested notice of the hospitals which have refused to negotiate or refused to comply with Title VI after negotiation; in addition to the reason each such hospital is not now in full compliance. The Department has refused to inform us of the standards formulated to determine what Title VI sanctions will be applied. It has refused to inform us of the status of hospitals as to which complaints have been pending for many months and which are not yet in compliance.

Many attempts to obtain this information have been met with no response from the Department.

4. The Department has refused to allay fears that it will permit federal funds to go to non-complying hospitals under the Medicare Program. Such a refusal would be tragic. The primary incentive for desegregation, which the Department has, is a new grant program. Few hospitals will desegregate <u>after</u> receipt of federal funds is assured.

Most hospitals continue to discriminate as if no complaint was filed. Take, for example, the Jefferson County Hospital in Pine Bluff, Arkansas. On February 11, 1965, we complained that the hospital maintains a separate

Negro unit called the northwest wing. Recently, two Negro women unsuccessfully sought to arrange to have their children delivered in the "white only" southwest wing. As recently as October 1965, a Negro woman was subjected to this very same practice and in the interim the hospital has continued to receive federal funds. When we asked why funds were not cut off, the reply was that the Title VI cut-off procedure was too cumbersome to employ.

A number of the hospitals complained against have eliminated some, but not all of the practices complained about. Yet they refuse to desegregate wards and rooms. They continue to place Negroes in Negro rooms and wards unless the patient affirmatively requests otherwise.

The Department has a long list of such hospitals but takes the view (privately) that it will be subjected to political pressure if it attempts to move against such hospitals.

We learned soon after filing complaints with the Department that despite the clear-cut intention of Congress to end all forms of discrimination in federal programs, HEW had taken no steps towards implementing Title VI. It had no staff or plan of any kind to end discrimination in hospitals until Civil Rights groups began to file large numbers of complaints.

In the following months the Department's investigative resources improved.

There are now some dedicated people at the

Washington office who are attempting to make Title VI work. However, many regional personnel are still unequipped and unwilling to enforce Title VI.

There is no specific appropriation for Title VI enforcement and the personnel who enforce it are often borrowed from other programs. A larger staff in Washington and in Regional offices, committed to civil rights problems, is necessary. These persons must be under the control of officials directly responsible for civil rights and not placed in operating agencies which do not have the confidence of Negro communities or sufficient experience or independence to enforce Civil Rights Act guarantees of equality.

OUR RECOMMENDATIONS

Based on the foregoing information plus the legal Defense Fund's general experience in this field, we offer the following recommendations to HEW. We feel that HEW should proceed along these lines, if it is going to alter the present pattern of discrimination in southern hospitals:

Medicare

1. It is critical that the Department must make a firm policy decision that no funds under the Medicare Program will be paid to hospitals which are not in compliance with Title VI.

To pay these funds to southern hospitals and then attempt to negotiate their compliance with Title VI would be to throw away a superb opportunity to end racial discrimination in southern hospitals.

A primary incentive for compliance with Title VI--funds from a new federal program will be lost if Medicare funds are paid before the Department ascertains the hospitals are in compliance.

To negotiate compliance after funds are paid would be to emasculate the effect of Title VI. In addition, the Department should be given authority to employ (or borrow from other agencies) new staff. We recommend an increase of about 25 new staff members for the compliance office at HEW in Washington and regional offices.

In addition, we recommend that approximately 50 temporary staff members be borrowed from other federal agencies. The primary responsibilities of these new staff members would be to assure that only facilities in compliance would receive federal funds under the Medicare Program. If this recommendation is adopted, we predict an end to most of the discriminatory practices of southern hospitals.

Pinpointing Responsibility

2. Civil rights compliance in the Department should be made the permanent responsibility of an Assistant Secretary and his staff. The Assistant Secretary should have the power to hire and direct new staff members. Under no circumstances, should new staff members be placed in HEW operating agencies themselves.

Cut Off and/or Litigate

3. The Department must immediately take steps to cut off federal funds from and/or commence litigation against facilities which have been investigated and reinvestigated and still are not in compliance with Title VI.

Withholding Funds

4. The authority of the Department to defer payment of any new grant until the hospital is in compliance should be firmly established.

Control State Agencies

5. The Department must insure that state agencies which disperse federal funds are enforcing the compliance agreements which they have received from individual hospitals.

Nurses

6. Negro nurses should be protected by Title VI.

7. The Department should develop techniques for investigating hospitals for discrimination before a formal complaint is filed.

COMPLAINT AND PETITION FOR A HEARING PURSUANT TO SECTION 404 OF THE SOCIAL SECURITY ACT

Mrs. Mary Kate Johnson, of Gould, Arkansas, and Mrs. Alma Jean Thomas, of Little Rock, Arkansas, through their attorney John W. Walker, Esq., on behalf of themselves and all other mothers with dependent children who are similarly situated in the State of Arkansas;

Mrs. Mayola Johnson, of Warwick, Georgia and Mrs. Grace Miller, of Newton, Georgia, through their attorney C.B. King, Esq., on behalf of themselves and all other mothers with dependent children who are similarly situated in the State of Georgia;

The NAACP Legal Defense and Educational Fund, Inc., through its Director-Counsel, Jack Greenberg, Esq., of 10 Columbus Circle, New York, New York,

Complainants,

-----Complaining Against-----

The Department of Public Welfare of the State of Arkansas

and

The Department of Family and Children's Services of the State of Georgia,

Respondents.

COMPLAINT AND PETITION FOR A
HEARING PURSUANT TO SECTION
404 OF THE SOCIAL SECURITY ACT

This is a complaint that the Aid to Families with Dependent Children Programs of the States of Arkansas and Georgia violate the Fourteenth Amendment to the United States Constitution and the requirements of Title IV of the Social Security Act in that said states deny aid to otherwise eligible families on the basis of arbitrary and irrational "substitute parent" policies and in that said states deny fundamental rights of privacy and human dignity to needy citizens as a consequence of their "substitute parent" policies. The Complainants hereby petition the Secretary of the United States Department of Health, Education, and Welfare to hold a hearing pursuant to Section 404 of the Social Security Act to determine the allegations of this complaint and to grant the other relief hereinafter specified.

PRELIMINARY STATEMENT

Under their "substitute parent" policies both Arkansas and Georgia deny AFDC to large numbers of needy families on the ground that the children have not been deprived of support from their father where the family is alleged to include a so-called "substitute father." A "substitute father" is defined in terms of a vague social or sexual relationship. Aid is

denied even though the "substitute father": (a) is not the natural or adoptive father of the children denied aid, (b) does not owe any legal duty of support whatsoever to the children denied aid, (c) has not been giving voluntary support to the children denied aid, (d) does not intend to give such support in the future, (e) has not been living continuously in the home and is not married to the mother. Yet the "substitute parent" policies define such men as "parents" and sources of "parental support" for hundreds, perhaps thousands, of needy children. The consequence is lack of food, lack of clothes, lack of adequate shelter, ill-health, and perhaps worse for children who are in desperate need of state aid because they are, in fact, without parental support.

Complainants are not unmindful that similar policies exist in several other states and that such policies have been tolerated by the federal government for the past decade. The widespread nature of the policies is one of the factors which, in our opinion, compel a hearing and review of their destructive effects. The "substitute parent" policies are particularly anomalous in a time when our nation is dedicated to a war against poverty, hunger and disease.

This complaint briefly sets forth, in the order here listed:

I. The "substitute parent" policies of Arkansas and Georgia as stated in the relevant policy manuals;

II. The purposes of Title IV and the AFDC programs of Arkansas and Georgia;

III. The principal allegations of non-conformity and violation of the Constitution;

IV. An explanation of the basis for each of the principal allegations;

V. A short description of the cases of the individual Complainants;

VI. The bases for the hearing and other relief requested.

This is not a brief and does not purport to adduce the evidence and legal argument we hope to present at the hearing. We have included a short explanation of the bases of the allegations, however, in order to clarify the grounds which fully warrant and, indeed, require a decision by the Secretary to hold the hearing and grant the other relief requested.

The interest of the individual Complainants arises from their having been either denied welfare payments or threatened with such denial under the "substitute parent" policy. The Complainant NAACP Legal Defense and Educational Fund, Inc. has an interest in that Complainant is a New York corporation organized for the purpose, among others, of securing equality before the law, without regard to race, for all citizens. For many years, we have been the principal organization regularly supplying legal services to Negro citizens who claim that they have been denied equal protection of the laws, due process of law and other rights secured by the Constitution and laws of the United States. Although the Arkansas and Georgia policies

complained of herein apply to both white and Negro welfare recipients, it has been Negro citizens, as the cases of the individual Complainants illustrate, who have been most severely affected by these policies.

I. THE "SUBSTITUTE PARENT" POLICIES OF GEORGIA AND ARKANSAS

GEORGIA

The "substitute parent" policy of the State of Georgia is set forth in Part III, Section V of the Georgia Manual of Public Welfare Administration, dealing with the eligibility conditions for the AFDC program. Section V(3) states the eligibility criteria for needy children "deprived of parental support or care by reason of death, continued absence from the home or physicial or mental incapacity of a parent." Subdivision (5) of Section V(3) disqualifies needy dependent children found to have a "substitute father." The subdivision states:

> "(5) Substitute Father: A man living in common-law relationship with a woman is considered a substitute father of any child had by that woman, or any child that woman has had by another man. Further, a man living in common-law relationship with a woman is responsible for the support and care of his and her children, regardless of whether or not he is married to another woman. Regulations place the same responsibility on this man as if he were the legal husband. The rules for establishing deprivation are the same as those used in establishing it in a legal-father situation.
>
> A common-law relationship is considered to exist when a man, married or single, lives in the home with the A/R for the purpose of cohabitation or, if not living in the home regularly, he visits frequently for the purpose of living with or cohabiting with the applicant.

Pregnancy or a newborn baby is prima facie evidence of a substitute father. Only in situations where strong, convincing evidence is submitted, proving that the substitute father is no longer in the home and has discontinued his relationship will the factor of deprivation be established. Such evidence would include proof that the man has moved to a distant place, or has been admitted to a public institution. The burden of proof rests on the mother. Testimony of the applicant must be corroborated by law-enforcement officials, friends, neighbors, ministers, grocerymen and similar sources. All evidence in cases involving substitute fathers is submitted to the County Board for determination of whether or not there is a substitute father and whether or not a common-law relationship exists.

ARKANSAS

The "substitute parent" policy of the State of Arkansas is set forth in Sections 2800, 2801, and 2813 of the Arkansas Manual of Public Assistance dealing with eligibility conditions for the AFDC program. These provisions state the eligibility criteria for needy dependent children "deprived of parental support" by reason of the "continued absence from the home of a parent" and set forth the definitions employed by the Arkansas Department of Public Welfare of a "parent." Section 2813 contains the "substitute parent" definition and policy. The relevant portion of the section states:

"2813 General Principles Concerning Deprivation Due to Continued Absence from Home of the Parent

. . .

"When a parent has remarried and a stepparent moves into the home, or when a parent maintains a stable nonlegal union, 'continued absence of a parent from the home' can no longer be considered as reason for deprivation of parental support or care. A stable

nonlegal union is presumed, even though a father is not living continuously in the home, where the mother affords the privileges of a husband to a man and there is a continuing relationship. [Emphasis as in original.]

"Evidence of such a relationship may be:

"1. Frequent visits by the man to the home of the mother of the children.

"2. Frequent appearances of the man and mother in public as a couple.

"3. Repeated pregnancy by the same man.

"4. Joint charge or bank accounts or privilege of mother to charge to man's account, joint purchases.

"5. Substantial gifts to the family by the man.

"6. Address of the family given as man's residence to third person, on driver's license, or with license authorities.

"7. Purchases on installment made by man if he has delivery made to the mother's address or any arrangement made with the man's creditor to have his bills for any unpaid balance on his purchases sent to him at mother's address.

"8. Delivery of man's mail to mother's address.

"9. Declaration of children and/or mother as the dependents of the man on W-4, etc.

"The discovery of one of the above facts may not be in itself sufficient evidence of the existence of a stable nonlegal union, but all possible evidence should be discovered and the decision that a union exists or does not exist should be made from the evidence presented. . . . ." [Emphasis as in original.]

The Arkansas Manual places the burden of proving that a "substitute father" does not exist upon the applicant for aid (the mother).

II. THE PURPOSES OF TITLE IV AND THE AFDC PROGRAMS OF ARKANSAS AND GEORGIA

The purpose of Title IV, as stated in Section 401, is to encourage the care of dependent children in their own homes by enabling each state "to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in each state, to needy dependent children and the parents and relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection...." [Our emphasis.]

This same purpose is expressly stated in both the Arkansas and Georgia ADC(AFDC) programs. Thus the Arkansas statute states (§83-127.1, Ark. Stat. Ann.)

> "Purpose of aid to dependent children.--It is the purpose of this act [§§83-127.1--83-127.5] that all aid paid to Aid to Dependent Children's Grants shall be for the purpose of allowing the children of the State of Arkansas to grow up in a setting of their own family relations, to have the economic support and services that they need for health and development; to receive an education that will help them realize their capacity; and to allow them to share in the life of the neighborhood and community. [Acts 1957, No. 251, §1, p. 781.]

The Georgia Manual of Public Welfare Administration states the same purpose even more poignantly (Pt. III, Sec. V).

"A. PURPOSE"

"Aid to Families with Dependent Children provides services and money for dependent children who are in need because support from the usual source, the parents, is not available.... The program is established to give every child an opportunity to grow and develop in his own home and surroundings among and with the persons who love him, provide for his security, and plan for his future good ...." [Our emphasis; see also Arkansas Manual of Public Assistance, §2800.]

III. THE PRINCIPAL ALLEGATIONS OF NON-CONFORMITY AND VIOLATION OF THE CONSTITUTION

The "substitute parent" policies of the States of Arkansas and Georgia violate the provisions of Title IV of the Social Security Act (hereinafter referred to as "Title IV") in substantially the same manner and raise the same issues for the Secretary's determination. Complainants allege:

A. The "substitute parent" policies of Arkansas and Georgia arbitrarily deny AFDC to families and children whom the provisions of Title IV were intended to protect, and thereby violate the requirements of Title IV and the equal protection and due process clauses of the Fourteenth Amendment to the United States Constitution.

B. Arkansas and Georgia have subverted the "Flemming ruling" on allegedly "unsuitable homes" by denying aid to needy children on the basis of their mother's social relationship to men.

C. The "substitute parent" policies of Arkansas and Georgia force needy mothers whose husbands are dead or

have deserted to either abandon their right to privacy and dignity in social relations or to maintain social relations with male friends in a secret and socially destructive manner. The "substitute parent" policies thereby frustrate the purposes of Title IV and impose unconstitutional conditions upon the receipt of public aid in violation of the due process clause of the Fourteenth Amendment.

The individual Complainants also allege that the "substitute parent" policies have deprived them and their children of aid which they need and to which they are entitled.

IV. EXPLANATION OF THE ALLEGATIONS.

A. THE "SUBSTITUTE PARENT" POLICIES OF ARKANSAS AND GEORGIA ARBITRARILY DENY AFDC TO FAMILIES AND CHILDREN WHOM THE PROVISIONS OF TITLE IV WERE INTENDED TO PROTECT, AND THEREBY VIOLATE THE REQUIREMENTS OF TITLE IV AND THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

Neither the Social Security Act nor the Constitution require Arkansas and Georgia to provide AFDC programs. Wisely, however, both states have undertaken such programs. With equal wisdom and propriety under law, the Department of Health, Education, and Welfare (HEW) has long held that eligibility conditions imposed by a state on its AFDC programs may not exclude persons on an arbitrary and irrational basis. As stated by General Counsel Wilcox:

> ". . .[T]hroughout the history of the Social Security Act the position of the administering Federal agencies (the Social Security Board and its successors) has been that, if a State chooses to utilize criteria of eligibility narrower than those permitted by the Federal statute, the State plan is approvable only if the classification effecting such limitation is a rational one in the light of the purposes of public assistance programs." (Alanson W. Wilcox, General Counsel, HEW, Memorandum Concerning Authority of the Secretary Under Title IV to Disapprove Michigan House Bill #145, March 25, 1963.)

It is elementary that the equal protection clause of the Fourteenth Amendment to the United States Constitution demands a similar justification of classifications in state programs of financial assistance. Where a state chooses to grant assistance to some needy citizens and not to others, there must be a reasonable and not arbitrary basis for distinguishing each class of citizens. Further, there must be reasonable and not arbitrary standards for determining which individual falls within each class. Brown v. Board of Education, 347 U.S. 483 (1954). Thus the Court said, in Gulf, Colorado, and Santa Fe Ry v. Ellis, 165 U.S. 150, 155, 159 (1896):

> "...The attempted classification...must always rest upon some difference which bears a reasonable and just relation to the act in respect to which the classification is proposed, and can never be made arbitrarily and without any such basis.
>
> . . . .
>
> "But arbitrary selection can never be justified by calling it classification. The equal protection demanded by the 14th Amendment forbids this. No language is more worthy of frequent and thoughtful consideration, than Mr. Justice Matthews speaking

> for this court in Yick Wo v. Hopkins, 118 U.S. 356, 369: 'When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.'

The "substitute parent" policies of Arkansas and Georgia create precisely the kind of arbitrary limitations on eligibility, unrelated to the purposes of the AFDC programs, which are condemned both by the requirements of Title IV and by the equal protection clause of the Fourteenth Amendment. Title IV and the Arkansas ADC statute and the Georgia AFDC statute all state that the purpose of the AFDC program is to give financial and other aid to needy dependent children and their families and that the "needy dependent children" for whom support is intended are those "deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent." (Our emphasis, S.S.A. §§ 401, 406; Ark. Stat. Ann. §§ 83-127, 83-127.1; Ga. Code Ann. §§ 99-902) Yet, despite the clearly stated purposes of all three acts and their common definitions of dependent children, the Georgia and Arkansas regulations direct that aid shall not be given to a class of needy dependent children who are deprived of parental support and care by reason of the death or desertion from the home of their male parents. A class of families otherwise eligible is excluded from the program not by a rational policy stated in terms of the program's purposes, but by means of a mere semantical gimmick: the redefinition of the word "parent."

In the place of the natural or adoptive parent, who has the duty to provide support, the regulations of both states introduce a new type of parent -- the "substitute parent." The unique feature of the "substitute parent" as defined in the Georgia and Arkansas policies is that he does not have any legally imposed or voluntarily assumed duties and responsibilities to the children whatsoever. He is not required under law to supply support;[1] the regulations call for no

---

[1] "The doctrine of so-called common-law marriages has never obtained or become a part of the laws of [Arkansas]." Furth v. Furth, 133 S.W. 1037, at 1038 (Sup. Ct. Ark., 1911). See also Smith v. Smith, 237 S.W.2d 84, at 89 (Sup. Ct. Mo., 1951) discussing Arkansas law. Arkansas law imposes no duty of support of children upon men who are not natural or adoptive fathers. Even stepfather status arising from a legal marriage between a man and woman with children borne of another man does not necessarily place the stepfather in loco parentis to the stepchildren. Miller v. United States, 123 F.2d 715, at 717 (8th Cir., 1941); Dodd v. United States, 76 F.Supp. 991, at 995 (D.W.D. Ark., 1948).

Although Georgia recognizes common-law marriages (Ga. Code §53-102; Drawdy v. Hesters, 60 S.E. 450, at 454 (Sup. Ct. Ga., 1908), a stepfather, whether by common-law or civil marriage, "is not under an obligation to support the children of his wife by a former marriage [or, implicitly, by another unrelated man, unless] ...he takes the children into his family or under his care in such a way that he places himself in loco parentis...." Wood v. Wood, 166 Ga. 519 (Sup. Ct. Ga., 1928). Under a more recent statement of Georgia law, the stepfather assumes the rights of the parental relationship by voluntarily "furnish[ing] support and education to the children...." Lee v. Green, 126 S.E.2d 417, at 418 (Sup. Ct. Ga., 1962). Without such a contribution on his part, he has no such parental rights; an unrelated man clearly has no parental rights or duties. Moreover, the "common-law relationship" of the manual of public welfare differs from the legally recognized "common-law marraige" in fundamental respects. A single man who would qualify as a "substitute father" by visiting frequently for the purpose of...co-habiting with the applicant" would not be qualified on that basis as a common-law husband because such a marriage requires living together as well as sexual relations. Drawdy v. Hesters, supra. A previously married man who would qualify as "substitute father" could not in any case have entered with a common-law marriage with the applicant because he lacks the requisite ability to contract. Ga. Code Ann. §53-101; Kicklighter v. Kicklighter, 121 S.E.2d 122, at 125 (Sup. Ct. Ga., 1961).

evidence to show that he has voluntarily assumed support to the children. He does not have custody over the children. He does not have any responsibility for the welfare, guardianship or education of the children. He may not be living in the home. He may not even have any interest in the children. Nevertheless, he is defined as a "parent" and the children are declared (under the policies complained of) to be ineligible for AFDC aid on the ground that they are not "deprived of parental support."

The semantical gimmick through which thousands of needy children are denied eligibility to AFDC is accomplished by redefining the word "parent" in a manner inconsistent with its common and ordinary meaning, its general legal usage in the United States and in the States of Arkansas and Georgia, and in a manner inconsistent with the meaning of "parent" as used in Title IV. [Cf., e.g., Macon v. Porter, 22 S.E.2d 818 (Sup. Ct., Ga., 1942); Miller v. United States, 123 F.2d 715, 717 (8th Cir. 1941); Hennings v. United States, 93 F.Supp. 380, 382, 383 (D. Mass., 1950); also compare Federal Handbook of Public Assistance Pt. IV., S-§3412(4) which makes the critical distinction between men with a legal obligation to give support to the children and those who have none even though legally married to the mother.] By creating a new meaning for the word "parent" and including thereunder persons with no responsibility for upbringing of the children and no duty of support, the purpose of the AFDC program is thereby totally defeated for large numbers of needy children. Such a patent

gimmick cannot be allowed to frustrate the clearly stated purpose of Title IV.

General Counsel Wilcox, in his memorandum dealing with the attempt of Michigan House Bill #145 to redefine the term "unemployed parent" so as arbitrarily to exclude thousands of needy children from the AFDC program of that state, noted that the word " 'definition' is defined by Webster, basically, as the 'act of process of explaining the meaning or meanings of a word, term or designation....' The Michigan 'definition' in question [which excluded unemployed parents who had worked in agriculture, domestic work, and certain small enterprises] is designed not to explain, but to create a meaning." The General Counsel warned that if Michigan were permitted to "avoid the Federal requirement of rational eligibility conditions" simply by creating new meanings for basic terms, "ingenious State draftsmen" would be able to circumvent other requirements of Title IV by the same device (Memorandum, supra, pp. 3-4).

However, "ingenious State draftsmen" in Arkansas and Georgia have "avoided the Federal requirement of rational eligibility conditions" for the past decade simply by creating an irrational meaning for the word "parent." Moreover, the "substitute parent" policy offends Title IV and equal protection and due process not only by arbitrarily creating a classification of ineligibles without regard to the purposes of the AFDC program. Equally offensive, the standards for determining which family falls

within the special class of ineligibles are vague and whimsical. The guidelines to the policies do not merely "leave room for the play and action of purely personal and arbitrary power " (Yick Ho. v. Hopkins, supra). The "guidelines" and "policies" encourage purely personal and whimsical decisions.

It is virtually impossible to determine objectively just to whom the "substitute parent" concept actually refers. Thus in Arkansas (a state which does not recognize common-law marriages), the "substitute father" is an unrelated male, not necessarily living in the home, with whom the mother of the needy children has a "stable non-legal union" which is "presumed" whenever the mother affords the "privileges of a husband" in a "continuing relationship." (§2813, Arkansas Manual.) In Georgia the "substitute father" is an unrelated male who engages in a "common-law relationship" with the mother of the needy children -- a relationship which lacks the elements of a common-law marriage recognized in Georgia.[2] The relationship is "considered to exist" where the male "visits frequently" for the purpose of "living with" or "cohabiting with the applicant." While the terms "privileges of a husband" and "cohabiting with" are also unclear, in this context they seem

---

2 Ibid

to refer to sexual intercourse. Any further effort at definition is, at best, highly tenuous. [3]

It takes but little reflection to understand that the "substitute parent" classification might include just about any needy mother whose husband is dead or has deserted, and who is beginning to enter a social relationship with a man. In fact, the "substitute parent" classification, when coupled with the mother's "burden of proof" that there is no "substitute parent," has been held to include mothers who do not even have a social relationship to the alleged "father." To illustrate, we quote a description of a case contained in an HEW Report of Administrative Review Findings of the Application Process, Fiscal Year 1957 for Georgia, p. 66. (Quoted in BELL, AID TO DEPENDENT CHILDREN, p. 90 (1965).

> "An application was rejected for the third time in three months because the mother 'had not proved there is no substitute father.' Proof of the death of the father of two children had been secured. The mother brought a receipt showing that she had filed a warrant against the father of the other child. A medical statement showed that she was not able to work. According to the record, a man whom she said was a roomer lived in the home and paid $4 a week room rent. Prior to the last rejection, the mother stated that this former roomer had moved. No efforts were made to secure proof that he was actually gone or to tell the applicant how she could prove this in order to clear her eligibility. Several letters from the mother indicated that the family was in serious need, and that a very sick child required hospitalization. No response was recorded."

---

[3] Black's Law Dictionary (4th ed.) lists two meanings for "cohabitation": (1) "Dwelling together." (2) "Intercourse together as husband and wife." Dwelling together is not a necessary element in either Georgia or Arkansas policies. Apparently, "intercourse together" is the primary meaning of the relationship to which the policies refer.

Complainants contend that the case described above is not atypical. On the contrary, applications are rejected and accepted cases are terminated on equally flimsy bases as a matter of course under "substitute parent" policies. Complainants are ready to demonstrate this allegation at the hearing requested on the basis of respondents' own records.

Whimsical and purely arbitrary denials are inevitable under the "substitute parent" policies, despite any contention that respondents might advance that they are not the intended results of the policies. Under a policy (Arkansas) which sets as evidentiary guidelines "frequent visits by the man to the home" or "frequent appearances of the man and mother in public as a couple" and then requires the mother to disprove that she is offering the "privileges of a husband" to the man involved, it is inevitable that gossip of neighbors or nasty suspicions of caseworkers will determine fundamental rights. Under a policy (Georgia) where a family is ineligible for aid if a man "visits frequently for the purpose" of sexual intercourse, once again gossip and mere suspicion will inevitably rule -- particularly in light of the burden placed on the mother to disprove the gossip and suspicion.

The United States Supreme Court has, again and again, emphasized:

> "Despite the broad range of the state's discretion, it has a limit which must be maintained if the constitutional safeguard is not to be overthrown. Discriminations are not to be supported by mere fanciful conjecture [case citation]. They cannot stand as reasonable if they offend the plain standards of common sense." (Hartford Steam Boiler Inspection Co. v. Harrison, 301 U.S. 459 (1937).

It is time that the invidious discriminations, the irrational classification and labeling, and the fanciful conjectures leading to untold hardships for needy children are ended.

B. ARKANSAS AND GEORGIA HAVE SUBVERTED THE FLEMMING RULING ON ALLEGEDLY "UNSUITABLE HOMES" BY DENYING AID TO NEEDY CHILDREN ON THE BASIS OF THEIR MOTHER'S SOCIAL RELATIONSHIP TO MEN.

The Department of Health, Education, and Welfare is familiar with the nature and history of the so-called "suitable home" policies promulgated by nine or more states between 1950 and 1960. The alleged purpose of the various policies was to deny aid to needy children where improper or immoral conditions existed in the home -- said conditions usually relating to the mother's sexual relations with men or to the birth of an illegitimate child. As a consequence of a statute enacted by the State of Louisiana which declared ineligible those recipients who had given birth to an illegitimate child after receiving a welfare check, a hearing was held to determine whether the Louisiana plan conformed to federal requirements. On January 16, 1961, the Commissioner of Social Security upheld a modified version of the Louisiana plan, but commented:[4]

---

[4] Decision of the Commissioner in the Matter of the Conformity of the Louisiana Plan for Aid to Dependent Children Under Title IV of the Social Security Act (HEW, SSA, 1961) p. 7.

> "I arrive at this decision with reluctance. There is reason to suspect that Louisiana Act 251 was concerned more with controlling illegitimacy and disciplining parents than it was with assuring that children receiving public aid should be raised in suitable homes and wholesome surroundings. In any case, there is little doubt that the effect of the law and perhaps overzealous interpretation and implementationoof it brought immeasurable and unnecessary privation and suffering upon thousands of children who were completely innocent of any wrong-doing and whose condition could not possibly be improved by the denial of aid to dependent children payments...."

On the next day, January 17, 1961, Secretary Flemming issued a new federal policy to which conformity from the states was required.[5] The policy stated:

> "A state Plan for aid to dependent children may not impose an eligibility condition that would deny assistance with respect to a needy child on the basis that the home conditions in which the child lives are unsuitable, while the child continues to reside in the home. Assistance will therefore be continued during the time efforts are being made either to improve the home conditions or to make arrangements for the child elsewhere.
>
> "It is of great importance that state agencies should be concerned about the effects on children of the environment in which they are living and that services be provided which will be directed toward affording the children maximum protection and strengthening family life. Whenever there is a question of the suitability of the home for the child's upbringing, steps should be taken to correct the situation or, in the alternative, to arrange for other appropriate care of the child. It is completely inconsistent, however, to declare a home unsuitable for a child to receive assistance and at the same time permit him to remain in the same home exposed to the same environment."

Complainants allege and are prepared to demonstrate at the hearing here requested that the "substitute parent" policy of

---

[5]HEW, SSA, BPA, State Letter No. 452, January 17, 1962, pp. 1-2.

Arkansas and Georgia is simply an alternative device to accomplish the now prohibited purposes of the "unsuitable home" policies: punishment of unmarried mothers for sexual activities and deprivation of aid to innocent children because of the mother's activities, with no alternative source of aid granted whatsoever. Cf. BELL, AID TO DEPENDENT CHILDREN, pp. 76-92, 184-186 (Columbia University Press, 1965).

Complainants will demonstrate that, commencing with their inception, the "substitute parent" policies of Georgia and Arkansas have been used in a virtually interchangeable manner, although since the Flemming Ruling the use of "unsuitable home" policies has declined in favor of "substitute parent" policies.

Complainants will demonstrate at the hearing here requested and in their briefs that the "substitute parent" policies are even more discriminatory, punitive, and irrelevant to the purposes of AFDC than were the types of "unsuitable home" policies affected by the Flemming Ruling. While the now prohibited versions of the "unsuitable home" policies deprived needy children of aid because of improper conditions in their homes inferred from the birth of an illegitimate child or the mother's sexual relations with a man, the "substitute parent" policies do not even require an inference of

improper home conditions. The birth of an illegitimate child[6] or the mother's continuing sexual relations with a man (no matter how privately conducted) are alone the basis for a determination of ineligibility.

Finally, Complainants will demonstrate, through an examination of respondents' own records and supplementary sources, that the "substitute parent" policies of Georgia and Arkansas have been applied primarily to the disqualification of needy Negro children and have been a means whereby racial discrimination is effected in the administration of welfare assistance.

C. THE "SUBSTITUTE PARENT" POLICIES OF ARKANSAS AND GEORGIA FORCE NEEDY MOTHERS WHOSE HUSBANDS ARE DEAD OR HAVE DESERTED TO EITHER ABANDON THEIR RIGHT TO PRIVACY AND DIGNITY IN SOCIAL RELATIONS OR TO MAINTAIN SOCIAL RELATIONSHIPS IN A SECRET AND SOCIALLY DESTRUCTIVE MANNER. THE "SUBSTITUTE PARENT" POLICIES THEREBY FRUSTRATE THE PURPOSES OF TITLE IV AND IMPOSE UNCONSTITUTIONAL CONDITIONS UPON THE RECEIPT OF PUBLIC AID.

As an anticipated consequence of public assistance programs, welfare clients are required to waive much of the privacy which most citizens take for granted. Welfare clients are required to report every resource, gift and item of income which affects their need for public assistance. They are

---

[6] E.g., The Georgia "substitute parent" policy states in part:

> "Pregnancy or a newborn baby is prima facie evidence of a substitute father. Only in situations where strong, convincing evidence is submitted, proving that the substitute father is no longer in the home and has discontinued his relationship will the factor of deprivation be established.... The burden of proof rests on the mother....

required to report changes in their family composition. They are often required to disclose any relevant information concerning the whereabouts of relatives with legal support duties. Emotional and physical problems of the children must be discussed with the caseworker when the caseworker insists. The homes of welfare clients are subject to inspection at reasonable times. Welfare clients may be required to share information about themselves not only with the local welfare agency, but with private social agencies to which the welfare department refers them.[7] Any aspect of their lives which the welfare agency may assert a legitimate interest in is subject to investigation and the ever-present demand for "cooperation."

Yet there are limits to the demands that can be made upon welfare clients to abandon or restrict the rights of privacy and free association enjoyed by other citizens. Where such demands do not advance the purposes of the AFDC program but interfere with and frustrate the achievements of the program's purposes, such demands are clearly improper. Where such demands go so far as to transgress the constitutionally protected area of privacy and association, they are just as clearly improper. In either of these situations, where cooperation

---

[7] See, e.g., Pt. III, Section XI(5)(3), Georgia Manual of Public Welfare: "It must be made entirely clear to the client that certain information must be shared with the referral agency...."

with such demands is a condition of continuing eligibility in a state public assistance program, the state has imposed an arbitrary and capricious eligibility condition unrelated to the purposes of the program. Under the long-established policy cited earlier in this complaint (supra, pp. 9-10) it is the duty of the Secretary to disapprove such eligibility conditions.

The "substitute parent" policies interfere with the rights to privacy and free association of welfare clients in a manner which frustrates both the purposes of the AFDC program and the protections of the Fourteenth Amendment. When a needy mother whose husband is dead, divorced, or has deserted wishes to develop a friendship with an unrelated man, she must consider the following:

1. If the man "visits" her home "frequently" (Arkansas and Georgia) or makes "appearances" with her "in public as a couple" (Arkansas), the welfare department may infer that she is engaging in a relationship involving sexual intercourse on a continuing basis (i.e., affording the man the "privileges of a husband" or "cohabiting" -- copulating) -- with the man, and therefore is ineligible for AFDC aid.

2. If the mother tries to conceal his visits and their social relationship, the inference that she is engaging in such a relationship becomes even stronger.

3. In addition, if she tries to conceal his visits and their social relationship, she will be accused of "withholding" relevant information concerning eligibility. It is her duty to "promptly report ...facts relating to a clear determination of eligibility," so as to avoid "suspected ineligibility" and the "penalities involved for failing to report or misstating facts." [E.g., Pt. III, Sec. XII(5)(3) Georgia Manual.]

63-285 O-66-pt. 5-17

4. On the other hand, if she reports his visits and their "appearances in public together as a couple" she must convince the welfare department that they are not engaging in a relationship of sexual intercourse.

5. To convince the department of this, and also that she is not "withholding" relevant information, she must report just about everything concerning their relationship. If she does not, she may receive a notice, as Complainant Mary Kate Johnson received, that she "continue[s] to withhold information regarding the car that stops at your house and that you are seen in constantly." [See p. 29, infra.]

6. But, then again, if she does report all the details of her personal relationship, and urges the man to also report to the welfare department about their relationship, and seeks to have "friends, neighbors, ministers, grocerymen and similar sources" [Pt. III, Sec. V(3)(5), Georgia Manual] corroborate that she is truthfully reporting the details of their relationship, it may be reasonably assumed that the man will begin to lose interest in their friendship.

The needy mother without a husband is then caught in an impossible dilemma. She may try to conduct a secret relationship, endanger her grant, and live as if she were a criminal; or she may abandon her effort to develop male friendships altogether; or she may strip herself and her male friend of every last vestige of dignity by reporting constantly on the intimacies of her friendship -- and still run the risk that the man, who is not supporting her, will nevertheless be adjudged a "substitute father," or that he will abandon the friendship, or both. As distinguished from most of her fellow citizens, the AFDC mother in Georgia, Arkansas, and other states where the pernicious "substitute father" policy prevails, has already commenced to live in Orwell's 1984.

The AFDC program is designed not only to provide financial assistance to needy families, but to promote the rehabilitation, self-respect, and self-support of the families -- mothers and children. It cannot be seriously disputed, in the light of modern social knowledge, that widowed, divorced, or deserted mothers who are required against their will to abandon social relationships with men, will suffer in their self-esteem, their hope for life, and their concern for improving their families' circumstances. Nevertheless, the "substitute father" policy forces such mothers to abandon male social relations or, far worse, degrade themselves and their friends by continually reporting the most personal and intimate details of their friendship.

Such indignities are not only inconsistent with the purposes of the AFDC program, they flout the Constitution. The right of citizens to associate freely with one another has been repeatedly upheld by the United States Supreme Court. NAACP v. Alabama, 357 U.S. 449 (1958). And the "right to be let alone" from undue and purposeless interference by the state has been the subject of increasing judicial recognition and protection. It was Justice Brandeis who early reminded us that (Olmstead v. United States, 277 U.S. 438, 478, dissenting opinion):

> "...The makers of our Constitution...sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to

> be let alone -- the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment...."

And Justice Harlan added (Poe v. Ullman, 367 U.S. 520, 522 (dissenting opinion)):

> "This 'liberty' is not a series of isolated points pricked out in terms of the taking of property; the freedom of speech, press and religion; the right to keep and bear arms; the freedom from unreasonable searches and seizures; and so on. It is a rational continuum which, broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints...."

The "right to be let alone" from "unjustifiable intrusions" and the "freedom from all substantial arbitrary impositions and purposeless restraints" were emphatically recognized by the Court in Griswold v. Connecticut, 38 U.S. 479. There the Court held invalid a Connecticut statute because it interfered with "the zone of privacy" enjoyed by all Americans and "created by several fundamental constitutional guarantees." While the particular invasion of privacy in that case differed from the one in this case, the fundamental concern was the same: to help guarantee that American Citizens retain, United States v. On Lee, 193 F.2d 306, 316 (2nd Cir., 1951) (Frank, J., dissenting):

> "...a sizable hunk of liberty, worth protecting against encroachment. A sane, decent, civilized society must provide some oasis, some shelter from public scrutiny, some insulated enclosure, some enclave, some inviolate place which is a man's castle."

The pernicious evil of the "substitute father" regulations is that they leave no enclave, no insulated enclosure, no

inviolate place which is a welfare client's castle. On the contrary, they deprive the welfare client of any "zone of privacy" whatsoever. The activities in her bedroom, the cars in front of her house, the intimate details of her friendships, all become matters about which she must keep the local welfare department informed, for reasons unrelated to the purposes of the public assistance programs.[8]

It may be asserted that the intrusions into privacy here discussed, unlike the more familiar issues of privacy such as illegal searches, etc., do not involve physical intrusions into the clients' homes by caseworkers or police officers. But the violations here complained are worse than such intrusions. They dispense with the need for searches by requiring the client herself to report on the activities in her bedroom and the details of her friendships. Under the policies here complained of, the client herself is forced to become the agent of her own humiliation, the instrument which denudes her own privacy. Cf. KOESTLER, DARKNESS AT NOON.

---

[8]Whether or not the state, through its general statutes, may regulate sexual relationships between consenting adults is not the issue here. Assuming that it may, the issues here are whether (a) it can condition welfare eligibility on the mere fact of such relations; (b) the rationality of the methods and standards by which such behavior is inferred and made the subject of required reports; and (c) whether such methods violate the clients' rights to privacy and association and frustrate the purposes of the Social Security Act. Note also, however, the question raised by the draftsmen of the American Law Institute about even general regulation of private sexual behavior between consenting adults: "Further, there is the fundamental question of the protection to which every individual is entitled against state interference in his personal affairs when he is not hurting others." American Law Institute Model Penal Code, pp. 279 (1955), Tentative Draft No. 4 (see also Proposed Official Draft, 1962, Section 213.2).

The State may not condition public benefits upon the abandonment of constitutional rights. See Sherbert v. Verner, 374 U.S. 398, 404-406 (1963) and citations contained therein. Charles Reich, in connection with another method of some welfare departments which violates the rights to privacy of clients, has commented:[9]

> "It is most unfortunate that the Social Security Act should have become a means, however indirect, for depriving some persons of the privacy guaranteed by the Fourth Amendment. The chief object of the amendment was to protect the home and, thereby, the integrity of every individual. The object of the Social Security Act was also to protect the home, and to protect independence and self-respect. It undoes the most fundamental purpose of the Act if it is enforced by methods that violate the sanctity of the home and degrade and humiliate recipients. To insist that welfare officials obey the Fourth Amendment is no more than to insist that the high aim of the Social Security Act not be forgotten in the day-to-day difficulties of carrying it out; and to make certain that the Act remains what it was, above all, intended to be -- a guardian and insurer of the dignity of man."

We urge that the hearing here requested be held if for no other reason than to examine the fundamental issues of privacy and self-respect as affected by the "substitute parent" policies.

---

[9]Reich, Midnight Raids and the Social Security Act, 72 Yale 1347, 1360 (1963).

V. THE ARBITRARY DENIAL OF NEEDED AID TO THE CHILDREN OF THE INDIVIDUAL COMPLAINANTS.

Mrs. Mary Kate Johnson, Gould, Arkansas

Until November 15, 1965, Mrs. Johnson received AFDC assistance for herself and her three fatherless children. On that date, Mrs. Johnson received a notice from the county welfare director stating:

> "Your case is being closed on a stable non-legal union [sic] as you have withheld information about your last baby born in August and you continue to withhold information regarding the car that stops at your house and that you are seen in constantly."

Mrs. Johnson explained to the local welfare director that she was not asking for aid for the baby (Russell Wayne) born in August as the baby's father, one Mr. Smith,[10] was supporting the baby and intended to continue supporting the baby. She stated that the welfare investigator had been aware of the baby's impending birth, that she withheld no information and that the car she had been seen in belongs to Mr. Smith. She stated that Mr. Smith, who is separated from and supporting his family, as well as Russell Wayne, could not possibly support Mrs. Johnson's other children. She stated that Mr. Smith does not live in the home, though she continues to see him socially. Mr. Smith visited the county welfare director, stated that he intends to continue supporting

---

[10] Smith is a fictitious name. Mrs. Johnson has given full information on his identity to the department and, as noted in the text, Mr. Smith has also volunteered information to the department.

Russell Wayne (for whom he is legally liable) but that he does not intend to support the other children of Mrs. Johnson (for whom he is not legally liable). The local welfare director refused to restore aid to Mrs. Johnson's three needy and fatherless children. Her initial appeal to the state welfare commissioner was answered by a letter which stated:

> "If you are maintaining a continuing relationship with the father of your baby and are affording him the privileges of a husband, you are not eligible for Welfare Assistance. Under these circumstances, the man is expected to support you and your children."

While a hearing is still pending, it appears that, whatever the hearing committee decides to do in her case, the language of Section 2813 applies to Mrs. Johnson's case and can be used to justify her continued rejection or a new rejection in the future. In the meantime, Mrs. Johnson and her three unsupported children survive only by dint of temporary money payments received from the WE&TP program where need and not "substitute parent" theories is the governing criterion. Indeed, they are but barely surviving, as the local welfare department has refused to raise the WE&TP grant to the amount actually needed in light of the AFDC termination (and has thus violated the regulations governing the WE&TP program).

Mrs. Alma Jean Thomas of Little Rock, Arkansas

Mrs. Thomas is the mother of six children, all in need of assistance. The father of three of her children is her legal husband; many years ago, he abandoned Mrs. Thomas and the

children. The father of the other three children is known to the Pulaski County (Little Rock) Welfare Department. Both the latter gentleman and Mrs. Thomas have long wished to legally marry. Mrs. Thomas has had great difficulty obtaining legal help in securing a divorce, though steps are now in progress. The father of the younger children is presently unemployed, looking for work, but unable to find work. [11] All of Mrs. Thomas' children have been disqualified from aid on the basis of her "non-legal stable union," despite the fact that the father of the younger children is unable to support them, and owes no legal duty of support to three of the children. The suffering and privation that Mrs. Thomas and her children have undergone as a result of the "substitute parent" policy of Arkansas will be detailed upon request of the Secretary or his designates.

The county Welfare Department's "evidence" that Mrs. Thomas should be denied welfare aid includes the allegation that she is seeking birth control assistance (from which the department infers that "she is planning to continue her relations" with the father of her three younger children).

Mrs. Mayola Johnson of Warwick (Worth County), Georgia

During the preparation of this complaint, as a result of the efforts of her attorney, C.B. King, Esq., Mrs. Johnson was restored to AFDC and also given disability assistance.

---

[11] A statement made by the local welfare department concerning an available job is incorrect and unrelated to the issue here raised.

Nevertheless, her case stands as a classic example of the arbitrary denial of desperately needed assistance on the basis of the irrational "substitute father" policy of Georgia. Mrs. Johnson is in continuing danger of a new application of the policy to her and complains on behalf of herself and other needy mothers in Georgia. The blatantly illegal twist to the "substitute parent" policy -- whereby the Worth County department refuses to consider new applications from persons denied aid under the policy until two years have elapsed -- is also the subject of complaint herein.

The facts are as follows:

In 1961 Mrs. Johnson began getting AFDC payments of $134 per month from the Worth County Department of Family and Children Services for her four natural children by her husband, who had left her. The husband is now in Florida and apparently under court order to send $30 every two weeks, which he does only irregularly.

In November, 1963, Mrs. Johnson had an illegitimate child which died two months later. In February of 1964 the county department took her off the rolls because of the "substitute father" rule. The notification form stated in part: "We are having to close your case because of your relationship with men who should be supporting your children. All this was explained to you when the worker visited at your home on Dec. 5, 1963...,"

She was told by the local director that to be put back on AFDC either she or the father would have to move from Warwick.

In any event the county department had a rule that made her ineligible for consideration for two years after she had been taken off. She was never given any advice as to how she might prove that there in fact was no "substitute parent."

Mrs. Johnson had been seeing the father of the illegitimate child two or three times a month for about a year prior to when she became pregnant. He frequently had promised her financial help but none was ever forthcoming. The man never lived with her or stayed with her for any period longer than a night several times a month. After she became pregnant, he left her and subsequently married another woman, with whom he is presently living in Warwick.

During the nearly two years Mrs. Johnson was not on welfare, she and her children subsisted on the $5.00 or $10.00 a week she received from her husband, an occasional dollar or two from a brother, and donations in food from other needy Negro families. A local white grocer has given her credit so she is in considerable debt to him. She lived on the land of a white woman who allowed her to stay without paying the $7.50 per month rent. All of her four children are in school. Recently Mrs. Johnson has been unable to work because of a stroke which left her paralyzed in one arm.

In October, 1965, Mrs. Johnson reapplied for AFDC. On October 18th she received a notification form which stated:

Newton, Georgia; that in March of 1965 her husband was shot and killed by a white man; that in April of 1965 she applied to the Baker County Department of Family and Children's Services for AFDC assistance; that she received her first check in May of 1965 in the amount of $134. per month; that she has continued to receive a monthly check to date.

That during the month of October, 1965, Mrs. Andrews, the Welfare Official of Baker County, came out to the residence of Mrs. Grace Miller; that Mrs. Andrews was accompanied by Mr. James Kirk, an FHA man who works in Baker County; that Mrs. Andrews advised her that the Board had written up a petition to cut off her check because a man had been living with her; That in reply to Mrs. Miller's inquiry as to the identity of this alleged man who lived with her, Mrs. Andrews replied that it was Fred Anderson; Mrs. Andrews further stated that she had come out to ascertain whether it was true that she was maintaining a common-law relationship with said Fred Anderson; That Mrs. Miller informed Mrs. Andrews that no male had stayed in her house since the death of her husband; That no male was living with her; That Fred Anderson never stayed in her house at night; Mrs. Andrews further advised that she didn't believe this information, but advised Mrs. Miller not to let anyone stay in her house.

That during the summer of 1965 the Student Non-Violent Coordinating Committee was working on voter registration in the County, along with the Baker County Movement (the local civil rights movement); That Mrs. Grace Miller was, and is, very active on behalf of the Baker County Movement; That this fact is well known to the local whites of Baker County; That in October of 1965 a group of local white men came out to her house in the middle of the night and burned railroad ties on her property, and fired guns; That Mrs. Miller has allowed workers for the Student Non-Violent Coordinating Committee (SNCC), including Fred Anderson, to eat at her house and use a building on her property for recreational and educational purposes; That she never allowed a worker for the Student Non-Violent Coordinating Committee (SNCC) to sleep at her house, although it was difficult for these workers to find places to sleep in the County; That she wanted to let these workers sleep at her house but that she was afraid to do so because of a fear of having the AFDC payments cut off.

"The Worth County Board of Family and Children Services considers a period of two years prior to receiving assistance after closure of case due to a substitute father in the home. After two years, if you can prove that your pattern of living has changed and the father of your last child is not in Warwick and you are maintaining a suitable home, you may meet eligibility requirements."

After receiving this letter Mrs. Johnson consulted Mr. C.B. King for legal advice. It was only after he had made vigorous efforts in her behalf that she was restored in January, 1966, to AFDC with a grant of $117 per month, and given, in addition, $48 per month Aid to the Disabled.

Mrs. Grace Miller of Newton (Baker County), Georgia.

Mrs. Miller has not yet been denied aid under the "substitute parent" policy of Georgia. She joins in this complaint for the purpose of illustrating the manner in which needy citizens are threatened by application of the policy and the manner in which fundamental rights to privacy and human dignity are violated by the policy. We quote below the full text of our affidavit by Mrs. Miller.

GEORGIA, DOUGHERTY COUNTY

AFFIDAVIT

Comes now before the undersigned, an officer authorized to administer oaths under the laws of the State aforesaid, Mrs. Grace Miller, who deposes and says under oath that the following is true and correct:

That she is Mrs. Grace Miller, the widow of Hosie Miller, deceased; that she lives in Baker County, Georgia; that her address is Route 2, Box 74,

That during the Christmas Season, 1965, a group of college students, under the auspices of the National Student Association, were doing voter registration work in Baker County; That these students wanted to sleep at her house and that she wanted them to but would not allow it because of a fear of loosing the AFDC payments; That during this time these students spent part of their afternoons on her property; that Mr. Kirk of the FHA came to her house during this time and questioned her as to whether any male was staying with her; That she stated to him that no male was staying with her; That he replied that he saw a heap of them playing around her yard; That he told her to telephone him the next day; That when she telephoned him he repeated his question about whether any males were staying with her and told her that he was afraid that she would be taken off AFDC.

That within two weeks of the signing of this affidavit it was reported to Mrs. Miller, by her brother-in-law, that Mr. Kirk approached him and told him to tell Mrs. Miller that if she wasn't careful about those people staying out there that the Welfare would cut her off.

That she wants to make her home available to workers from the Student Non-Violent Coordinating Committee (SNCC) and workers from other civil rights organizations, but that she cannot do this because of the threats of the Welfare Board in Baker County to take her off AFDC.

This 15th day of January, 1966.

s/s GRACE MILLER
MRS. GRACE MILLER (AFFIANT)

VI. THE RELIEF REQUESTED BY COMPLAINANTS

Complainants herein petition for a hearing held by the Secretary pursuant to Section 404 of the Social Security Act, to determine the allegations of this complaint and to institute

action to compel conformity by the States of Arkansas and Georgia. It is clear that under the terms of Section 404 the Secretary has the authority to hold such a hearing and grant the other relief herein requested. We contend that the "substitute parent" policies on their face raise such serious issues of non-conformity as to impel the holding of a hearing.

It is true that federal policy generally requires a period of negotiations with a non-conforming state prior to the institution of penalties. The hearing here requested, of course, is for the purpose of enabling the Secretary to determine whether the States of Arkansas and Georgia are in conformity or not. No preliminary negotiations are necessary in that connection, although it should be observed that an examination of the Departments' records will reveal that the "substitute parent" policies here complained of have already been the subject of extended negotiations and discussions over the years. The human suffering caused by the policies is too sharp to permit unnecessary delays in determining the allegations.

Complainants request that:

1. The respondents' records be examined by HEW personnel and analyzed to determine: (a) how many children have been denied aid on the ground of the "substitute parent" policies; (b) the reasons and evidence cited by the respondents to the applicants and recipients for denying aid in each of those cases; (c) the race of each child denied aid on the ground of the "substitute parent" policies;

2. The Complainants be allowed to question the respondents at the hearing with regard to the records and analysis referred to in (1) above and with regard to any relevant aspect of the "substitute parent" policies;

3. The Complainants be allowed to introduce their own testimony and other evidence to the hearing.

In lieu of the hearing herein requested, Complainants request that the Secretary issue a ruling which:

1. Prohibits states from defining as a "parent" any persons other than (a) the natural parent of the children for whom aid is requested, or (b) a person who has legally adopted the children for whom aid is requested;

2. Prohibits states from denying AFDC on the ground that the applicants' children "have not been deprived of parental support" where the alleged "parent" has no legally enforceable duty to support the children;

3. Prohibits states from denying AFDC on the ground that the applicants' children are not in "need" as the result of the presence of a person who has no legally enforceable duty to support the children and has not voluntarily agreed to support the children;

4. Sets forth concrete guidelines wherein the "suitable home" ruling of Secretary Flemming is implemented and patent evasions of that ruling, whether under the name "substitute parent" policy or otherwise, prohibited.

The ruling described above is also requested as part of necessary relief following a determination of non-conformity in the hearing here requested.

Complainants also request that immediate steps be taken with regard to the blatantly illegal policy followed by the Worth County (Georgia) Department of Family and Children's Services wherein said department refuses to consider applications for aid until two years have elapsed since a determination or denial based on "substitute parent" grounds.

Complainants emphasize the need for prompt action.

Dated: February 1, 1966

Respectfully submitted,

JOHN WALKER, Attorney for
Complainants Mary Kate Johnson,
Alma Jean Thomas, and persons
similarly situated in the State
of Arkansas,
1304-B Wright Avenue
Little Rock, Arkansas

C. B. KING, Attorney for
Complainants Grace Miller and
Mayola Johnson, and persons
similarly situated in the State
of Georgia,
Post Office Box 1024
Albany, Georgia

JACK GREENBERG
CHARLES H. JONES, JR.
CHARLES STEPHEN RALSTON
Attorneys for Complainant NAACP
Legal Defense and Educational
Fund, Inc.
10 Columbus Circle
New York, New York

EDWARD V. SPARER
2 East 91st Street
New York, New York

DENNIS J. ROBERTS
Post Office Box 1024
Albany, Georgia

Of Counsel

KANSAS STATE LIBRARY
AUG 15 1966
MANHATTAN, KANSAS

63-285 O-66-pt. 5-18

MEMORANDUM

TO: Inc. Fund Staff and Cooperating Attorneys

FROM: Derrick A. Bell

SUBJECT: 1966 HEW School Desegregation Guidelines

The Office of Education of the United States Department of Health, Education and Welfare has published its revised 1966 Statement of Policies for School Desegregation Plans for systems seeking to comply with Title VI of the Civil Rights Act of 1964. A copy of the new Guildlines is attached to this Memo. Citations are to Section Numbers in the Guidelines. More copies may be obtained by writing the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C. 20202.

The 1966 Guidelines supersede the 1965 Guidelines (§181.3) and are definitely an improvement. They are, however, far from perfect and civil rights attorneys involved in school desegregation efforts should be aware of their weaknesses as well as their potential strengths.

What The Guidelines Don't Do

1. Court-ordered Plans Not Covered -- The Guidelines exempt desegregation plans approved by a federal court (§181.6). Thus, as was the case last year, systems with court-approved plans (including the 170 school desegregation cases now handled by Inc. Fund attorneys) will remain eligible for federal aid even though the plans fall far short of Guideline standards.

Solution -- Courts have indicated willingness to rely heavily on the Guidelines in fashioning court-ordered plans.[1] Thus, plans falling below the standards in the Guidelines should

---

1/ Price v. Denison Independent School District, 348 F.2d 1010 (5th Cir. 1965); Kemp v. Beasley, 352 F.2d 14 (8th Cir. 1965); Singleton v. Jackson Municipal Separate School District, ___F.2d ___ (5th Cir. Jan. 26, 1966).

be returned to court with motions for further relief aimed at conforming those plans with the 1966 guidelines. Most district judges will grant such motions. Failure to do so, at least in the Fifth Circuit, provides sufficient basis for injunctions pending appeal or other appropriate relief.[2/] Reluctant courts should be apprised of Judge Wisdom's view that court-approved plans with provisions less demanding than those contained in the HEW Guidelines encourage more litigation by recalcitrant systems. Singleton v. Jackson Municipal Separate School Board, 348 F.2d at 731 (5th Cir. 1965).

2. Faculty Desegregation Standards Too General -- The 1966 Guidelines require actual desegregation in school staffs (§181.13). In general, school systems with separate white and Negro faculties must either assign staff in such a way to produce some faculty integration in every school, or use some other pattern of staff assignment which will make comparable progress in bringing about staff desegregation successfully. The 1966 Guidelines also seek to prohibit discriminatory hiring, firing, promotion, and extension of tenure.

Unfortunately, no standards other than a call for "significant progress" have been set as to how many or what percentage of a system's teachers must be desegregated this year. This is regrettable but in line with the Fifth Circuit's requirement in the Singleton case requiring an "adequate start" toward faculty desegregation.

Solution -- In upgrading court-ordered plans, reference should be made to standards adopted by two district courts which require plans under which the the percentage of Negro teachers assigned to each school would approximate the percentage of Negro

---

2/ See Singleton v. Jackson Municipal Separate School District, 348 F.2d 729 (5th Cir. 1965); Valley v. Rapides School Board, 349 F.2d 1022 (5th Cir. 1965); Banks v. Claiborne Parish School Board, 349 F.2d 1022 (5th Cir. 1965); United States v. City of Bessemer Board of Education, 349 F.2d 1021 (5th Cir. 1965); United States v. Jefferson County Board of Education, 349 F.2d 1021 (5th Cir. 1965).

teachers to white teachers in the system.[3/]

3. Civil rights groups not heard prior to HEW approval of plans -- As was the case last year, plans will be approved based on data provided solely by school officials.

Solution -- Supply the Office of Education with all necessary facts that might affect the workability of the Board's plan. Thus, peculiarities of zone lines, inferior schools, segregated bus routes, all should be reported to the Office of Education, with copies of such reports addressed to the Secretary of HEW, John W. Gardner.

4. Substantial burden for desegregation remains with Negroes -- Despite the pleas of civil rights groups, the new Guidelines continue to accept freedom of choice plans as an appropriate means for desegregation. Notwithstanding several provisions (to be discussed below) aimed at alleviating the hardship such plans place on Negroes, they remain a serious obstacle to effective integration.

Solution -- Insure that all plans, particularly court-ordered plans, contain protections including notice, annual choice, no deadline on choice, no restrictions on choice unless chosen school overcrowded and the many other safeguards included in the 1966 standards. Communities should organize effective school desegregation programs. Assistance in establishing and operating such programs can be obtained from the Inc. Fund's Office of Legal Information by writing Miss Jean Fairfax.

5. School site selection not covered in Guidelines -- Despite the fact that an increasing number of school systems are planning new school additions and construction so as to maintain segregation, the guidelines set up no standards in this potentially crucial area.

Solution -- The selection of school sites which will retain segregation is being contested by the Inc. Fund in two cases. One in Arkansas and one soon to be filed in South Carolina. Where systems announce plans for school construction that will not promote

---

3/ Kier v. County School Board of Augusta County, 249 F. Supp. 239, 247 (W.D. Va. 1966); Dowell v. School Board of City of Oklahoma City Public Schools, 244 F. Supp. 971 (W.D. Okla. 1965).

the desegregation process, all available facts should be supplied to the Inc. Fund so that the possibility of court action can be reviewed.

6. No prohibition on de facto segregation -- HEW is presently investigating racial imbalance in several northern school systems but the 1966 Guidelines require no action in systems where racial concentration in the schools is not the result of officially sanctioned segregation.

Solution -- There is no sure procedure for curing de facto segregation problems. Litigation, appeals to state boards of education, political action, and protest demonstrations have all been utilized, sometimes with notable success. Generally, such techniques result in noticeable improvement in the quality of predominantly Negro schools even when they fail to effectuate integration.

Strong Points In Guidelines

The 1966 Guidelines contains several significant provisions which provide the potential for substantial desegregation during the forthcoming school year.

1. All pupils entitled to desegregated education -- While permitting school systems to delay desegregation of all grades until 1967, the new guidelines provide all pupils in grades not reached by such plans an opportunity to transfer in order to get a desegregated education in 1966 (§181.71). Thus, not only may a pupil in a still segregated grade obtain a transfer to a desegregated school in order to obtain a particular course of study not available in the school to which he was originally assigned, and a student may transfer to a desegregated school if he would otherwise be required to attend a segregated school outside the system, but transfers may also be obtained solely based on an original assignment to a segregated school. A student may also transfer from a segregated school if a brother, sister, or other relative living in his household is attending a desegregated school.

2. Some faculty desegregation required -- While, as discussed above, the requirements for faculty desegregation in the 1966 Guidelines are quite nebulous, they do seem to require at least a start toward the assignment of Negro teachers to white schools and vice versa. In most deep South systems this much compliance would be fairly earth-shaking and probably will be resisted. Nevertheless, the matter should be pushed in the upgrading of court ordered plans. In addition, the guidelines clearly prohibit the dismissal of teachers on a racial basis.

3. Required closing of inferior schools -- In addition to requiring complete desegregation of all services, facilities, activities, and programs (§181.14), systems will normally be required to discontinue using small, inadequate, Negro schools (§181. (§181.15). This provision can, if enforced, lead to substantial desegregation, particularly in rural areas. District courts recently have ordered the closing of such schools in several Alabama school cases including Lowndes County, Montgomery, and Macon County, Alabama.

4. More complete notice requirements provided for -- The provisions for individual and published information concerning desegregation plans (§§181.17, 181.34, 181.53) are now provided for in great detail. The guidelines require systems to provide parents and pupils with individual notice of their plans and also require the publication of such information in specific texts. These texts not only provide the factual information needed to obtain a desegregated education, but provide assurances that school personnel "will do everything we can to see to it that the rights of all students are protected and that our desegregation plan is carried out successfully." (See text for annual letter to parents required by §181.46).

4. Monitoring of compliance strengthened -- The new guidelines require school systems to submit detailed information concerning every aspect of their administration of the desegregation process (§§181.18, 181.19, 181.35, 181.55). HEW plans to greatly increase

its staff to permit closer supervision of the operation of plans. Regional offices have been established in order to better monitor the school activities in the area and special teams will be sent out through the South during the Spring and the early Fall for this purpose. In conforming court ordered plans, it may be worthwhile to seek provisions requiring school boards to file similar reports with the court. A potentially valuable additional reporting device is contained in the text of the notice. It provides that it is a violation of federal regulations for any person, whether school official or not, to influence or otherwise interfere with the exercise of any right under the plan. Any person having knowledge of such violation is invited to report such facts immediately by mail or phone to the Equal Educational Opportunities Program, U. S. Office of Education, Washington, D. C. 20202, telephone number 202-962-0333. Names of persons reporting such violation will not be discussed without their consent and while it is suggested that local officials first be advised of violations, this is not necessary if it is felt it would be of no value.

Summary Check List Of Guideline Provisions

The following check list can be used to evaluate court-ordered plans. Where items listed below are not contained in such plans or are provided for in a less strong form, appropriate requests in a motion for further relief should be made.

I. Basic Requirements For All Plans

1. An express provision placing responsibility on the school board for eliminating the dual school system and all other forms of racial discrimination as expeditiously as possible (§181.11).

2. Make significant progress toward complete desegregation of faculty and professional staff (§181.13) by:

(a) Hiring and assigning teachers on a nonracial basis.

(b) Where, by reason of desegregation or otherwise teachers are displaced or dismissed, such displaced

or dismissed teachers must have been found less qualified when compared with the total professional staff in the system. No staff vacancy may be filled from outside the system in the absence of proof that no displaced or dismissed staff member is qualified to fill the vacancy.

(c) Past segregated assignment patterns must be eliminated. 4/

3. All pupils eligible to enter grades not yet desegregated

4/ In Beckett v. School Board of Norfolk, Civ. No. 2214 (E.D. Va.), a district judge approved a plan submitted by the Board containing provisions for teacher desegregation set forth below:

Teachers and other Professional Personnel

The School Board of the City of Norfolk recognizes its responsibility to employ, assign, promote and discharge teachers and other professional personnel of the Norfolk City Public School System without regard to race or color. It further recognizes its obligation to take all reasonable steps to eliminate existing racial segregation of faculty that has resulted from the past operation of a dual school system based upon race or color.

In order to carry out these responsibilities, the School Board has adopted the following program:

1. Teachers and other professional personnel will be employed solely on the basis of qualifications and without regard to race or color.

2. In the recruitment and employment of teachers and other professional personnel, all applicants and other prospective employees will be informed that the City of Norfolk operates a racially integrated school system and that the teachers and other professional personnel in the System are subject to assignment in the best interest of the System and without regard to their race or color.

3. The Superintendent of Schools and his staff will take affirmative steps to solicit and encourage teachers presently employed in the System to accept transfers to schools in which the majority of the faculty members are of a race different from that of the teacher to be transferred. Such transfers will be made by the Superintendent and his staff in all cases in which the teachers are qualified and suitable, apart from race or color, for the positions to which they are to be transferred.

4. In filling faculty vacancies which occur prior to the opening of each school year, presently employed teachers of the race opposite the race that is in the majority in the faculty at the school where the vacancy exists at the time of the vacancy will be preferred in filling such vacancy. Any such vacancy will be filled by a teacher whose race is the same as the race of the majority on the faculty only if no qualified and suitable teacher of the opposite race is available for transfer from within the System.

5. Newly employed teachers will be assigned to schools without regard to their race or color, provided, that if there is more than one newly employed teacher who is qualified and suitable for a particular position and the race of one of these teachers is different from the race of the majority of the teachers on the faculty where the vacancy exists, such teacher will be assigned to the vacancy in preference to one whose race is the same.

by the 1966-67 school year must be permitted to transfer to a desegregated school if initially assigned to school based on race (§181.71).

4. All services, facilities, activities and programs (including transportation, athletic, and other extra-curricular activities) must be completely desegregated (§181.14). Students entering desegregated schools for the first time may not be subjected to disqualification or waiting periods before participating in activities and programs, including athletics. Re-routing and scheduling of transportation must be undertaken to accommodate pupils attending desegregated schools who are entitled to such transportation. Special education programs, such as pre-school, summer school, and adult education courses must be completely desegregated and free choice procedures may not be applied to such programs.

5. Small inadequate segregated schools must be closed if the facilities in such schools are inferior to those generally available in the system's schools (§181.15).

6. School systems may not permit pupils to transfer to schools in another system if such action would limit desegregation or where such transfers are not available on a nonracial basis (§181.16).

7. School officials are responsible for both encouraging community support and acceptance of their desegregation plan, and preparing the community as well as students and faculty for school desegregation (§181.17). The public must be furnished with full information concerning desegregation plans. School officials are responsible for the protection of persons exercising rights under their plan and must take appropriate action, seeking assistance from other appropriate officials where necessary, where any student or staff member interferes with the successful operation of the plan.

8. The board should be required to prepare and file reports at the end of a Spring enrollment period showing anticipated enrollment by race and grade at each school for the new school year and the planned assignments of professional staff to each school for the following year by race and by grade (§181.18).

II. Additional Requirements For Plans Based On Geographical Attendance Zones.

1. School zone boundaries and feeder patterns must not be designed to perpetuate segregation or limit desegregation. Plans combining assignment by zones with free choice assignment must show such arrangement will most expeditiously eliminate segregation (§ 181.32).

2. Each pupil must be assigned to school in his zone of residence (regardless of any previous attendance at another school) unless:

(a) A transfer is required to obtain a special course or to meet special needs such as physical handicaps.

(b) A transfer will place a student assigned to a school where his race is in the majority to a school where his race is in the minority. Schools may also assign students on such basis (§ 181.33).

3. The board must distribute by first-class mail a letter to each parent reporting where the student has been assigned for the coming school year and providing bus service information. Each letter must contain a notice explaining in detail the desegregation plan. This notice must be conspicuously printed in a newspaper of general circulation (a legal notice is not sufficient). Zone boundary maps must be freely available for public inspection (§ 181.34).

III. Additional Requirements for Free Choice Desegregation Plans

1. Choice of schools may be exercised by parent, or adult serving as student's parent. A student entering at least the 9th grade or at age 15 may exercise his own choice, which choice will be binding unless a parent exercises a different choice (§ 181.42).

2. Each student must annually be given a period of at least thirty(30) days in which to exercise a choice of schools. The right of choice remains even when not exercised within the thirty (30) day period although late choices may be subordinated to choices

of students received in time. Students not exercising choices by one week after school opens, must be assigned to the school nearest his residence where space is available (§§ 181.43, 181.33, 181.45).

3. The board must distribute by first-class mail to each parent, letters containing complete information and choice forms. Information on such forms must be limited to that required to enroll the student and may include the student's race. No reasons for a particular choice may be required or requested. No other form for pupil placement may be used. Choice may be exercised by a writing which sufficiently identifies the student and reflects his choice (§ 181.46).

4. A choice once submitted may not be changed for the school year to which it applies unless a special course, special problem, e.g., physical handicap, change of residence or compelling hardship, justifies transfer (§ 181.48).

5. A choice may be denied only by reason of overcrowding. Where overcrowding exists, preference is based solely on proximity of schools to the homes of students and no preference may be given for prior attendance at such school. Students denied a choice must be so advised and given a prompt opportunity to make an alternative choice (§ 181.49).

6. Where transportation is generally provided, buses must be routed to the maximum extent feasible so as to serve each student choosing any school in the system (§ 181.51).

7. No official or faculty member may require a student to submit any choice form other than that contained in the prescribed letter, and such persons may not directly or indirectly seek to influence parents or students in the exercise of their choice. Information concerning choice may not be made public (§ 181.52).

8. Publication of the choice procedure in a generally circulated newspaper is required.

9. The plan should place on the board the responsibility for insuring that the free choice desegregation plan in fact is desegregating the system. In systems containing a sizeable percentage of Negro students there should be approximately 20% of such

students attending desegregated classes by the 1966-67 school year. Failure to meet such a standard of progress should require the adoption by the board of a different type of plan.

Conclusion and Personal Note

The success of the 1966 Guidelines in school districts being desegregated under Title VI will depend on the quality of HEW's enforcement program.

A substantial enlargement of last year's ineffectual program is planned, but local attorneys and civil rights groups can insure the success of this effort by keeping the Office of Education advised of all developments in their respective areas, and insisting by all available means that the Government take action on all complaints.

Action to conform court-ordered plans with the new Guidelines should be undertaken as soon as possible, through negotiations with school board counsel if possible and by motions for further relief where necessary. In addition active community campaigns should be organized to insure that every Negro parent is aware of the value of a desegregated education for their children in 1966.

Effective April 4, 1966, I shall be leaving the Legal Defense Fund to become Deputy Special Assistant for Civil Rights to the Secretary of HEW. The job is quite challenging and I hope will be productive. Working with the Fund and its cooperating attorneys has been both instructive and vastly rewarding. I leave with regret but secure in the knowledge that the staff will complete the task it started of desegregating Southern public schools, with or without Government help.

March 30, 1966.

RESPONSE OF HON. JOHN W. GARDNER, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, TO QUESTIONS SUBMITTED BY SENATOR JAVITS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201
RECD MAR 29 1966

OFFICE OF THE SECRETARY

March 28, 1966

Dear Senator Javits:

The Secretary has asked me to reply to your recent letter requesting information about this Department's implementation of Title VI.

I enclose herewith material on compliance programs announced on March 7 by the Commissioner of Education and the Surgeon General. The Commissioner's revised Statement of Policies for School Desegregation provides guidelines and criteria intended to accelerate the desegregation process. Under the Public Health Service program, the Surgeon General has written to 9,000 hospital administrators informing them of their responsibility to desegregate medical facilities in order to be eligible for Federal assistance. This program seeks to bring all Federally-assisted hospitals into compliance with Title VI during the next months. Compliance field reviews are integral parts of both of these programs. The Department is currently conducting a recruitment program for permanent and temporary professional civil rights compliance staff to carry out this program.

With regard to the report of the U. S. Commission on Civil Rights, I enclose a copy of the Secretary's statement of February 23. In this statement, he acknowledges the value of the Commission's recommendations, gives a brief report on the Department's plans to achieve equality of opportunity, and directs that additional steps be taken.

The Department recognizes that its affirmative compliance program has just begun and that its effectiveness is yet to be judged. The Secretary appreciates and shares your concern about Title VI and has expressed this concern to the staff and the agencies of the Department.

With best wishes,

Sincerely,

F. Peter Libassi

F. Peter Libassi
Special Assistant to the Secretary

Honorable Jacob K. Javits
United States Senate
Washington, D.C.

Enclosures

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
WASHINGTON, D.C. 20201

REFER TO:

March 4, 1966

Dear Hospital Administrator:

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in Federally-assisted programs. To be eligible to receive Federal assistance or participate in any Federally-assisted program a hospital must be in compliance with Title VI. The Public Health Service has been given the responsibility of ensuring compliance with Title VI in all hospitals receiving funds directly or indirectly from any department or agency of the Federal government. As a result, hospitals will be dealing with only one department of the Federal government instead of fifteen. Financial assistance is extended directly by the Federal government for research, training or construction. In other instances the funds are for services rendered to clients of State administered health, welfare or rehabilitation programs.

This activity by the Public Health Service does not relieve State and local recipients of Federal grants, such as State or local health and welfare agencies, from continuing responsibility for determining that Federally supported programs do not utilize non-complying hospitals.

Progress in eliminating discrimination has been achieved during the past year through the voluntary action of hospitals in all parts of the country. The transition has not been as difficult as some feared. To the contrary it has contributed to better patient care and in addition has proven to be both administratively and economically advantageous.

Enclosed is a description of the requirements of the Civil Rights Act as they apply to hospitals. Also enclosed is an Assurance Form 441 to be signed, indicating your compliance with the conditions of Title VI. This form will need to be signed and returned in order to participate in direct Federal programs such as Health Insurance for the Aged even though you may have submitted the same or a similiar form to one or more State agencies. The questionnaire is additional to that which you may have provided already to a State agency in connection with certification for the Health Insurance for the Aged program. We will review the questionnaires as they arrive, and if any deficiencies are noted we will let you know so that you can take any necessary action to correct them.

Representatives from the Department of Health, Education, and Welfare Regional office and State agencies will be visiting hospitals on a routine, periodic basis to supplement this information and to be of further assistance in resolving any problems that may arise.

As with other Federal programs, your participation in the Health Insurance for the Aged program, even if you are otherwise certified as eligible, is dependent on your compliance with Title VI and your having filed with the Public Health Service the assurance form and completed questionnaire. Please let us have these papers by March 15, 1966. Please return the completed forms and the enclosed punch card in the envelope provided.

Any questions you may have should be directed to the Chief, Office of Equal Health Opportunity, Public Health Service, Washington, D.C. (Area Code 202 962-1845), or the Department of Health, Education, and Welfare Regional office serving your area.

Sincerely yours,

William H. Stewart

Surgeon General

PHS-4867
2-66

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
WASHINGTON, D.C. 20201

FORM APPROVED
BUDGET BUREAU NO. 68-R9.

MEDICAL FACILITIES COMPLIANCE REPORT

(Civil Rights Act Title VI)

INSTRUCTIONS: Complete all items. Check the appropriate box and insert numbers where indicated. If you believe your answers to any of t questions below require an explanation, check here ☐ and explain on the reverse side, identifying comment by item number.

NAME OF INSTITUTION OR FACILITY	ADDRESS (Street, city, state, Zip Code)	COUNTY

LIST AFFILIATIONS WITH OTHER HOSPITALS, MEDICAL SCHOOLS, SCHOOLS OF NURSING, SCHOOLS OF MEDICAL TECHNOLOGY, ETC.	TYPE OF HOSPITAL
	☐ PROPRIETARY GOVERNMENT: ☐ STATE ☐ COUNTY
	☐ VOLUNTARY NON-PROFIT ☐ MUNICIPAL ☐ DISTRICT

1. ARE ALL PATIENTS ASSIGNED ROUTINELY TO THE FOLLOWING FACILITIES WITHOUT REGARD TO RACE, COLOR, OR NATIONAL ORIGIN

	YES	NO		YES	NO		YES	NO
ROOMS			BUILDINGS			TREATMENT ROOMS		
WARDS			NURSERY FACILITIES			OPERATING ROOMS		
FLOORS			LABOR ROOMS			OTHER PROFESSIONAL		
WINGS			DELIVERY ROOMS			SERVICE FACILITIES		

2. TODAY'S PATIENT CENSUS

(Date) _____ WHITE _____ (No.) NEGRO _____ (No.) INDIAN _____ (No.) ORIENTAL _____ (No.)

TODAY'S OCCUPANCY	NO. OF BUILDINGS	NO. OF WINGS	NO. OF FLOORS	NO. OF PRIVATE ROOMS	NO. OF 2 BED ROOMS	NO. OF 3-6 BED WARDS	NO. OF OVER 6 BE WARDS
A. OCCUPIED BY WHITES ONLY							
B. OCCUPIED BY NEGROES ONLY							
C. OCCUPIED BY INDIANS OR ORIENTALS ONLY							
D. BI-RACIALLY OCCUPIED BY WHITES AND NEGROES							

3. WHAT IS THE APPROXIMATE PERCENTAGE OF NON-WHITE POPULATION IN THE SERVICE AREA FROM WHICH 75% OF YOUR PATIENTS ARE DRAWN _____ %

4. ARE THE FOLLOWING FACILITIES USED ROUTINELY BY ALL PERSONS WITHOUT REGARD TO RACE, COLOR, OR NATIONAL ORIGIN

	YES	NO		YES	NO
ENTRANCES			DINING AREAS AND CAFETERIAS		
ADMISSION OFFICES			TOILET AND LAVATORY FACILITIES		
WAITING ROOMS			OTHER GENERAL SERVICE FACILITIES		

5. ARE THE FOLLOWING USED ON THE SAME BASIS BY ALL OUT-PATIENTS WITHOUT REGARD TO RACE, COLOR, OR NATIONAL ORIGIN

	YES	NO
CLINICS		
OUTPATIENT SERVICES		
SEATING ARRANGEMENTS		
EMERGENCY ROOMS		
WAITING LINES		

6. ARE OUTPATIENT SERVICES USED BY ALL PATIENTS WITHOUT REGARD TO RACE, COLOR, OR NATIONAL ORIGIN AT THE SAME TIME RATHER THAN ON DIFFERENT DAYS OR AT DIFFERENT HOURS ·

☐ YES ☐ NO

7. DOES THIS INSTITUTION ACCEPT AND APPROVE APPLICATIONS FO STAFF PRIVILEGES AND TRAINING WITHOUT REGARD TO RACE, COLOR, OR NATIONAL ORIGIN

☐ YES ☐ NO

8. IF "YES" IS CHECKED IN ITEM 7, ARE THE STAFF PRIVILEGES OF NEGRO PHYSICIANS OR DENTISTS DIFFERENT IN ANY WAY THAN THOSE GRANTED TO WHITE PHYSICIANS OR DENTISTS

☐ YES ☐ NO

9. IS MEMBERSHIP IN THE CITY, COUNTY, OR STATE MEDICAL OR DENTAL SOCIETIES A PREREQUISITE TO GRANTING OF STAFF PRIVILEGES

☐ YES ☐ NO

10. IF "YES" IS CHECKED IN ITEM 9, DO THE SOCIETIES INVOLVED GRANT MEMBERSHIP WITHOUT REGARD TO RACE, COLOR, OR NATIONAL ORIGIN ☐ YES ☐ NO

11. TO THE BEST OF YOUR KNOWLEDGE, HOW MANY NON-WHITE PHYSICIANS ARE THERE IN ACTIVE PRACTICE IN THE SERVICE AREA _____

12. NUMBER OF NEGRO PHYSICIANS WHO HAV APPLIED FOR STAFF PRIVILEGES SINCE JANUARY 1, 1964 _____

13. PRESENT STATUS OF FACILITY'S STAFF

TYPE	NEGRO	WHITE	OTHER	TYPE	NEGRO	WHITE	OTHER
PHYSICIANS FULL STAFF MEMBERS				INTERNS			
				RESIDENTS			
COURTESY STAFF				STUDENT NURSES			
OTHER				PRACTICAL NURSES IN TRAINING			
DENTISTS STAFF MEMBERS				MEDICAL TECHNOLOGISTS IN TRAINING			
COURTESY STAFF							
OTHER							

I certify that the information given above is true and correct to the best of my knowledge and belief. *(A willfully false statement is punishabl* Title 18, Sec. 1001)

GUIDELINES FOR COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Hospitals in compliance with the Act are characterized by absence of separation, discrimination or any other distinction on the basis of race, color, or national origin in any activity carried on in, by or for the institution affecting the care and treatment of patients.

Specifically, the above would include (but not be limited to) the following characteristics:

1. The hospital provides inpatient and outpatient care on a non-discriminatory basis; all patients are admitted and receive care without regard to race, color, or national origin. Declaration of an open admission policy may not be sufficient to effectuate compliance in some instances, particularly where the hospital has previously served only or primarily patients of one race. Where there is a significant variation between the racial composition of patients and the population served, the hospital has a responsibility to determine the reasons and to take corrective action if they are due to discriminatory practices.

2. All patients are being assigned to all rooms, wards, floors, sections, and buildings without regard to race, color, or national origin. In communities with non-white population, this results in bi-racial occupancy of multi-bed rooms and wards and use of single bed rooms on a non-discriminatory basis.

   Patients are not asked if they are willing or desire to share a room with a person of another race. Transfer of patients is not used as a device to evade compliance with the Act.

3. Employees, medical staff and volunteers of the hospital are assigned to patient services without regard to the race, color, or national origin of either the patient or employee. Courtesy titles (Mr., Miss, Dr.) whenever used, are being used throughout the hospital including patient care areas and news releases announcing admissions, births, deaths, etc.

4. The granting of permanent or temporary staff privileges is carried out in a non-discriminatory manner. Staff privileges are not denied professionally qualified personnel on the basis of race, color, or national origin, or on the basis of non-membership in an organization which

63-285 O-66-pt. 5-19

discriminates on the basis of race, color, or national origin. Removal of staff privileges and other disciplinary actions shall not be based on race, color, or national origin.

5. Non-discriminatory practices of the institution include all aspects of training programs, and require recruiting and selection of trainees at both predominantly white and Negro schools. The same recruiting procedures are used at all such institutions. Third parties are not permitted to select trainees on a basis which, if done directly by the hospital, would be violative of the Civil Rights Act. These requirements apply to interns (medical, dental, OT, PT, dietician), residents and training programs such as graduate nurse, practical nurse, medical technology, x-ray technology, etc.

6. All services rendered by the institution, its employees or vendors to patients or others are provided without regard to race, color, or national origin. This would include:

   A. Administrative services (admission, medical records, fiscal, etc.).

   B. Medical and dental care for inpatients and outpatients (all specialties-clinical, diagnostic and other pathology services).

   C. Paramedical care and ancillary and supporting services (food, pharmacy, social services, laundry, toilet facilities, waiting rooms, entrances, exits, snack bars, gift shops, visiting hours, doctor's lounges). Patients and visitors are using all cafeteria facilities without regard to race, color, or national origin; no dining facilities are used only by non-whites by "custom" or "preference".

   D. Ambulance services.

7. Employees and medical staff have been notified in writing of the hospital's policy for compliance with Title VI of the Civil Rights Act.

8. Hospitals which have recently changed from discriminatory practices have taken steps to notify those who previously had been excluded from hospital services (e.g., letters to Negro physicians or physician organizations and Civil Rights leaders, notices to newspapers, posting of signs in hospitals, etc.).

9. Hospitals which have had dual facilities to affect racial separation have either converted one of them to a different purpose or have taken steps to change the traffic flow so that they are actually used bi-racially.

REVISED STATEMENT OF POLICIES FOR SCHOOL DESEGREGATION PLANS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

March 1966

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education

(2013)

Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964

(Superseding the General Statement of Policies Issued in April 1965—45 CFR, Part 181)

Subpart A—*Applicability of This Statement of Policies*

§ 181.1 Title VI and the HEW Regulation

Section 601 of Title VI of the Civil Rights Act of 1964 provides that:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

As required by Section 602 of Title VI, the Department of Health, Education, and Welfare has issued a Regulation to assure the elimination of discrimination in Federal aid programs it administers. The HEW Regulation was published as Part 80 of Title 45, Code of Federal Regulations (45 CFR Part 80).

§ 181.2 Compliance by School Systems Eliminating Dual School Structure

To be eligible for Federal aid, a school system must act to eliminate any practices in violation of Title VI, including the continued maintenance of a dual structure of separate schools for students of different races. The HEW Regulation recognizes two methods of meeting this requirement: (1) a desegregation order of a Federal court; or (2) a voluntary desegregation plan.

§ 181.3 Purpose of This Statement of Policies

This Statement of Policies applies to public elementary and secondary school systems undergoing desegregation to eliminate a dual school structure. It sets forth the requirements which voluntary desegregation plans must meet for the Commissioner to determine under the HEW Regulation that a plan is adequate to accomplish the purposes of Title VI. This Statement supersedes the "General Statement of Policies Under Title VI of the Civil Rights Act of 1964 Respecting Desegregation of Elementary and Secondary Schools," issued in April 1965 and published as 45 CFR Part 181.

§ 181.4 Initial Demonstration of Compliance

To be eligible for Federal aid, a school system must first assure the Commissioner that it will comply with Title VI and the HEW Regulation. It must submit the form of assurance that meets its circumstances, under §§ 181.5, 181.6, or 181.7 below.

§ 181.5 Systems Without Dual School Structure

(a) *Submission of Form 441.* A school system which does not maintain any characteristic of a dual school structure may initially demonstrate compliance by submitting HEW Form 441. This is an assurance of full and immediate compliance with Title VI.

(b) *Resubmission Not Required.* A school system which has appropriately submitted HEW Form 441 need not submit a new copy with subsequent requests for Federal aid, but need only affirm when requested that the assurance submitted continues in effect.

(c) *Supplementation of Assurance.* The Commissioner may require supplementation of HEW Form 441 when he has reasonable cause to believe that there is a failure to comply with any provision of Title VI or the HEW Regulation.

§ 181.6 Systems Under Federal Court Order for Desegregation

(a) *Submission of Order.* A school system under a Federal court desegregation order which meets the requirements of the HEW Regulation may submit, as evidence of compliance with Title VI, a copy of the court order, together with an assurance that it will comply with the order, including any future modification.

(b) *Resubmission Not Required.* A school system under a court order accepted by the Commissioner need not submit another copy, but must submit any modification not previously submitted.

(c) *Revision of Court Orders.* A school system under a court order for desegregation which is not in accord with current judicial standards is subject to legal action by the Department of Justice, or by the parties to the original suit, to modify the order to meet current standards.

§ 181.7 Systems With Voluntary Desegregation Plans

(a) *Submission of Form 441–B.* A school system with a voluntary desegregation plan must provide an assurance that it will abide by the applicable requirements for such plans contained in this Statement of Policies. Such assurance may be given by submitting HEW Form 441–B to the Commissioner. After April 15, 1966 commitments of funds for new activities will be subject

to deferral for school systems which have failed to submit HEW Form 441–B.

(b) *Changing Type of Plan.* A school system may change from one type of desegregation plan to another if such action would eliminate segregation and all other forms of discrimination more expeditiously. A school system planning to change the type of its plan must submit a new plan meeting the requirements of this Statement of Policies, together with HEW Form 441–B, for a determination by the Commissioner as to the adequacy of the plan to accomplish the purposes of Title VI.

(c) *Retaining Present Type of Plan.* A school system with a desegregation plan accepted by the Commissioner need not resubmit its plan if it intends to continue under the same type of plan. If a plan accepted by the Commissioner fails to meet any requirement under this Statement of Policies, the submission of HEW Form 441–B will be deemed to amend the plan so that it will meet such requirement. Amendments to the plan are not to be submitted unless requested. However, certain supporting materials must be submitted, as provided in Subparts B, C, D, and F below.

(d) *Initial Submittal of Plans.* If no desegregation plan has been submitted or accepted for a school system, HEW Form 441–B and a plan meeting the requirements of this Statement of Policies must be submitted.

[§§ 181.8 through 181.10 reserved]

Subpart B—*Basic Requirements for All Voluntary Desegregation Plans*

§ 181.11 Various Types of Desegregation Plans

It is the responsibility of a school system to adopt and implement a desegregation plan which will eliminate the dual school system and all other forms of discrimination as expeditiously as possible. No single type of plan is appropriate for all school systems. In some cases, the most expeditious means of desegregation is to close the schools originally established for students of one race, particularly where they are small and inadequate, and to assign all the students and teachers to desegregated schools. Another appropriate method is to reorganize the grade structure of schools originally established for students of different races so that these schools are fully utilized, on a desegregated basis, although each school contains fewer grades. In some cases desegregation is accomplished by the establishment of non-racial attendance zones. Under certain conditions, a plan based on free choice of school may be a way to undertake desegregation. In certain cases the purposes of Title VI may be most expeditiously accomplished by a plan applying two or more of the foregoing procedures to certain schools or different grade levels. Based on consideration of all the circumstances of a particular school system, the Commissioner may determine that its desegregation plan is not adequate to accomplish the purposes of Title VI, in which case he may require the adoption of an alternative plan. In any case where the State education agency is pursuing policies and programs for expediting the elimination of the dual school structure, the Commissioner will consider this factor in determining whether a particular type of plan is adequate for any given school system in such State.

§ 181.12 Student Assignment Practices

Title VI precludes a school system from any action or inaction designed to perpetuate or promote segregation or any other form of discrimination, or to limit desegregation or maintain what is essentially a dual school structure. Any educational opportunity offered by a school system must be available to students without regard to race, color, or national origin. In particular, any academic tests or other procedures used in assigning students to schools, grades, classrooms, sections, courses of study or for any other purpose must be applied uniformly to all students without regard to race, color, or national origin. Curriculum, credit and promotion procedures must not be applied in such a way as to penalize or hamper students who transfer from one school to another pursuant to a desegregation plan.

§ 181.13 Faculty and Staff

(a) *Desegregation of Staff.* The racial composition of the professional staff of a school system, and of the schools in the system, must be considered in determining whether students are subjected to discrimination in educational programs. Each school system is responsible for correcting the effects of all past discriminatory practices in the assignment of teachers and other professional staff.

(b) *New Assignments.* Race, color, or national origin may not be a factor in the hiring or assignment to schools or within schools of teachers and other professional staff, including student teachers and staff serving two or more schools, except to correct the effects of past discriminatory assignments.

(c) *Dismissals.* Teachers and other professional staff may not be dismissed, demoted, or passed over for retention, promotion, or rehiring, on the ground of race, color, or national origin. In any instance where one or more teachers or other professional staff members are to be displaced as a result of desegregation, no staff vacancy in the school system may be filled through recruitment from outside the system unless the school officials can show that no such displaced staff member is qualified to fill the vacancy. If as a result of desegregation, there is to be a reduction in the total professional staff of the school system, the qualifi-

cations of all staff members in the system must be evaluated in selecting the staff members to be released.

(d) *Past Assignments.* The pattern of assignment of teachers and other professional staff among the various schools of a system may not be such that schools are identifiable as intended for students of a particular race, color, or national origin, or such that teachers or other professional staff of a particular race are concentrated in those schools where all, or the majority, of the students are of that race. Each school system has a positive duty to make staff assignments and reassignments necessary to eliminate past discriminatory assignment patterns. Staff desegregation for the 1966–67 school year must include significant progress beyond what was accomplished for the 1965–66 school year in the desegregation of teachers assigned to schools on a regular full-time basis. Patterns of staff assignment to initiate staff desegregation might include, for example: (1) Some desegregation of professional staff in each school in the system, (2) the assignment of a significant portion of the professional staff of each race to particular schools in the system where their race is a minority and where special staff training programs are established to help with the process of staff desegregation, (3) the assignment of a significant portion of the staff on a desegregated basis to those schools in which the student body is desegregated, (4) the reassignment of the staff of schools being closed to other schools in the system where their race is a minority, or (5) an alternative pattern of assignment which will make comparable progress in bringing about staff desegregation successfully.

§ 181.14 Services, Facilities, Activities, and Programs

(a) *General.* Each school system is responsible for removing any segregation and any other form of discrimination affecting students in connection with all services, facilities, activities and programs (including transportation, athletics, and other extra-curricular activities) that may be conducted or sponsored by or affiliated with the schools of the system.

(b) *Specific Situations.*

(1) A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student.

(2) If transportation services are furnished, sponsored or utilized by a school system, dual or segregated transportation systems and any other form of discrimination must be eliminated. Routing and scheduling of transportation must be planned on the basis of such factors as economy and efficiency, and may not operate to impede desegregation. Routes and schedules must be changed to the extent necessary to comply with this provision.

(3) All school-related use of athletic fields, meeting rooms, and all other school-related services, facilities, activities, and programs, such as commencement exercises and parent-teacher meetings, which are open to persons other than enrolled students, must be open to all such persons and must be conducted without segregation or any other form of discrimination.

(4) All special educational programs, such as pre-school, summer school and adult education, and any educational program newly instituted, must be conducted without segregation or any other form of discrimination. Free choice desegregation procedures normally may not be applied to such programs.

§ 181.15 Unequal Educational Programs and Facilities

In addition to the changes made in student assignment practices under its desegregation plan, each school system is responsible for removing all other forms of discrimination on the ground of race, color, or national origin. For example, some school systems still maintain small, inadequate schools that were originally established for students of a particular race and are still used primarily or exclusively for the education of students of such race. If the facilities, teaching materials, or educational program available to students in such a school are inferior to those generally available in the schools of the system, the school authorities will normally be required immediately to assign such students to other schools in order to discontinue the use of the inferior school.

§ 181.16 Attendance Outside School System of Residence

No arrangement may be made nor permission granted for students residing in one school system to attend school in another school system in any case (1) where the result would tend to limit desegregation or maintain what is essentially a dual school structure in either system, or (2) where such attendance is not available to all students without regard to race, color, or national origin.

§ 181.17 Official Support for Desegregation Plan

(a) *Community Support.* School officials must take steps to encourage community support and acceptance of their desegregation plan. They are responsible for preparing students, teachers and all other personnel, and the community in general, for the successful desegregation of the school system.

(b) *Information to the Public.* Full information concerning the desegregation plan must be furnished freely to the public and to all television and radio stations and all newspapers serving the community. Copies of all reports on student and staff assignments required under § 181.18 below must be available for public inspection at the office of the Superintendent of the school system.

(c) *Protection of Persons Affected.* Each school system is responsible for the effective implementation of its desegregation plan. Within their authority, school officials are responsible for the protection of persons exercising rights under, or otherwise affected by, the plan. They must take appropriate action with regard to any student or staff member who interferes with the successful operation of the plan, whether or not on school grounds. If officials of the school system are not able to provide sufficient protection, they must seek whatever assistance is necessary from other appropriate officials.

§ 181.18 Reports

(a) *Anticipated Enrollment.* By April 15 of each year, or by 15 days after the close of the spring choice period in the case of plans based on free choice of schools, each school system must report to the Commissioner the anticipated student enrollment, by race, color, or national origin, and by grade of each school, for the following school year. The report submitted for the 1966–67 school year must also include the comparable data for the 1965–66 school year. Any subsequent substantial change in anticipated enrollment affecting desegregation must be reported promptly to the Commissioner.

(b) *Planned Staff Assignments.* By April 15 of each year, each school system must report to the Commissioner the planned assignments of professional staff to each school for the following year, by race, color, or national origin and by grade, or where appropriate, by subject taught or position held. The report for April 15, 1966 must also include the comparable data for the 1965–66 school year. Any subsequent change in planned staff assignments affecting staff desegregation must be reported promptly to the Commissioner.

(c) *Actual Data.* As soon as possible after the opening of its schools in the fall, but in any case within 30 days thereafter, each school system must determine and promptly report to the Commissioner the actual data for the items covered in the reports called for under (a) and (b) above.

(d) *Attendance Outside System of Residence.* The reports called for under (a) and (c) above must include a statement covering (1) all students who reside within the boundaries of the school system but attend school in another system, and (2) all students who reside outside but attend a school within the system. This statement must set forth, for each group of students included in (1) and (2) above, the number of students, by race, color, or national origin, by grade, by school and school system attended, and by school system of residence.

(e) *Consolidation or Litigation .* A school system which is to undergo consolidation with another system or any other change in its boundaries, or which is involved in any litigation affecting desegregation, must promptly report the relevant facts and circumstances to the Commissioner.

(f) *Other Reports.* The Commissioner may require a school system to submit other reports relating to its compliance with Title VI.

§ 181.19 Records

A school system must keep available for not less than three years all records relating to personnel actions, transportation, including routes and schedules, and student assignments and transfers, including all choice forms and transfer applications submitted to the school system. The Commissioner may require retention for a longer period in individual cases.

[§§ 181.20 through 181.30 reserved]

Subpart C—*Additional Requirements for Voluntary Desegregation Plans Based on Geographic Attendance Zones*

§ 181.31 General

A voluntary desegregation plan based in whole or in part on geographic attendance zones must meet the requirements of this Subpart for all students whose assignment to schools is determined by such zones. The general requirement for desegregation plans set forth elsewhere in this Statement of Policies are also applicable.

§ 181.32 Attendance Zones

A single system of non-racial attendance zones must be established. A school system may not use zone boundaries or feeder patterns designed to perpetuate or promote segregation, or to limit desegregation or maintain what is essentially a dual school structure. A school system planning (1) to desegregate certain grades by means of geographic attendance zones and other grades by means of free choice of schools, or (2) to include more than one school of the same level in one or more attendance zones and to offer free choice of all schools within such zones, must show that such an arrangement will most expeditiously eliminate segregation and all other forms of discrimination. In any such case, the procedures followed for the offer, exercise and administration of free choice of schools must conform to the provisions of Subpart D below.

§ 181.33 Assignment to School in Zone of Residence

Regardless of any previous attendance at another school, each student must be assigned to the school serving his zone of residence, and may be transferred to another school only in those cases which meet the following requirements:

(a) *Transfer for Special Needs.* A student who requires a course of study not offered at the school serving his zone, or who is physically handicapped, may be permitted, upon his written application, to transfer to another school which is designed to fit, or offers courses for, his special needs.

(b) *Minority Transfer Policy.* A school system may (1) permit any student to transfer from a school where students of his race are a majority to any other school, within the system, where students of his race are a minority, or (2) assign students on such basis.

(c) *Special Plan Provisions.* A student who specifically qualifies to attend another school pursuant to the provisions of a desegregation plan accepted by the Commissioner may be permitted, upon his written application, to transfer to such other school.

§ 181.34 Notice

(a) *Individual Notice.* On a convenient date between March 1 and April 30 in each year, each school system must distribute, by first class mail, a letter to the parent, or other adult person acting as parent, of each student who is then enrolled, except high school seniors expected to graduate, giving the name and location of the school to which the student has been assigned for the coming school year pursuant to the desegregation plan, and information concerning the bus service between his school and his neighborhood. All these letters must be mailed on the same day. Each letter must be accompanied by a notice, in a form prescribed by the Commissioner, explaining the desegregation plan. The same letter and notice must also be furnished, in person or by mail, to the parent of each prospective student, including each student planning to enter the first grade or kindergarten, as soon as the school system learns that he plans to enroll.

(b) *Published Notice.* The school system must arrange for the conspicuous publication of an announcement, identical with the text of the notice provided for under (a) above, in the newspaper most generally circulated in the community, on or shortly before the date of mailing under (a) above. Publication as a legal notice is not sufficient. Whenever any revision of attendance zones is proposed, the school system must similarly arrange for the conspicuous publication of an announcement at least 30 days before any change is to become effective, naming each school to be affected and describing the proposed new zones. Copies of all material published hereunder must also be given at that time to all television and radio stations serving the community.

(c) *Maps Available to Public.* A street or road map showing the boundaries of, and the school serving, each attendance zone must be freely available for public inspection at the office of the Superintendent. Each school in the system must have freely available for public inspection a map showing the boundaries of its attendance area.

§ 181.35 Reports

(a) *Attendance Zones.* The report submitted under § 181.18(a) by April 15 of each year must be accompanied by a map, which must show the name and location of each school facility planned to be used during the coming school year, the attendance zones for each school in effect during the current school year, and any changes in the attendance zones planned for the coming school year. The map need not be of professional quality. A clipping of each newspaper announcement and any map published under § 181.34 (b) or (c) above must be sent to the Commissioner within three days after publication and, in the case of proposed revisions, must be accompanied by data showing the estimated change in attendance, by race, color, or national origin and by grade, and in the racial composition of the professional staff, at each school to be affected.

(b) *Attendance Outside Zone of Residence.* Whenever a student is permitted to attend a school other than that serving his zone of residence, and whenever a request for such attendance is denied, the school system must retain records showing (1) the school and grade applied for, (2) the zone of the student's residence and his grade therein, (3) the race, color, or national origin of the student, (4) the reason stated for the request, and (5) the reason the request is granted or denied. Whenever the total number of transfers permitted from any school exceeds two percent of the student enrollment at that school, the relevant facts must be reported promptly to the Commissioner.

[§§ 181.36 through 181.40 reserved]

Subpart D—*Additional Requirements for Voluntary Desegregation Plans Based on Free Choice of Schools*

§ 181.41 General

A voluntary desegregation plan based in whole or in part on free choice of schools must meet the requirements of this Subpart for all students whose assignment to schools is determined by free choice. The general requirements for desegregation plans set forth elsewhere in this Statement of Policies are also applicable.

§ 181.42 Who May Exercise Choice

A choice of schools may be exercised by a parent or other adult person serving as the student's parent. A student may exercise his own choice if he (1) is exercising a choice for the ninth or a higher grade, or (2) has reached the age of fifteen at the time of the exercise of choice. Such a choice by a student is controlling unless a different choice

is exercised for him by his parent, or other adult person acting as his parent, during the period in which the student exercises his choice. Each reference in this Subpart to a student exercising a choice means the exercise of the choice by a parent or such other adult, or by the student himself, as may be appropriate under this provision.

§ 181.43 Annual Mandatory Exercise of Choice

Each student must be required to exercise a free choice of schools once annually. A student may not be enrolled or assigned to a school without exercising his choice, except as provided in § 181.45 below.

§ 181.44 Choice Period

A period of at least 30 days must be provided for exercising choice, to commence no earlier than March 1 and to end no later than April 30, preceding the school year for which choice is to be exercised. The Commisisoner may require an additional period or different dates for a particular school system. No preference in school assignment may be given on the basis of an early exercise of choice during the choice period.

§ 181.45 Failure To Exercise Choice

A failure to exercise a choice within the choice period does not excuse a student from exercising his choice, which may be done at any time before he commences school for the year with respect to which the choice applies. However, any such late choice must be subordinated to the choices of students who exercised choice during the choice period. If by a week after school opens there is any student who has not yet exercised his choice of school, he must be assigned to the school nearest his home where space is available. Standards for determining available space must be applied uniformly throughout the system.

§ 181.46 Letters to Parents, Notices, and Choice Forms

(a) *Mailings.* On the first day of the choice period, each school system must distribute, by first class mail, a letter, an explanatory notice, and a choice form, to the parent or other adult person acting as parent of each student who is then enrolled, except high school seniors expected to graduate, together with a return envelope addressed to the Superintendent. The texts for the letter, notice, and choice form to be used must be in a form prescribed by the Commissioner.

(b) *Extra Copies.* Extra copies of the letter, the notice, and the choice form must be freely available to parents, students, prospective students, and the general public, at each school in the system and at the office of the Superintendent.

(c) *Content of Choice Form.* Unless otherwise authorized or required by the Commissioner, each choice form, as prepared by the school system for distribution, (1) must set forth the name and location of, and the grades offered at, each school, and (2) may inquire of the person exercising the choice only the name, address, and age of the student, the school and grade currently or most recently attended by the student, the school chosen, the signature of one parent or other adult person serving as parent or, where appropriate under § 181.42 above, the signature of the student, and the identity of the person signing. If necessary to provide information required by §§ 181.18 and 181.19 above, or for other reports required by the Commissioner, the choice form may also ask the race, color, or national origin of the student. No statement of reasons for a particular choice, or any other information, or any witness or other authentication, may be required or requested. No other choice form, including any pupil placement law form may be used by the school system in connection with the choice of a school.

(d) *Return of Choice Form.* At the option of the person completing the choice form, it may be returned by mail or by hand to any school in the school system or to the office of the Superintendent.

(e) *Choices Not on Official Form.* Exercise of choice may also be made by the submission in like manner of any other writing which sufficiently identifies the student and indicates that he has made a choice of a school.

§ 181.47 Prospective Students

Each prospective student, including each student planning to enter the first grade or kindergarten, must be required to exercise a free choice of schools before enrollment. Each such student must be furnished a copy of the prescribed letter, notice, and choice form, by mail or in person, on the date the choice period opens or as soon thereafter as the school system learns that he plans to enroll. Each must be given an opportunity to exercise his choice during the choice period. A prospective student exercising his choice after the choice period must be given at least one week to do so.

§ 181.48 Choice May Not Be Changed

Once a choice has been submitted, it may not be changed for the school year to which it applies, whether during the choice period, after the choice period, or during that school year, except on request (1) in cases meeting the conditions set forth in § 181.50 below, (2) in case of a change of residence to a place where another school serving the student's grade level is closer than the school to which he is assigned under these provisions, and (3) in case of a compelling hardship. A student who cannot enter the school of his choice because the grade he is to enter is not offered at that school must be promptly notified as soon as this is known and must be given the same opportunity to choose another school as is provided a prospective student under § 181.47 above.

§ 181.49 Assignment According to Choice

No choice may be denied in assigning students to schools for any reason other than overcrowding. In cases where overcrowding would result at one or more schools from the choices made, preference

must be given on the basis of the proximity of schools to the homes of students, without regard to race, color, or national origin. No preference may be given to students for prior attendance at a school if such preference would deny other students their free choice of schools under the plan. In cases where this provision would result in unusual difficulty involving, for instance, students not being able to finish their senior year in a particular school, or students being unable to attend school with other members of the same family, or at a school having special courses required by a student, the relevant facts may be brought to the attention of the Commissioner for consideration of alternative procedures. Any student whose choice is denied under these provisions must be notified in writing promptly and given his choice of each school in the system serving his grade level where space is available. Standards for determining overcrowding and available space that are applied uniformly throughout the system must be used if any choice is to be denied. Each student and his parent, or other adult person acting as parent, must be notified in writing of the name and location of the school to which the student is assigned hereunder promptly upon completion of processing his first or any second choice. A school system may, at its option, give preference to any student whose choice is for a school at which students of his race are a minority.

§ 181.50 Transfers for Special Needs

Each student must attend the school to which he is assigned under the foregoing provisions, except that any student who requires a course of study not offered at that school, or who is physically handicapped, may be permitted, upon his written application, to transfer to another school which is designed to fit, or offers courses for, his special needs.

§ 181.51 No Limitation of Choice; Transportation

No factor, such as a requirement for health or birth records, academic or physical examinations, the operation of the school transportation system, or any other factor except overcrowding, may limit or affect the assignment of students to schools on the basis of their choices. Where transportation is generally provided, buses must be routed to the maximum extent feasible so as to serve each student choosing any school in the system. In any event, every student choosing either the formerly white or the formerly Negro school (or other school established for students of a particular race, color, or national origin) nearest his residence must be transported to the school to which he is assigned under these provisions, whether or not it is his first choice, if that school is sufficiently distant from his home to make him eligible for transportation under generally applicable transportation rules.

§ 181.52 Officials Not To Influence Choice

No official, teacher, or employee of the school system may require or request any student or prospective student to submit a choice form during the choice period other than by the prescribed letter, notice, and choice form. After the choice period, the school system must make all reasonable efforts to obtain a completed choice form from any student who has not exercised a choice. However, at no time may any official, teacher, or employee of the school system, either directly or indirectly, seek to influence any parent, student, or any other person involved, in the exercise of a choice, or favor or penalize any person because of a choice made. Information concerning choices made by individual students or schools to which they are assigned may not be made public.

§ 181.53 Public Notice

On or shortly before the date the choice period opens, the school system must arrange for the conspicuous publication of a notice describing the desegregation plan in the newspaper most generally circulated in the community. The text of the notice must be in a form prescribed by the Commissioner. Publication as a legal notice is not sufficient. Copies of this notice must also be given at that time to all radio and television stations serving the community. Any other announcement published by the school system concerning enrollment, such as might be made in connection with scheduling pre-enrollment procedures for prospective first grade students, must (1) state clearly that under the desegregation plan a choice of school is required for each student whose choice has not yet been exercised, (2) describe and state where copies of the prescribed letter, notice and choice form may be freely obtained in person, or by letter or telephone request, and (3) state the period during which the choice may be exercised.

§ 181.54 Requirements for Effectiveness of Free Choice Plans

A free choice plan tends to place the burden of desegregation on Negro or other minority group students and their parents. Even when school authorities undertake good faith efforts to assure its fair operation, the very nature of a free choice plan and the effect of longstanding community attitudes often tend to preclude or inhibit the exercise of a truly free choice by or for minority group students.

For these reasons, the Commissioner will scrutinize with special care the operation of voluntary plans of desegregation in school systems which have adopted free choice plans.

In determining whether a free choice plan is operating fairly and effectively, so as to materially further the orderly achievement of desegregation, the Commissioner will take into account 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, 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.

The single most substantial indication as to whether a free choice plan is actually working to eliminate the dual school structure is the extent to which Negro or other minority group students have in fact transferred from segregated schools. Thus, when substantial desegregation actually occurs under a free choice plan, there is strong evidence that the plan is operating effectively and fairly, and is currently acceptable as a means of meeting legal requirements. Conversely, where a free choice plan results in little or no actual desegregation, or where, having already produced some degree of desegregation, it does not result in substantial progress, there is reason to believe that the plan is not operating effectively and may not be an appropriate or acceptable method of meeting constitutional and statutory requirements.

As a general matter, for the 1966–67 school year the Commissioner will, in the absence of other evidence to the contrary, assume that a free choice plan is a viable and effective means of completing initial stages of desegregation in school systems in which a substantial percentage of the students have in fact been transferred from segregated schools. Where a small degree of desegregation has been achieved and, on the basis of the free choice registration held in the spring of 1966, it appears that there will not be a substantial increase in desegregation for the 1966–67 school year, the Commissioner will review the working of the plan and will normally require school officials to take additional actions as a prerequisite to continued use of a free choice plan, even as an interim device.

In districts with a sizable percentage of Negro or other minority group students, the Commissioner will, in general, be guided by the following criteria in scheduling free choice plans for review:

(1) If a significant percentage of the students, such as 8 percent or 9 percent, transferred from segregated schools for the 1965–66 school year, total transfers on the order of at least twice that percentage would normally be expected.

(2) If a smaller percentage of the students, such as 4 percent or 5 percent, transferred from segregated schools for the 1965–66 school year, a substantial increase in transfers would normally be expected, such as would bring the total to at least triple the percentage for the 1965–66 school year.

(3) If a lower percentage of students transferred for the 1965–66 school year, then the rate of increase in total transfers for the 1966–67 school year would normally be expected to be proportionately greater than under (2) above.

(4) If no students transferred from segregated schools under a free choice plan for the 1965–66 school year, then a very substantial start would normally be expected, to enable such a school system to catch up as quickly as possible with systems which started earlier. If a school system in these circumstances is unable to make such a start for the 1966–67 school year under a free choice plan, it will normally be required to adopt a different type of plan.

Where there is substantial deviation from these expectations, and the Commissioner concludes, on the basis of the choices actually made and other available evidence, that the plan is not operating fairly, or is not effective to meet constitutional and statutory requirements, he will require the school system to take additional steps to further desegregation.

Such additional steps may include, for example, reopening of the choice period, additional meetings with parents and civic groups, further arrangements with State or local officials to limit opportunities for intimidation, and other further community preparation. Where schools are still identifiable on the basis of staff composition as intended for students of a particular race, color, or national origin, such steps must in any such case include substantial further changes in staffing patterns to eliminate such identifiability.

If the Commissioner concludes that such steps would be ineffective, or if they fail to remedy the defects in the operation of any free choice plan, he may require the school system to adopt a different type of desegregation plan.

§ 181.55 Reports

(a) *Supporting Materials.* Each school sysmust submit to the Commissioner a copy of the letter, notice, and choice form, all as prepared by the school system for distribution, within three days after their first distribution, and must submit a clipping of all newspaper announcements published in accordance with § 181.53 above within three days after publication.

(b) *Data on Choices Not Being Honored.* In any case, including the case of conflicting choices under § 181.42 above, where a student chooses a school where he would be in a racial minority, and (1) he is to be assigned to a school where he would be in a racial majority, or (2) the school system proposes not to process his choice for any reason, the relevant facts must be reported promptly to the Commissioner.

(c) *Transfers for Special Needs.* Wherever a student is permitted, under §§ 181.48 or 181.50 above, to attend a school other than the school to which he is or would be assigned under the other applicable provisions hereof, and whenever a request for such attendance is denied, the school system must retain records showing (1) the school and grade applied for, (2) the school and grade to be transferred from, (3) the race, color, or national origin of the student, (4) the reason stated for the request, and (5) the reason the request is granted or denied. Whenever the total number of transfers permitted from any school exceeds two percent of the student enrollment at that school, the relevant facts must be reported promptly to the Commissioner.

[§§ 181.56 through 181.60 reserved]

Subpart E—*Miscellaneous Provisions*

§ 181.61 How To Submit Reports

Each report to the Commissioner required under this Statement of Policies must be sent by first class mail addressed to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202.

§ 181.62 Alternative Administrative Procedures

If an administrative procedure provided for under this Statement of Policies is not administratively feasible in a particular situation, the Commissioner may accept an alternative procedure if he determines that it will accomplish the same purpose.

§ 181.63 Revision of Statement of Policies

The Commissioner may modify this Statement of Policies as may be necessary to accomplish the purposes of Title VI.

§ 181.64 Copies of Documents for State Agencies

Each school system submitting any plan form or report to the Commissioner under this Statement of Policies must also submit a copy of such form or report to the appropriate State education agency.

§ 181.65 Choice Period Already Begun

In the event that any school system with a desegregation plan based on free choice has begun or completed its free choice period for the 1966–67 school year prior to the date of issue of this Statement of Policies, the school system must immediately report to the Commissioner its proposals for adapting its free choice procedures in such a way as to make them substantially conform to the provisions of this Statement of Policies.

§ 181.66 Definitions

As used in this part,

(a) The term "Commissioner" means the U.S. Commissioner of Education or any official acting under assignment or delegation from him to carry out any of his functions under this Statement of Policies.

(b) The term "discrimination" means discrimination on the ground of race, color, or national origin.

(c) The term "dual school structure" means a system of separate school facilities for students based on race, color, or national origin.

(d) The term "HEW Form 441" means the printed document provided for the use of certain school systems by the U.S. Department of Health, Education, and Welfare, entitled "Assurance of Compliance with the Department of Health, Education, and Welfare Regulation under Title VI of the Civil Rights Act of 1964."

(e) The term "HEW Form 441–B" means the printed document provided for the use of certain school systems by the U.S. Department of Health, Education, and Welfare entitled "Assurance of Compliance with the Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964."

(f) The term "HEW Regulation" means the Regulation issued pursuant to Title VI of the Civil Rights Act of 1964 by the U.S. Department of Health, Education, and Welfare (Part 80, of Title 45, Code of Federal Regulations).

(g) The term "parent" means an adult individual who exercises parental control over, or is otherwise acting as parent of, a student or prospective student.

(h) The term "school official" shall include, but is not limited to, any person who serves on the governing board of a school system, or attends meetings of such board in an official capacity, and all administrative and supervisory personnel of a school system.

(i) The term "school system" means, as the context may require, either (1) a legally constituted school authority (such as a local board of education) which has administrative control of one or more elementary or secondary schools, (2) the geographic area over which any such school authority has administrative control for school purposes, or (3) the schools and facilities over which any such school authority has administrative control.

(j) The term "Statement of Policies" means this Revised Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964.

(k) The term "Title VI" means Title VI of the Civil Rights Act of 1964 (PL 88–352, 42 USC 2000d to 2000d–4).

[§§ 181.67 to 181.70 reserved]

Subpart F—*Desegregation Plans Not Reaching All Grades for the 1966–67 School Year*

§ 181.71 Opportunity to Transfer in Grades Not Reached by Plan

In any school system in which, for the school year 1966–67, there are grades not yet reached by the desegregation plan, the school system must arrange for students to attend school on a desegregated basis in each of the special circumstances described in (a), (b), (c), and (d) below. This opportunity must be made available in such a way as to follow, to the maximum extent feasible, the desegregation procedures in grades generally reached by the plan, according to the type of plan in effect.

(a) *Transfer for a Course of Study.* A student must be permitted to transfer to a school in order to take a course of study for which he is qualified and which is not available in the school to which he would otherwise be assigned on the basis of his race, color, or national origin.

(b) *Transfer to Attend School With Relative.* A student must be permitted to transfer in order to attend the same school or attendance center as a brother, sister, or other relative living in his household, if such relative is attending a school as a result of a desegregation plan and if such school or attendance center offers the grade which the student would be entering.

(c) *Transfer for Students Required To Go Outside System.* A student must be permitted to transfer to any school within the system which offers the grade he is to enter if he would otherwise be required to attend school outside the system on the basis of his race, color, or national origin.

(d) *Transfer for Other Reasons.* A student must be permitted to transfer to a school other than the one to which he is assigned on the basis of his race, color, or national origin if he meets whatever requirements, other than race, color or national origin, the school system normally applies in permitting student transfers.

§ 181.72 Students New to the System

Each student who will be attending school in the system for the first time in the 1966-67 school year in any grade not yet generally reached by the desegregation plan must be assigned to school under the procedures for desegregation that are to be applied to that grade when it is generally reached by the desegregation plan.

§ 181.73 General Provisions Applicable

A student who has transferred to a school under § 181.71 above, or entered a school under § 181.72 above shall be entitled to the full benefits of § 181.14 above (relating to desegregation of services, facilities, activities and programs) and to any and all other rights, privileges, and benefits generally conferred on students who attend a school by virtue of the provisions of the desegregation plan.

§ 181.74 Notice

Each school system in which there will be one or more grades not fully reached by the desegregation plan in the 1966–67 school year must add a paragraph describing the applicable transfer provisions at the end of the notice distributed and published pursuant to § 181.34 above or §§ 181.46 and 181.53 above, as is appropriate for the type of plan adopted by the school system. The text of the paragraph must be in a form prescribed by the Commissioner. The school system must make such other changes to the notice as may be necessary to make clear which students will be affected by attendance zone assignments or free choice requirements.

In addition, for the letter to parents required in § 181.46, school systems with free choice plans which have not desegregated every grade must use a letter describing the plan and will enclose with the letter sent to parents of students in grades not desegregated a transfer application instead of a choice form. For the letter to parents required in § 181.34, school systems with geographic zone plans must send to each parent of students in grades not desegregated a letter describing the plan and a transfer application. The text for these letters and the transfer application must be in a form prescribed by the Commissioner.

§ 181.75 Processing of Transfer Applications

Applications for transfer may be submitted on the transfer application form referred to in § 181.74 above or by any other writing. If any transfer application is incomplete, incorrect or unclear in any respect, the school system must make every reasonable effort to help the applicant perfect his application. Under plans based on geographic zones, and under plans based on free choice of schools, the provisions of § 181.42 as to whether a student or his parent may make a choice of school, shall also determine whether a student in a grade not yet generally reached by desegregation may execute a transfer application.

§ 181.76 Reports and Records

In each report to the Commissioner under §§ 181.18, 181.35, and 181.55 above, the school system must include all data, copies of materials distributed and other information generally required, relative to all students, regardless of whether or not their particular grades have been generally reached by the plan. Similarly the system must retain the records provided for under §§ 181.19, 181.35, and 181.55 above with respect to all students.

[§§ 181.77 through 181.80 reserved]

FREE CHOICE PLANS

TEXT FOR NOTICE TO BE PUBLISHED IN NEWSPAPERS, DISTRIBUTED WITH LETTERS TO PARENTS, AND OTHERWISE MADE FREELY AVAILABLE TO THE PUBLIC

(Required by § 181.46 and 181.53 of the Statement of Policies)

(School System Name and Office Address)

NOTICE OF SCHOOL DESEGREGATION PLAN UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

THIS NOTICE IS MADE AVAILABLE TO INFORM YOU ABOUT THE DESEGREGATION OF OUR SCHOOLS. KEEP A COPY OF THIS NOTICE. IT WILL ANSWER MANY QUESTIONS ABOUT SCHOOL DESEGREGATION

1. *Desegration Plan in Effect*

The _____ public school system is being desegregated under a plan adopted in accordance with Title VI of the Civil Rights Act of 1964. The purpose of the desegregation plan is to eliminate from our school system the racial segregation of students and all other forms of discrimination based on race, color, or national origin.

(Name of school system)

2. *Thirty-Day Spring Choice Period*

Each student or his parent, or other adult person acting as parent, is required to choose the school the student will attend next school year. The choice period will begin on _____ and close _____, 1966.

3. *Explanatory Letters and School Choice Forms*

On the first day of the choice period, an explanatory letter and this notice will be sent by first-class mail to the parent, or other adult person acting as parent, of each student then in the schools who is expected to attend school the following school year. A school choice form will be sent with each letter, together with a return envelope addressed to the Superintendent. Additional copies of the letter, this notice and the choice form are freely available to the public at any school and at the Superintendent's office.

4. *Returning the Choice Forms*

Parents and students, at their option, may return the completed choice forms by hand to any school or by mail to the Superintendent's office, at any time during the 30-day choice period. No preference will be given for choosing early during the choice period. A choice is required for each student. No assignment to a school can be made unless a choice is made first.

5. *Choice Form Information*

The school choice form lists the names, locations and grades offered for each school. The reasons for any choice made are not to be stated. The form asks for the name, address and age of the student, the school and grade currently or last attended, the school chosen for the following year, the appropriate signature, and whether the form has been signed by the student or his parent. [*If choice form asks for the student's race, color, or national origin, insert the following sentences*: "The race, color, or national origin of the student is requested for purposes of recordkeeping required by the U.S. Office of Education. The information will not be used in any way to discriminate against the student."] Any letter or other written communication which identifies the student and the school he wishes to attend will be deemed just as valid as if submitted on the choice form supplied by the school system. The names of students and the schools they choose or are assigned to under the plan will not be made public by school officials.

6. *Course and Program Information*

To guide students and parents in making a choice of school, listed below, by schools, are the courses and programs which are not given at every school in this school system.

> [*Here list, by schools, each course and program, such as special education, foreign languages, vocational education, science, commercial courses, and college preparatory courses offered at a particular school which is not offered at the same grade level at every other school in the system. It must include courses and programs offered in grades not yet generally reached by the desegregation plan.*]

7. *Signing the Choice Form*

A choice form may be signed by a parent or other adult person acting as parent. A student who has reached the age of 15 at the time of choice, or will next enter the ninth or any higher grade, may sign his own choice form. The student's choice shall be controlling unless a different choice is exercised by his parent before the end of the period during which the student exercises his choice.

8. *Processing of Choices*

No choice will be denied for any reason other than overcrowding. In cases where granting all choices for any school would cause overcrowding, the students choosing the school who live closest to it will be assigned to that school. Whenever a choice is to be denied, overcrowding will be determined by a uniform standard applicable to all schools in the system.

9. *Notice of Assignment, Second Choice*

All students and their parents will be promptly notified in writing of their school assignments. Should any student be denied his choice because of overcrowding he will be promptly notified and given a choice among all other schools in the system where space is available.

10. *Students Moving Into the Community*

A choice of school for any student who will be new to the school system may be made during the spring 30-day choice period or at any other time before he enrolls in school. An explanatory letter, this notice and the school choice form will be given out for each new student as soon as the school system knows about the student. At least seven days will be allowed for the return of the choice form when a choice is made after the spring 30-day choice period. A choice must be made for each student. No assignment to any school can be made unless a choice is made first.

11. *Students Entering First Grade*

The parent, or other adult person acting as parent, of every child entering the first grade, or kindergarten [*delete* "or kindergarten" *if not offered*], is required to choose the school his child will attend. Choices will be made under the same free choice process used for students new to the school system in other grades, as provided in paragraph 10.

12. *Priority of Late Choices*

No choice made after the end of the spring 30-day choice period may be denied for any reason other than overcrowding. In the event of overcrowding, choices made during the 30-day choice period will have first priority. Overcrowding will be determined by the standard provided for in paragraph 8. Any parent or student whose first choice is denied because of overcrowding will be given a second choice in the manner provided for in paragraph 9.

13. *Tests, Health Records and Other Entrance Requirements*

Any academic tests or other procedures used in assigning students to schools, grades, classrooms, sections, courses of study, or for any other purpose, will be applied uniformly to all students without regard to race, color or national origin. No choice of school will be denied because of failure at the time of choice to provide any health record, birth certificate, or other document. The student will be tentatively assigned in accordance with the plan and the choice made, and given ample time to obtain any required document. Curriculum, credit, and promotion procedures will not be applied in such a way as to hamper freedom of choice of any student.

14. *Choices Once Made Cannot be Altered*

Once a choice has been submitted, it may not be changed, even though the choice period has not ended. The choice is binding for the entire school year to which it applies, except in the case of (1) compelling hardship, (2) change of residence to a place where another school is closer, (3) the availability of a school designed to fit the special needs of a physically handicapped student, (4) the availability at another school of a course of study required by the student, which is not available at the school chosen.

15. *All Other Aspects of Schools Desegregated*

All school-connected services, facilities, athletics, activities and programs are open to all on a desegregated basis. A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student. All transportation furnished by the school system will also operate on a desegregated basis. Faculties will be desegregated, and no staff member will lose his position because of race, color or national origin. This includes any case where less staff is needed because schools are closed or enrollment is reduced.

16. *Attendance Across School System Lines*

No arrangement will be made, or permission granted, by this school system for any students living in the community it serves to attend school in another school system, where this would tend to limit desegregation, or where the opportunity is not available to all students without regard to race, color or national origin. No arrangement will be made, or permission granted, by this school system for any students living in another school system to attend school in this system, where this would tend to limit desegregation, or where the opportunity is not available to all students without regard to race, color or national origin.

17. *Violations To Be Reported*

It is a violation of our desegregation plan for any school official or teacher to influence or coerce any person in the making of a choice or to threaten any person with penalties or promise favors for any choice made. It is also a violation of Federal regulations for any person to intimidate, threaten, coerce, retaliate or discriminate against any individual for the purpose of interfering with the free making of a choice of school. Any person having any knowledge of any violation of these prohibitions should report the facts immediately by mail or phone to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202 (telephone 202–962–0333). The name of any person reporting any violation will not be disclosed without his consent. Any other violation of the desegregation plan or other discrimination based on race, color, or national origin in the school system is also a violation of Federal requirements, and should likewise be reported. Anyone with a complaint to report should first bring it to the attention of local school officials, unless he feels it would not be helpful to do so. If local officials do not correct the violation promptly, any person familiar with the facts of the violation should report them immediately to the U.S. Office of Education at the above address or phone number.

GEOGRAPHIC PLANS

TEXT FOR NOTICE TO BE PUBLISHED IN NEWSPAPERS, DISTRIBUTED WITH LETTERS TO PARENTS, AND OTHERWISE MADE FREELY AVAILABLE TO THE PUBLIC

(As required by § 181.34 of the Statement of Policies)

(School System Name and Office Address)

NOTICE OF SCHOOL DESEGREGATION PLAN UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

THIS NOTICE IS MADE AVAILABLE TO INFORM YOU ABOUT THE DESEGREGATION OF OUR SCHOOLS. KEEP A COPY OF THIS NOTICE. IT WILL ANSWER MANY QUESTIONS ABOUT SCHOOL DESEGREGATION.

1. *Desegregation Plan in Effect*

The _____ public school system is being desegregated under a plan adopted
(Name of school system)
in accordance with Title VI of the Civil Rights Act of 1964. The purpose of the desegregation plan is to eliminate from our school system the racial segregation of students and all other forms of discrimination based on race, color, or national origin. Your school board and the school staff will do everything they can to see to it that the rights of all students are protected and that our desegregation plan is carried out successfully.

2. *Non-Racial Attendance Zones*

Under the desegregation plan, the school each student will attend depends on where he lives. An attendance zone has been established for each school in the system. All students in the same grade who live in the same zone will be assigned to the same school, regardless of their race, color, or national origin and regardless of which school they attend now.

3. *Transfer to School in Another Zone*

A student may transfer from the school to which he is assigned only under the following conditions: [*State here the conditions, if any, under which transfer will be granted. They must be consistent with the transfer provisions stated in § 181.33 of the Statement of Policies.*] Transfers for any other reasons will not be permitted.

4. *Notification of Assignment*

On _____ the parent, or other adult person acting as parent, of each student
(Date)
enrolled in this system will be sent a letter telling him the name and location of the school to which the student will be assigned for the coming school year. The letter will also give information on any school bus service provided for the student's neighborhood. A copy of this notice will be enclosed with each letter. The same letter and notice will be sent out on the above date for all children the school system expects to enter the school system for the first time next year. This includes children entering first grade or kindergarten. [*Delete "or kindergarten" if not offered.*] If the school system learns of a new student after the above date, it will promptly send the student's parent such a letter and a copy of this notice.

5. *Maps Showing Attendance Zones*

Maps showing the boundary lines of the attendance zones of every school in the school system are freely available for inspection by the public at the Superintendent's office. Individual zone maps are available at each school.

6. *Revision of Attendance Zones Boundaries*

Any revision of attendance zone boundaries will be announced by a prominent notice in a local paper at least 30 days before the change is effective.

7. *All Other Aspects of Schools Desegregated*

All school-connected services, facilities, athletics, activities and programs are open to each student on a desegregated basis. A student assigned to a new school under the provisions of the desegregation plan will not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student. All transportation furnished by the school system will also operate on a desegregated basis. Faculties will be de-

segregated, and no staff member will lose his position because of race, color, or national origin. This includes any case where less staff is needed because schools are closed or enrollment is reduced.

8. *Attendance Across School System Lines*

No arrangement will be made or permission granted by this school system for any students living in the community it serves to attend school in another school system, where this would tend to limit desegregation, or where the opportunity is not available to all students without regard to race, color, or national origin. No arrangement will be made or permission granted, by this school system for any students living in another school system to attend public school in this system, where this would tend to limit desegregation, or where the opportunity is not available to all students without regard to race, color, or national origin.

9. *Violations To Be Reported*

It is a violation of our desegregation plan for any school official or teacher to influence, threaten or coerce any person in connection with the exercise of any rights under this plan. It is also a violation of Federal regulations for any person to intimidate, threaten, coerce, retaliate or discriminate against any individual for the purpose of interfering with the desegregation of our school system. Any person having any knowledge of any violation of these prohibitions should report the facts immediately by mail or phone to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202 (telephone 202–962–0333). The name of any person reporting any violation will not be disclosed without his consent. Any other violation of the desegregation plan or other discrimination based on race, color, or national origin in the school system is also a violation of Federal requirements and should likewise be reported. Anyone with a complaint to report should first bring it to the attention of local school officials, unless he feels it would not be helpful to do so. If local officials do not correct the violation promptly, any person familiar with the facts of the violation should report them immediately to the U.S. Office of Education at the above address or phone number.

TEXT FOR ANNUAL LETTER TO PARENTS

FOR USE DURING 30-DAY SPRING CHOICE PERIOD

(Required by §181.46 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

Dear Parent: (Date sent)

Our community has adopted a school desegregation plan. We will no longer have separate schools for children of different races. The desegregation plan has been accepted by the U.S. Office of Education under the Civil Rights Act of 1964.

The plan requires *every* student or his parent to choose the school the student will attend in the coming school year. It does not matter which school the student is attending this year, and it does not matter whether that school was formerly a white or a Negro school. You and your child may select any school you wish.

A choice of school is required for each student. A student cannot be enrolled at any school next school year unless a choice of schools is made. This spring there will be a 30-day choice period, beginning _____, 1966, and ending _____, 1966.

A choice form listing the available schools and grades is enclosed. This form must be filled out and returned. You may mail it in the enclosed envelope, or deliver it by hand to any school or to the address above any time during the 30-day choice period. No one may require you to file your choice form before the end of the choice period. No preference will be given for choosing early during the choice period.

No principal, teacher or other school official is permitted to influence anyone in making a choice. No one is permitted to favor or penalize any student or other person because of a choice made. Once a choice is made, it cannot be changed except for serious hardship.

Also enclosed is an explanatory notice giving full details about the desegregation plan. It tells you how to exercise your rights under the plan, and tells you how teachers, school buses, sports and other activities are being desegregated.

Your School Board and the school staff will do everything we can to see to it that the rights of all students are protected and that our desegregation plan is carried out successfully.

Sincerely yours,

Superintendent.

FREE CHOICE PLANS

TEXT FOR LETTER TO PARENTS

FOR USE AFTER 30-DAY SPRING CHOICE PERIOD

(Required by § 181.46 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

(Date sent)

Dear Parent:

Our community has adopted a school desegregation plan. We will no longer have separate schools for children of different races. The desegregation plan has been accepted by the U.S. Office of Education under the Civil Rights Act of 1964.

The plan requires *every* student or his parent to choose the school the student will attend in the coming school year. It does not matter which school the student might have attended before, and it does not matter whether that school was formerly a white or a Negro school. You and your child may select any school you wish.

A choice of school is required for each student. A student cannot be enrolled at any school next school year unless a choice of schools is made. A choice form listing the available schools and grades is enclosed. This form must be filled out and returned. You may mail it in the enclosed envelope, or deliver it by hand to any school or to the address above any time before _____* No one may require you to file your choice form before that date.
Date

No principal, teacher or other school official is permitted to influence anyone in making a choice. No one is permitted to favor or penalize any student or other person because of a choice made. Once a choice is made, it cannot be changed except for serious hardship.

Also enclosed is an explanatory notice giving full details about the desegregation plan. It tells you how to exercise your rights under the plan, and tells you how teachers, school buses, sports and other activities are being desegregated.

Your school board and the school staff will do everything we can to see to it that the rights of all students are protected and that our desegregation plan is carried out successfully.

Sincerely yours,

Superintendent.

* Insert in text a date at least seven days after the letter is sent to parent.

FREE CHOICE PLANS

TEXT FOR CHOICE OF SCHOOL FORM

(Required by § 181.46 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

(Date sent)

CHOICE OF SCHOOL FORM

This form is provided for you to choose the school your child will attend for the coming school year. It does not matter which school the child has been attending, and it does not matter whether the school you choose was formerly a white or a Negro school. No student can be enrolled without making a choice of school. This form must either be brought to any school or mailed to the Superintendent's office at the address above by _____. If the student is 15 years old by the date of choice, or will be entering the ninth or a higher grade, either the student or his parent may make the choice.

1. Name of Child _____
   Last First Middle
2. Age _____
3. School and grade currently or last attended _____ Grade _____
4. School Chosen (Mark X beside school chosen)

	Name of School	*Grades*	*Location*
	[Here list by name, grades offered, and location each school available. For example:]		
☐	George Washington High School	8–12	Adams St., Jefferson
☐	James Madison Elementary School	1– 7	Monroe St., Jackson

This form is signed by (mark proper box):

Parent ☐

Other adult person acting as parent ☐

Student ☐

Signature _____
Address _____
Date _____

This block is to be filled in by the Superintendent's office, not by person signing.
Is student assigned to school chosen? ☐ Yes ☐ No

If not, explain: _____

TEXTS OF NOTICE PROVISION, LETTERS AND TRANSFER APPLICATION PRESCRIBED BY THE COMMISSIONER OF EDUCATION FOR USE WITH SCHOOL DESEGREGATION PLANS NOT DESEGREGATING ALL GRADES

March 1966

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education

2031

FREE CHOICE AND GEOGRAPHIC PLANS
LESS THAN 12 GRADES

TEXT OF PARAGRAPH TO BE ADDED TO END OF NOTICE PUBLISHED IN NEWSPAPERS, DISTRIBUTED WITH LETTERS TO PARENTS, AND OTHERWISE MADE FREELY AVAILABLE TO THE PUBLIC BY A SCHOOL SYSTEM NOT DESEGREGATING ALL GRADES

(Required by § 181.74 of the Statement of Policies)

Transfers by Students in Grades [here list grades not desegregated]

The above grades will not be generally reached by the desegregation plan until the fall of 1967. However, a student entering any one of these grades in the coming school year, or his parent or other adult person acting as parent, may apply for transfer to any school in the school system. The application will be granted if:

(*a*) The student wants to take a course of study for which he is qualified, and which is not available in the school he would otherwise attend on the basis of his race, color, or national origin; or

(*b*) The student wants to attend the same school or attendance center as a brother, sister, or other relative living in his household who is attending school there as a result of the desegregation plan, and the school offers the appropriate grade; or

(*c*) The student would otherwise be required to attend school in another school system on the basis of his race, color, or national origin; or

(*d*) The student meets the regular requirements, having nothing to do with race, color, or national origin, used by this school system in permitting students to transfer from one school to another. The regular requirements of this school system for student transfers are as follows: [Here insert such requirements.]

A transfer application form will be sent to each student in grades _____. A transfer application may be filed by means of this form or by a letter. Extra copies of the form are available at all school offices. Transfer applications should be filed as soon as feasible after a student has information which justifies making an application.

In addition, all students who are entering this school system for the first time in a grade which is not generally desegregated under the plan will be assigned to a school under the procedures which will be followed when the grade is generally desegregated in the fall of 1967.

FREE CHOICE PLANS
LESS THAN 12 GRADES

TEXT FOR ANNUAL LETTER TO PARENTS

FOR USE DURING 30-DAY SPRING CHOICE PERIOD

(Required by § 181.74 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

(Date sent)

Dear Parent:

Our community has adopted a school desegregation plan. In the coming school year we will no longer have separate schools for children of different races who will be in grades _____. The following year all grades in our school system will be desegregated. The desegregation plan has been accepted by the U.S. Office of Education under the Civil Rights Act of 1964.

The plan requires *every* student, or his parent, who will enter grades _____ to choose the school the student will attend in the coming school year. It does not matter which school the student is attending this year, and it does not matter whether that school was formerly a white or a Negro school. You and your child may select any school you wish.

A choice of school is required for each student entering one of the desegregated grades. These students cannot be enrolled at any school next school year unless a choice of schools is made. This spring there will be a 30-day choice period, beginning _____, 1966, and ending _____, 1966.

If your child will be entering a desegregated grade, a choice form listing the available schools and grades is enclosed. This form must be filled out and returned. You may mail it in the enclosed envelope, or deliver it by hand to any school or to the address above any time during the choice period. No one may require you to file your choice form before the end of the choice period. No preference will be given for choosing early during the choice period.

No principal, teacher or other school official is permitted to influence anyone in making a choice. No one is permitted to favor or penalize any student or other person because of a choice made. Once a choice is made, it cannot be changed except for serious hardship.

Even though grades _____ are not desegregated this year, students in those grades may transfer to, or enter, any school in the system if they meet any of the requirements described in the last paragraph of the enclosed explanatory notice. If your child will be entering one of those grades next year, there is enclosed with this letter a form which you may use if you or your child want to transfer to another school under any of the conditions described in the last paragraph of the notice.

Also enclosed is an explanatory notice giving full details about the desegregation plan. It tells you how to exercise your rights under the plan, and tells you how teachers, school buses, sports and other activities are being desegregated.

Your school board and the school staff will do everything we can to see to it that the rights of all students are protested and that our desegregation plan is carried out successfully.

Sincerely yours,

Superintendent

FREE CHOICE PLANS
LESS THAN 12 GRADES

TEXT FOR LETTER TO PARENTS

FOR USE AFTER 30-DAY SPRING CHOICE PERIOD

(Required by § 181.74 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

(Date sent)

Dear Parent:

Our community has adopted a school desegregation plan. In the coming school year we will no longer have separate schools for children of different races who are in grades _____. The following year all grades in our school system will be desegregated.

Our desegregation plan has been accepted by the U.S. Office of Education under the Civil Rights Act of 1964.

The plan requires every student, or his parent, who will enter grades _____ to choose the school the student will attend in the coming school year. It does not matter which school the student might have attended before, and it does not matter whether that school was formerly a white or a Negro school. You and your child may select any school you wish.

A choice of school is required for each student entering one of the desegregated grades. These students cannot be enrolled at any school next school year unless a choice of schools is made.

If your child will be entering desegregated grade, a choice form listing the availible schools and grades is enclosed. This form must be filled out and returned. You may mail it in the enclosed envelope, or deliver it by hand to any school or to the address above any time before _____.*
No one may require you to file your choice form before that date.

No principal, teacher or other school official is permitted to influence anyone in making a choice. No one is permitted to favor or penalize any student or other person because of a choice made. Once a choice is made, it cannot be changed except for serious hardship.

Even though grades _____ are not desegregated this year, students in those grades may transfer to, or enter, any school in the system if they meet any of the requirements described in the last paragraph of the enclosed explanatory notice. If your child will be entering one of those grades next year, there is enclosed with this letter a form which you may use if you or your child want to transfer to another school under any of the conditions described in the last paragraph of the notice.
Also enclosed is an explanatory notice giving full details about the desegregation plan. It tells you how to exercise your rights under the plan, and tells you how teachers, school buses, sports and other activities are being desegregated.

Your School Board and the school staff will do everything we can to see to it that the rights of all students are protected and that our desegregation plan is carried out successfully.

Sincerely yours,

Superintendent.

Enclosure.

---

*Insert in text a date at least seven days after letter is sent to parent.

GEOGRAPHIC PLANS
LESS THAN 12 GRADES

TEXT FOR LETTER TO PARENTS OF STUDENTS IN GRADES NOT YET REACHED BY PLAN

(Required by §181.74 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

(Date sent)

Dear Parent:

Our community has adopted a school desegregation plan. In the coming school year we will no longer have separate schools for children of different races who will be in grades _____. All students in those grades will be assigned to schools on the basis of non-racial attendance zones. The details of these assignments are described in the enclosed notice. The following year all grades in our school system will be desegregated.

Even though grades _____ are not desegregated this year, students who will be entering these grades may transfer to, or enter, any school in the system, if they meet any of the requirements described in the last paragraph of the enclosed notice.

Also enclosed with this letter is a form which you may use if you or your child want to transfer to another school under any of the conditions described in the notice.

The notice also gives details about how teachers, school buses, sports and other activities are being desegregated.

Sincerely yours,

Superintendent.

FREE CHOICE AND GEOGRAPHIC PLANS
LESS THAN 12 GRADES

TEXT OF TRANSFER APPLICATION FORM

(Required by § 181.74 of the Statement of Policies)

(School System Name and Office Address)

(Date sent)

TRANSFER APPLICATION

This form is provided for students in grades _____ to request transfer to another school. The circumstances under which students in these grades may transfer are described in the last paragraph of the notice which has been sent to every parent. Copies of the notice are freely available from school offices. To apply for a transfer, answer the first four questions and complete the sections which follow which are applicable to your transfer. If student is 15 or over, or is entering the ninth or higher grade, either he or his parent may sign this application. This form may be either mailed or brought to any school or to the Superintendent's office at the above address.

1. Name _____ Age _____
2. Student is assigned to _____ school for next year in the _____ grade.
3. Student wishes instead to be assigned to the _____ school for next year (if known).
4. This Form is Signed by Parent ☐ Student ☐ Other Adult Acting as Parent ☐

A. Transfer for a Course of Study:

1. Course of study wanted _____
2. Is course offered at school to which you are assigned next year? Yes ☐ No ☐
3. Name of school where course is offered (if known) _____

B. Transfer To Attend School with Relative Living in Your Household:

1. Name of relative _____
2. Relationship to student requesting transfer _____ (Brother, sister, other)
3. Does relative live in same household as you. Yes ☐ No ☐
4. School to which relative is assigned _____

C. Transfer for Students Required to Attend School Outside This System Because of Race, Color, or National Origin.

1. Name of School district where you are assigned _____
2. Name of School which you would attend except for race, color, or national origin (if known) _____

D. Transfer for Other Reason:

1. School to which you are eligible to transfer _____
2. Transfer requirement, apart from race, color, or national origin, which you meet _____

_____

Signature _____

Address _____

Date _____

This section must be filled in by the Superintendent's office, not by person signing. Transfer request granted? Yes ☐ No ☐ If not, explain:

_____

_____

_____

ROGERS--WO 3-4173

U.S. DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
Office of the Secretary
Washington, D.C. 20201

FOR IMMEDIATE RELEASE
Wednesday, February 23, 1966

Secretary of Health, Education, and Welfare John W. Gardner today issued the attached statement on the Civil Rights Commission's Report of desegregation of health and welfare services in the South.

STATEMENT BY THE SECRETARY ON RECEIPT OF U.S. CIVIL RIGHTS COMMISSION REPORT

The report of the U.S. Commission on Civil Rights identifies areas where racial discrimination persists in the health and welfare programs of this country. Our goal of a healthy and productive society will not be achieved until these practices have been completely eliminated.

Within the past few months, I have directed that several steps be taken by this Department to fulfill its responsibilities. I have ordered the complete reorganization of the Department's handling of civil rights enforcement. An enlarged staff in the Office of the Secretary is now devoting its full energies to this vital issue. In addition, full-time staff units are being established or strengthened in the Office of Education, the Public Health Service, and the Welfare, Vocational Rehabilitation, and Social Security Administrations. These units have been directed to focus their attention on investigations, compliance reviews, field visits, and enforcement--areas of weakness noted in the Commission report.

While the Department faced considerable administrative difficulties in initiating the implementation of Title VI, thus far its enforcement action has resulted in:

--Deferral of new direct Federal financial assistance to hospitals and school districts not in compliance with Title VI. At the present time, 220 hospitals and 87 school districts are not in compliance and are therefore ineligible for new Federal funds.

--Administrative hearings to determine whether Federal funds to the Alabama State Welfare agency shall be terminated. Administrative hearings

have also been held for 50 school districts refusing to comply voluntarily with Title VI.

--Refusal by State welfare agencies to use more than 100 hospitals which have failed to pledge non-discrimination.

--Initiation by the Department's Welfare Administration of compliance reviews of State welfare programs in Arkansas, Louisiana, Mississippi, and Tennessee.

Only this month, the Attorney General designated this Department to serve as the Federal coordinator for all enforcement programs with respect to health facilities and colleges and universities. Under these plans, the Department is to initiate comprehensive compliance reviews, similar to those recommended by the Commission. This Department is pledged to carry out its responsibilities as outlined by these enforcement plans and shall do so.

Recognizing that our efforts have just begun, I acknowledge the constructive value of the Commission's recommendations. To assure the achievement of our goal of equal opportunity, I have directed the appropriate agencies within the Department immediately to:

1. Give top priority to recruitment of civil rights personnel and the initiation of programs to achieve compliance in hospitals, educational institutions, and State health and welfare agencies.

2. Expedite the preparation of cases for administrative hearings to terminate funds to institutions persisting in discriminatory practices.

3. Speed the process, in each community, of securing the simultaneous, community-wide compliance of all recipients of HEW funds.

4. Establish reporting systems to identify areas of non-compliance with Title VI.

5. Review existing program evaluation systems to assure not merely an absence of segregation and discrimination, but actual participation by all citizens in the full range of federally-aided programs.

The desegregation of all federally-aided programs is required by law and dictated by morality. No one can justify distinctions based on color in healing and tending the sick, the injured and the lame. It is the duty of every citizen--but most especially every Federal, State, and local official--to assure that the benefits of Federal programs, funded by Federal tax dollars, are available and used by all on a desegregated basis.

Guidelines for School Desegregation

A Summary Explanation
of the
Revised Statement of Policies
For School Desegregation Plans
Under Title VI of the
Civil Rights Act of 1964

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education
Equal Educational Opportunities Program

2041

The 1966 Title VI Guidelines for School Desegregation

The 1966 Guidelines require:

1. Substantial achievements under free choice desegregation plans,
2. Significant progress in desegregation of teachers and staff,
3. Progress in closing of small, inadequate schools established for Negro students or other minority groups,
4. Simplified procedures and periodic reports from school districts to measure progress in implementing desegregation plans.

Assurance

To be eligible for Federal funds, each school system must assure the Commissioner that it will abide by Title VI of the Civil Rights Act. The type of assurance varies with the nature of the school system:

Desegregated Systems

A school district that never had or has already eliminated a segregated system submits an assurance of full compliance by HEW Form 441.

Dual School Systems

School systems that are working toward desegregation submit either a Federal court order for desegregation or a voluntary desegregation plan. School systems with voluntary plans file Form 441–B, which provides that a school system's voluntary desegregation plan will be carried out in accordance with the standards outlined in the 1966 Guidelines.

Performance

Any compliance assurance or plan is essentially a statement of intent, and is not a substitute for performance. The Commissioner may require additional assurance or evidence of performance if he has cause to believe that a school system is not living up to its original assurance.

Types of Plan

No single type of desegregation plan fits all school systems. Each school system is responsible for selecting the plan best suited to accomplish desegregation as quickly as possible. However, if the Commissioner has cause to believe a plan will not work in a particular district or has evidence that a previously accepted plan is failing, he may require the adoption of a different plan.

A. *General Requirements*

The school system—not the State or Federal Government—is responsible for making its plan work. The system must inform the community of its plan, solicit community support, and take the necessary steps to protect all persons exercising their rights under the plan.

The Guidelines require periodic reports to help the Commissioner determine a system's progress under its plan. These reports include data on student and faculty assignment by race and school; notification of any changes the system seeks to make in its plan; and descriptions of special circumstances hampering the progress of desegregation.

B. *Attendance Zone Plans*

Under this type of plan, students are assigned to schools within a school system according to their area of residence. The school system must establish a single set of attendance zones, and then assign students to schools serving their zone regardless of race, color, or national origin.

Students with special educational needs—handicapped children, for example—can be assigned to a school outside their normal attendance zone.

C. *Free Choice Plans*

These plans require students to choose their own school, regardless of where they live. The expectation is that students of each race will choose the same school and thus break down the dual school pattern.

Every student and his parent *must* choose a school *each* year . . . in most cases 4 or 5 months before the school year begins. The school system must ensure that this choice is free, and that students and parents can choose in safety and without fear of reprisal.

School systems must make significant progress in eliminating the dual school pattern under free choice plans. Progress in the transfer of students from segregated schools will be measured in relation to achievements of prior years and will be judged in accordance with the Federal court rule that school districts which start late must move faster in desegregating their schools.

Desegregation of Faculty

The 1965 Guidelines required at least a first step toward faculty desegregation through integrated staff meetings in the first year. The1966 Guidelines require actual desegregation in the school staff.

In general, school systems with separate white and Negro faculties must either assign staff in such a way as to produce some faculty integration in every school, or use some other pattern of staff assignment which will make comparable progress in bringing about staff desegregation successfully.

The 1966 Guidelines also include safeguards against discriminatory hiring, firing, promotion, and extension of tenure. They do not violate a system's right to administer its staff according to professional criteria, but they do require that such practices not result in discrimination by race, color, or national origin.

Desegregation of Facilities

Any facility or activity—including athletics, transportation, parent-teacher or student assemblies, extracurricular programs, special educational opportunities—identifiable as being school-related must be open to all appropriate persons without discrimination.

Summary

The basic concept behind the design of the 1966 Guidelines is substantial progress in each district beyond what it achieved under the 1965 Guidelines.

The basic criterion for the Commissioner's interpretation of these Guidelines is measurable evidence of progress and good faith effort to eliminate the dual school system as quickly as possible.

March 1, 1966

63-285 O-66-pt. 5-21

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

April 9, 1966

MEMORANDUM

TO: School Superintendents and Chief State School Officers

FROM: Harold Howe II H.H.
U.S. Commissioner of Education

SUBJECT: School Desegregation Guidelines

Because we have received a number of questions regarding the meaning and intent of the 1966 Guidelines, I thought you would welcome the enclosure. It is a copy of a letter sent by Secretary John Gardner of the Department of Health, Education, and Welfare to members of Congress. I believe that it may clarify some of the points which school officials have raised with us.

One matter not mentioned in the enclosure but clearly of concern to some school officials is the nature of the commitment involved in signing Form 441-B, which is due on April 15. Apparently some have interpreted this form as a sort of "blank check" or agreement to abide by future revisions of the Guidelines.

Form 441-B is a declaration of intent by school officials to use the procedures set forth in the Guidelines and to conduct arrangements for voluntary compliance in accordance with those procedures. The form states that a school district may take exception to any future revision if it wishes to do so.

We are anxious to provide further interpretations about these matters in any way which will be helpful. While our staff is limited in number, Assistant Commissioner David Seeley and his associates will do everything possible during the coming week to satisfy requests you have for information or further interpretation. In addition, I have scheduled meetings with a number of representative groups from States using voluntary plans for compliance.

Please advise us of your problems so that we can work together on them. In the meantime, I hope that the enclosure is useful.

Enclosure

(Copy of letter sent to Members of Congress and Governors)

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON

April 9, 1966

Dear :

We have received a number of inquiries about our revised school desegregation guidelines, some of which reflect a misunderstanding of their purpose and intent. You will probably have received similar inquiries, so I think it might be useful to restate the purpose, background, and meaning of the revised guidelines.

For the same reason, I have asked U.S. Commissioner of Education Harold Howe II and senior members of his staff to meet with State and local school officials to make clear the purpose and nature of these revised guidelines.

The Courts and the Congress have spoken clearly on the basic issue of the desegregation of public schools. The Supreme Court decided that question twelve years ago. Since then Congress has plainly established in law that pupils may not be assigned to schools on the basis of their race or color. Title VI of the Civil Rights Act of 1964 expressly requires the Executive Branch to insure that funds for federally assisted programs, including education, must not be used to support discrimination or segregation.

This Department, like all other executive agencies, is required by Title VI not to use Federal funds to perpetuate racial segregation. We have found that uniform rules contained in guidelines issued by the Commissioner of Education are the best method of dealing with both the operational problems of school districts and our own responsibilities under the law.

The first school guidelines were issued in April, 1965, and they were not widely questioned. There was a widespread effort by school districts to comply. In many areas, school desegregation began for the first time smoothly and without incident. In other areas, desegregation, already begun, progressed substantially.

From the experience under the original guidelines, we learned that effective desegregation depends on determination by local communities. The guidelines did not ask school districts formerly segregated to desegregate overnight. They recognized that the remedy to be fashioned should take into account administrative problems. Thus, they asked that a substantial beginning be made; and this was done. All but 300 of the more than 2,000 affected school districts agreed to desegregate all 12 grades by the fall of 1966, a full year

ahead of the 1967 target contemplated by the original guidelines and required by the Courts. Only 79 chose not to comply.

The legal principle, defined by the Courts, is that desegregation must progress, and that as it proceeds in a particular school district, administrative problems offer progressively less justification for delay. During 1965 and this year, the Courts repeatedly announced requirements which put school districts further along the road toward desegregation than did the original guidelines. This was a foreseeable and inevitable result, since the guidelines were of general applicability while Courts fashioned their orders on a case-by-case basis.

From the issuance of revised Court orders it became clear that school districts not operating under Court orders could and should make more progress this year toward desegregation than was required by the original guidelines. In light of this fact and of our experience with problems under free choice plans for compliance, we revised the guidelines.

One aspect of the revised guidelines about which there has been some inquiry is faculty desegregation. Courts have held that meaningful desegregation cannot occur so long as segregation of faculty members persists. The 1965 guidelines pointed toward faculty desegregation by asking school boards to hold desegregated staff meetings and to plan further steps the ensuing year. The 1966 guidelines, following the decisions of Courts, provide for desegregation of the faculty to begin.

The guidelines do not, as some have assumed, require the instantaneous desegregation of the faculty in every school building in every district. Nor do they prescribe rigid means. They provide considerable flexibility as to how a district might undertake faculty desegregation. What the guidelines do require is that a reasonable beginning be made and that reasonable progress be achieved beyond what was achieved last year. We believe that, with determination and good faith, these goals can be attained.

The second area of concern involves the percentages mentioned in the guidelines. Some have contended that this portion of the guidelines imposes a formula of "racial balance." This contention misconceives the purpose of the percentages.

The prevailing method of desegregation is what is called the "free choice" plan. Under such a plan, students select their schools instead of being assigned to them on a geographic basis. Courts have expressly conditioned their approval of such plans on affirmative action by school boards to insure that "free choice" actually exists. It is our responsibility to review such plans to insure that the choice is, in fact, free and to indicate to school districts what procedures should be used to assure true freedom of choice.

In seeking appropriate criteria to guide us in review of free choice plans, we have adopted the objective criteria applied by the Courts in similar situations. One such criterion is the distribution of students by race in the various schools of a system after the students have made their choices. If substantial numbers of Negro children choose and go to previously all-white schools, the choice system is clearly operating freely. If few or none choose to do so in a community where there has been a pattern of segregation, then it is appropriate that the free choice plan be reviewed and other factors considered to determine whether the system is operating freely.

With more than 2000 separate districts to consider, such percentages are thus an administrative guide which helps us to determine those districts requiring further review. Such review in turn will determine whether or not the freedom of choice plan is in fact working fairly.

If the purposes of the guidelines and their relationship to the decision of the Courts and the laws of the Congress are understood, I believe our general aim also will be clear. It is to assist local officials to comply with the law in good faith and to enable us to fulfill our responsibilities in administering Title VI.

Sincerely,

/s/ John W. Gardner
Secretary

QUESTIONS AND ANSWERS

HOSPITALS AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

DURING THE PAST three months, about 5200 hospitals in the United States have demonstrated that they are in compliance with Title VI of the Civil Rights Act of 1964 and will be approved for Medicare when it begins July 1. But hundreds of other hospitals, wishing to comply, are bound up in procedural and other difficulties.

To help these hospitals, the American Hospital Association has asked the Department of Health, Education, and Welfare certain questions about compliance procedures and criteria. The department has answered them. These answers have been reviewed by Secretary John W. Gardner and Surgeon General William H. Stewart, and they are printed below. Any administrator who has further questions should call the nearest of the department's regional offices immediately. A member of its field force will respond to the hospitals at once.

1. What does a hospital have to do to be in compliance with Title VI of the Civil Rights Act for purposes of Medicare?

The law says "No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Discrimination in hospitals exists when a patient, visitor, professional staff member, or trainee is treated differently solely because of his race, color, or national origin. Compliance with Title VI, in brief, involves admission policies, patient room assignments, availability of services and facilities, staff privileges, and training programs.

2. How can a hospital accomplish all of this between now and July 1?

Hospitals already have had nearly two years to comply and many have acted to do so. The Civil Rights Act was passed in July 1964, and the Department of Health, Education, and Welfare issued its regulations in January 1965. During the past three months the U.S. Public Health Service has assigned some 300 professionals to the field to work with hospitals and answer their questions.

It is true that not all steps toward compliance can be taken overnight. Student nurse classes, for example, do not begin until September, and it takes time to grant staff privileges to physicians.

But some other things can be done immediately. Physicians previously excluded from staff privileges can be informed that their applications will now be considered without regard to race, color, or national origin. Applications can be invited and discriminatory selection policies can be changed. Recruitment plans can be developed and carried out with equal emphasis on predominantly white and predominantly Negro high schools. Cessation of discriminatory room assignments can be accomplished immediately and the result can be demonstrated to the satisfaction of the federal government in a couple of weeks.

3. Will the government approve a hospital on the evidence of a questionnaire alone?

Subject to an on-site visit later, yes. A written assurance of compliance already has been accepted from about 5200 hospitals on this basis.

4. Will the government disapprove a hospital on the basis of a questionnaire alone?

No. No hospital wishing to comply will be disapproved without a personal visit by a representative of HEW and a full consultation with the hospital administrator.

5. What kind of inspection does the federal government carry on in connection with Title VI?

Representatives of the federal government do not visit a hospital unannounced unless there is gross evidence that a hospital deliberately concealed discrimination during a previous visit. With the administrator and members of his staff, the representatives will tour the hospital and its service areas. They will be interested in observing room assignments, dining areas, waiting rooms, sitting rooms, and other general service facilities. They will also want to see whether outpatient services are used without regard to race, color, or national origin.

From the reports of these representatives, the Public Health Service hopes to assist those hospitals that may be practicing discrimination in some aspects of their operations and to show them what actions must be taken to assure compliance.

6. Why are the government's procedures so complicated?

The Department of Health, Education, and Welfare does not believe they are complicated; quite the reverse. It is perfectly natural that there are and will continue to be difficulties in carrying out the present program. On the other hand, a large number of hospitals have already been approved; they have accomplished this by nothing more than filling out a one-page questionnaire. This one questionnaire meets the needs not only of Medicare and the Social Security Administration, but of at least 50 other govern-

Reprinted with permission by the
U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

from HOSPITALS, Journal of the American Hospital Association
Volume 40, No. 11, June 1, 1966. Printed in U.S.A.

ment programs, including Hill-Burton, federal manpower training, and the surplus foods program of the Department of Agriculture.

7. If 30 per cent of a hospital's community is Negro, must 30 per cent of its patients be Negro, too?

Title VI for hospitals is not being administered as a numbers game. If there is any misunderstanding about this, it needs correction. The purpose of the department's examination is to determine whether every citizen in the community receives nondiscriminatory treatment. It must be established that this is true, not as an occasional exception to the rule, but as a regular thing. But there is no quota.

8. How can a hospital control the racial balance of its patients?

Again, it is not a "balance" that is required, but the assurance that Negro and white patients are not treated differently—that physicians are not sending their Negro patients to one hospital and white patients to another.

When a hospital grants staff privileges to both Negro and white physicians, when it is free of discrimination in every way, then the ratio of patient population, Negro and white, takes care of itself.

9. Does Title VI require that there be a Negro and a white patient in every room?

It does not. But it does require that all patients be assigned to rooms, wards, floors, or buildings of hospitals without regard to race, color, or national origin.

Hospitals routinely take into consideration such factors as medical condition, room rates, and age in the assignment of rooms. These normal procedures which do not involve racial questions may be continued, just so long as the rules apply to both white and Negro patients.

Patients may not be asked if they would be willing to share a room with a person of a particular race.

10. If a physician believes that his patient should be moved from a nonsegregated room after his admission, can this be done?

In some cases there may be valid medical reasons or special compelling circumstances for the reassignment of patients, and in these cases, reassignment may be made. Patients are, of course, free at any time to request assignment to available private rooms. But transfer of patients may not be used as a device to evade compliance with the Civil Rights Act. Although room for the exercise of good judgment is recognized as necessary, a pattern of resegregation in the use of rooms is a violation.

The ultimate concern is with the end result of the hospital's practices. Do patients, in fact, use accommodations throughout the hospital without regard to race? If there is a pattern of desegregated rooms, wings, and floors, the hospital is in compliance. If this is not the pattern, the hospital is not in compliance.

11. How can a hospital give staff privileges to Negro physicians between now and July 1?

Obviously it may take time to evaluate a physician's qualifications for staff privileges. The Public Health Service's immediate—before July 1—requirements are (1) that Negro physicians be informed that staff privileges are granted at the hospital without regard to race, and that they may apply for those privileges, (2) that any selection factors that directly or indirectly exclude physicians because of race, color, or national origin be abolished, and (3) that all pending applications for staff privileges be considered and acted on promptly without regard to the applicant's race, color, or national origin. The Civil Rights Act does not require that staff privileges be granted to any physician who is not qualified.

12. What happens if a hospital does not comply?

It now appears that the great majority of American hospitals—and hospitals in all sections of the country—will be qualified and ready to receive Medicare patients on July 1. For this, the whole country can be grateful.

If, in the short time left, anything can be done to bring every hospital into compliance with the Civil Rights Act, the department will do everything in its power to help.

If a hospital does not comply with the provisions of Title VI, it will not receive funds under Medicare and will not be able to apply for grants under other federal programs. More importantly, patients who are qualified for Medicare benefits will not have Medicare funds for use in their own hospital.

In the department's opinion, hospitals who are not in compliance with Title VI and who forgo participation in Medicare will, to this degree, be out of the mainstream of medical care in this country. However, the law does not compel a private hospital to qualify.■

[*When the Title VI questionnaire was distributed to hospitals on March 7, guidelines from HEW were enclosed with it. Additional copies of the guidelines may be obtained at any regional HEW office.—Editor's Note.*]

ASSURANCE OF COMPLIANCE WITH THE REVISED STATEMENT OF POLICIES FOR SCHOOL DESEGREGATION PLANS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

_____ (hereinafter called the "Applicant")
(Name of Applicant)

HEREBY AGREES THAT it will comply with all requirements in the Revised Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964, issued by the U.S. Commissioner of Education (hereinafter called the "Commissioner"), March, 1966 (45 CFR Part 181), which are applicable to plans of the same type as the Applicant's voluntary plan for the desegregation of its school system. The Applicant also agrees that it will comply with any amendment of such Revised Statement, unless after the publication of any such amendment the Applicant shall notify the Commissioner that it does not intend to operate a voluntary plan for desegregation in accordance with such an amendment.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant in reliance on this assurance, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases of extension of Federal financial assistance in reliance on this assurance, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it.

The Applicant has adopted and is implementing a voluntary plan for desegregation of its school system based on _____
(specify whether freedom of choice, geographic attendance zones, a combination of both of the foregoing, or other type of plan).

Applicant should check the applicable box below:

☐ Such plan was accepted by the Commissioner prior to the submission of this form and is hereby modified to the extent necessary to comply with the applicable requirements of the Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964 (45 CFR Part 181).

or

☐ Such plan is submitted herewith.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance conditioned upon the acceptance by the Commissioner of a Voluntary Plan for Desegregation if such assist-

ance is extended after the date hereof to the Applicant, directly or through an intervening State agency, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States or the State agency through which Federal financial assistance is extended, jointly or severally shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated_____

_____
(Applicant)

_____
(County and State in which Applicant is located)

_____
(President, Chairman of Board, or comparable authorized official)

_____

_____

_____
(Applicant's mailing address)

If any grades are covered by freedom of choice for the 1966-67 school year, state grades so covered:_____
and choice period dates:_____to_____

State grades covered by any other type of plan for 1966-67:_____
Specify type of plan:_____

U. S. DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
Public Health Service
Washington, D. C. 20201

For Release After 1 p.m., March 7, 1966

Surgeon General William H. Stewart today announced specific steps which the Public Health Service has taken to assure compliance in the health and medical fields with Title VI of the Civil Rights Act of 1964.

Currently in the mails to the administrators of the Nation's more than 10,000 hospitals are: (1) letters explaining that to be eligible to receive Federal assistance or to participate in any Federally assisted program a hospital must be in compliance with Title VI; (2) Guidelines for Compliance, and (3) a Medical Facilities Compliance Report which the administrator is asked to complete and return by March 15. An Assurance of Compliance form has also been mailed to approximately 7,000 hospitals which have not as yet filed such forms.

In addition , the Surgeon General announced the establishment in the Public Health Service of an Office of Equal Health Opportunity which is charged with responsibility for the civil rights activities of all agencies of the Executive Branch which administer Federal assistance funds in the health and medical fields.

In his letter to hospital administrators, Dr. Stewart stated in part:

"The Public Health Service has been given the responsibility of ensuring compliance with Title VI in all hospitals receiving funds directly or indirectly from any department or agency of the Federal government. As a result, hospitals will be dealing with only one department of the Federal

government instead of fifteen. Financial assistance is extended directly by the Federal Government for research, training or construction.. In other instances, the funds are for services rendered to clients of State administered health, welfare or rehabilitation programs.

"This activity of the Public Health Service does not relieve State and local recipients of Federal Grants, such as State or local health and welfare agencies, from continuing responsibility for determining that Federally supported programs do not use non-complying hospitals."

"Guidelines for Compliance with Title VI of the Civil Rights Act of 1964" is a two-page general explanation of what is required if a hospital is to be in compliance with Title VI. The document spells out that "hospitals in compliance with the Act are characterized by absence of separation, discrimination or other distinction on the basis of race, color or national origin in any activity carried on in, by or for the institution affecting the care and treatment of patients." It then sets forth the specific characteristics of compliance.

When signing the Assurance of Compliance Form, the authorized hospital official agrees that his institution will comply with the provisions of Title VI and that any necessary measures will be taken immediately to effectuate this agreement.

The Medical Facilities Compliance Report is a questionnaire which asks for specific information on civil rights practices within the hospitals in relation to the admission, care, and treatment of patients, the conduct of training activities, the utilization of staff and the extension of staff privileges.

The hospitals will be asked, for instance, to indicate whether patients are assigned to all rooms and facilities without regard to race, color, or national origin; whether all persons are allowed to use entrances, admission offices, waiting rooms, dining areas and cafeterias, toilets and lavatories, and other service facilities; whether the hospital accepts and approves applications for staff privileges and training without regard to race, color, or national origin; and other similar questions. An up-to-date patient census by race must be indicated on the questionnaire, as must a breakdown by race of physicians holding staff privileges.

If evidence of discriminatory practice is indicated in the returned questionnaire, the specific areas of failure to comply will be pointed out. The hospital will then be given an opportunity to eliminate its discriminatory practices as quickly as possible. Where discrimination persists, the hospital will be excluded from any new Federal assistance programs, such as Health Insurance for the Aged, which begins on July 1. When negotiations fail to achieve compliance, steps will be taken under Title VI to terminate present assistance, or compliance will be secured through enforcement by the courts.

The Office of Equal Health Opportunity is administratively located in the Office of the Surgeon General and will be headed by Mr. Robert M. Nash. It will employ a staff with special competencies and responsibilities in review and investigation of complaints, evaluation of complaint and compliance reports, public information activities, fiscal and statistical analysis, compliance negotiations, and development of recommendations for corrective action within the law, and will include experts in such areas as law, contracts, professional education and project grants, hospitals and nursing homes, and State and local health agencies.

Mr. Nash will eventually direct a staff of 100, for which recruiting is now in progress. Some 30 employees will be assigned to the Washington office, and the remaining 70 employees will be stationed in the nine regional offices of the Department of Health, Education, and Welfare.

Mr. Nash, who has directed civil rights activities of the Public Health Service in the over-all framework of the Department of Health, Education, and Welfare, is 49 years old and was born in West Swanzey, N. H. He received his masters degree in social service administration in 1941 from the University of Chicago, and worked for the New Hampshire Department of Welfare before entering Federal Service in 1943 with the Bureau of Public Assistance. In 1946 he joined the Public Health Service as a Hospital Program Representative, and has since served as Deputy Chief, and later Chief, of Grants Management in the Bureau of State Services. In 1964 he was named Assistant Grants Policy Officer in the Office of the Surgeon General, with primary responsibility for health program grants and Federal-State relations in regard to Public Health Service grants.

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

_____ (hereinafter called the "Applicant")
(Name of Applicant)

HEREBY AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health, Education, and Welfare (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated _____ _____
(Applicant)

By _____
(President, Chairman of Board, or comparable authorized official)

_____

_____
(Applicant's mailing address)

PREPARED STATEMENT BY WILLIAM H. STEWART, M.D., SURGEON GENERAL, U.S. PUBLIC HEALTH SERVICE

The Public Health Service intends to exert every effort to see that discrimination with respect to race, color or national origin is halted in all health and medical institutions and agencies receiving Federal assistance. This is the meaning, put most simply, of Title VI of the Civil Rights Act of 1964, as it pertains to the responsibilities of the Public Health Service. This is the meaning of Title VI to which I, and all of us in the Public Health Service, wholeheartedly subscribe.

The responsibilities for meeting this goal have been given to the Public Health Service by Secretary Gardner. Today we are announcing that the Service has set up an organizational unit to carry out our responsibilities, to provide a point of contact for those with whom we will be dealing in this area, to make certain policy decisions for the Service on civil rights, and to provide the Service-wide, indeed the government-wide, leadership for civil rights activities in health and medical affairs.

The organization we have created for these purposes, and which will be part of the Office of the Surgeon General, is called the Office of Equal Health Opportunity. This Office is now recruiting its full-time staff, beginning a review of the compliance status of the Nation's hospitals, and forming its plans for future action, as the news release you were given points out more fully.

Although it is administratively necessary to establish such a distinct unit to deal with civil rights, in no sense does this imply that civil rights are the concern only of this new Office. On the contrary, civil rights affairs necessarily permeate all parts of the Service, and are the responsibility of all employees of the Service.

There is a very strong feeling in the Federal government, in this Department, and in the Public Health Service, that this subject of civil rights is of the highest importance and priority. From the point of view of the Service, this activity will have impact on the quality of the health care provided to the American people; it impinges on such important matters as the proper distribution of our health resources; the recruitment and training of health workers; and the organization and efficiency of our health and medical institutions.

More importantly, of course, our activities in the field of civil rights will help to remove the discrepancy sometimes found between the humanitarian ideals of medicine and its day-to-day practices; while most importantly of all we hope to affirm and to assure the rights of all citizens within our democratic society.

To accomplish all this, we must be more than simply enthusiastic or pietistic—we have learned, too, as those who have been in the frontlines of the battle for civil rights know, that we must be specific and unambiguous in our plans and policies, we must be patient and undiscouraged in the face of resistance, and we must be firm in our demands.

Much progess in eliminating discrimination has already been achieved during the past year through the voluntary action of hospitals in all parts of the country. The transition has not been as difficult as some were fearful it would be. On the contrary, choosing to offer equal treatment to all Americans has proved to be administratively, economically, and medically advantageous and correct.

We will have problems, to be sure. But I think everyone understands what we are asking and what we hope to accomplish. Our problems will be solved—and they will be solved with a minimum of delay, suspicion, hurt feelings, or bad faith.

If I could not believe that, if I could not commit myself wholly to this good cause, then I would not have come here this afternoon. Thank you.

STATEMENT OF HON. EDWARD M. KENNEDY, U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

S. 2928

Senator KENNEDY of Massachusetts. I want to thank the distinguished chairman of the Education Subcommittee for setting aside time during these important hearings to hear testimony on S. 2928, a bill I introduced in the Senate on February 16. I also want to thank each of the members of the panel which will follow my testimony for taking the time and making the effort to come to Washington today to discuss the problems of de facto segregation in our public schools.

Each of them has already made valuable contributions in the field of education and I am certain that all of us here in the Senate will benefit from hearing their views on this important question.

Any matter affecting the quality of our education and the well-being of our children should concern us seriously. An adequate education is the cornerstone of good citizenship and in today's complex world, an economic necessity. It is not a privilige to be made available to only a few. It is the indispensable equipment of all freemen and their key to equal opportunity.

EQUAL EDUCATION OPPORTUNITIES FOR NEGRO CHILDREN

A good education is important for all children. But it is especially vital for the disadvantaged, particularly our Negro citizens.

The American Negro, if he is to have faith in any of our society's institutions, must have faith in our schools. A school in the only institution which, by its very nature, involves a daily effort to give to its students something they did not have before, and make of them something they were not before. Without equal educational opportunities, the American Negro will never obtain the full citizenship which is his birthright. I believe that because of racial imbalance in public schools, many a Negro child today is being denied this opportunity. And once it is denied him, the harmful effects in most cases can never be completely overcome.

With some exceptions, segregation in educational facilities in the North and West does not exist as a result of purposeful official action. But it does exist nonetheless. As a result of a past history of residential segregation combined with a commonly observed school policy of pupil assignment based on place of residence, school systems which are highly segregated de facto by color can be found in almost every major city in the North and West.

In my own State of Massachusetts, for example, a study last year by the Massachusetts Advisory Committee on Racial Imbalance and Education found that—

most Negro children in Massachusetts attended predominantly Negro schools while the overwhelming majority of white citizens attend schools that are either all white or have fewer than five nonwhite children enrolled.

DE FACTO SCHOOL SEGREGATION

Massachusetts is one example, but by no means the most striking one. The problem of de facto school segregation, or racial imbalance,

is even more severe in those Northern and Western States which have a higher percentage of nonwhite citizens than my own State.

A 1963 study by the National Association of Integration Relations found that in these regions there were a total of 738 public schools with minority group enrollment of 90 percent or more in some 200 cities. And projections indicate that these imbalances will worsen with time, unless some major counterbalancing forces are introduced.

School segregation by color, whatever the reason, is harmful to schoolchildren. The eminent authorities cited in *Brown* v. *Board of Education* and numerous studies since that ruling testify to this. The studies indicate that separation of schoolchildren by race leads to ignorance of other races, and that this ignorance breeds prejudice and fear. The damage is particularly severe for the Negro child, whose preschool experience with the harmful effects of racial discrimination are reinforced by a racially imbalanced school.

As the Panel on Education of the Planning Session for the White House Conference put it:

> All the evidence indicates that Negro children receive an education deficient in quality by every standard of quality—academic achievement, teaching, supervision, materials, facilities, curricula, building standards and so forth—and by every measurement of consequence—reading ability, attendance at college, dropout rate, IQ, and other tests, and incidence of personal alienation and social disorganization (crime and delinquency, drug addiction, family instability, menial job and unemployment). There is clear documentary evidence of a direct relationship between segregated schools and inferior education, and of cumulative academic retardation among children in Negro ghettos. There is evidence also that this waste is remediable, hence the greater tragedy.

The pattern of rejection and despair felt by the Negro student in his public school training has its effect on many aspects of our social structure. There is direct correlation, for instance, between poor educational training and the evils of crime, delinquency, and urban decline.

Prof. Kenneth Clark describes the material disadvantages and human costs of unequal education opportunities as contributing—

> significantly to a cycle of socio-economic pathology—poor education, menial jobs, unemployment, family instability, group and personal powerlessness.

I cannot stress too much how strongly I feel about the importance of equal educational opportunity. It is the key to equal opportunity in all fields among all men. President Kennedy, in initiating many of the education programs enacted into law during the past session of Congress said that "the human mind is our fundamental resource." Certainly every effort should be made to conserve and develop this resource for all Americans through our public schools.

DEVELOPMENT OF INDUSTRIAL POTENTIAL

A public school system should provide the means and the opportunity for each child to develop his unique individual potential to its fullest capacity. It should also be the training ground for the child's future life as a citizen in a multiracial culture. A racially imbalanced school may not achieve the first objective because a Negro child's motivation to learn may be crippled by the segregation he experiences in his school environment. And it may not achieve the second objective

because a Negro child who has been isolated from the majority group during his school years will often be ill equipped to take his place in an integrated world.

Small children, Negro or white, do not make fine legal distinctions between de jure and de facto segregation. But the do know what they see—and they see that the separateness they experience is based on color.

But, although the harmful effects of both de jure and de facto segregation are the same, the law until now has distinguished between them. The most recent decisions of the U.S. Supreme Court suggest that, although a local board of education has the legal power to correct racial imbalance, it does not have the legal duty to correct such imbalance.

These decisions reflect in part the jurisprudential problems contained in the 14th amendment's requirement of "State action." And they also reflect, I believe, judicial recognition both of the complexities involved in the administration of a public school system and of the historic faith we have placed in the ability of a local community to best run its own schools.

DIFFICULTIES IN CORRECTING RACIAL IMBALANCE

I realize that correcting racial imbalance is often difficult, and that a local school board is justified in weighing the competing considerations which inevitably attend the formulation of sound school policies. And I am also aware that the problem we face in our schools is not simply one of racial imbalance, but also a problem of inferior schools and of "culturally deprived" children. I tend to agree with the findings of the Allen report in New York that, "total segregation of all schools * * * is simply not obtainable in the foreseeable future and neither planning nor pressure can change that fact." That day will not come until we have succeeded in breaking completely all aspects of the cycle of poverty, ghetto housing, ghetto schools, and unskilled jobs which deny Negroes equality of opportunity.

But these qualifications and competing considerations do not alter the basic reality—that racial imbalance in schools is harming our children, hampering our educational objectives, and denying our principle of equal educational opportunity. Although there may be no constitutional compulsion requiring the complete and immediate elimination of racial imbalance, it seems basic to me that those school districts which wish to alleviate this problem should receive the encouragement and support of the Federal Government.

The legal consequences of de jure and de facto segregation may be different, but, because the harm is the same, I believe it should be a part of our national policy to support local programs designed to overcome the problem of racially imbalanced schools.

INADEQUACIES OF PRESENT LEGISLATION

The bill we are discussing today is intended to achieve that purpose. It would amend title IV of the Civil Rights Act of 1964, to authorize the Commissioner of Education to provide technical assistance and grants to school boards which have drawn up programs for overcoming racial imbalance in their public schools.

Present law does not provide for Federal assistance to education programs designed to deal with this problem. Title III of the original administration civil rights bill of 1964 did make specific provision for the inclusion of areas of racial imbalance in all programs, loan, grant, and assistance projects concerned with the study and alleviation of segregation in public education. But these references were eliminated in committe, and the bill as passed provided specifically that "desegregation shall not mean the assignment to public schools in order to overcome racial imbalance."

My bill would restore the present law to its original form and permit the same kind of assistance to school boards acting to correct de facto segregation as it currently makes available to school boards acting to correct de jure segregation.

EFFECTS OF S. 2928 ON TITLE IV—CIVIL RIGHTS ACT

I would now like to discuss in detail each section of title IV of the Civil Rights Act to show how it would be affected by S. 2928.

Section 402: Presently the Commissioner of Education is authorized to study and report on the availability of equal education facilities for all individuals in public institutions throughout the Nation. My bill would authorize the study of areas of racial imbalance to be included in this report to the President.

Section 403: Under this provision the Commissioner would be authorized to render technical assistance to school officials in the preparation, adoption, and implementation of plans for correcting racial imbalance as well as for the desegregation of public schools.

Section 404: The Commissioner would be authorized to arrange for the operation of special training institutes designed to improve the ability of personnel who deal with educational problems occasioned by racial imbalance as well as by desegragation in school systems.

Section 405: The Commissioner would be authorized to provide for in-service training for teachers and school personnel and the employment of special advisers on problems resulting from racial imbalance as well as from desegregation.

The major limitation of title IV is its inability to deal with or assist operational programs such as teacher exchanges, bussing, and long-range studies, all of which could contribute substantially to the amelioration of immediate and imminently explosive situations. The most important innovation in my bill is the addition to section 405 of a series of special programs which will allow school officials to obtain Federal assistance for dealing with these situations. Included in the special programs would be the development of new curricular materials, the taking of surveys and assessments leading to redistricting of school facilities, teacher exchanges, transportation projects, and supplemental constructions.

NEW CURRICULAR MATERIALS

The first of these, the development of new curricular materials is aimed at closing the informational gap between students who were educated in highly segregated schools and the rest of the student population, and at seeking out methods of teaching which appeal to the interests and abilities of culturally deprived children. Three types

of curricular materials have been suggested by the Office of Education:

1. Special units for social studies classes dealing with problems of civil rights and civil liberties, emphasizing the historical and cultural contributions of minority groups. New York City school officials have drawn up such a program but have not been able to find enough money for implementing it. They feel that the issues of civil rights can be brought into the lives of Negro and white students on a daily basis through the classroom, and will thereby cease to have fearful or mysterious implications. The school system of Wilmington, Del., has also developed a program of curricular materials which would make the study of civic responsibility and community relations a part of the secondary school curriculum.

2. Specific materials such as vocabularies, readers, oral approaches in instruction, books and literature designed to overcome the handicaps suffered by culturally deprived children. These materials would emphasize approaches to learning familiar to the Negro child, and words, pictures, stories, and objects that have been seen and heard in their homes.

3. Illustrations and content, to be included in existing materials, which will develop a self-concept for minority group children. By seeing themselves and the history of their cultures in these materials they will be imbued with a sense of their own importance, and be motivated by their possible contributions to society. In Oak Ridge, Tenn., for example, school officials have undertaken such a curriculum project but have been unable to find enough money to carry it out. Furthermore, even if a school wished only to make use of such materials, they would be unable to find them, for no agency has taken the time and trouble to develop them for public use.

The second type of special project under my bill is the development of surveys and assessments leading to redistricting and the reallocation of school facilities. There is no question that the ultimate answer for the desegregation of public schools is long-range planning of construction and the eventual implementation of programs for residential and school reorganization in metropolitan areas. Funds under this section of the bill could be used by schools to study the composition and zoning of their established districts, and the use and quality of their facilities. Such studies are essential background for any program leading to long-range building plans, the development of a transportation system which would assist desegregation and complementing a building program, a more efficient use of existing buildings and development of new types of school construction. Many school districts have asked for this kind of survey, or for advice on de facto consolidation needs, but funds have not been available for them.

A third area covered in section 405 of my bill is teacher exchange programs. Students need association with teachers, as well as students, of another race. My bill would provide funds for school systems to give special bonuses and incentives to teachers willing to spend time teaching a "difficult school." Three counties in Florida, as well as areas of Harlem, Cincinnati and Philadelphia have already inquired about funds for this kind of program. The funds were unobtainable.

The fourth area of concern under this section of the bill is transportation programs such as bussing. Any proposal aimed at balanc-

ing the racial composition of neighborhoods by open enrollment, pupil transfers, feeder plans, single-grade schools, or pupil dispersal involves the bussing of students. Many school officials, including some in my own city of Boston and in Malverne, N.Y., have been seeking Federal help with such programs, to no avail. None of these methods of intergrating school systems can be effectively tested without pilot transportation projects.

The last type of special project involves supplemental construction funds for consolidation of school districts and the creative use of new school designs. The construction envisioned here is not of a comprehensive nature but is a stop-gap to provide the greatest use of existing school facilities and short-range building projects. For instance, a small isolated, all-Negro rural school could be closed and integrated with a larger central school by the construction of one additional classroom. A preschool nursery program—vitally important to children with poor home lives—could be extended from 4- to 3-year-olds by building large, open-space playrooms with separations for group activities. Again, funds under this section could be used to study new design in school construction and for long-range planning of one-grade schools.

My bill includes no coercive measures whatever. It merely makes funds available to those school districts which recognize a problem and have designed a program to deal with it.

BROADENING PROGRAMS UNDER TITLE IV

If school officials wish to alleviate a situation within their district, they are presently hard pressed to find any way of undoing such projects under existing legislation. A very limited type of assistance is presently available for de facto segregated schools under the present interpretation of title IV. As written the act specifically defines "desegregation" as not relating to problems occasioned by racial imbalance. With this restriction in mind, administrators of the act have chosen to interpret the expression "problems incident to desegregation" as applying to certain types of de facto imbalance situations. No project application, however, can be considered under this title if the nature of the application arises from an imbalanced situation, if the expression de facto segregation is mentioned, or if the request is for any sort of technical assistance.

Moreover, severe limitations have also been placed on the eligibility of a de facto system for funds by the higher priority which Congress has explicitly placed on assisting desegregation of de jure segregated systems and by the limited resources ($5 million) available to fund the large number of applications which have been received (some $20 million in requests).

Certain funds are available under the Elementary and Secondary Education Act, but from its experience the Office of Education has found that schools are reluctant to request funds under this act when the money can be used for other much needed and less controversial projects. I feel that hesitant officials will gain the confidence and impetus to design effective programs to correct racial imbalance only if they known Federal money is available solely for that purpose.

In the nearly 2 fiscal years that the Civil Rights Act has been in operation, over $18 million worth of project applications have not been able to be funded under title IV. Yet, when areas of racial imbalance are included within the scope of the bill, there will naturally be a large increase in the number of applicants. Many school systems in the North and West which have not been included within the scope of the act will now be able to request funds for educational projects. In addition, with the inclusion of the special projects section under title IV, greater funds will be necessary to cover operational programs for which money is not presently available.

AUTHORIZATION OF $50 MILLION

Consequently, I feel that an authorization of $50 million is a reasonable request in order to initiate the new programs contemplated under this title and to measure the reaction by school districts with racially imbalanced school populations to the existence of these programs.

Mr. Chairman, there is no more serious problem which faces the school systems of the North and West today than the need to guarantee equal educational opportunities to every student regardless of color, race, or religion. President Johnson has recognized the need and has asked the Civil Rights Commission to make an extensive study of the problem and its effect on the children and school districts of the North and West. The Commission has already held hearings in Cleveland. The testimony of the children, teachers, administrators, and public officials affirms and expands in tragically personal terms the facts that I have outlined briefly to you. My bill could provide immediate and short-term relief to many such school districts and contribute greatly to the type of investigation presently underway by the Civil Rights Commission.

I recognize that the problem of de facto segregation cannot be solved by the schools alone, and that a comprehensive attack on the problem will require a program of Federal assistance far more extensive than that provided for in S. 2928. But as the National Educational Association, in testimony in support of S. 2928 before this subcommittee, pointed out:

> We must start somewhere—and starting with special assistance to schools is in our opinion, the best place to start. Just be sure we don't stop there and expect miracles which cannot be achieved unless we as a nation also provide the other factors * * *.

Thank you, Mr. Chairman.

Mr. Chairman, for the record, I would like to have permission to insert a letter from the Washington Teachers Union, a letter from the Harvard University Graduate School of Education, and a statement of Dr. Kenneth Clark, together with various statistics.

(The material referred to follows:)

THE WASHINGTON TEACHERS' UNION,
Washington, D.C., April 26, 1966.

HON. WAYNE MORSE,
Chairman, Senate Education Subcommittee,
New Senate Office Building, Washington, D.C.

DEAR SENATOR MORSE: The Washington Teachers' Union of the American Federation of Teachers desires to present the following statement in behalf of proposed legislation to provide Federal assistance for school boards endeavoring

to combat de facto segregation in public schools throughout the United States. As teachers, our interest in bills like S. 2928 is at least twofold. We are naturally concerned about the quality of education being made available to our boys and girls throughout the nation. Our Union is also anxious to participate in solution of the economic and social problems involved in the present educational situation.

School boards and other educational subdivisions are frequently in need of assistance to combat difficulties growing out of de facto segregation. Legal outlawing of racial discrimination is merely the first step in implementing the ideals which became part of our Constitution more than a century ago. Putting a law on the books does not always immediately put an end to political wrongs and social abuses. Hard and painstaking effort must be made to make current practice catch up with what is in the statutes.

Nowhere is that more evident than in the desegration of our public schools since the memorable Supreme Court Decision of 1954. Much progress has been made toward actual elimination of discrimination in our public schools in all sections of the country. Even more will be made as Federal, state and local governments put their shoulders to the wheel and make a genuine effort to end practices that have too long disgraced our nation throughout the world. It should, however, be emphasized that making laws and then letting things drift will not bring about the conditions desired by progressive Americans.

In some cases only token integration has taken place. In others de facto segregation based on a ghetto pattern of life has taken place. Right here we should make it clear that educational problems cannot be solved by themselves. The schools are a part of the community. Their success inevitably depends on the economic and social welfare in the nexus where they function. Residential segregation makes de facto integration difficult. Similarly separation of children in the schools sets the pattern for residential segregation and all other forms of racial discrimination.

Since these social evils are inextricably connected, they cannot be solved in piecemeal fashion. An overall approach must be made on them. The resources of government must be combined with private initiative, if we are to make really rapid progress. School officials canont do it all by themselves. They must have the support of government at all levels, as well as help from liberal individuals. This assistance must, furthermore, include financial support.

That is what this bill provides for. Financial assistance would be given school districts, whether they are struggling against de jure or de facto segregation. The Commissioner of Education would be authorized to provide technical assistance and grants to school boards which have drawn up plans for correcting racial imbalance in their public schools. In the next paragraph, we shall point out the necessity for such legislation at this time.

The present law covers only the broader aspects of the situation. Title III of the original Civil Rights Bill of 1964 did make specific provision for the inclusion of areas of racial imbalance in all programs, loans, grants and assistance projects concerned with the study and alleviation of segregation in public education. These references were, nevertheless, eliminated in committee, and the bill as passed provided that "desegregation shall not mean the assignment to public schools to overcome racial imbalance."

As a consequence, the Office of Education has been seriously handicapped in its efforts to support school boards struggling to eliminate de facto segregation. The assistance is further limited by the fact that only five million dollars is available for all such programs in schools at all levels. On the other hands, requests for such assistance currently exceed $20,000,000. Clearly something should be done to implement the original intention of the Administration Civil Rights Bill of 1964.

That is what this bill would do. It is not necessary to go into further detail. It is the declared policy of our national government to eliminate segregation from American life. Legally, tremendous progress toward that goal has been made. In our everyday economic and social life, some headway has been made but not nearly enough. Education is one area in which an attack can be made on this cancerous social evil. In the schools it can be done legally and in other ways. All of our legal, educational, economic and social resources must be marshalled in a concentrated assault on unjust discrimination.

Merely legislating against social evils will not solve them. To be sure, that must be done. Still, it is only a first step. Beyond that, actual aid must be given to public and private agencies that are trying to implement our national ideals. That aid must frequently be financial if anything worth while is to be

accomplished. The Supreme Court Decision of 1954 was a necessary first step. Legislation both on the national and state level have followed. Yet, that has not gone far enough. The example of the Civil Rights Act of 1964 has been pointed out. The bill under consideration would bring it up to date and provide funds needed to carry out its fundamental objectives.

Senate Bill 2928 provides the practical means of carrying out the objectives of previous civil rights legislation. It shows the way toward elimination of de facto segregation in schools and other areas of American life. We strongly urge a favorable report on it followed by enactment into law by the 89th Congress.

Respectfully yours,

WILLIAM H. SIMONS, *President.*

HARVARD UNIVERSITY GRADUATE SCHOOL OF EDUCATION,
Cambridge, Mass., April 19, 1966.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: In my inability, because of a previous commitment, to appear before the Education Subcommittee of the Committee on Labor and Welfare next Wednesday afternoon, April 27, I would hope that at that hearing you would manifest my hearty support of S. 2928.

This bill I have read carefully and with full sensitivity to the objectives it seeks to accomplish. These must be realized if the purposes of the 1964 Civil Rights Act are to be achieved.

Here in the Commonwealth of Massachusetts we have been greatly hindered in efforts to overcome both *de facto* and *de jure* segregation, so damaging to the school child. Your bill would materially assist lay and professional groups working to bring about equal educational opportunity. I hope so much that it will be acted upon favorably.

Sincerely,

HEROLD C. HUNT,
Eliot Professor of Education; Former Superintendent of the Chicago School System.

PREPARED STATEMENT BY DR. KENNETH CLARK, PROFESSOR OF SOCIAL PSYCHOLOGY AT CITY COLLEGE OF NEW YORK

I am in support of Senator Edward Kennedy's bill, S. 2928. It is absolutely imperative that the Federal Government stimulate and encourage local school districts to reorganize and desegregate their school systems so that every American child will have equal educational opportunities. The slow pace of public school desegregation is due not only to resistance and anxiety, but probably also reflects the fact that some school districts are economically unable to make the necessary changes. Financial support from the federal government would not only make it possible to help these school districts but also would help to differentiate those that are willing to reorganize their school systems from those school districts which are clearly violating the law. Our times demand that the American public school system be reorganized in order to provide each child with an excellent education. It is now absolutely clear that this cannot be done as long as our public schools are organized and operate on the basis of the educationally irrelevant factor of race. The Federal Government must use every effective method to make this necessary reorganization possible.

Senator Edward Kennedy's bill provides an effective approach toward this goal.

MASSACHUSETTS STATUTE ON RACIAL IMBALANCE

CHAPTER 641—THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Sixty-five

AN ACT Providing for the elimination of racial imbalance in the public schools

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to eliminate forthwith racial imbalance in the public schools, therefore

it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follow:

SECTION 1. Chapter 71 of the General Laws is hereby amended by inserting after section 37B the following two sections:

Section 37C. It is hereby declared to be the policy of the commonwealth to encourage all school committees to adopt as educational objectives the promotion of racial balance and the correction of existing racial imbalance in the public schools. The prevention or elimination of racial imbalance shall be an objective in all decisions involving the drawing or altering of school attendance lines and the selection of new school sites.

Section 37D. The school committee of each city, town and district shall, annually, at such time and in such form as the commissioner shall determine, submit statistics sufficient to enable a determination to be made of the percent of non-white pupils in all public schools and in each school under the jurisdiction of each such committee. Whenever the state board of education finds that racial imbalance exists in a public school it shall notify in writing the school committee or regional school district committee having jurisdiction over such school that such finding has been made. The school committee shall thereupon prepare a plan to eliminate such racial imbalance and file a copy of such plan with the board. The term "racial imbalance" refers to a ratio between non-white and other students in public schools which is sharply out of balance with the racial composition of the society in which non-white children study, serve and work. For the purpose of this section, racial imbalance shall be deemed to exist when the percent of non-white students in any public school is in excess of fifty percent of the total number of students in such school.

Said plan shall detail the changes in existing school attendance districts, the location of proposed school sites, the proposed additions to existing school buildings, and other methods for the elimination of racial imbalance. Said plan shall also include projections of the expected racial composition of all public schools. Any plan to detail changes in existing school attendance districts, the locations of proposed new school sites and proposed additions to existing school sites and proposed additions to existing school buildings with the intention of reducing or eliminating racial imbalance, must take into consideration on an equal basis with the above-mentioned intention, the safety of the children involved in travelling from home to school and school to home. Said plan may provide for voluntary cooperation by other cities and towns in rendering assistance and in making available facilities to effectuate said plan.

No school committee or regional school district committee shall be required as part of its plan to transport any pupil to any school outside its jurisdiction or to any school outside the school district established for his neighborhood, if the parent or guardian of such pupil files written objection thereto with such school committee.

Said board may, from time to time, require each school committee to submit to said board a report on the progress of the plan and its implementation.

The supreme judicial and the superior court shall have jurisdiction in equity upon petition of the board of education to enforce the provisions of this section.

SECTION 2. Chapter 15 of the General Laws is hereby amended by inserting after section 1H the following three sections:

Section 1I. The board of education shall provide technical and other assistance in the formulation and execution of plans to eliminate racial imbalance, made pursuant to section thirty-seven D of chapter seventy-one. Whenever the board determines that a school committee or regional school district committee has failed to file a plan in compliance with the provisions of said section, it shall consult with and make specific recommendations for a plan by such school committee or regional school district committee.

If, following the receipt of notification from the board of education that racial imbalance, as defined in section thirty-seven D of chapter seventy-one, exists, a school committee or regional school district committee does not show progress within a reasonable time in eliminating racial imbalance in its schools the commissioner of education shall not certify the amount of state aid for such city or town or for such towns which are members of such regional school districts, as required by section nine of chapter seventy, and the school building assistance commission upon receipt of notice from said board that racial imbalance exists shall not approve any project for school construction for such city, town or

regional school district under chapter six hundred and forty five of the acts of nineteen hundred and forty-eight, as amended, and the commissioner of education may notify the commissioner of corporations and taxation and the comptroller to hold such funds as have been so certified under said section nine but have not been disbursed. The commissioner of education may thereafter upon receipt of a plan acceptable to the board of education notify the commissioner of corporations and taxation and the comptroller to pay any such withheld funds to such city or town in such amounts and at such times as he may designate, and the school building assistance commission upon receipt of notice from said board that a plan acceptable to it has been received may approve such projects.

The school building assistance commission shall, notwithstanding any contrary provision of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, as amended, increase the amount of grants for schoolhouse construction to sixty-five per cent of the approved cost, whenever the board of education is satisfied that the construction or enlargement of a schoolhouse is for the purpose of reducing or eliminating racial imbalance in the school system and so notifies the school building assistance commission.

Section 1J. Within thirty days after (1) a school committee or regional school district committee declines to accept the recommendations submitted to it by the board or (2) the board disapproves a revised plan submitted to it by a school committee or regional school district committee, said committee may file a petition for judicial review in the superior court for the county in which it is located or in the supreme judicial court for Suffolk county. The court may affirm the board's determination of the recommendations submitted by it or its determination of disapproval of a revised plan submitted to it, and order compliance with the recommendations of the board by appropriate decree, or if it finds and rules that the determination by the board is (*a*) in excess of the statutory authority or jurisdiction of the board, or (*b*) based upon an error of law, or (*c*) arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law, then it may set aside such determination by the board and remand the matter to it for further action.

The supreme judicial and the superior court shall have jurisdiction in equity upon petition of the board of education to order funds withheld as provided in section one I for such period of time as the court may determine.

Section 1K. The board of education, with the advice of the commissioner, shall appoint an advisory committee on racial imbalance and no individual shall be appointed to this advisory committee on racial imbalance who has been listed in any state or federal document as being a member of a communist front organization. The members of the committee shall serve without compensation except that they may be reimbursed for the necessary expenses actually incurred in the performance of their duties.

Approved August 18, 1965 at 12:32 P.M.

DISTRIBUTION OF WHITE AND NON-WHITE PUPILS IN THE PUBLIC SCHOOLS—OCTOBER 1, 1965, CENSUS

(Ch. 71, sec. 37D—Enacted 1965, ch. 641)

List of schools in which racial imbalance exists:

("* * * racial imbalance shall be deemed to exist when the per cent of non-white students in any public school is in excess of Fifty per cent of the total number of students in such school * * *."

Community and school	Grade	White	Non-white	Total	Percent non-white
1. Boston, David A. Ells Annex	4 to 6	0	126	126	100.0
2. Boston, Lewis Junior High School Building.	4	0	20	20	100.0
3. Boston, Williams School	Kindergarten to 2-special	0	92	92	100.0
4. Boston, Asa Gray School	Kindergarten to 4	1	320	321	99.7
5. Boston, Lewis Junior High	7 to 9	3	506	509	99.4
6. Boston, William Lloyd Garrison School.	Kindergarten to 6-special	7	896	903	99.2
7. Boston, David A. Ellis School	Kindergarten to 6	7	567	574	98.8
8. Boston, Quincy Dickerman School	do	7	504	511	98.6
9. Boston, Phillips Brooks School	do	9	511	520	98.3
10. Boston, Julia Ward Howe School	do	11	524	535	97.9
11. Boston, William L. Boardman	Kindergarten to 6-special	4	189	193	97.9
12. Boston, William Bacon School	Kindergarten to 6	7	274	281	97.5
13. Boston, Ira Allen School	Kindergarten to 2	5	183	188	97.3
14. Boston, Patrick T. Campbell Junior High.	7 to 9-special	24	698	722	96.7
15. Boston, Sarah J. Baker School	Kindergarten to 6-special	28	636	664	95.8
16. Boston, James P. Timilty Junior High	7 to 9-special	46	731	777	94.1
17. Boston, Henry L. Higginson School	Kindergarten to 6	16	222	238	93.3
18. Boston, William E. Endicott School	Kindergarten to 4	25	322	347	92.8
19. Boston, Quincy School	Kindergarten to 6	12	124	136	91.2
20. Boston, Academy Hill School	Kindergarten to 6	25	249	274	90.9
21. Springfield, William N. Deberry School.	do	57	568	625	90.9
22. Boston, Charles C. Perkins School	do	23	227	250	90.8
23. Boston, Dillaway School	Kindergarten to 4-special	27	236	263	89.7
24. Boston, Aaron Davis School	Kindergarten to 2	40	332	372	89.2
25. Boston, Dudley School	1 to 6	31	240	271	88.6
26. Boston, Atherton School	Kindergarten to 3-special	34	220	254	86.6
27. Boston, Nathan Hale School	Kindergarten to 5	50	294	344	85.5
28. Boston, Sarah Greenwood School	Kindergarten to 6	172	846	1,018	83.1
29. Springfield, Eastern Avenue School	do	47	220	267	82.4
30. Boston, Dearborn Annex	Special to 3	45	187	232	80.6
31. Boston, Girls' High School	9 to 12	117	471	588	80.1
32. Boston, John Winthrop School	Kindergarten to 6	123	467	590	79.2
33. Boston, Albert Palmer School	Kindergarten to 2	43	155	198	78.3
34. Boston, Christopher Gibson School	Kindergarten to 6 special	143	502	645	77.8
35. Boston, Dearborn School	4 to 8	147	502	649	77.3
36. Springfield, Tapley School	Kindergarten to 6	145	495	640	77.3
37. Boston, George Bancroft School	1 to 4	42	134	176	76.1
38. Boston, Benedict Fenwick School	Kindergarten to 6	105	331	436	75.9
39. Boston, John J. Williams School	do	69	201	270	74.4
40. New Bedford, Thomas A. Greene	do	51	141	206	73.4
41. Boston, Joseph J. Hurley School	1 to 6	190	509	699	72.8
42. Boston, Abraham Lincoln School	Kindergarten to 8	127	306	433	70.7
43. Boston, Oliver Wendell Holmes Junior High.	7 to 9 special	165	398	563	70.7
44. Boston, Joshua Bates School	1 to 3	55	129	184	70.1
45. Boston, Charles E. Mackey School	Kindergarten to 8	227	518	+745	69.5
46. Boston, M. Gertrude Godvin School	5 to 9	18	41	59	69.5
47. Springfield, Margaret C. Ells School	Kindergarten to 6	150	319	469	68.0
48. Springfield, Buckingham Junior High School.	7 to 9	329	625	954	65.5
49. Boston, Peter Faneuil School	Kindergarten to 6	76	134	210	63.8
50. Boston, Maurice J. Tobin School	Kindergarten to 8	297	461	758	60.8
51. Springfield, Elias Brookings School	Kindergarten to 6	344	490	834	58.8
52. New Bedford, Acushnet Avenue	Kindergarten to 3	100	142	242	58.7
53. Springfield, Homer Street School	Kindergarten to 6	404	569	973	58.5
54. Cambridge, Houghton	Kindergarten to 8	219	269	488	55.1
55. Boston, Farragut School	Kindergarten to 6	145	167	312	53.5
56. Boston, Paul A. Dever School	Kindergarten to 4	545	606	1,151	52.6
57. New Bedford, Thomas Donaghy	4 to 6	113	120	233	51.5
58. New Bedford, Clarence A. Cook	Kindergarten to 6	232	240	472	50.8

Senator KENNEDY of Massachusetts. We will now hear the statement of Mr. Johnson.

STATEMENT OF THERON A. JOHNSON, ADMINISTRATOR, DIVISION OF INTERCULTURAL RELATIONS, NEW YORK STATE DEPARTMENT OF EDUCATION

Mr. JOHNSON. Mr. Chairman and members of the committee, I am Theron A. Johnson, administrator, Division of Intercultural Relations, New York State Department of Education. This office has the major responsibility for formulating, coordinating, and implementing the State's program for school integration. Since this legislation, which is under consideration here today, deals with such an important challenge facing education in our Nation, the opportunity to comment is appreciated.

INTEGRATED EDUCATION QUALITY IN NEW YORK

We in the State of New York have for a long time made strenuous efforts to promote quality integrated education in our public elementary and secondary schools, the objective toward which this legislation is aimed. On January 28, 1960, the board of regents, which has responsibility for governing all education in our State, issued a statement on intercultural relations on education which is appended hereto. It referred to the Supreme Court decision of May 1954, and stated the conviction that in our democratic society equal educational opportunity is essential for all children without regard to differences in economic, national, religious, or racial background. It urged all citizens to reexamine the schools within their districts to assure that they "conform to this standard so clearly seen to be the right of every child."

A high legal advisory committee on human relations and community tensions was thereafter appointed and its studies were helpful in the formulation of State policies.

On June 14, 1963, the New York State commissioner of education called for a report from every public school district as to whether racial imbalance existed in its schools and if so what plans were under consideration for eliminating it. The objective of quality integrated education was reaffirmed and all schools were requested to direct their efforts toward its attainment. Copy of this statement is also submitted herewith.

Since that time the State education department has augmented its staff and intensified its efforts to assist school officials who were confronted with racial imbalance problems. Much progress has been made in the districts of our State. Some have solved their problems very well. Others have achieved partial solutions, often through imaginative measures. In our largest city, New York, the commissioner's advisory committee on human relations and community tensions submitted a comprehensive report on May 12, 1964. This report, which is enclosed, formed the basis for the board of education's integration plan.

The State education department and officials of our school districts will continue to strive for solutions to the problems which remain.

SEGREGATION DETRIMENTAL TO WHITE AND NONWHITE

Segregation is detrimental to nonwhite children, but the white child also suffers from segregated education. Quarantined in a segregated school, he loses his most meaningful opportunity to learn how to live in the multiracial adult world he will have to join. He acquires a sense of difference—on which fear breeds—and an unfounded sense of racial superiority.

Thus, the white child in an all-white school receives an incomplete education. A program to correct racial imbalance, therefore, works to his immediate benefit as well as to that of the Negro child. It follows from this point that even school districts where there are few or no Negro students have an educational problem if they do not provide integrated education.

Integrated education teaches the child to judge individuals for what they are rather than for the group to which they belong. From integrated education a child learns that difference among people are not as great as similarities and that differences are a source of richness and value to be prized rather than feared. Integrated education must reach all classrooms whether Negro children are now in them or not. To encourage the development of such programs, Federal support should be made available.

RACIAL IMBALANCE

We recognize, of course, that given the present situation in America, the correction of racial imbalance is an essential step toward integrated education. It is, we should like to affirm, basically an organizational matter and can be achieved in many districts in a reasonable time once the determination has been made to start. The change that in the long run will count, however, is the achievement of integrated education. It will take time because it involves changes in personal attitudes, the dissipation of deep-seated prejudices, and the respect for individual worth and dignity.

Racially balanced schools make integrated education easier, integrated education makes all education better. The cause, therefore, which S. 2928 will further is that of good education for all of America's children.

We in the State of New York have the same objective as that stated in this proposed legislation. In our years of striving toward it, we have learned a great deal and it is my hope that our experience may be useful to you in shaping legislation which, if enacted, would be practical and effective in dealing with this complex question.

S. 2928

S. 2928 proposes that Congress appropriate funds to assist school districts eliminte racial imbalance and achieve integration. We are glad to note that the Federal Government thus recognizes that such efforts will cost money, for we too have been acutely aware of this fact.

The board of regents again this year asked the State legislature to appropriate funds which could be used to assist school districts meet

added costs related to their integration efforts. This was in recognition of the fact that the problems are a State as well as local responsibility.

We tried to emphasize the actions which districts might take to improve racial balance. Some of these actions are:

Pairing of schools as in the Princeton plan.

Bringing together into one school all of the district's students of a given grade level.

Altering school attendance zones.

Closing a school and dispersing its students to other buildings.

Rearrangement of feeder patterns from elementary to junior high school to senior high school.

Transferring students from racially imbalanced schools to others which have available space.

Careful selection of sites when planning school construction.

Establishment of educational parks.

Voluntary exchange of students between districts.

Achieving racial balance is not itself sufficient. A high-quality instructional program is also essential. Furthermore, we realize there are some districts in which racial imbalance will not be immediately attainable because of factors beyond the control of local school authorities. This would be especially true in congested areas of large cities.

WAYS OF IMPROVING QUALITY OF EDUCATION

Consequently, we believe that whether or not racial balance is completely attainable in a given situation at this time, positive steps to attain instructional excellence must be taken. Such efforts might include:

Raising educational quality to the highest level by providing superior teachers; reducing class size; improving supervision; strengthening psychological, guidance, and health services; stressing remedial instruction; maintaining adequate library resources; providing ample textbooks, materials, and instructional equipment; constantly reviewing curriculum; establishing close liaison between home and school, et cetera.

Exchanging pupils between two or more schools for periods of time so that they may have experiences in shared activities.

Exchanging teachers between two or more schools for periods of time.

Stressing in all schools studies the achievements of minority group citizens,

Exchanging assembly programs, art exhibits, scientific exhibits, et cetera.

Enriching children's experiences through programs in cultural and intellectual activities before and after school.

Providing summer camp experiences.

Bringing visitors of various races to meet and work with students.

Integrating the professional staff.

Emphasizing techniques of working with minority group children in preservice and inservice education of teachers.

These are not to be considered as either temporary measures of a substitute for racial balance.

ACTIVITIES AIDED UNDER S. 2928

Just as we believe that State funds should be available to help districts with measures such as those listed above, we would hope that Federal funds could be used for the same purpose. As we read S. 2928, it would seem that the following activities are clearly aidable: inservice training of teachers; employment of specialists to advise in problems incident to racial imbalance; development and introduction of new curricular materials; surveys to consider redistricting within or between school systems; exchange of teachers to overcome staff imbalance; minor altering, remodeling, improving, or extending school facilities; improving relations between administrators and the community and transportation of pupils.

We approve of funding such efforts and believe that with proper guidelines this can be successfully administered. We would hope that the purposes could be broadened to include some of the other activities we have listed earlier.

RESERVATIONS

We note that the grants would be made by the U.S. Commissioner of Education directly to school districts, thus appearing to bypass State education departments. This is highly unsatisfactory from our point of view. We would prefer that in our State the State education department be permitted to administer the funds after devising a plan suitable to the needs of our State. The same privilege should be extended to any State which can and will enter into a valid contract to administer the funds in accordance with the purposes of the act. Obviously such States should agree to periodic accounting of their administration. We would prefer that direct administration from Washington be limited only to those States unable or unwilling to enter into such contracts.

We are not clear as to what is meant by the proposal to aid experimental or demonstration projects for the construction of school facilities only to the extent that such costs exceed the cost of using conventional techniques, methods, or designs. The New York State Education Department vigorously promotes the use of innovation in school construction because in general we find that advanced techniques will result in better buildings for lesser costs. Therefore, we feel that this provision of the bill would not be likely to result in aid for most school districts. Also, this provision refers to "conventional techniques, methods, or designs" which would be difficult if not impossible to define. It would be our view that aid for school construction is highly desirable but we feel that the provisions in this bill should be made more clear and practical.

We note that in considering amounts of grants the Commissioner is directed to take into account the "financial condition of the application" which presumably implies that some form of equalization is intended. This would be difficult to apply nationally inasmuch as measures of taxable resources vary from State to State and even locality to locality.

The bill proposes that $50 million be appropriated, these funds to be available until expended. It would seem that this amount of money is far too small to meet the major purposes stated, unless the grants

were to be made in the most conservative fashion. A large city such as New York would undoubtedly feel that it could use all of these funds to excellent advantage within its own boundaries.

We are glad to see that the provisions of this bill are positive and not negative. We feel that in this sensitive area of school policy it is helpful to extend financial assistance to encourage constructive action instead of applying coercive measures.

We repeat our agreement with the purposes stated and implied in this legislation. We are glad to note a considerable flexibility in its provisions. We trust that our suggestions can be embodied in the legislation to make it still more inclusive and adaptable to State and local conditions. In this way we feel that the act could be made to function efficiently in finding enduring solutions to the problem of desegregation, racial imbalance, and integration.

Thank you.

Senator KENNEDY of Massachusetts. Thank you, Mr. Johnson.

We will now hear the statement of Mr. Cohen.

STATEMENT OF OSCAR COHEN, NATIONAL PROGRAM DIRECTOR, ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

Mr. COHEN. My name is Oscar Cohen. I am national program director of the Anti-Defamation League of B'nai B'rith, in which organization my responsibilities include the field of education. B'nai B'rith, founded in 1843, is the oldest civic organization of American Jews. It represents a membership of over 400,000 men and women. The Anti-Defamation League was organized in 1913 as a section of the parent organization, in order to cope with racial and religious prejudice and discrimination in the United States. The Anti-Defamation League of B'nai B'rith is engaged in an extensive program in education, interfaith relations, and public enlightenment. We appreciate the opportunity, therefore, of testifying in support of S. 2928.

SUPPORT FOR S. 2928

In supporting S. 2928, we recognize that the achievement of equality of educational opportunity for all the children of this land will not be accomplished simply by the enactment of this bill.

This bill is but one step—a vital step toward the optimal development of the abilities and talents of the Nation's greatest national resource—its youth. It is a measure which is well designed to provide at least some of the answers to one of the most serious ills of our society.

We know that many of the Nation's school districts are in desperate need of assistance in their struggle to alter long-standing patterns of segregation and of other forms of inequality. Until they do so, there will continue to be the waste represented in dropouts, delinquency, and dependency. Until there is a great improvement in the racial balance and educational programs of the public schools, the majority will have little opportunity to learn the fundamental lesson required in a democratic society; namely, how to treat, with respect and dignity, the one who is different in appearance, manner, or belief.

The Nation is in substantial agreement on these goals. No longer are the dignity and welfare of minority groups negotiable. But how to attain these objectives is a different matter; here there is the need for inquiry, for experimentation, for bold departures from conventional and outdated procedures. It is the particular virtue of S. 2928 that it makes provision not only for assisting desegregation, but also for dealing with problems arising therefrom. Too frequently the proponents of equality of educational opportunity have emphasized desegregation alone, to the exclusion of other necessary components of this process. Those who deal only with percentages and the numbers game do a disservice to those they are trying to help.

BEYOND DESEGREGATION

The enormity of the task ahead involves far more than desegregating the schools. It requires examination of education's responsibility to the total society, a responsibility that must deal with the unequal chance which Negroes and whites have for a productive life.

Dr. Rashi Fein notes—

> * * * infant deaths relative to live births in 1960, when compared, reveal the Negro infants mortality rate was 43 per 1,000 live births, a figure attained by whites 20 years earlier in 1940.

The same source also indicates that the "gap for neonatal mortality rate—deaths of infants under 28 days—is about 20 years and also has widened slightly. On the issue of mortality, it is noted that—

> Thus, the Negro man child is born into a world in which in 1962 his chances of reaching age 20 are about the same of a white's reaching 37. A Negro girl at birth has the same chances of attaining age 20 as the white girl has of reaching 42. The lags are almost two decades.

In comparing educational levels of Negroes and whites, it has been noted that "In 1964, 16 percent of Negro males, age 20–24, had one or more years of college—the same percentage as among white males, age 55–64, most of whom received their college education 35–40 years ago." Thus, in terms of the percentage with some college education, the young Negro of today is barely attaining what whites who age 55–64 years old attained when they were young. This represents a gap of over 35 years. The gap, though still considerable, is much shorter at lower levels of educational attainment.

UTILIZATION OF HUMAN RESOURCES

The problems confronting the society with respect to the full utilization of the ability, skill, and talent of the Negro are not solely a matter of educating the Negro. It is noted, for example, that—

> The Negro family whose head had some high school earned less than the white with fewer years of schooling; the Negro who has attended but not completed college earns less than the white with only 8 years of elementary school. The Negro college graduate earns slightly more than does the white high school graduate. The value of an education is less clear when for those who attended college, Negro male income is only 60 percent of white male income, but is 68 percent for those who only completed high school and 73 percent for those who only attended elementary school * * *

PREJUDICE IN NORTH AND WEST

The point made in the previous quotation from Fein is that prejudice as such is still a major factor to be dealt with in affording the Negro the opportunities commensurate with his educational level. It may be claimed that the economic lag for the Negro is not entirely the result of economic discrimination, since the education of the Negro, particularly in segregated institutions, is inferior. But does this not place upon American society the responsibility for wiping out this inequality in educational opportunity?

The bill under consideration would assist efforts to reduce discrimination and prejudice within the public school by bringing diverse groups together under favorable educational circumstances. There is presently little opportunity in most of the major urban centers to accomplish this objective, since the groups are in a large measure segregated. For example in Chicago, 90 percent of Negro children attend segregated schools and in Boston, 42 of 57 elementary school districts have populations that are in excess of 90 percent white or Negro. Indeed, for major urban centers, the problems of achieving desegregation are massive and complex. In these centers this will not be accomplished easily or without delay. In smaller communities, desegregation should be realizable without undue difficulty or lapse of time. The tragedy is that many such communities have not moved with courage and dispatch to erase indignity and inequality.

In a 1963 report the Commission on School Integration in discussing public school segregation and integration in the North, offered the following statement:

> The general picture which emerges is that of public education structured very largely along racial lines. There are many communities in which this is not the case. The prevailing pattern, however, is for Negro and other minority-group pupils to attend segregated schools. This is especially true in the big cities, where most northern Negroes live; but it is also true in scores of smaller cities and towns, including many middle-class suburban areas.

Thus, the problem of public school segregation in the North and West is widespread and substantial.

MINORITY POPULATIONS IN URBAN CENTERS

Although the growth of minority populations in urban centers is generally common knowledge, the magnitude of the crisis in education is less well known.

The proportions which Negro and other minority group pupils constitute of public school enrollments tend to exceed by far the proportions which these groups constitute of the total population. In Philadelphia, for example, Negroes accounted for 26 percent of the total population in 1960; but in June 1961, they made up 53 percent of the enrollment in public elementary schools and 49 percent in all public schools. In New York City, 1,088,000 Negroes and 613,000 Puerto Ricans constituted 22 percent of the total population in 1960; but at the end of October 1962, they accounted for 46 percent of the public school enrollment on the elementary level, 44 percent on the junior high school level, and 40 percent on all school levels. In some boroughs of New York City, comparable proportions were even higher—76 per-

cent of total elementary enrollments in Manhattan, 54 percent in the Bronx, and 47 percent in Brooklyn. In Chicago, where Negroes made up 23 percent of the population in 1960, Negro pupils in 1962–63 constituted about 46 percent of the public school enrollment on the elementary level, and approximately 34 percent on the high school level.

Such developments are general among large northern cities, and they tend to intensify the impact of Negro population increase and segregated housing on school segregation.

The bill can assist in many ways in solving problems of desegregation and related inequalities. We suggest some of the ways in which this could happen.

CHANGES IN USE OF FACILITIES

Serious efforts to correct racial imbalance will in most instances necessitate marked changes in the planning and use of school facilities and in policies related to the assignment of students to schools and classes. With respect to the utilization of existing facilities, it is quite clear that many school districts which could effect better racial balance in the public schools through relatively minor changes in districting and zoning, are not doing so. Many of these school district boards and superintendents would act if they had outside "expert" advice on how to proceed. With such assistance and plans, boards will be more willing to take action that represents change in longstanding patterns of segregation.

The establishment of school districts has emerged historically, and in many instances district boundary lines as such are archaic and require revision in order to secure not only adequate racial balance, but also to accomplish the best utilization of resources and personnel. The bill wisely offers assistance for redistricting between school districts.

Within recent years, much controversy has been stimulated by the decisions of local school boards as to the locations of new school facilities. School board decisions to build new schools in ghetto areas have brought vigorous protest whenever they have occurred. All such decisions as to the location of new school facilities must be reviewed within the context of the question of the racial composition of the population which would be served. In general, the location of new school sites near the peripheries of ghetto areas affords an opportunity for children of different ethnic and class backgrounds to be represented within the school. S. 2928 can provide research and planning assistance in this area.

SCHOOL PAIRING

A concept of school pairing has also been employed in order to achieve a greater racial balance. This plan involves the pairing of two schools that are physically close to each other but which normally draw from different ethnic and class groups. In this arrangement, one school may serve all the children for the first three grades and the other all the children for grades four, five, and six. A proposal of an intermediary school serving a wider geographic area than the traditional elementary school has also been put forward. This plan, sometimes refferred to as the 444 plan, would have the child entering

an intermediary school serving a number of neighborhoods at the fifth grade level. Planning for changes such as these require expertise which S. 2928 could help secure.

EDUCATIONAL PARK

The most dramatic recommendations that have emerged from studies of problems of segregation and racial imbalance is that of the educational park. This concept would appear to have a great many eduactional and economic advantages as well as accomplishing the possibility of desegregating the schools and effecting a greater degree of racial balance. One version of this plan calls for all the major educational facilities at a district to be located at a central point. In the present educational scene where technological innovations are occuring rapidly, it is clear that it is beyond the capacity of most decentralized school programs to take advantage of curriculum innovations such as team teaching, adequate use of audiovisual aids, closed circuit television, automated teaching procedures, and the talking typewriter.

The educational park concept, by combining all of the facilities of the district in one area, would make it economically feasible to invest in the equipment and apparatus, including that required for adequate data processing and computer assistance. The on-the-scene presence of the actual school population within the district would make the problem of school segregation easier to solve. There are, however, concerns about the educational park. These arise mainly as a result of lack of experience with such facilities. The concerns most frequently expressed relate to the presence of large numbers of children in one area. The age range, of course, is wide since the programs could run from elementary through secondary school. Further, it is possible that a number of children would have to be transported to and from the park. Proponents of the educational park concept note that the transportation issue is one which has been a part of private and parochial programs for years. Undoubtedly, a major service would be rendered to the Nation if several educational parks could be developed and their operations studied carefully. The possibility of the educational park serving as a new model, one which might provide the best opportunity to utilize up-to-date educational technology in a setting in which racial balance could be achieved, warrants serious attention and in this S. 2928 could provide the necessary stimulus.

HOMOGENOUS GROUPING

Combining children of diverse ethnic and class backgrounds into the same schools does not necessarily accomplish desirable educational situations. Even when students of diverse ethnic experience are brought together in the same school, they may be attending segregated classes. This type of segregation results from grouping of students in order to attain homogeneous classes with respect to some attainment level. This is the procedure known as tracking, steaming, or homogeneous grouping. The rationale frequently provided for such approaches is that the task of the teacher generally is facilitated if he does not have a wide range of abilities represented in his class. Thus, it can be argued that he can move ahead more quickly with classes of

achieving students, and for those who are nonachieving he can move more slowly.

The difficulty with this approach is that the basis for homogeneous or ability grouping is frequently made on a single performance measure that may have little relationship to much of the school program. Further, it is clear that homogeneous grouping does in fact present the student with an exposure only to others who are essentially the same as he is. Thus, the active, alert, and intellectually competent student acquires no sense of appreciation for the worth and dignity of individuals performing at lower levels of accomplishment. Further, there is little opportunity for the development of assistance relationships between more and less capable students. The issue of homogeneous grouping will require careful reexamination and the assistance of consultants provided by the bill. In some schools it has been possible to expose students to a variety of their classmates without depriving them of opportunities in areas of their special competencies.

CHANGING NORMS

One of the major hurdles to be overcome in the achievement of equality of educational opportunity pertains to the attitudes, beliefs, behaviors, and competencies of the teachers who serve children from minority groups. The observation has been made many times that teachers who cherish the belief that Negro children are intellectually inferior will not only communicate this belief to their students, but will actually do little to encourage their development. If integrated education of high quality is going to be achieved, then there will have to be strong emphasis on the recruitment, selection, preservice training and in-service training of teachers. Provision for assistance in this connection in S. 2928 is particularly commendable. It will have to be recognized that the traditional approaches in teacher training through a brief exposure to educational sociology or at the in-service level, a 1- or 2-day human relations workshop is inadequate to the task. The task is nothing less than identifying teachers that are stimulated by diversity, who are challenged by difference, and whose enthusiasm for intellectual activity and the natural expression of curiosity is communicated to students, some of whom have to learn how to learn. Further, the task is to find teachers who are not only substantively well-grounded in their own specialties, but who are capable of converting tensions that can arise in interracial situations into opportunities for positive learning and growth. It is recognized that such human beings are at a premium. However, the nature of the emergency which our society is confronting warrants our assistance to the most careful study of questions that pertain to teacher selection, teacher training, and in-service programs. Ultimately, the question of the bigoted teacher who overtly discriminates against minority group members will have to be confronted.

SPECIAL TRAINING FOR TEACHERS

Superintendents explain the retention of such teachers on the grounds that the teachers are tenured. This is an issue which must at some point be viewed in the context of whether the disease of

bigotry and prejudice is in fact disqualifying grounds for teachers working with minority groups members. Studies conducted by the North Central Association of Colleges and Secondary Schools supported by the Anti-Defamation League of B'nai B'rith, indicated that in teacher education institutions in the Midwest, intergroup education was considered important, but little was done about it. To our knowledge, not one teacher education institution in this country, systematically, on a college-wide basis assures that graduates will be trained to deal with or teach about minority group problems.

SCHOOL-COMMUNITY RELATIONS

Quality integrated education will be achieved when there is a marked change in the relationship between the public schools and the communities in which they are located. The active involvement of many more individuals in the community than those who traditionally attend board meetings or come out to PTA gatherings is required. We applaud, therefore, the provision of S. 2928 which would aid the improvement of school-community relations. In this connection, it is interesting to note that lower income Negroes who were interviewed as a part of a study of the interracial situation in San Francisco expressed hope for their children in relationships to only one of the institutions of the society; namely that of the public education.

The hope often was tinged with skepticism that their wishes would be achieved, but nevertheless, in this depressed population the desire for good education for their children was strong. The recent data obtained from the national assessment of last summer's Headstart points out that when visible concrete services are provided to poor people who perceive the need for such service, their participation and enthusiasm will be high. This finding is in marked contrast to the general public school view that the low-income minority group parents are apathetic or indifferent to whether their children learn.

CURRICULUM

The provisions of S. 2928 for improvement of curriculum are sound. The curriculum must be reviewed and revised so that it contributes to the fullest development of all the children in the schools. It must be assessed with respect to its relevance to the type of world in which we live. The curriculum must be examined with respect to the extent to which it provides for the opportunity of the majority population to learn about the contributions and the importance that minority groups have and have had in the development of our society. The curriculum must provide an opportunity for all children to develop the values and commitment to democratic principles and practices. Attention must be given to dramatic changes in the curriculum specifically directed toward the immediate issues of concern to the society that relate to the poor, the aged, and the ill within a learning context in which personal service, healthy self-concept, and democratic behavior is emphasized.

AREAS NOT COVERED BY S. 2928

S. 2928 does not provide all facilities for overcoming inequality. For example, it must be noted that children from low-income families who do not see or hear well or who are physically ill or who are hungry are going to be at a market educational disadvantage. Thus, to correct problems arising from this source, schools would have to be provided with the staff and facilities essential to the identification of nutritional and health disorders. Further, schools should be provided with such staff as is required to coordinate available community health resources so that no child's opportunity to learn will be impaired by conditions which are readily identifiable and easily correctable. We would hope too that more resources would be made available for research and evaluation, to the end that those techniques which show promise can become widely acceptable.

Yet S. 2928 does constitute a great advance in the efforts to achieve a more just society.

It should be emphasized in conclusion that S. 2928 is of major significance for America. It will not solve all problems at once, but it will provide the means for initiating the measures that may do so. It will enable progress toward equal educational opportunity to be expedited. It will signify America's determination to attain the democratic goals to which this Nation aspires.

Thank you, Mr. Chairman.

Senator KENNEDY of Massachusetts. We thank the gentlemen for their statements.

We will now hear from Mr. Curtin, deputy commissioner of education, Commonwealth of Massachusetts.

STATEMENT OF THOMAS J. CURTIN, DEPUTY COMMISSIONER OF EDUCATION, COMMONWEALTH OF MASSACHUSETTS

Mr. CURTIN. Mr. Chairman and members of the committee:

My name is Thomas J. Curtin and I am deputy commissioner of education for the Commonwealth of Massachusetts.

I am appearing here today as the official representative of the Massachusetts Department of Education, which, in turn, is under the supervision and control of the State board of education. I have been assigned to this responsibility by Dr. Owen B. Kiernan, commissioner of education, who regrets his inability to attend personally because of a long-stannding commitment. In addition to representing the commissioner by virtue of my role as deputy commissioner, I feel that your committee should also know that I am chairman of the task force on racial imbalance appointed by the Massachusetts Board of Education and, therefore, have had considerable experience in dealing with this issue within our Commonwealth.

SUPPORT FOR S. 2928

I wish at the very outset to record the Massachusetts Department of Education in favor of S. 2928 because it is a bill which would greatly enhance the implementation of chapter 641, acts of 1965, of the Massa-

chusetts general laws, a statute enacted by our State legislature for the purpose of eliminating racial imbalance in the public schools of the Commonwealth. To my knowledge, chapter 641 constitutes the first State law of this nature to be enacted in the Nation. S. 2928 is of great import to us not only because it supports the position that racial imbalance is educationally harmful, but also because it will provide the suppplementary financial assistance and the motivation which our core cities need in order to develop appropriate programs and facilities which will result in quality integrated education for all children and youth.

MASSACHUSETTS RACIAL IMBALANCE ACT

The Massachusetts racial imbalance act represents the culmination of a series of significant steps taken by the State board of education between August of 1963 and August of 1965, to guarantee equal educational opportunity in all the public schools of the Commonwealth. The board issued its initial basic policy statement on the educational harmfulness of racial imbalance on August 19, 1963, as a result of increasing evidence that certain public schools were racially imbalanced.

In subsequent actions, the board voted to launch a comprehensive study to ascertain the facts concerning the specific number of schools which were racially imbalanced and to reassess the research data regarding the possible harm done to majority group children, particularly Negroes, in terms of academic success and citizenship as a result of attending racially imbalanced schools. The board appointed a committee of distinguished citizens known as the advisory committee on racial imbalance and education, assisted by a task force of nationally and regionally respected educators, to conduct this major research endeavor.

KIERNAN REPORT

The report of the advisory committee on racial imbalance and education, entitled, "Because It Is Right Educationally," and generally called the Kiernan report (named for Commissioner Kiernan), has been officially filed with your committee. Two basic sets of findings stand out in this report which has since achieved national recognition: (1) that 55 Massachusetts schools contained more than 50 percent nonwhites and had enrolled therein 19,327 or 52.9 percent of all nonwhite pupils (34,498) in the State; and (2) that racial imbalance was deemed harmful on these grounds:

(*a*) It damages the self-confidence and motivation of Negro children;

(*b*) It reinforces the prejudices of children regardless of their color;

(*c*) It does not prepare the child for integrated life in a multiracial community, nation, and world;

(*d*) It impairs the opportunities of many Negro children to prepare for the vocational requirements of our technological society;

(*e*) It often results in a gap in the equality of educational facilities among schools; and

(*f*) It represents a serious conflict in the public schools with the American creed of equal opportunity.

Pursuant to the acceptance of the report of the advisory committee on racial imbalance and education, the board of education filed legislation on April of 1965 to provide for the elimination of racial imbalance in the schools of the Commonwealth and recommended that certain sanctions and incentives be incorporated to bring about compliance with the proposed bill. Subsequently, the legislative leadership and other vitally interested citizens developed a revised version of this bill which, upon enactment with the endorsement of the executive branch, became chapter 641, acts of 1965, as of August 18, 1965.

STATE STATUTE

Our State statute requires that a school committee having jurisdiction over schools found to be imbalanced in the October 1965 racial census shall prepare a plan to eliminate imbalance and file a copy of such plan with the State board of education. Said plan shall detail the changes in existing school districts, the location of proposed school sites, the prposed additions to existing school buildings, and other methods for the elimination of racial imbalance, including voluntary cooperation by other cities and towns in rendering assistance and in making available facilities. The Commonwealth has acknowledged its share of responsibility by the rendering of some technical assistance in the preparation of plans and by increasing its proportion of the cost of new construction.

The needs are substantial, however, and constitute a potentially heavy drain on both local and State resources.

As has been indicated in the beginning of our testimony, our endorsement of S. 2928 is based upon the positive, specific ways in which it greatly strengthens the implementation of our State legislation (ch. 641, acts of 1965).

NATIONAL IMPLICATIONS OF MASSACHUSETTS EXPERIENCE

The elimination of racial imbalance in this Commonwealth has marked implications for our national life as well as being a matter of State and local concern. The cities of Boston, Springfield, New Bedford, and to a lesser degree Cambridge, not only need financial incentives beyond what the Commonweath can provide, but also require a Federal educational commitment and access to resources which cannot be adequately fulfilled within the State. S. 2928 by encouraging student exchanges between school systems, by facilitating the construction of desperately needed new schools to replace the dilapidated buildings which mar our core cities, by enhancing the development of experimental or demonstration projects, represents a high order of Federal cooperation with the States as they strive toward the realization of a prime educational goal; namely, equal educational opportunity for all children and youth.

Thank you, Mr. Chairman.

(The following table was submitted for the record:)

[Excerpt from Boston Racial Imbalance Study, December 1965]

Analysis of certain characteristics of elementary schools with high percentage of nonwhite children, Oct. 1, 1965

N.B.—All references to racial balance figures and percentages are based on gross school figures from the October 1965 census and are approximations only.

Key:

"W" indicates number of white children enrolled.

"N.W." indicates number of nonwhite children enrolled.

"Percent N.W." indicates percentage of the total registration which is nonwhite.

Recommendations of the 1962 Harvard report.

Recommendations of the Boston school superintendents.

"X" indicates recommended for replacement.

School	Enrollment			Percent N.W.	Year built	Recommendations of Harvard study [1]	Recommendations of superintendents
	W.	N.W.	Total				
1. Lewis Annex	0	20	20	100.0	1901	X—1963	X—main building remodeled.
2. Asa Gray	1	320	321	99.7	1877	X—1966	X—combine Dudley-Bacon.
3. Wm. Boardman	4	189	193	97.9	1900	X—1964	X.
4. David Ellis	7	567	574	98.8	1932, 1959	X—1964, expand site	
5. Phillips Brooks	9	511	520	98.3	1900	X—1970	X—replace.
6. H. Higginson	16	222	238	93.3	1922	Renovate and expand site.	
7. Ira Allen	5	183	188	97.3	1901	X—1963	
8. Julia W. Howe	11	524	535	97.9	1868 | 1927	X—1964	X—replace. Add Lewis.
9. David Ellis Annex	0	126	126	100.0			To be abandoned.
10. Quincy Dickerman	7	504	511	98.6	1915	X—1965	X—replace.
11. J. J. Williams	69	201	270	74.4	1913	X—1969	X—replace.
12. Wm. L. Garrison	7	896	903	99.2	1910	Renovate and expand site.	
13. Wm. Bacon	7	274	281	97.5	1897	X—1975	X—combine Gray-Dudley.
14. Sara Baker	28	636	664	95.8	1906	Renovate and expand site.	
15. Quincy	12	124	136	91.2	1847, 1907	X—1962	Add to A. Lincoln.
16. Nathan Hale	50	294	344	85.5	1909	Renovate and expand site.	Addition and alteration.
17. Dillaway	27	236	263	89.7	1882	X—1965	X-replace.
18. Abbey May (Academy).	25	249	274	90.9	1893	X—1965	X—to N. Hale.
19. Wm. Endicott	25	322	347	92.8	1906	Retain K-5	
20. Chas. Perkins	23	227	250	90.8	1891	X—1975	
21. Dudley	31	240	271	88.6	1874	X—1965	X—replace combine Bacon-Gray.
22. Jos. Hurley	190	509	699	72.8	1962	Retain K-5	
23. Albert Palmer	43	155	198	78.3	1895	X—1975	X—combine Davis.
24. Atherton	34	220	254	86.6	1872	X—1966	X—combine Gibson.
25. Aaron Davis	40	332	372	89.2	1875	X—1965	X—combine Palmer.
26. Joshua Bates	55	129	184	70.1	1884	X—1968	
27. John Winthrop	123	467	590	79.2	1911	X—1964	
28. Dearborn Annex	45	187	232	80.6	1921	Renovate, expand site.	
29. Geo. Bancroft	42	134	176	76.1	1870	X—1965	X.
30. Chris. Gibson	143	502	645	77.8	1895	X—1965	X—combine Atherton.
31. Dearborn	147	502	649	77.3	1908	Convert, 6-8	X—replace 1966.
32. Mackey	227	518	745	69.5	1958	K-2, 6-8	
33. South Greenwood							
34. Fenwick							
35. Williams							
36. Lincoln							
37. Godvin							
38. Faneuil							
39. Tobin							
40. Farragut							
41. Dever							

[1] A school which enrolls both elementary and junior high school grades is considered an elementary school in the Harvard report.

Mr. KENNEDY of Massachusetts. Thank you for your statement.

Senator PROUTY. At this point in the record there will be inserted the prepared statement of Miss June Shagaloff, director for education, National Association for the Advancement of Colored People.

PREPARED STATEMENT OF JUNE SHAGALOFF, DIRECTOR FOR EDUCATION, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

The United States Supreme Court directed the country's attention to the damaging effects of segregated public schools when it held, on May 17, 1954, that racial segregation per se in public education was inherently discriminatory and denied Negro children equal educational opportunities. Twelve years later, however, the Educational Panel of the White House Conference "To Fulfill These Rights," held November 16–18, 1965, reported that approximately 90% of American children, North and South, attend racially segregated public schools and that de facto segregated schools outside the South had increased since 1954.

The causes of de facto segregated public schools vary greatly, ranging from unofficial policies and practices of racial containment in the organization of schools to extensive segregated housing. While the controversy as to causes continues, there is increasing recognition by educators and school authorities that racial segregation in public education *whatever the cause* is educationally harmful for Negro and white students alike.

North, as well as South, the dividends of segregated education are destructive. Negro students are damaged by feelings of inferiority, low status and self-esteem, depressed motivation and achievement. Segregated white schools, reinforcing racial prejudice and stereotypes, damage the very children segregation is designed to protect. In short, all children attending racially segregated public schools, whether called de facto segregation or racial imbalances or racial concentration, are deprived of equal educational opportunities which reflect a multi-racial country and a multi-racial world.

State educational authorities in New York, New Jersey, California, and Massachusetts have adopted policies (attached) recognizing that racially imbalanced public schools, regardless of causes, are discriminatory and calling for corrective programs. Illinois, Indiana, and California have amended school codes or adopted new legislation requiring or permitting local school officials to consider racial desegregation in rezoning school attendance areas, school consolidation, and site selection. The State of Massachusetts has adopted legislation calling for the correction of racially imbalanced public schools.

On a local level, during the past four years, more than forty suburban and middle-size public school systems have adopted and implemented plans to end racially imbalanced elementary and/or secondary schools or taken substantial steps to correct de facto segregation. Many other public school systems, both city and suburb, have desegregation plans under consideration.

Several basic approaches to effective public school desegregation have been developed, based on these experiences:

Comprehensive, city-wide rezoning of school attendance areas;

The Princeton Plan, named after the plan adopted in 1948 in Princeton, New Jersey, whereby adjacent white and Negro schools are combined into one school zone, assigning all children in the new zone to each school on the basis of grade. One school, for example, houses grades 1–3, the other grades 4–6;

Reorganizing schools (including central, single grade schools, or converting schools to other uses, or, if necessary, closing schools). Englewood and Plainfield, N.J., for example, reorganized the Negro elementary school into a central, sixth grade school for all pupils, assigning Negro pupils in grades 1–5 to existing (white) schools. White Plains, N.Y. and Teaneck, N.J. reorganized schools to prevent, rather than correct, increasing racial concentration;

Changing feeder patterns from elementary to secondary schools, together with rezoning;

The 4–4–4 plan of four year primary, four year intermediate, and four year comprehensive high schools. This approach, adopted in New Haven, Pittsburgh, and New York City promises substantial desegregation in larger school systems on a citywide basis;

Site election and other school building programs. Even at the elementary school level, where the need for additional classroom space is often the

greatest, it is possible to plan for three or four year primary schools instead of the traditional six year elementary school;

Educational "parks" or "centers," centralized clusters of elementary and secondary schools. This new concept, especially designed for urban schools, promises the greatest possible desegregation together with new educational programs that are too costly for the traditional, individual school.

The isssue is not that of the neighborhood school nor of "busing." In fact, the arguments heard so often in defense of the neighborhood school and against busing all too often are simply rationalizations for continuing racially imbalanced schools.

One such argument is that important educational and community values are served by the neighborhood school. But, somehow, "the nearer Negroes get to the neighborhood school, the more sacred these values become." In reality, the school neighborhood itself tends to be determined not by distance or geography, but by color and class. Nor was the neighborhood school concept, as originally conceived, ever intended to justify or excuse segregation.

"Busing," despite all of the distorted accounts, is *not* a plan of school desegregation. School buses are a means of transportation; some desegregation plans will require pupil transportation, others will not. The use of school buses does not represent a departure of any kind in American public education. School buses are traditional even in all-white school systems throughout the country and there must be millions of white children who are transported every day by buses and cars to public and private schools. The issue is not whether children ride school buses but where they go when they get off the bus.

All of the experience to date indicates that it is possible, as well as necessary, to develop administrative plans based on sound educational principles to correct racially imbalanced public schools. Complete desegregation is possible in some school systems, substantial desegregation in others, and significant new directions in all.

More than 100 public school systems throughout the North and West are now encountering strong parent-community pressures for the correction of racial imbalance, and there is every reason to expect that this number will increase. These school systems need assistance in developing student desegregation plans best suited to their unique needs together with such programs as teacher desegregation, new curriculum guidelines for the integrated classroom, new school books and curriculum materials that accurately reflect a multi-racial country in their text and illustrations, new teacher training programs, and programs designed to secure community support.

Senate Bill 2928 makes possible critically needed assistance to local public school systems now seeking ways of correcting racially imbalanced schools. Hopefully, the knowledge that technical assistance is available will encourage local public school systems faced with the problems of racial imbalance to seek solutions. Senate Bill 2928 is open to criticism inasmuch as it fails to require the correction of de facto segregated public schools or to amend those parts of Title IV of the 1964 Civil Rights Act that specifically exclude the elimination of racially imbalanced schools from the compulsory features of the Act. Nevertheless, the NAACP agrees completely with the objectives and specific provisions of Senate Bill 2928 and we urge its adoption.

STATEMENT OF POLICY ON DE FACTO SEGREGATED PUBLIC SCHOOLS BY THE BOARD OF REGENTS, UNIVERSITY OF THE STATE OF NEW YORK, ADOPTED JANUARY 28, 1960

After the Supreme Court decision of May 1954, we have all been a part in re-evaluating the role of education in a democracy. It was of greatest significance that the Court in its historic decision stated:

"We must consider public education in the light of its full development and its present place in American life throughout the nation * * *

"Today, education is perhaps the most important function of state and local governments * * * it is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education * * *

"* * * to separate (them) from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone * * *"

The State of New York has long held the principle that equal educational opportunity for all children, without regard to differences in economic, national, religious or racial background, is a manifestation of the vitality of our American democratic society and is essential to its continuation. This fundamental educational principle has long since been written into Education Law and policy. Subsequent events have repeatedly given it moral reaffirmation. Nevertheless, all citizens have the responsibility to reexamine the schools within their local systems in order to determine whether they conform to this standard so clearly seen to be the right of every child.

Modern psychological knowledge indicates that schools enrolling students largely of homogeneous, ethnic origin, may damage the personality of minority group children. Such schools decrease their motivation and thus impair the ability to learn. Public education in such a setting is socially unrealistic, blocks the attainment of the goals of democratic education, and is wasteful of manpower and talent, whether this situation occurs by law or by fact.

In seeking to provide effective education for all the children of this State, boards of education are faced with many obstacles in the form of complex social and community problems. Among them is the existence of residential segregation which leads to schools with students predominantly of one race on the elementary and high school levels.

In spite of these and other difficulties, the Regents are determined to accept this challenge facing our schools today. We charge the Regents Advisory Council on Intercultural Relations in Education, working in close cooperation with the State Education Department, to assist in seeking solutions to the educational aspects of the problem. The Council's recommendations for action, based on systematic and objective study, will be reported to the Regents in due course.

We recognize that we who have been given the responsibility for the education of the children and youth in our State can deal directly with only these educational aspects. There are larger community problems which influence the quality of education in, and the ethnic composition of our schools. So long as these larger social problems remain unsolved, it will be difficult to solve some of the basic and related educational situations. For this reason, therefore, we call upon all our citizens and their agencies of government and their civic organizations to take concrete steps to provide the social climate which will make it possible for us to increase the effectiveness of education. Only with this cooperation will we be able to provide that type of democratic education which will enable all children to contribute their understanding, knowledge and skills to increase the greatness of our State and our Nation.

DECISION OF THE COMMISSIONER OF EDUCATION

CRAIG FISHER, DEBORAH FISHER, KIM FISHER, DIANE FISHER AND LINDA FISHER, MINORS, BY MRS. GLORIA FISHER, THEIR PARENT AND NEXT FRIEND; CRAIG FRAZIER, KAREN FRAZIER, WAYNE FRAZIER AND CHERYL FRAZIER, MINORS, BY MRS. HELLEN FRAZIER, THEIR PARENT AND NEXT FRIEND; ALETHIA SMITH, HORACE SMITH. JR., AND BRUCE SMITH, MINORS, BY MR. AND MRS. HORACE W. SMITH, THEIR PARENTS AND NEXT FRIEND; PETITIONERS, *v.* THE BOARD OF EDUCATION OF THE CITY OF ORANGE, ESSEX COUNTY, RESPONDENT.

May 15, 1963

For Petitioners, Herbert H. Tate, Esq., William Wright, Jr., Esq. Robert L. Carter, Esq., Maria L. Marcus, Esq., Barbara A. Morris, Esq.

For Respondent, Lee A. Holley, Esq. Walter D. Van Riper, Esq., Special Counsel

This appeal, brought in the name of several children of school age by their parents, alleges the maintenance of a racially segregated school system in the City of Orange and protests the refusal of the Board of Education to formulate and execute plans and procedures designed to eliminate the existing pattern of racial segregation. The relief sought is an order requiring the respondent Board to take steps to elminate all aspects of racial segregation in the Orange Public School System. Respondents enter a general denial of these allegations.

A hearing on the issues was conducted by the Assistant Commissioner in charge of Controversies and Disputes in Newark on November 20, 21, December 3, 5, 6, and 14, 1962.

The facts underlying this controversy are relatively few and are undisputed to any material degree.

The charge of segregation herein is leveled against the assignment of pupils to the eight elementary schools in the City of Orange. The single high school in the district, which receives all of the pupils of secondary grade, is not involved.

The eight public elementary schools of the City of Orange have an enrollment of 50 percent white and 50 percent Negro pupils distributed by schools as follows:

School	Grades		Percent Negro pupils	
	1961–62	1962–63	1961–62	1962–63
Oakwood School	K–5	K–4	99	99
Central School	5–8	7–8	99	66
Park School	K–8	K–6	44	50
Lincoln School	K–8	K–6	42	60
Forest School	K–8	K–8	41	43
Cleveland School	K–8	K–8	25	19
Heywood School	K–8	K–5	20	19
Tremont School		5–8		24
Total			48	50

Some controversy has existed for a number of years with regard to the Oakwood School which has an enrollment of 99 percent Negroes. In 1958, in the process of investigating a complaint of pupil assignments, the Division Against Discrimination of the New Jersey State Department of Education entered into discussions with the Orange Board of Education which resulted in the modification and establishment of new attendance area boundaries for the Heywood-Tremont, Oakwood, Park, and Cleveland Schools. Subsequently, at a meeting on December 6, 1961, the Board received from a group of citizens four proposals designed to relieve the concentration of Negro pupils in the Oakwood School and Central School. After taking the four proposals under consideration, the Board at a meeting on February 13, 1962, adopted a resolution embodying a different plan than any of those submitted. The group submitting the four proposals found this plan to be unacceptable and voiced objection to it. Its primary feature was a change in the use of Central School which reduced its range of grades to 7–8 instead of 5–8. The consequent reassignment of pupils affected in slight degree each of the other schools except Forest, Heywood, and Tremont. This plan became effective in September, 1962. As a result the concentration of Negro pupils in Central School was reduced from 99 percent to 66 percent. While there was some shifting of racial ratios in the other schools, Oakwood remained almost entirely Negro. That the pupil population of this school continues to be racially homogeneous is the primary basis of petitioners' attack on the policies of the Board of Education.

While petitioners maintain that the actions of respondent Board of Education have been such as would keep as many Negro children as possible in schools separate and apart from those attended by white pupils, thus practicing deliberate and purposeful segregation, the main thrust of their petition is that the fact of racial segregation, by design or not, violates their legal and constitutional rights. They assert that the Courts have established that segregated education is unequal education and whether such segregation exists as a result of deliberate efforts or whether it is caused by socio-economic or adventitious forces is immaterial; the results are one and the same and disadvantage the Negro child. They contend that no matter how caused, the existence of racially imbalanced schools required action by the Board of Education which will result in the elimination of racially homogeneous school enrollments.

Respondent denies that there has been any attempt to segregate pupils by race in its schools and asserts that it has at all times administered its schools upon sound educational and legal principles. It contends that the utilization of race as a factor in the determination of school policies is as improper as discriminatory practices based on racial considerations. It finds no legal necessity or desirability for the adoption of the proposals advanced to mitigate the present racial concentration in preference to those already in effect.

In their brief, petitioners frame the issues herein as follows:

"* * * whether a requirement, rule, regulation or policy of the respondent School Board that compels the appellants and other Negro children to attend a school to which only or virtually only Negro children are required to attend constitutes a violation of the constitutional rights of appellants and of the class they represent and is in derogation of the fundamental obligation of the School Board, thereby necessitating remedial action * * *."

In respondent's words the issues are:

"* * * (1) have the various Orange school officials been derelict in their legal and constitutional responsibilities in failing to administer a school system, upon prime racial distinctions and standards, without discriminatory racial quotas, and upon necessary and important educational considerations? and, (2) assuming for the purposes of argument, some duty or desirability to utilize some 'benign' racial discrimination in school assignments, has the Board of Education utilized its facilities with proper judgment and with legal authority, considering the numerous matters of local concern, regarding Oakwood Avenue School, *vis-a-vis*, other Orange elementary schools?"

It has been argued by the respondent that the issue in this matter presents novel questions of constitutional law which are beyond the scope of the Commissioner's quasi-judicial function. The Commissioner, while applying constitutional principles to the determination of school controversies, has consistently refused to attempt to decide constitutional questions, and to the extent hat such issues are present herein, he will not presume upon the function of the Courts. He is aware, however, that in dismissing a similar complaint brought by other parents in the United States District Court for New Jersey, saying that it should be subject first to the exhaustion of administrative remedies, Judge Augelli said:

"Plaintiffs have not satisfied this Court that the Commissioner lacks authority to grant the specific relief requested herein. There is ample power in the Commissioner to hear all disputes and controversies arising under the school laws and to make binding decisions with respect thereto. * * *

"* * * a determination of the manner in which the 'neighborhood school policy' operates in any particular community requires a consideration and evaluation of a multitude of factors. This Court feels that the Commissioner is especially well qualified, by reason of his knowledge and experience in the specialized field of education, to make these factual determinations. There is no reason to assume that the Commissioner, in the performance of his duty, will not be guided by the applicable legal principles. Under all of the circumstances, the Commissioner should be given the opportunity, at least in the first instance, to pass upon the matters set forth in plaintiffs' complaint. Until such time as plaintiffs have exhausted the state administrative remedies provided by *N.J.S.A.* 18:3–14 and 15, this Court should not entertain the action." *Shepard* v. *The Board of Education of the City of Englewood*, 207 F. Supp. 341 (U.S.D.C.N.J. 1962); *Allen* v. *The Board of Education of the City of Orange*, Ibid.

Under this mandate from the Court and confronted with a controversy obviously involving the proper administration of a public school district, the Commissioner has taken cognizance of this dispute and will make his determination of the issues herein in accordance with the application of educational principles and the school laws of New Jersey.

The pertinent New Jersey law is found in the New Jersey Constitution, Article 1, section 5:

"No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin."

and *R.S.* 18:11–1:

"Each school district shall provide suitable school facilities and accommodations for all children who reside in the district and desire to attend the public schools therein. Such facilities and accommodations shall include proper school buildings, together with furniture and equipment, convenience of access thereto, and courses of study suited to the ages and attainments of all pupils between the ages of five and twenty years. * * *"

The first question to be answered is: Have the Orange school authorities, by intent or design, segregated or attempted to segregate the Negro pupils?

No evidence has been presented to establish such a charge. Although petitioners make this general allegation they advance no proof of deliberate and purposeful action to maintain racially segregated schools or to discriminate between pupils on the basis of race.

The pivotal question in this case is: Does the existence of the Oakwood School as virtually an all Negro school, constitute such an educational handicap to the pupils assigned to it, that the board of education is duty bound to eliminate its racial imbalance or reduce it within the limits of reasonableness and practicability consistent with sound educational practice?

The area adjacent to the Oakwood School is densely populated by Negro families almost exclusively. A large part of the enrollment comes from a Federal housing project close to the Oakwood School whose occupants are practically all Negro. The school attendance boundaries, roughly rectangular, approximate equidistant points between Lincoln, Central, and Park Schools and include almost all of this highly congested Negro population area. The boundary lines are regular lines are regular and the Commissioner finds no evidence that they have been drawn with deliberate intent to make Oakwood an all Negro school. That its enrollment is 99 percent Negro result obivously from the housing pattern.

It is clear that the ultimate solution lies on the free choice of residence and the elimination of segregated housing which lie beyond the control of the board of education or the Commissioner. Nevertheless, the Commissioner is of the opinion that in the minds of Negro pupils and parents a stigma is attached to attending a school whose enrollment is completely or almost exclusively Negro, and that this sense of stigma and resulting feeling of inferiority have an undesirable effect upon attitudes related to successful learning. Reasoning from this premise and recognizing the right of every child to equal educational opportunity, the Commissioner is convinced that in developing its pupil assignment policies and in planning for new school buildings, a board of education must take into account the continued existence or potential creation of a school populated entirely, or nearly so, by Negro pupils.

The Orange City Board of Education took steps at the beginning of this school year which effectively reduced the concentration of Negro pupils in the Central School. From his study of this problem, the Commissioner concludes that the Board of Education can also eliminate the extreme concentration of Negro pupils in the Oakwood School. He is further convinced that this can be done without doing violence to logical attendance areas or at the sacrifice of sound educational considerations. The practice of assigning pupils to schools near their homes, particularly with regard to children of elementary school age, is well established an is attended by educational values that are widely accepted, not only by educators, but by public generally. Consideration of such factors as distance to be traveled, safety, economy of time, establishment of rapport between school and home, and knowledge by the school staff of the child's environment have operated to establish convenience of access as the controlling criterion of pupil assignment, and the importance of these values cannot be denied. It is the Commissioner's conviction, nonetheless, that one or more solutions to the present problem can be developed which will mitigate the existing undesirable concentration of Negro enrollment in the Oakwood School and which can at the same time preserve and protect in great part the values of the time-tested patterns of pupil assignment.

The Commissioner does not mean to suggest that the solution to this problem is necessarily simple. He notes also that petitioners recognize the difficulties confronting the Board when they say in their brief:

"Obviously, however, logic makes its demands. The School cannot be required to do the impossible, but if there are reasonable and administratively feasible alternatives available which would reduce or eliminate the school segregation complained of, the respondent is under constitutional obligation to put those alternatives into effect."

He points out, however, that a number of plans have already been proposed, some by civic organizations and others in a report of a committee of the New Jersey State Department of Education. For instance, it has been suggested that the Oakwood and Park Schools be combined into one attendance area. Under this proposal all pupils in this district would attend one school for grades 1–3 and the other school for grades 4–6. Such a plan would reduce the ratio of Negro children in Oakwood as indicated in the report of the Department of Education. (See appendix)

The above plan is cited not to imply that it is favored or that it necessarily offers the best solution, but only for purposes of illustration and to indicate than the problem is not incapable of solution. Doubtless there are other plans than those already offered which the Board may want and need to consider. Because the Board has had this matter under study for a long time, the Commissioner is certain that a satisfactory plan can be formulated and approved without delay in order that the beginning of the next school year will see the elimination of this problem.

The Commissioner finds and determines

(1) that the concentration of Negro pupils in the Oakwood School does not result from the employment of deliberate and purposeful segregation policies;

(2) that attendance at the Oakwood School engenders feelings and attitudes which tend to interfere with successful learning;

(3) that such extreme racial imbalance as obtains in the Oakwood School, at least where means exist to prevent it, constitutes under New Jersey law a deprivation of educational opportunity for the pupils compelled to attend the school; and

(4) that reasonable means consistent with sound educational and administrative practice do exist to avoid the extreme concentration of Negro pupils in the Oakwood School.

The Commissioner of Education directs the Orange Board of Education

(1) to formulate a plan consistent with the principles and findings enunciated in this decision to reduce the imbalance in the Oakwood School;

(2) to submit such plan or plans for approval on or before July 1, 1963; and

(3) to implement its plan as approved with the beginning of the 1963–64 school year.

Jurisdiction over this appeal is retained by the Commissioner pending the adoption by the Orange City Board of Education of a plan which meets with the approval of the Commissioner, and the Commissioner reserves the right to make such further order or orders in this cause as shall be necessary to effectuate a plan approved by the Commissioner for the 1963–64 school year.

/s/ F. M. RAUBINGER,
Commissioner of Education.

APPENDIX

COMBINE OAKWOOD AND PARK SCHOOL INTO ONE (1) DISTRICT[1]

Under this proposal pupils of the combined district would be assigned to one school for the first, second and third grades and in the other school for grades four, five and six. Kindergarten children would attend the school nearest their homes.

Advantages seen were:

1. It would reduce the present racial concentration in the Oakwood School to an approximately 72% Negro—28 white ratio in both schools.
2. It would require no transportation by the Board of Education.

Disadvantages seen were:

1. Increased walking distance for more children as well as increased overall child travel distance.
2. Children from the extremes of the combined district would have to cross two heavy traffic arteries.

POLICY STATEMENT ON DE FACTO SEGREGATED PUBLIC SCHOOLS ADOPTED BY THE CALIFORNIA STATE BOARD OF EDUCATION, JUNE 14, 1962.

JUNE 14, 1962.

CALIFORNIA STATE BOARD OF EDUCATION DECLARATION OF POLICY WITH REFERENCE TO DE FACTO RACIAL SEGREGATION IN PUBLIC SCHOOLS

In its historic decisions of May 17, 1954, the Supreme Court of the United States declared that segregation of school children on account of race or color, even where physical facilities and other tangible factors are equal, inevitably

[1] A Study Concerning Alleged Segregation and Discrimination in the Orange Public Schools, New Jersey State Department of Education, October 1962, p. 57.

results in unlawful discrimination. In California, by law and custom, we have historically operated on the democratic principle of equality of educational opportunity for all children, without regard to race or color, and for this reason it was easy for us to accept the underlying hypothesis of that decision and applaud its rendition. We now find, however, that primarily because of patterns of residential segregation, some of our schools are becoming racially segregated in fact, and that this challenge to equality of educational opportunity must be met with the full thrust of our legal authority and moral leadership.

We fully realize that there are many social and economic forces at play which tend to facilitate de facto racial segregation, over which we have no control, but in all areas under our control or subject to our influence the policy of elimination of existing segregation and curbing any tendency toward its growth must be given serious and thoughtful consideration by all persons involved at all levels. Wherever and whenever feasible, preference shall be given to those programs which will tend toward conformity with the views herein expressed.

REGULATION OF THE CALIFORNIA STATE BOARD OF EDUCATION: ADOPTED OCTOBER 18, 1962; EFFECTIVE NOVEMBER 22, 1962.

OCTOBER 18, 1962.

A resolution by the State Board of Education to add Article 1.5 to Subchapter 8 of Chapter 1 of Title 5 of the California Administrative Code, relating to establishment of school attendance areas in school districts.

Be it resolved by the State Board of Education, acting under the authority of, and implementing, Education Code Section 152, and pursuant to the Administrative Procedure Act, that:

SECTION 1. Article 1.5 is added to Subchapter 8 of Chapter 1 of Title 5 of the California Administrative Code, to read:

"ARTICLE 1.5. ESTABLISHMENT OF SCHOOL ATTENDANCE AREAS IN SCHOOL DISTRICTS

"2010. *Establishment of School Attendance Areas in School Districts.* For the purpose of avoiding, insofar as practicable, the establishment of attendance areas which in practical effect discriminate upon an ethnic basis against pupils or their families or which in practical effect tend to establish or maintain segregation on an ethnic basis, the governing board of a school district in establishing attendance areas in the district shall include among the factors considered the following:

"(a) The ethnic composition of the residents in the immediate area of the school.

"(b) The ethnic composition of the residents in the territory peripheral to the immediate areas of the school.

"(c) The effect on the ethnic composition of the student body of the school based upon alternate plans for establishing the attendance area.

"(d) The effect on the ethnic composition of the student body of adjacent schools based upon alternate plans for establishing an attendance area.

"(e) The effect on the ethnic composition of the student body of the school and of adjacent schools of the use of transportation presently necessary and provided either by a parent or the district."

REGULATION CONCERNING SCHOOL SITES ADOPTED BY THE CALIFORNIA SUPERINTENDENT OF PUBLIC INSTRUCTION, EFFECTIVE NOVEMBER 22, 1962

SEPTEMBER 28, 1962.

A declaration by the Superintendent of Public Instruction as Director of Education amending Section 2001 of Title 5 of the California Administrative Code, relating to school sites.

The Superintendent of Public Instruction as Director of Education, acting under the authority of, and implementing, Division 11 of the Education Code, and pursuant to the Administrative Procedure Act, hereby declares:

SECTION 1. Section 2001 of Title 5 of the California Administrative Code is amended by relettering subparagraph (c) as (d); relettering subparagraph (d)

as (e); relettering subparagraph (e) as (f); relettering subparagraph (f) as (g); and adding new subparagraph (c) to read:

(c) Ethnic Composition of the Area. (1) Present ethnic composition of the area.

(2) Probable future ethnic composition of the area.

(3) Degree of concentration or dispersion of residents of different ethnic groups.

(4) Proximity to the proposed site of residents of various ethnic groups.

(5) Effect on ethnic composition of existing schools adjacent to the proposed site.

DIRECTIVE FROM THE CALIFORNIA STATE BOARD OF EDUCATION TO COUNTY COMMITTEES ON SCHOOL DISTRICT ORGANIZATION CONCERNING RACIAL AND ETHNIC INTEGRATION AND SCHOOL DISTRICT REORGANIZATION

OCTOBER 12, 1962.

To: Chairman, County Committee on School District Organization, and County Superintendents of Schools

In addition to the items specified in "Manual for Study of School District Organization by County Committees", each study report submitted in support of a certificate of recommendation for district organization by a county committee shall contain assurance that—

(1) the county committee has considered the present and possible future ethnic composition of the residents of the territory included in the proposed new district and in the territory adjacent to it, and

(2) in the judgment of the county committee the proposed new district will not place obstacles in the way of achieving racial integration in the schools.

This information is requested with the knowledge that county committees are aware of the ethnic problems in the county. The inclusion of this material in the study report submitted will provide evidence, previously omitted, that the ethnic problem has been considered.

Senator PROUTY. The subcommittee will stand in recess.

(Whereupon, the subcommittee recessed at 4:30 p.m., to reconvene subject to the call of the Chair.)

RESUMPTION OF HEARING

(Whereupon, at 6 p.m., the subcommittee reconvened.)

Senator DOMINICK (presiding). The Subcommittee on Education will reconvene and our first witness will be Mrs. Petteys, who is the vice chairman of the Colorado Board of Education.

Mrs. Petteys, I want to say first that on my own behalf, and I am sure on behalf of the committee, we want to express our appreciation to you for your patience, in this somewhat disruptive series of hearings that we have had, disruptive not because of any fault of any member, but simply because of the business of the Senate. I happen to know at firsthand, Mrs. Petteys, your great knowledge in the educational field, and I wondered perhaps, before you start your statement, if you would give us some of your background in the educational field and then go ahead with that.

STATEMENT OF MRS. ANNA C. PETTEYS, VICE CHAIRMAN, COLORADO BOARD OF EDUCATION

Mrs. PETTEYS. I am serving in my 16th year on the State board of education in Colorado, having been elected three times for 6-year terms. I serve as a member at large for the State. I have had an

interesting education career because it has been in two installments. I got my A.B. degree at a young age. When I was 50 I got my masters degree, really with the idea of teaching, which I did not do because I have served on boards ever since: the board of the State colleges of education and then on the State board.

Senator DOMINICK. You are also an author, Mrs. Petteys, is that right?

Mrs. PETTEYS. Yes, "Doctor Portia"—story of a Colorado physician, her 50 years of practice in Russia, South Carolina and Colorado published in 1964.

Senator DOMINICK. And you are very well known as a lecturer around the country. So it is a pleasure for us to have you and I wish you would just go ahead with your statement and then we will see what questions it may bring.

Mrs. PETTEYS. It is a privilege for me to be here. Senator Dominick and your committee.

I am pleased and privileged to present the policy of the board of education for Colorado, of the department, and shall also sprinkle my remarks with a few personal observations as a layman.

GROUPS IDENTIFIED UNDER S. 3046

We see in the proposed amendment to S. 3046, to the Elementary and Secondary Education Act of 1965, commendable efforts to identify several areas of schoolchildren who need to be identified.

First, the so-called impacted children, whose education will be adversely affected if moneys are withheld from the districts where they are schooled.

This had been so thoroughly discussed at these hearings that I will only say that it is our belief that the basic philosophy of this program will not operate if we increase the percentage for eligibility.

The law should specifically state that it is the purpose of the act to fulfill the law's obligations by providing complete payment for any and all fiscal years from any regular supplemental or deficiency appropriations.

It should authorize the U.S. Office of Education to appropriate additional sums of money to the State educational agencies for the purposes of administering the act, including the expenses of teaming up with the U.S. Office of Education field representatives for administrative reviews and source checks.

We believe in the redefining of Federal property to include that in which the Federal Government has any interest and is not subject to local taxation.

Secondly, we have some concern for the education of Indian children who are slated for help. They should be redefined to include those who live in dormitories but have residence in other States. For instance, in Ignacio, in our State, 200 children are in dormitories maintained by the Bureau of Indian Affairs, though many of them live in Utah and New Mexico. Out-of-State children they are, and we can collect no title I money for them, though they are in public schools.

Third, the migrant children who would benefit, and worthily, by the amendment; we would be much helped in our program which has been in effect and growing for several years.

Fourth, children in isolated districts of isolated areas who would be neglected if a minimum of $5,000 were required for benefits by com-

bining districts. In terrain like Colorado's—matched in other States, I am sure—boundary lines often cannot be crossed. Special education classes, costly to operate, come to mind as needing in some cases to be geographically isolated. We recommend that the State department of education be given some discretion in the advisability of requiring the $5,000 minimum proposed.

HEADSTART

Fifth, children in institutions where they are incarcerated do not qualify as we read the section dealing with the handicapped. Our school for boys and school for girls would not qualify, for instance, although directors in each school are conducting classes which will enable the young people to reenter public school upon release. We would ask for a redefinition of the eligible to include such educationally deprived young people.

Now, I would speak about general proposals in the fringe areas of the Elementary and Secondary Education Act, and mention, first of all, Headstart, which won spontaneous acclaim as it made us aware for the first time that we in the United States are a part of the revolution of rising expectations and that we are a rather illiterate people. Starting everywhere, the project in Colorado was brought somewhat into reason through combined efforts of various agencies, including the Department of Education. Now we witness new confusion with teaching programs being evaluated by the Department of Public Welfare under the Economic Opportunity Act. Anticipating continued growth, we recommend that Headstart be a prekindergarten or kindergarten program, that provision be made for training teachers in that special field; that parents be encouraged to learn along with children; all under the aegis of education, specifically the State education agency.

ECONOMIC OPPORTUNITY ACT

Secondly, we would mention job opportunity as part of the Economic Opportunity Act and of labor, which was at first handled in Colorado by the department of education as an effort to enable young folks to stay in school by working part time. This project, after it was adopted in some 60 school systems in our State, was cut by five-sixths of its implementation, much to the dismay of school administrators. We propose that steps be taken to reactivate the in-school-job program as a deterrent to dropouts and a way to give youth as much schooling as possible; not to disparage at all the job opportunities offered youth already out of school. We also recommend that vocational and technical students acquire as much as possible of general education.

ELEMENTARY AND SECONDARY EDUCATION ACT IN COLORADO

In attempting to analyze the Elementary and Secondary Education Act, speaking first to title I in Colorado, very satisfactorily by April 15 of this year, 160 projects had been accepted for Colorado schools; the sum allocated therefor $7,862,770.22. Interestingly, they are in greatest proportion for the inadequate reader. They include also guidance and counseling, health and physical fitness, speech correction, special education, kindergarten. Also, studies to detect potential dropouts, mobile reading units, student study centers, libraries

open during summer months and free-from-tuition summer classes.

Regarding title II in Colorado, since Roberta Young, Assistant Project Director for title II of our State Department, appeared before this group on April 5, I refer you to her excellent report, repeating her request that you support appropriation for title II of Public Law 89–10 at a minimum of $105 million for fiscal year 1967 and full implementation of its several titles.

Colorado allocation of $1,065,929 has brought us up to eight books per pupil. The goal should be ten, according to the American Association of School Libraries.

We have assessed the book requests of parochial and independent schools, according to our assessed value and needs per pupil and have had no difficulty.

Since by constitution in our State, local schools select their own books, we have been involved in no religious controversy. Our State library books on loan are read and evaluated by the librarians.

Under title III in Colorado, 13 projects have been accepted and are in progress; the department of education has been able to provide leadership, and enthusiasm abounds for such projects as: Aspen total exposure program; a computerized approach to the individualizing of instructional experiences; developing creative and critical thinking through an elementary school science program; planning for an art and humanities program; proper utilization of student transportation time, to mention a few of them.

The entitlement under this title for Colorado is $1,107,310. An important project under consideration is that of developing, producing, and transmitting educational radio and television programs.

We would question the advisability of submitting title III projects directly to the U.S. Office of Education.

Now, under title IV in Colorado, in the Rocky Mountain area, eight States are attempting to organize jointly a regional research laboratory. No specific proposals have been presented to the U.S. Office of Education as yet. The proposed laboratory would include departments of education; public and private schools, colleges and universities. It envisions a potential for exciting research in many fields.

Colorado's share of the $45 million total will depend upon acceptability of projects which we present.

Under title V program in Colorado, with the help of available funds for upgrading itself, the Colorado department has added several specialists, held workshops with consultants to improve techniques and is studying special areas in teacher training, notably for teaching the disadvantaged as recommended by the Elementary and Secondary Education Act.

Under title V, Colorado, with several other States, has started work on a special project for long-range planning for strengthening of State departments of education.

Colorado's entitlement of $280,700 is quite adequate under this plan.

PROPOSALS

We would propose, however, that matching requirements be held off for 2 years and perhaps permanently, because some States are finding the matching difficult.

I have failed to mention the $3,000 low-income factor because our

board still wavers between two reactions. We feel it is comparatively easy now to broaden the eligibility level and we might go ahead while we are in the work and familiar with the process of developing new programs. However, it might seem wiser, in the opinion of some of us to digest what we are attempting, since so many programs have only gotten started under title I.

It might be wise, perhaps, to allow districts to study additional local costs of new programs and their possible effect on their local tax structure, to weigh the comparative benefits accruing to rural as against city systems, to disadvantaged against average, and the whole program against centralization of public education.

My own feeling is that it might be wise to wait before we go into further projects until we will have consumed properly what we have bitten off so far.

In general, I would say that Colorado's experience with the Elementary and Secondary Education Act has been satisfactory. We are alarmed by the $2.9 million budget request for a testing program. We see in this potential centralization and would strongly request the Congress to withhold authority for such a national evaluative test. To encourage continued nationwide interest in education, we propose that programs and appropriations of the Federal Government be continuously weighed against the principal of freedom of educational opportunity for each child, suited to his capacity and the community where he lives.

We propose that education be kept, as it has been, a unique function of Federal, State, and local government, free from control, or any semblence of dole or license since by its very nature learning means, and must be, self-effort.

I thank you.

Senator MORSE (presiding). Mrs. Petteys, we thank you for your statement. First, before making any comment, I want to extend to you my apology.

I shall write a letter to each one of the other witnesses who were here planning to testify, and for reasons beyond their control had to leave and file their statements. I regret it very much. There was not anything I could do about it. I was involved in matters on the floor of the Senate, and I just could not be here this afternoon. I am very sorry about it.

I want those who have left to know that their testimony will receive my careful attention and the careful attention of every member of the subcommittee that could not be here.

I am particularly glad to have your testimony, not only because of the position that you occupy, but because it is perfectly obvious that you have given a great deal of thought and analysis to the views that you have expressed, and I want to commend—he can close his ears for a moment—I want to commend the Senator from Colorado, Mr. Dominick, for giving us the privilege of having you as a witness, and you can take back to Colorado this bit of information from this chairman, through you, as my educational ambassador, when I tell you that the Senator from Colorado has been a great help to me and this subcommittee as we, in the past several years, have worked together in trying to draw up the best legislation we can to meet the educational problems that the Federal Government can be of help to, and I could not agree with you more than the last point that you made, that we must

be—must see to it that checks are written into any Federal legislation that do preserve the inherent right of the States, the local school districts, to administer our educational problems.

As I think you know, and others know, I do not think that is at all inconsistent with the Federal Government contributing its fair share of assistance to the States, and the local school boards. All of the services that are needed just cannot be provided by the local school districts.

That is why I have been such an ardent advocate of Federal aid to education, but with the check that guarantees local control.

I want to thank you very, very much, Senator.

Mrs. PETTEYS. Thank you, Senator Morse.

Senator DOMINICK. First of all, Mr. Chairman, I appreciate these very nice words of yours, and it has been a pleasure working with you. We do not always agree on all subjects, but that is why we get a better bill, I think, all the way through, and your courtesy and patience has been great.

Mrs. Petteys, I have just a few questions.

AID TO INDIANS UNDER TITLE I

This morning, Senator Metcalf gave us his views on some points in this legislation and I found myself in agreement with him, that it would be a mistake to extend title I aid to Indians who are being taught in Federal schools on Indian reservations, on the ground that this tended to increase segregation of Indians as opposed to bringing them into the mainstream and educating them in the public schools.

Do you have any thoughts on this, because I know you have some of these problems? You have mentioned them as far as Ignacio is concerned.

Mrs. PETTEYS. I would agree with you that they should be put, if possible, into public schools. The situation in Ignacio is that they are in public schools. We have had no problem with the Indian Affairs Bureau, because we have taken care of them, but it is not logical that we should take care of out-of-State children. We agree thoroughly that it is far better if they can be in public schools and the situation in Ignacio is something to be rather proud of because they are mingling with other schoolchildren.

RESULT OF AID CUTS ON COLORADO

Senator DOMINICK. Now, I think we may have already had it in the record, but if not, I am sure we can get the information, but do you know what cuts there would be in the State of Colorado if the President's proposal to cut back Public Law 874 were to take effect?

Mrs. PETTEYS. No, I do not have the figures. We, of course, are not one of the largely affected States. There are other States that would be hurt by it much more than we. I do not have the figures, I am sorry.

Senator MORSE. I say to the Senator from Colorado that I will have the figures inserted at this point in the record because I think they are in tabulation, and I think they ought to be taken out and corrected at this point and that will be done by counsel.

Mrs. PETTEYS. Thank you.

(The table referred to follows:)

COLORADO

School districts affected by proposed amendments to Public Law 874 by State, and by congressional district, within State

Name of school district	Congressional district	1967 estimated entitlements under Public Law 874	Estimated entitlements under proposed amendments to Public Law 874 in fiscal year 1967 budget
School District No. 1, Denver	1	$1,849,901	$210,461
Congressional district total		1,849,901	210,461
Jefferson County Rural 1 School District, Jefferson	2	913,897	214,035
Englewood School District No. 10, Arapahoe	2	54,638	0
Adams Arapahoe Joint School District No. 28, Arapahoe	2	1,112,713	703,587
Adams County School District No. 14, Adams	2	114,314	24,878
Littleton School District No. 6, Arapahoe	2	87,474	0
Cherry Creek School District No. 5, Arapahoe	2	110,376	6,148
School District No. 50, Adams	2	185,746	18,158
School District No. 12, Adams	2	123,157	51,472
Mapleton Public School District No. 1, Adams	2	56,251	0
Clear Creek School District No. RE-1, Clear Creek	2	26,157	10,151
Boulder Valley School District No. RE-2, Boulder	2	493,614	147,123
St. Vrain Valley School District RE-1J, Boulder	2	131,536	47,754
Sheridan School District No. 2, Arapahoe	2	19,267	0
Gilpin County School District RE-1, Gilpin	2	3,904	0
Congressional district total		3,433,044	1,223,306
Manitou Springs School District No. 14, El Paso	3	34,517	18,158
Colorado Springs School District No. 11, El Paso	3	1,555,807	974,670
School District No. 60, Pueblo	3	579,017	217,610
Pueblo County School District No. 70, Pueblo	3	140,533	77,779
Cheyenne Mountain School District No. 12, El Paso	3	109,330	39,032
Manzanola School District No. 3 Joint, Otero	3	14,474	11,009
Harrison School District No. 2, El Paso	3	246,314	208,174
El Paso County School District No. 8, El Paso	3	725,909	436,364
El Paso County School District No. 3, El Paso	3	512,151	356,583
Lewis Palmer Consolidated School District No. 38, El Paso	3	41,737	24,163
Air Academy School District No. 20, El Paso	3	905,023	522,579
Falcon School District No. 49, El Paso	3	3,827	858
Peyton Consolidated School District No. 23 Joint, El Paso	3	3,935	1,287
Fremont School District RE-J, Fremont	3	18,813	2,717
Huerfano School District RE-1, Huerfano	3	10,279	0
Elizabeth School District C-1, Elbert	3	3,768	572
Rocky Ford School District No. R-2, Otero	3	25,182	6,720
Fremont School District RE-1, Fremont	3	17,847	0
Woodland Park School District RE-2, Teller	3	7,388	1,144
Fowler School District R4-J, Otero	3	23,831	13,583
Las Animas School District No. RE-1, Bent	3	125,525	83,499
East Otero School District No. R-1, Otero	3	13,745	0
Cripple Creek School District RE-1, Teller	3	6,261	1,287
Crowley County School District No. RE-1J, Crowley	3	24,617	12,439
McClave School District No. RE-2, Bent	3	4,031	715
Big Sandy School District 100-J, Elbert	3	6,465	858
Congressional district total		5,160,326	3,011,800
School District No. 27 Joint, Adams	4	25,483	0
Mesa County Valley School District No. 51, Mesa	4	141,566	0
School District No. 50 Joint, Archuleta	4	8,788	1,430
School District 9-R, La Plata	4	76,836	16,442
Plateau Valley School District No. 50, Mesa	4	8,198	2,717
West Grand School District No. 1 Joint, Grand	4	11,044	2,859
East Grand School District No. 2, Grand	4	32,704	9,722
Ignacio Joint School District No. 11, La Plata	4	236,716	132,110
Mancos School District RE-6, Montezuma	4	20,952	9,579
Bayfield School District No. 10 Joint Rural, La Plata	4	13,570	7,292
School District RE-50J, Eagle	4	18,350	0
Dolores County School District RE-1J, Dolores	4	12,918	2,859
Park School District R-3, Larimer	4	38,666	8,435
Thompson School District R2-J, Larimer	4	18,055	0
Sangre de Cristo School RE-22J, Alamosa	4	2,955	0
Gunnison Watershed School District RE-1, Gunnison	4	50,441	22,305
Roaring Fork School District RE-1, Garfield	4	46,365	15,442
Montrose County School District RE-1J, Montrose	4	88,937	43,322
Dolores School District RE-4A, Montezuma	4	16,391	13,726
Garfield School District RE-2, Garfield	4	52,528	11,152
Montezuma Cortez School District RE-1, Montezuma	4	169,668	85,500
Congressional district total		1,091,131	384,892
Total Colorado		11,534,402	4,830,459

Senator DOMINICK. I think you will find it in the neighborhood of 55 percent of the total aid we are getting now, creating a number of problems. I presume that the State board of education has heard complaints about this from the local school areas, have you not, Mrs. Petteys?

Mrs. PETTEYS. Oh, yes. They are perturbed about it, and I presume rightfully.

Senator DOMINICK. For the record, it shows that under the 1967 estimated entitlement, Public Law 874, Colorado would have gotten $11,534,402; if the proposed amendments go through we would get only $4,830,459. That is a cut, as I said, in the neighborhood of $7 million—$6,703,943.

Mrs. PETTEYS. Yes, sir; that is a big cut.

Senator DOMINICK. It is a pretty big cut.

Mrs. PETTEYS. Oh, yes; bigger than I thought.

HEAD START

Senator DOMINICK. You mentioned the Head Start program and I have been concerned about this for some time. It seems—perhaps I am wrong but it did seem to me in listening to the evidence and the testimony and seeing some of the problems we have had in our own State as well as elsewhere, that the Office of Education is the one which is primarily responsible in this area, and it seemed to me that it should administer it as well as having only a nominal role in it.

Would you agree with this, that it could be advantageously shifted from the poverty program into the Office of Education?

Mrs. PETTEYS. My feeling is, and I think our board would agree, that it would logically be an education program. We find ourselves in it rather deeply because we got encouraged right from the beginning and felt that there should be some pattern set up.

Every little church, every little community was in it, and it was exciting to know that people were eager.

I feel it should be, if it is going to grow, on a firm foundation; it should be an education project. If it got going on a good foundation, I believe that there would be a lot of voluntary work, cooperation with it, which I do not think would be objectionable at all.

I do feel there should be trained teachers. The program has been satisfactory with young people going out and in their eagerness helping children who needed to be helped, but I happen to be a firm believer in education and in training for teachers. If a program is good, it would be better under trained leadership. At least, there should be enough trained leadership to make it a sound program, and lasting.

WORK-STUDY PROGRAM

Senator DOMINICK. You made mention in your prepared statement, I think, of the work-study program and I believe, Mr. Chairman, that this is the one that we transferred over to the Office of Education out of the poverty program.

Senator MORSE. It may also have been the MDTA program under the Department of Labor or vocational work-study.

Senator DOMINICK. Is this the one that you reported had been cut back substantially?

Mrs. PETTEYS. Yes. We were giving work to boys and girls, mostly boys, who were in school, and we thought it was very effective and very helpful; we had a peculiar letter from the authorities that we had now done enough, that this program would be shifted to some other State, and we were cut by five-sixths of the money that we had been getting. It was a disappointment to the school administrators who worked it up.

This was particularly popular in the smaller school districts where the superintendent would pick out, for instance, 12 boys who could do a little work around that needed to be done; when he had to cut it down to 2 boys, it was a rather drastic cut. Our philosophy was that many of these—especially I would say boys—could be saved to the schools if they had enough work to do, to give them a little sense of pride that they were earning something, and the chance to do some things that boys like to do.

I still feel that the more we can keep in school through jobs, the farther ahead we will be in this attempt to salvage boys.

Senator DOMINICK. Who sent you this letter?

Mrs. PETTEYS. I would not want to say because I do not remember accurately.

Senator DOMINICK. Do you remember about when it was?

Mrs. PETTEYS. Oh yes. I think I could check the letter if you are interested.

Senator DOMINICK. I think it would be helpful, Mr. Chairman, if we could get a copy of that letter for the record, if Mrs. Petteys would not mind sending it to us.

Senator MORSE. Do you feel you can make the letter available? If you do, we would like to have it very much.

Mrs. PETTEYS. I will try to do that. I am sure we have it in our files.

(The following information was subsequently supplied by Mrs. Petteys:)

[Letter referred to is not available. Enclosed is, in detail, the proceedings that followed upon the letter and gives the status of our In-school Work Training Program. The letter was written to Congressman Frank Evans of Colorado, and may have been used in House testimony.]

MEMORANDUM TO DR. BYRON W. HANSFORD, FROM CALVIN R. ORR, SUBJECT: IN-SCHOOL WORK TRAINING PROGRAMS

On Wednesday, August 4, 1965, notification was received from the Denver office of the Department of Labor that work training programs for youth 16–21 under Title I–B of the Economic Opportunity Act of 1964 were to be severely cut in Colorado and a few other western states. The explanation for this cut-back was that the $240 million appropriated for the purpose of work training programs was insufficient for programs in all states. During this past fiscal year the total amount of money was used and yet several states did not have work training projects. In order to get a more equitable distribution of funds the Labor Department is cutting back in some states.

Colorado in-school work training programs have been substantially more in evidence than programs for out-of-school youth; hence, to equalize this situation it was also suggested that there would be a cut back in the number of in-school programs in this and several other states. This means that it is possible that the work training programs sponsored by the State Department of Education and

public schools in Colorado may be cut back to a maximum of 300–400 youth at a total cost of up to $300,000. This is a drastic reduction from the estimated $3 million program which is now being prepared. It is our intent, however to proceed as planned and submit the $3 million proposal as is being developed, leaving the decision of cutting up to the Department of Labor. There is a possibility because of our experience in work training programs gained over the last several months that this may be in our favor in terms of having at least a partially adequate program approved.

AUGUST 16, 1965.

Hon. FRANK E. EVANS,
U.S. Congress,
Washington, D.C.

DEAR CONGRESSMAN EVANS: The Colorado State Department of Education has served in a leadership role through coordination of the Neighborhood Youth Corps—In School Work-Training Programs in Colorado public schools.

This department served as the primary contractor for 33 public school programs to provide training and work experience for 1,420 students during the final eight weeks of the 1964–65 school year. The state contribution was $35,889.00; the federal contribution, $124,836.00.

Our second contract with the United States Department of Labor for In School Work-Training Programs, involving 47 public schools and providing training for 1,500 eligible youth, is for the three summer months, June, July and August. The budget for this contract: State—$104,371.00; Federal—$721,762.00.

The In School Work-Training Program is based on an educational and training objective which necessitates the involvement of public school administrators. The Colorado State Department of Education has stimulated personnel of the public schools to assure educational and training experience for all qualified youth who are enrolled in the program. The Colorado public school programs have increased in numbers of programs and numbers of students enrolled, in addition to increased benefits to the students and the community—all as a direct result of the efforts of the State Department of Education personnel and public school districts.

We have received proposals for the 1965–66 school year from 70 school districts. Compilation of these proposals reveal:

Number of enrollees	2,834
Colorado's share of the budget	$409,471.01
Federal share of the budget	$1,808,397.85

The United States Department of Labor has informed us that the In School Work-Training Programs for the state of Colorado, for the 1965–66 school year of nine months, will be funded by the federal government in the amount of only $260,320.00. This is about 90% cut in anticipated funds.

Our programs have been growing because they have benefited the students enrolled and they have resulted in service to the schools and communities. Such a drastic cut in student enrollment will practically eliminate all the benefits that have been derived from this program. This curtailment of public school programs will force many schools to drop the program and, as a result this educational opportunity for youth will not be available.

We would appreciate any assistance you can render, in helping us to help the schools to continue improving the quality of the In School Work-Training Program, as well as continuing the enrollment required by the needs of students in 70 public school districts.

I shall appreciate hearing from you.

Sincerely yours,

BYRON W. HANSFORD,
Commissioner of Education.

Mrs. PETTEYS. You might wonder why we were in the program to begin with. Our department in its eagerness felt, too, that there was a worthwhile project and that we would like to work it in the schools; supervisors in the various schools were very enthusiastic about it, and we are still carrying it on to a small degree.

EDUCATIONAL RADIO AND TV PROGRAMS

Senator DOMINICK. Mrs. Petteys, in your statement, you say an important project under title III of Elementary and Secondary Education Act is that of developing, producing, and transmitting educational radio and television programs. Then you add:

> We question the advisability of submitting such projects directly to the U.S. Office of Education.

What is the problem here that you refer to?

Mrs. PETTEYS. All of these projects, we think, might be screened more carefully by the State department or the State education agency instead of being sent directly to the U.S. Office of Education.

Senator DOMINICK. You feel, then, that the proposed programs or projects should be sent to the State board of education first for screening?

Mrs. PETTEYS. Yes.

Senator DOMINICK. Or do you think that the State board should have authority over these pretty completely?

Mrs. PETTEYS. The school districts get some help in preparing their applications from the State department of education. Why not get approval of the State department before forms are sent to the U.S. Office? I think it is not an important detail, unless the U.S. Office of Education acts unilaterally, as it has in the past.

RELIGIOUS BOOKS

Senator DOMINICK. You mentioned the library services which you said were going along pretty well. We had a letter which I previously inserted in the record a letter from one of our school district superintendents in which he says that he had requested some religious books for inclusion in the library. I frankly do not remember at this point whether it was a copy of the Koran or the Bible or what it was. But in any event it was rejected apparently by the State board of education on the ground that they were not at liberty to provide this type of material.

Do you have any thoughts on this? Have you had any problems with it other than this matter?

Mrs. PETTEYS. I am not aware of it at all. We have the Gideon Bible problem come up every so often, and they are being distributed in the schools with the permission of the school authorities in some schools, but I have heard of no other problem.

Senator DOMINICK. The letter indicated that the State board had said that was not available for distribution. But I remember going over this distinctly when we wrote the bill, making sure, absolutely sure, that the Office of Education would have no right of censorship over this at all except where the religious book itself was going to be used for religious training in the way of a basis for a particular sect.

Mrs. PETTEYS. If you would like for me to follow through on that incident——

Senator DOMINICK. No. I think what we can do on that, Mrs. Petteys, is send you a copy of that letter.

Mrs. PETTEYS. I would be interested in really knowing and helping.

Senator DOMINICK. And see what answer there will be.

(The following material was subsequently supplied by Mrs. Petteys:)

Referring to the letter regarding the "religious books" issue, Commissioner Hansford has outlined his correspondence with Roaring Forks School district in a statement which I requested. The "guidelines," referred to by the Roaring Forks superintendent were those established by the Colorado Department of Education.

STATE OF COLORADO,
DEPARTMENT OF EDUCATION,
Denver, Colo., May 10, 1966.

Mrs. ANNA C. PETTEYS,
Vice Chairman, State Board of Education,
Sterling, Colo.

DEAR MRS. PETTEYS: The purpose of this letter is to answer your question regarding our procedure for handling the purchase of religious books and materials under Title II of the Elementary and Secondary Education Act. Federal regulations state:

"The State Plan shall provide that funds under Title II of the Act will not be used to pay for any form of religious instruction or worship, or for the provision of school library resources, textbooks, or other printed and published materials to be used in such instruction or worship."

The Colorado State Plan states:

"No materials will be allowed that are intended for religious worship or instruction."

As an operational procedure, we decided in cooperation with our advisory committee and with school representatives that we should make sure we were skirting this issue in such a manner that no one could possibly raise any question about the matter. As a result, we followed the recommendations of several individuals who suggested that in order to be absolutely safe we might as well decline to approve the purchase of any books or materials listed in the 200 series in the Dewey Decimal classification which deals with the general area of religion. We were well aware of the fact that many of the books listed under this category would be permissible and certainly beyond challenge. However, since each school has a budget for library books and materials separate from the title II funds, we recommended that none of the books in the 200 series would be purchased from Title II funds, but should be purchased with local funds.

We have had only one complaint about this procedure. That complaint came from the Roaring Forks School District in Glenwood Springs and has since been straightened out.

It should be clearly understood that the decision not to purchase specific books which were requested by the Roaring Forks School District was a decision made at the state level rather than one which was dictated by the federal regulations. We feel this was a common sense approach which has worked well for the schools.

We are presently reviewing this procedure with the idea of possibly liberalizing it for next year.

I hope I have answered your questions.

Sincerely yours,

BYRON W. HANSFORD,
Commissioner of Education.

Mrs. PETTEYS. I have several times called on Denver's Director of Parochial Schools, Monsignor Jones, and he has been very cooperative.

APPLICATION FOR GRANTS UNDER TITLE III

Senator DOMINICK. The report on title III in the supplemental educational centers and services says that the application for grant must be submitted to the State educational agency for review and recommendation.

Mrs. PETTEYS. That is in title III?

Senator DOMINICK. That is in title III. This is what the report said. My question is whether, in fact, they are doing this or whether

they are sending them directly down to the U.S. Office of Education.

Mrs. PETTEYS. I would have to check on that, to be accurate. I do not believe the department is previewing applications.

Senator DOMINICK. I think it would be helpful if we could clear that up.

(The following material was subsequently supplied by Mrs. Petteys:)

Referring to the procedure in handling Title III applications, you will find Commissioner Hansford's answer to my request for exact procedure followed by the Colorado Department of Education in recent instances.

STATE OF COLORADO,
DEPARTMENT OF EDUCATION,
Denver, Colo., May 10, 1966.

MRS. ANNA C. PETTEYS,
Sterling Journal Advocate,
Sterling, Colo.

DEAR MRS. PETTEYS: I am happy to have this opportunity to give you further information which you can use in connection with your recent appearance before the Senate Committee considering changes in P.L. 89–10.

Our procedure in handling Title III requests is as follows:

Title III, ESEA, projects are initiated by local school districts. The proposals contain innovations and/or exemplary ideas that are developed to meet local educational needs.

The State Department of Education provides leadership, consultative help, coordination, and assistance in the writing and development of proposals. It discourages, encourages, suggests, and discusses with local school officials their ideas as they might fill the needs of education in Colorado.

Local school officials send twenty copies of the completed proposal to the U.S. Office of Education. Concurrently, six copies are submitted to the State Department of Education.

The State Department procedure is to have each proposal read and evaluated by five people; three field readers, one specialist in the State Department of Education, and the Title III director. Their recommendations are consolidated and reviewed by a review panel consisting of Director of Research & Development Division, Director of Elementary & Secondary Division, and Assistant Commissioner, Office of Instructional Services. The final recommendation is then forwarded by the Commissioner to the U.S. Office of Education. The State Department of Education has thirty days to complete its evaluation procedure.

The U.S. Office of Education procedure is to have the proposals read by specialists in the U.S. Office of Education. After they have completed their evaluation, a conference is held in Washington, D.C. to discuss differences in State Department of Education and U.S. Office of Education recommendations. Differences are reconciled and the final recommendation is made to the Title III advisory committee of the U.S. Office of Education.

You can see that we have been very thorough in working with individuals in the field as well as in making sure that individuals familiar with research and with education review the proposals and aid us with our recommendations.

I am convinced that the procedure of the USOE in discussing the proposals with representatives of the various State Departments of Education will be a great improvement. I should say however, that it appears that the philosophy in Title V and Title III are contradictory. In Title V we say that state departments should be strengthened since they are essential to the improvement of education in the states. On the other hand, we say that the state departments are not to be trusted in making final decisions regarding Title III projects. It seems to me that if we believe in strong state departments of education, they should be given the responsibility for making these decisions.

Title III can be of fundamental importance in improving education. It would be sad if it were also a vehicle to further centralize educational decision-making, further removing the decisions from local and state boards of education.

Sincerely yours,

BYRON W. HANSFORD,
Commissioner of Education.

Senator DOMINICK. One other point.

ADMINISTRATIVE COSTS

Senator Metcalf indicated this morning that there had been problems in Montana in connection with the administrative costs on title II, library section of the bill, and he suggested that the amount of money for administrative purposes be raised to a minimum of $75,000 instead of, I believe, it is $30,000 at the present time.

Have you experienced any problem with the administrative costs in this field?

Mrs. PETTEYS. Not to my knowledge, Senator.

Senator DOMINICK. Now, one more question, Mr. Chairman, and then I am just about through.

TEACHER SHORTAGE

We have had evidence indicating that the ESEA has tended to draw the better teachers at the expense of some of the older, more established curriculums. Now, have you had problems with that?

Mrs. PETTEYS. I am two-faced about it because we are as guilty as anyone of taking away personnel. Often when we employ a new director of some new program in our department I find that he has been a successful administrator in one of the schools in the State. Also, we are losing our men, our efficient men, to the higher echelon of this ESEA program, which, I think, is rather natural that it would be that way.

I visit country schools a great deal and my experience lately has been that often the teachers I considered extra good have gone into one of the Federal projects which, I think, is rather just in the nature of things.

They feel it is exciting and an improvement for their development. But it could become rather a serious thing, I believe.

I wonder about our good teachers leaving this standard type of education in our classrooms.

Then again, I say with tongue in cheek that we have been as guilty as any. We have been very fortunate so far in getting excellent young men and women to take over ESEA projects, but I am sure many are losing someone that they would have liked to keep.

Senator DOMINICK. What suggestions, if any, do you have for the subcommittee to try and correct this problem?

SOURCES OF ADDITIONAL TEACHERS

Mrs. PETTEYS. I heard Senator Morse debate on the Teachers Corps, and very effectively. We may need to rely on it. We are working with the Peace Corps returnees. That, of course, would be a very small number, but we are trying to get those who come to us, who want to go into the teaching field, to get themselves accredited by an education college. But we probably are going to need a great many more teachers. Maybe the teachers will argue that the competitive field is good as far as they are concerned. I would need to have faith that they continue to raise teacher standards.

I suggest here that the Headstart people be trained; we are using teachers aids, I think, as far as we are able to. Student teachers are helping. We may run into quite a shortage. We hate terribly to let

down the requirement for teachers because we worked hard in a State like ours to get the requirements up where we felt they should be.

We may be forced to go back into provisional certificates, but we shall resist if possible and continue to research greater efficiency in use of teacher skill.

Senator DOMINICK. That is all I have.

Thank you, Mrs. Petteys.

Senator MORSE. Thank you very, very much, Mrs. Petteys.

You are very patient to wait and you are very helpful and helped to make a very fine record this afternoon.

We appreciate it.

Mrs. PETTEYS. Thank you. I appreciate the opportunity to tell Colorado's story, of course.

Senator MORSE. It would have been a shame not to accommodate you and we wanted to hear you. We are glad we heard you.

Mrs. PETTEYS. Thank you very much.

Senator MORSE. The last witness will be Mrs. Alison Bell, legislative representative of the American Association of University Women, and she will introduce Mrs. Sherman Ross, who will present the testimony.

I will say, Mrs. Bell and Mrs. Ross, that you have already heard me express my regret to Mrs. Petteys for this prolonged delay. We thank you very much for cooperating and staying.

Mrs. BELL. Thank you, Senator Morse.

Senator MORSE. And proceed with your testimony. You may proceed in your own way.

STATEMENT OF MRS. ALISON BELL, LEGISLATIVE STAFF, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN; ACCOMPANIED BY MRS. SHERMAN ROSS, MEMBER, NATIONAL LEGISLATIVE PROGRAM COMMITTEE

Mrs. BELL. Thank you.

Senator Morse, this is Mrs. Ross, who is a member of the national legislative program committee of the association.

Senatoor MORSE. I want to say to Mrs. Ross that Mrs. Bell has been a great friend of this committee for many years. I would be very disappointed if we ever had an education hearing and Mrs. Bell did not show up to testify and present the point of view of the American Association of University Women or, as she is in this case, presenting someone else to present the view.

We are glad to have you with us and you may proceed in your own way.

Mrs. Ross. Thank you very much.

I think Mrs. Bell is a great friend of the association as well.

I am sorry that Mrs. Weiner from your State could not be here. She presented the testimony in the House and I know that she was anxious to have been here, Senator Dominick. I know also that two of our board members from your State are interested in the education field. One of whom is Dr. Lois Roth from Denver who has helped prepare this statement, and the other is Mrs. Margaret Miller from

Fort Collins; both of them are active leaders in our educational program.

We thank you very much for the opportunity of being here this evening and I think that you all had a very full day so I will simply start our statement, which is prepared, and then offer the amended portion or our testimony sheets that have been altered a bit, as we have been updating our position.

As a representative of the American Association of University Women, I do wish to express the association's endorsement of the extension of the various titles of the Elementary and Secondary Education Act of 1965 for another 4 years, or through fiscal 1970, and to speak to certain amendments.

We do wish to point out that since the funds were not available for implementation of this act until after the beginning of the current school year, we recognize that relatively little in the way of experience can be cited at this time.

Nonetheless, we wish to express our satisfaction that so much headway has been made in the past 5 months and to urge continuation and expansion of the programs made possible by this legislation.

The specifics of the amendments and the items that we wish to address ourselves to are in our statement which I would like to submit for the record, and I would be willing to answer any questions if you have them, but I do not think that there is anything of great import that I could add to our statement.

Senator MORSE. Your full statement, Mrs. Ross, will be inserted in the record.

(The prepared statement of Mrs. Ross follows:)

PREPARED STATEMENT OF MRS. SHERMAN ROSS ON BEHALF OF DR. LOIS H. ROTH, AREA REPRESENTATIVE, EDUCATION, AND DR. VICTORIA SCHUCK, CHAIRMAN, LEGISLATIVE PROGRAM COMMITTEE, OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

Mr. Chairman and members of the Subcommittee: For purposes of the record we provide the following information. AAUW is an organization of 171,000 members, organized in 1582 branches in the fifty states, Guam, and the District of Columbia. At its most recent national convention in June 1965, the Association adopted the following item as a part of its Federal Legislative Program for the 1965–67 biennium:

OBJECTIVES

Support of a constructive educational policy, under existing constitutional provisions. We favor such objectives as

a balanced educational program of quality at all levels

an adequate supply of competent and qualified faculty at all levels

adequate financial support under state and local control for public education at all levels, with consideration of the problems of school districts where large tracts of land are under governmental jurisdiction

reduction of financial barriers to higher education for qualified students

financial assistance to regionally accredited institutions beyond the high school for the improvement and expansion of staff and facilities

adequate libraries and library services

advancement of the educational and cultural use of radio, television, films, and other media of communication, with attention to related technological developments

a National Foundation on the Arts and the Humanities

an Advisory Council to the President on Education, or a Department of Education headed by an officer at the Cabinet level

As a representative of the American Association of University Women, I am here today to express Association endorsement of extension of the various titles

of the Elementary and Secondary Education Act of 1965 for another four years, or through fiscal year 1970, and to speak to certain amendments.

First we wish to point out to this Subcommittee that since funds were not available for implementation of this Act until after the beginning of the current school year, we recognize that relatively little in the way of experience can be cited at this time. Nonetheless, we wish to express our satisfaction that so much headway has been made in the past five months and to urge continuation and expansion of programs made possible by this legislation. In the words of the President in his Message on Education on March 1, 1966, "Educational deprivation cannot be overcome in a year, and quality cannot be achieved overnight."

INDIAN CHILDREN AND MIGRANTS

We wish to assure you of our satisfaction that the Administration is now proposing under Title I special provisions covering both Indian children and those of migrant workers. This would provide a stop-gap until these Indian children can be fully integrated into the public school systems of their respective states.

These are two specific segments of the population too long ignored. We also agree that raising the income level, in establishing poverty, from $2000 to $3000 per year provides a more realistic base, particularly in urban areas. In following the implementation of this legislation we have learned that in even our most affluent school districts there are disadvantaged children. Data from federal Aid to Dependent Children programs as well as from the usual local sources will help identify and make coverage of children in need of help more certain.

NEEDS OF DISADVANTAGED CHILDREN

From the experiences of our own membership, we know that the basic needs of the disadvantaged child include:

(1) special reading and language teachers for developmental and remedial instruction.

(2) guidance counselors with the professional training equipping them for work with the child having the economic, social, cultural, and communication and learning problems of the poverty-stricken.

(3) readily available library and instructional materials and facilities including audio-visual aids. (We urge appropriation of the $105 million requested under Title II to assist the states in this area. We also urge appropriation of substantially more than the $30,000 minimum requested for administrative purposes.)

(4) special instructional materials and curriculum including art and music and recreation instruction, as well as instruction in health and hygiene.

We believe substantially larger appropriations of funds than those provided in 1965 for these purposes could be utilized effectively and would accelerate achievement of the goal of more nearly equal opportunity for the presently disadvantaged child.

INEQUITIES

We wish to report that it has come to our attention that certain inequities exist under the formula in the 1965 Act permitting some districts to receive funds which they are not prepared to utilize effectively at the present time, while other districts with already activated programs for disadvantaged children have received little or no help under the formula for distribution in the 1965 Act. Therefore we are pleased that this Subcommittee has this formula under review.

A sick, dirty, or a hungry child is not an effective child in the classroom. It has come to the attention of our members working in community programs that provision of medical care, breakfast and school lunches, clothing, and even facilities for cleanliness can work miracles with a child. Some of this work can be taken over by teacher aides freeing regular classroom teachers for the more complex duties of the classroom. These must be ongoing programs through the foreseeable future, for poverty and the ills it breeds cannot be quickly eliminated.

SUPPLEMENTAL EDUCATIONAL CENTERS

We cannot speak too highly of the supplementary educational centers and services provided for in Title III of this Act or of the research and training

programs provided under Title IV. All children, not just the disadvantaged, will benefit from advances in educational research. Our chief concern is that the requested $150 million for Title III will not provide adequate funds to achieve the purposes of the supplementary educational centers spelled out in the Act of last year. We are also pleased to note that $5 million of the funds requested for next year are being earmarked to help communities in their planning for new schools and to encourage new approaches in meeting such problems as obsolescence, overcrowding, and de facto segregation.

In its statement to this Subcommittee in support of the Elementary and Secondary Act of 1965, P.L. 89–10, the Association expressed its concern over the problem of finding teachers to teach teachers. We believe the provisions of this Act attack this problem. We also urged provision of both funds and the opportunity for educational research which would match the advancement in scientific research and recognize the "explosion of knowledge" which must be incorporated into the educational programs of our schools. We continue to urge expansion of such programs. We are pleased to see that this year's legislation incorporates provisions for the development of training programs on a contract basis with profit-making corporations whose talented researchers can make great contributions to the overall field of education.

H.R. 13160–13161 under Title V provides $3 million less for fiscal 1967 than for fiscal 1966. In our estimation the strengthening of state departments of education is vital to good programing. Overburdened, understaffed state agencies cannot provide the leadership resources necessary to adequate programming at the state level, or exercise competence in identifying strengths and weaknesses, or in evaluating existing programs or projected ones. For efficient operation, these state departments must have equipment and services, including data processing, for strengthening statistical operations. We believe the states could absorb to the benefit of their operations more than the $22 million requested in this bill.

S. 2928

We have reviewed S. 2928 which would provide technical assistance and grants to school boards to overcome racial imbalance in the public schools wherever it exists, through amendment of Title IV of the Civil Rights Act of 1964. From the reports of our members who have worked either professionally or as volunteers in some of the recently developed programs, we have learned that there is a great need for appropriate materials and programs to meet the curricular needs of these children. We are also very much aware of the need for inservice training for teachers as well as for other administrative and supervisory personnel.

FURTHER RECOMMENDATIONS

In our estimation there is a desperate need for expanded adult education programs. We will not take the time of this Subcommittee to describe the mounting plight of the unemployable illiterate, but we do urge enactment of provisions for programs outlined in S. 3012 which will enable them to develop the basic skills which might in the future assure their financial independence.

We also wish to recommend the passage of S. 2778, an amendment to P.L. 874, Sec. 203, Eighty-first Congress, providing free public education on a non-school basis for handicapped children, for orphans or those lacking parental support. We in AAUW have been concerned for many years over the provision of services for those children requiring special education. For this reason we have for some time recommended research and training programs which would be oriented toward creating a supply of highly skilled child development specialists for work through the schools, with other community agencies and with the families of either handicapped. We are also interested in programs and services for unusually gifted children.

In the past year, one of our major concerns has been that the several programs directed at the school-age and the preschool-age child, and even those aimed at the unschooled adult, from Title I of this Act through provisions of the Economic Opportunity Act, must be coordinated to reap the greatest possible benefits. We believe that it must be borne in mind at all times that these programs, particularly for the school-age and preschool-age child, must be education-related programs, in which educational standards must be maintained.

CONTINUITY IN PROGRAMING

Another concern of ours in AAUW is that continuity in programming must be maintained if we are to avoid wastefulness. It seems pointless to purchase equipment, find personnel, establish programs and then drop them in favor of a newer approach without providing a reliable evaluation of these on-going programs. We urge that these initial programs be built upon, reshaped, and improved where necessary. Also time must be allowed to ascertain their effectiveness. Most private foundation grant programs allow a period of three years before requiring any extensive evaluation. But at the end of one year many school districts now are struggling with voluminous evaluation detail of these new federal programs that they believe have been effective before they can plan for their extension. In fact some programs have been cut back arbitrarily before any evaluation has been made.

In summary, may we say that in the eyes of the AAUW this legislation is a long step forward in meeting the economic, social, and cultural needs of the nation, and we look forward to early passage of this legislation.

Thank you for the opportunity of again appearing before this Committee to express our views.

Senator MORSE. Any questions, Senator Dominick?

Senator DOMINICK. Senator, I must confess I have not yet read Mrs. Ross' statement so I do not have any questions. But I am sure it is excellent and I am sure it will be helpful.

Senator MORSE. I have only scanned it, Mrs. Ross.

Mrs. Ross. That is certainly understandable.

Senator MORSE. But the statements from your organization speak for themselves anyway.

I know the research and study that goes into them, so I am not going to ask any questions. I will let the statement speak for itself.

Mrs. Ross. Thank you very much for giving us the opportunity.

Senator MORSE. I am now pleased to receive a statement from Mr. Lawrence Speiser, Director, Washington office of the American Civil Liberties Union.

PREPARED STATEMENT OF LAWRENCE SPEISER, DIRECTOR, WASHINGTON OFFICE, AMERICAN CIVIL LIBERTIES UNION

I am Lawrence Speiser, Director of the Washington Office of the American Civil Liberties Union. Last year, we testified we believe there are serious questions under the First Amendment to the Constitution as to the validity of parts of the Elementary and Secondary Education Act of 1965. Our concern was not then, nor is it now, based on any antagonism toward the basic purposes of the Act, nor towards religion. On the contrary, our concern was due to our belief that its passage and implementation could, and would, cause some of the very problems the establishment clause of the First Amendment was designed to prevent.

S. 3046—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Financial Assistance for Education of Children in Low-Income Families

The first part of S. 3046 would extend the operation of Title I of the 1965 Act for four years until June 30, 1970. At the present time, we do not yet have the information necessary to evaluate the operation of Title I. We foresaw a number of problems which could arise under the broad language of the Act. Particularly, we were concerned with the shared-time programs which were mandated as one of the methods for implementing Title I. When we testified last year, the ACLU had not yet determined its position on the constitutionality of shared-time. However, in June 1965, the National Board of the ACLU adopted the following policy:

ACLU BOARD POLICY ON "SHARED TIME"

"Shared time" encompasses a number of different plans, some of which may present no substantial constitutional problem. This policy statement applies to those plans which permit pupils in sectarian schools to enroll as part-time pupils in public schools and to satisfy the compulsory education requirements of their state through a combination of public and religious school curricula.

The ACLU believes that such "shared time" programs present grave constitutional and civil liberty problems under the Establishment Clause of the First Amendment because of the substantial benefit that such programs confer upon sectarian schools and because of the joint involvement by secular and church authorities in decision-making on matters affecting religion.

1. *"Shared time" programs involve "aid to religion."*—Although the Supreme Court in Everson v. Board of Education narrowly upheld the payment of funds directly to parents for transporation costs of parochial school children, the Justices unanimously subscribed to the following principles, which have frequently been reiterated:

Neither a state nor the federal government can . . . pass laws which aid one religion, aid all religions, or prefer one religion over another . . . No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion.

"Shared time" involves aid to religion and the imposition of a tax that was expressly condemned in the *Everson* case. Tax money is no longer being used incidentally for the child's protection and health, but is instead being utilized to support academic programs for children receiving their basic education in church schools.

2. *"Shared time" programs involve joint participation of public and private authorities in important decisions affecting education and religion.*—The Establishment Clause was drafted by men of the Eighteenth Century who had vivid recollections of bitter religious conflicts. Its chief purpose was to enable the United States to avoid the friction and strife that inevitably accompany the fusion of government and religion.

"Shared time" proposals involve a substantial reordering of public and sectarian schools in which both public and religious authorities must participate. This joint decision-making will touch on the most sensitive matters—subjects to be taught, hours to be devoted to particular courses, textbooks, other teaching materials, and even "appropriate" instructors for each course. It is this transference of religious interests and disputes to the public arena that James Madison, the principal architect of the Bill of Rights, warned against in his historic Remonstrance. He said:

"Public money devoted to payment of religious costs, educational or other, brings the quest for more. It brings too, the struggle of sect against sect for the larger share or for any. Here one by numbers alone will benefit most, there another. That is precisely the history of societies which have had an established religion and dissident groups."

Among our concerns about dual-enrollment programs under Title I, was the apprehension that there would be segregation by religious affiliation. Although the Act itself did not specifically bar such segregation, statements in the Committee reports of both the House and Senate indicated that it was the intent of Congress that there be none. In the regulations issued by the Department of HEW it is stated: "Any project to be carried out in public facilities and involving joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid classes which are separated by school enrollment or religious affiliation of the children." (Regulations, Sec. 116.19(c).)

We do not know whether this stricture is being observed, but have urged our affiliates to check the "shared time" programs in their areas and to report back.

Special educational services (therapeutic, remedial, and welfare)

This was by far the most controversial program under Title I. Legislative debate on this measure was extensive but there is still considerable ambiguity as to what it encompasses. At least this much is clear from the legislative history: Public funds can not be used to pay the salaries of private school teachers or personnel (Regulation Sec. 116.19(d)), but public school teachers

may be sent to provide certain special non-curricular services for educationally deprived children in private schools. Public school teachers may not teach regular courses in parochial schools. Special educational services have been defined as "therapeutic, remedial and welfare" services. Futhermore, the Regulations state: "Public school personnel may be made available to other than public school facilities only to provide specialized services which the local educational agencies (public schools) determines are designed to meet the special education needs of educationally deprived children and only where such specialized services are not normally provided by the non-public schools." (Sec. 116.19 (d)).

In short, public schools may supply "therapeutic, remedial and welfare" services only *after* a determination that the private school had not previously offered such services. Even with the above limitation, there are still substantial church-state questions left unresolved.

Should remedial services be provided in the same way as welfare services? Is there a constitutional difference between the teaching of reading and the teaching of "remedial" reading? Is there a constitutional distinction between services offered on public school grounds and those offered in a parochial school? Should a public school teacher have the right to object conscientiously to being assigned to a parochial school for duties? It should be noted that several public school teachers in Detroit have joined in a suit jointly sponsored by the ACLU and other organizations against the Michigan Auxiliary Services Act on the grounds, among others, that being required to enter parochial schools and being under the supervision of parochial school authorities deprived them of their right of free exercise of religion.

Mobile equipment

In addition to mobile services, Title I funds can also be used for mobile equipment. The regulations have added the concept of "portable" equipment. "Mobile" and "portable" have different connotations. Originally the mobile concept was thought of in terms of bookmobiles or labmobiles, but the regulations would apparently permit the loan of portable items such as record players or projectors. There are two concepts of mobile equipment in the regulations:

1. The bookmobile, on the one hand, which is under direct public administration and may be a genuine community service; and
2. Portable equipment, on the other hand, which may provide the basic teaching tools for parochial schools under private administration.

To sum up, publicly administered community service available to all students may be constitutional, but equipping parochial schools, even though it is done by loan, is not.

School library resources, textbooks, and other instructional material

Title II of the 1965 Act permitted the making of grants for the acquisition of school library resources, textbooks and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools. In light of many of the strong objections to this provision, the bill was changed in a number of respects and the Committee reports contained the following language:

"The committee has taken care to assure that funds provided under this title will not inure to the enrichment or benefit of any private institution by providing that—

"(1) Library resources, textbooks, and other instructional materials are to be made available to children and teachers and not to institutions;

"(2) Such materials are made available on a loan basis only;

"(3) Public authority must retain title and administrative control over such materials;

"(4) Such material must be approved for use by public book authority in the State; and

"(5) Books and material must not supplant those being provided children but must supplement library resources, textbooks, and other instructional materials to assure that the Federal funds made available under this title will not be used to supplant or duplicate, inappropriately, functions of the public library system of the State.

"These conditions can in no way under the terms of the legislation be circumvented, but at the same time, assurance in the administration of the State plan must be given so that the library resources, textbooks, and other instructional materials will be available on an equitable basis to all eleemntary and secondary school children and teachers."

The report goes on to say "with the strict conditions which have been imposed by the Committee on the operation of Title II in principle, its operation would not be different from the conduct of a public library program which makes available on a loan basis, library materials, unrestricted as to content to both public and private school students."

In spite of that controlling language, there apparently have been two major forms of State plans which have been approved by the Office of Education. According to the Washington Post (January 21, 1966) "under one plan, books will be stored in central depositories with both public and private agencies borrowing them each semester. Under the other plan, the books will be sent directly to parochial schools on a *permanent* loan basis subject to reallocation."

In addition, the guidelines issued by the Office of Education make it clear that the library facilities of each particular school are the principle basis of comparison. For example, it states that the same determinations that are made for public schools must be made "for each private elementary and secondary school . . . unless it can be demonstrated that the quantity and quality of material provided in the private schools approximate what is provided in the public schools of the school district in which the private schools are located."

It thus appears that the administrative guidelines are directly contrary to the Congressional admonition that *library resources* are to be made available to children and teachers and not to institutions. With plans in operation of "permanent loans, subject to recall" it seems apparent that there is the *ability to stock school libraries of private schools.* Even under a very broad interpretation of the child-benefit theory, this permits books and materials accruing to the benefit of the institution. At the very least, the Amendments to the Elementary and Secondary Education Act should specify that a strict central depository system should be the *only* permissible system under Title II. In that way, the school children and teachers will deal directly with the public agency, the control will lie with the public agency, it will have the power to set up conditions of borrowing, it will collect the fines. In short, the loans will be truly loans and not gifts of books and materials.

It should also be pointed out that so-called "by-pass" provisions under Title II has been utilized or is in the process of being utilized with regard to, at least, two states, Nebraska and Oklahoma. In those states, the Attorneys-General have ruled that their state constitutions would not permit the providing of textbooks and reference materials under the Elementary and Secondary Education Act. Yet our Federal Government, under Section 204(b), circumvents these state constitutional protections for religious liberty and separation of church and state. If the people of a state have decided to make explicit in their constitution, that their state shall not support religious education, that action is entitled to respect.

The provisions in the Act and regulations respecting use of Title II funds for the purchase of materials approved for use in public schools will normally restrict the program to purchase of non-religious works. However, Title II funds might be used to purchase religious books if they are approved for use in public schools by the school authorities of any particular State. It was repeatedly stressed in the Congressional debates on Title II that the federal government did not have the right to select or censor the materials distributed. However, the Bible, or indeed any religious book, could be purchased as a work of reference, although it would not be used for religious instruction. The only regulation on this point, Section 117.4(c), merely restates the requirements of Section 604 of the Act barring use of materials for religious instruction.

Title II, as interpreted, permits private schools to acquire items that are, in fact, never loaned by libraries to individuals, but are instead considered institutional or reference materials. These would include such items as encyclopedias or dictionaries. They are considered permanent institutional resources, and thus are in violation of the Regulations barring materials for institutions rather than pupils. Perhaps, the simple test to distinguish institutional from non-institutional resources would be whether the material can be taken out of the institution for a reasonable length of time. If the library limited the use of

the items to use within the library, or to loans to students and teachers of that library school, it is an institutional resource. When a parochial school limits the use of a publicly owned item to use within a parochial school, it has thus received governmental financial aid in violation of the establishment of religion clause. In general, if one accepts the principle that there is a workable constitutional distinction between a loan to an individual student and a loan to a school, the following criteria may help in distinguishing them:

If a loan is made to an individual, not a school;

(1) the public lender, not the parochial school, should control access to the books by determining the condition of individual use of the book and by collecting fines if the book is lost or overdue. In no instance should a parochial school be able to deny or limit access to publicly owned materials.

(2) Publicly owned material should be stored in public sites. They should be removed at the request of individuals only for the period necessary for reasonable educational use.

Supplementary Educational Centers and Services

Although Title III of the 1965 Act envisioned a wide number of services and activities, and there was the general impression that they would take place on neutral sites, or at supplementary centers, it is apparent that a number of the programs benefiting parochial school students can also take place on public school premises (shared-time or dual-enrollment) and some may also take place on parochial school premises. The guidelines (p. 19) state:

"In many communities, public facilities will not be equipped to receive a large influx of private school students, nor will there be sufficient resources available to construct or lease a facility. No services may be provided on the premises of private schools which urge the benefit or enrichment of the institution. The only types of services which may be provided on the premises of private schools are those designed to benefit students but not the institution."

The Regulations (Sec. 118.11) further specify:

"Supplementary educational services, including broadened instructional offerings made available to children enrolled in nonprofit private schools, shall be provided in publicly controlled premises, but also such services may be provided on non-profit private school premises if such action is indicated to assure the success of the project or the effective participation in such services or activities by children enrolled in nonprofit private schools and if such services are not otherwise provided for such children by the private schools."

This sentence appears to permit sending public school teachers or others paid out of Title III funds into private schools to give broad instructional offering on the private school premises.

Although Section 303(b)(5) of the Act makes available "modern educational equipment and specially qualified personnel, including artists and musicians on a temporary basis to public and other non-profit schools, organizations and institutions," it would appear that there is a difference between giving a lecture or a concert at a parochial school and providing "broadened instructional offerings" which might include teaching several courses. A reasonable distinction might be whether credit is given. It would be unconsitutional to provide publicly trained teachers to teach credit courses at parochial schools.

I think it is apparent that in general, parochial school administrators would almost always prefer to have all instruction and services in their schools and this might often be an easier short-run arrangement for public authorities. However, such a practice undermines both the public school system and the First Amendment.

Judicial Review

Last year, we, along with a number of other organizations, urged that a meaningful judicial review section be added to the Act. We were unsuccessful at that time—and are still unsuccessful.

It is true that hearings have been held on S. 2097 which would provide judicial review of the constitutionality of grants or loans of various laws passed by Congress including the Elementary and Secondary Education Act. But, to be realistic, it is evident that such a separate bill has little or no chance of passage by itself.

That bill would authorize certain plaintiffs to sue in the U.S. District Court for the District of Columbia in order to determine the constitutionality of seven

listed Acts of Congress, as well as any other Acts administrated by the Department of Health, Education and Welfare and enacted after January 1, 1965. There are three classes of plaintiffs who may sue:

(1) Any public or other non-profit institutional agency which is, or may be, prejudiced through reduction in the amount of funds made available to it by virtue of a grant or loan being made to another institution or agency under any of the enumerated Acts;

(2) Any citizen who has paid his federal income tax during the preceding year; and

(3) Any public or other non-profit institution or agency denied a grant or loan under any of the enumerated Acts. In all of the classes of plaintiffs, challenges are limited solely to grounds under the First Amendment.

Such laws as the Economic Opportunity Act of 1964, the Elementary and Secondary Education Act of 1965 and the Higher Education Act of 1965, include within their scope various kinds of aid and programs permitting the utilization of facilities directed, owned and controlled by religious bodies, as well as grants to such institutions. In most cases the kinds of programs and grants are spelled out only with the most general of guidelines. Programs may vary from state to state, as well as from community to community, both in plan and implementation.

The very immensity of the innovations made possible under these laws made all the more difficult and impossible the task and responsibility of congressmen of determining whether they were, in fact, constitutional either on their faces or whether they would be administered in a constitutional manner. Surely, members of congress are as concerned as judges that the Constitution not be violated. But even with the best intentions in the world, no member could state, at the time of the debates on these bills, with absolute certainty, that they were constitutional. In this area involving the First Amendment's establishment clause, particularly, such congressmen must have conceded that their doubts about the validity of such bills were greater than with respect to most other pieces of legislation.

There are few cases illuminating the difficult constitutional questions inherent when Federal financial programs include church or church-related institutions within their gambit. As stated in the Memorandum on the Impact of the First Amendment to the Constitution upon Federal Aid to Education from the Department of Health, Education, and Welfare, dated March 28, 1961:

"The constitutionality of existing Federal legislation which confers some incidental benefits upon sectarian educational institutions has never been tested in the courts."

CONCLUSION

The Elementary and Secondary Education Act of 1965 has in it enormous potential for strengthening the educational opportunities for all Americans. However, its implementation, both because of the ambiguity of its language and the Guidelines, also creates grave dangers to the continued sturdiness of the wall of separation between church and state. Although there does not appear to be any major substantive changes in the Elementary and Secondary Education Amendments of 1966, it is certainly time to evaluate what has happened under the 1965 Act. This is necessary because it is proposed to extend the authorization for a period of four years. At the end of that time, if there are unconstitutional practices, they will have been solidified, and not subject to easy administrative change. Secondly, there is the intention to broaden the scope of the Elementary and Secondary Education Act by raising the statutory standard for economically deprived families.

All in all, there is much that needs to be known about the practices and the plans which have been drafted and adopted under the 1965 Act. The First Amendment's establishment clause requires nothing less.

S. 2928—TO PROVIDE TECHNICAL ASSISTANCE AND GRANTS TO OVERCOME RACIAL IMBALANCE IN PUBLIC SCHOOLS

On April 29, 1963, the Board of Directors of the American Civil Liberties Union considered the question whether a civil liberties issue is raised by *de facto* school segregation. It was agreed unanimously that it is not sufficient for a school to be color-blind but that school boards and other appropriate local authorities have a constitutional and affirmative obligation to correct drastic racial imbalances.

The public schools are the major agency available for equalizing cultural and economic opportunities for all children. Such equalizing of opportunities, of course, involves assignment of teachers, guidance services, curriculum and instructional materials realistically adapted to the facts of cultural and economic differences, with full recognition that equal educational opportunities require unequal methods and service with more for the disadvantaged. It involves also the integration of white and non-whites in the class rooms.

In a community, where non-whites are generally housed in racially segregated, consolidated areas, *de facto* school segregation cannot be justified either by officially ignoring race in administrative decisions or by adhering to the neighborhood school as the preeminent ideal. *De facto* school segregation is not an inevitable byproduct of segregated housing. It is partly the result of a board of education policy that pupils shall be enrolled only in their neighborhood schools. We realize that there are sound practical reasons for the neighborhood school policy but the policy cannot be considered without reference to the segregation of children. No longer can the question whether segregation is to be alleviated or encouraged be avoided. To do nothing is to encourage racial imbalance.

We believe that the application of the neighborhood school policy involves issues of civil liberties. The United States Supreme Court ruled in *Brown* v. *Board of Education*, 347 U.S. 483, that segregated, racially homogeneous schools damage the personality of minority group children and that segregation resulting from laws "requiring or permitting segregation according to race" constitute a deprivation of equal protection of the laws guaranteed by the Fourteenth Amendment. On the basis of numerous scientific studies, the Court held that segregated education is unequal education.

The fact that a board of education does not refer to race in its choice of or adherence to a policy resulting in segregated education may be of no significance constitutionally. There is a constitutional right to equal protection of the laws. Even the exercise of "administrative discretion" must yield to this constitutional mandate of equal protection of the laws. It is not enough for a school board to allege that the convenience, safety and welfare of children and their parents require attendance at a neighborhood school. The school board has a duty to demonstrate that the policy adopted and implemented attempts to mitigate the conceded inferiority and inadequacy arising from segregated schools.

S. 2928 amends the Civil Rights Act of 1964. It sets forth a number of programs for which plans could be made in order to alleviate any *de facto* segregation. It appears to provide a wide range of programs designed to accomplish the stated purpose of the bill. Among the methods which might be utilized for overcoming any racial imbalance are the following:

(*a*) *Zoning for Integration.*—In drawing school attendance lines which now customarily take into account traffic hazards, distances from home to school, topographical barriers and the necessity of equalizing school capacity, zoning committees should consider the necessity for achieving racial integration as a cardinal factor in zoning. To review such lines to eliminate gerrymandered school districts is not enough.

(*b*) *Site selection.*—Whenever possible, new school buildings should be located not in the heart of ghettoes, but at their borders or in mixed neighborhoods. School boards must also anticipate population movements to prevent new schools from becoming all Negro or all white.

(*c*) *Permissive transfers.*—Under the plan adopted by New York City in 1960, children in predominantly Negro or Puerto Rican schools were given the option of transferring to other schools in the borough with a much lower Negro-Puerto Rican population and with unfilled classrooms. Children exercising this option are provided free transportation to the receiving schools. The option of transferring is not given only to Negro or Puerto Rican children. Any pupil of a designated "sending school" is allowed to transfer.

(*d*) *Reclassifying schools.*—Under this plan, where there are two elementary schools, not too far apart, one being predominantly Negro and the other predominantly white, one school is classified as a kindergarten to fourth grade school and the other as a fifth to eighth grade school.

There are, of course, many other methods which might be suggested. The important part is that S. 2928 would provide, at least, some financial support toward the wholely worthwhile, if not absolutely necessary, objective of ending *de facto* school segregation. Accordingly, we wholeheartedly endorse it.

THE UNIVERSITY OF THE STATE OF NEW YORK,
THE STATE EDUCATION DEPARTMENT,
Albany, June 14, 1963.

To: All Chief Local School Administrators and Presidents of Boards of Education.

Subject: *Racial Imbalance in Schools.*

The State Education Department is constantly seeking to improve policies and practices which will bring about the full operation of the principle of equality of educational opportunity for persons of all social, economic and cultural backgrounds. In line with this effort and after studying the implications of the 1954 decision of the United States Supreme Court, the Board of Regents adopted and announced in January 1961, a Statement of Policy which contained the following paragraph:

"The State of New York has long held the principle that equal opportunity for all children, without regard to differences in economic, national, religious or racial background, is a manifestation of the vitality of our American democratic society and is essential to its continuation. This fundamental educational principle has long since been written into Education Law and policy. Subsequent events have repeatedly given it moral reaffirmation. Nevertheless, all citizens have the responsibility to reexamine the schools within their local systems in order to determine whether they conform to this standard so clearly seen to be the right of every child."

The Regents' statement goes on to point out that modern psychological and sociological knowledge seems to indicate that in schools in which the enrollment is largely from a minority group of homogeneous, ethnic origin, the personality of these minority group children may be damaged. There is a decrease in motivation and thus an impairment of ability to learn. Public education in such a situation is socially unrealistic, blocking the attainment of the goals of democratic education, and wasteful of manpower and talent, whether the situation occurs by law or by fact.

To implement the Regents' policy, the Department has carried on through its Division of Intercultural Relations, a continuing program of education and assistance aimed toward securing greater understanding and constructive action throughout the schools and colleges of the State. Important progress has been made, especially in higher education.

To assemble additional information on the problem, the Department conducted in November 1961, a racial census of the elementary schools of the State. The findings of that study were reported in July 1962. The report identified a number of districts in which the ratio of Negro to white pupils was relatively high and suggested that these districts should give added attention to this situation.

In June 1962, I appointed a three-member Advisory Committee on Human Relations and Community Tensions to advise and assist the Department and the local school districts. From its studies, the Committee has developed a statement of principles for dealing with racial imbalance in the schools. A copy of this statement is enclosed.

The position of the Department, based on the policy of the Regents, and the principles of the Commissioner's Advisory Committee, is that the racial imbalance existing in a school in which the enrollment is wholly or predominantly Negro interferes with the achievement of equality of educational opportunity and must therefore be eliminated from the schools of New York State.

If this is to be accomplished, there must be corrective action in each community where such imbalance exists. In keeping with the principle of local control, it is the responsibility of the local school authorities in such communities to develop and implement the necessary plans.

It is recognized that in some communities residential patterns and other factors may present serious obstacles to the attainment of racially balanced schools. This does not, however, relieve the school authorities of their responsibility for doing everything within their power, consistent with the principles of sound education, to achieve an equitable balance.

In order that the Department may know what your plans are for carrying out this responsibility, *I request that you submit to me by September 1, 1963, the following information:*

1. A statement indicating the situation in your district with regard to any problem of racial imbalance, regardless of the number of Negro children enrolled,

or to the actual existence of or trend toward racial imbalance. At this time and *for the purpose of this report*, a racially imbalanced school is defined as one having 50 per cent or more Negro pupils enrolled.

2. A statement of policy by your board of education with respect to the maintenance of racial balance in your schools.

3. In districts where racial imbalance exists, or is a problem, a report of progress made toward eliminating it.

4. In such districts, your plan for further action, including estimates of the additional cost, if any, and of the time required for carrying out your plan.

In addition to this request for information from your district, I have directed the staff of the State Education Department to reexamine all State laws, rules, regulations, policies and programs pertinent to the issue here under discussion, and to submit to me by the same date any revisions that may be necessary for making them more effective instruments for the elimination of racial imbalance.

These requests for more positive action to eliminate racial imbalance in the schools of New York State are a logical extension of State law and policy, necessary if the principle of equality of educational opportunity is to apply to all, regardless of race, color, creed or economic background. I am aware that many of you have already taken constructive action in this regard and that you will continue to do so. I am confident that working together we shall be able to achieve solutions which will truly serve the purposes of education in a democracy.

Please let me know how the Department can be of assistance to you in this important effort.

Sincerely,

JAMES E. ALLEN, Jr.,
Commissioner of Education.

REGENTS STATEMENT ON INTERCULTURAL RELATIONS IN EDUCATION

"After the Supreme Court decision of May 1954, we have all been a part in reevaluating the role of education in a democracy. It was of greatest significance that the Court in its historic decision stated:

"We must consider public education in the light of its full development and its present place in American life throughout the nation. . . .

"Today, education is perhaps the most important function of state and local governments . . . it is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. . . .

". . . to separate (them) from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. . . .'

"The State of New York has long held the principle that equal educational opportunity for all children, without regard to differences in economic, national, religious or racial background, is a manifestation of the vitality of our American democratic society and is essential to its continuation. This fundamental educational principle has long since been written into Education Law and policy. Subsequent events have repeatedly given it moral reaffirmation. Nevertheless, all citizens have the responsibility to reexamine the schools within their local systems in order to determine whether they conform to this standard so clearly seen to be the right of every child.

"Modern psychological knowledge indicates that schools enrolling students largely of homogeneous, ethnic origin, may damage the personality of minority group children. Such schools decrease their motivation and thus impair the ability to learn. Public education in such a setting is socially unrealistic, blocks the attainment of the goals of democratic education, and is wasteful of manpower and talent, whether this situation occurs by law or by fact.

"In seeking to provide effective education for all the children of this State, boards of education are faced with many obstacles in the form of complex social and community problems. Among them is the existence of residential segregation which leads to schools with students predominantly of one race on the elementary and high school levels.

"In spite of these and other difficulties, the Regents are determined to accept this challenge facing our schools today. We charge the Regents Advisory Coun-

cil on Intercultural Relations in Education, working in close cooperation with the State Education Department, to assist in seeking solutions to the educational aspects of the problem. The Council's recommendations for action, based on systematic and objective study, will be reported to the Regents in due course.

"We recognize that we who have been given the responsibility for the education of the children and youth in our State can deal directly with only these educational aspects. There are larger community problems which influence the quality of education in, and the ethnic composition of our schools. So long as these larger social problems remain unsolved, it will be difficult to solve some of the basic and related educational situations. For this reason, therefore, we call upon all our citizens and their agencies of government and their civic organizations to take concrete steps to provide the social climate which will make it possible for us to increase the effectiveness of education. Only with this cooperation will we be able to provide that type of democratic education which will enable all children to contribute their understanding, knowledge and skills to increase the greatness of our State and our Nation."

GUIDING PRINCIPLES FOR DEALING WITH DE FACTO SEGREGATION IN PUBLIC SCHOOLS

(Drafted by the State Education Commissioner's Advisory Committee on Human Relations and Community Tensions)

In contemporary America, race or color is unfortunately associated with status distinctions among groups of human beings. The public schools reflect this larger social fact in that the proportion of Negroes and whites in a given school is often associated with the status of the school. The educational quality and performance to be expected from that school are frequently expressed in terms of the racial complexion and general status assigned to the school. It is well recognized that in most cases a school enrolling a large proportion of Negro students is viewed as a lower status school. It is also true, of course, that an all white school enrolling a substantial proportion of children from culturally deprived homes is frequently considered less desirable.

A cardinal principal, therefore, in the effective desegregation of a public school system is that all of the schools which comprise that system should have an equitable distribution of the various ethnic and cultural groups in the municipality or the school district. Where serious imbalance exists the school with the highest proportion of minority group and lower-status children tends to receive more such children as parents who are able to do so move to neighborhoods and schools of higher status.

A program which seeks an equitable distribution of majority and minority group children in all of the schools of a district offers several advantages. It will enable all children to profit from acquaintance with others of different backgrounds than their own, it will reduce distinctions among schools based on non-educational factors, and will probably stabilize the shifts of enrollment which often follow the arrival of minority group children in disproportionate numbers in a particular school.

The Committee recognizes that long established patterns and community customs are not easily or quickly changed and that psychological and social factors operate on all sides of such a situation as the one now before you. We therefore suggest six principles which seem to us relevant to the whole question of racial balance in the schools.

1. The common school has long been viewed as a basic social instrument in attaining our traditional American goals of equal opportunity and personal fulfillment. The presence in a single school of children from varied racial, cultural, socio-economic, and religious backgrounds is an important element in the preparation of young people for active participation in the social and political affairs of our democracy.

2. In forming school policies, every educationally sound action should be taken to assure not only passive tolerance but active acceptance of and genuine respect for children from every segment of the community, with particular attention given to those from minority groups that may have been the objects of discriminatory mistreatment.

3. No action, direct or indirect, overt or covert, to exclude any child or group of children from a public school because of ethnic, racial, religious, or other educationally irrelevant reasons should be taken by any public agency. Wherever such action has occurred it is the obligation of the school authorities to correct it as quickly as possible.

4. No action should be taken which implies that any school or any group of pupils is socially inferior or superior to another, or which suggests that school mates of one group are to be preferred to schoolmates of another. In establishing school attendance areas one of the objectives should be to create in each school, a student body that will represent as nearly as possible a cross-section of the population of the entire school district, but with due consideration also for other important educational criteria including such practical matters as the distance children must travel from home to school.

5. A "neighborhood school" offers important educational values which should not be overlooked. The relation between a school and a definable community with which it is identified can, in many cases, lead to more effective participation by parents and other citizens in the support and guidance of the school. It can stimulate sound concern for the welfare of the school and its pupils and can lead to beneficial communication between the school staff and the community that staff serves.

6. When a "neighborhood school" becomes improperly exclusive in fact or in spirit, when it is viewed as being reserved for certain community groups, or when its effect is to create or continue a ghetto type situation it does not serve the purposes of democratic education.

CLOSING REMARKS OF CHAIRMAN

Senator MORSE. In closing these public hearings on the legislation subject matter of the hearings, the Chair wishes to express to his colleagues on the committee his appreciation for their cooperation and very sincere thanks on behalf of the committee to each and every witness that appeared before us in the making of what I consider to be one of the very best records on education bills that we have had since my work on this committee.

The record will speak for itself. I think it supplies us the factual information that we need and the evaluation of existing programs from competent people that will stand up in good stead when we mark up the bill, take it to the full committee and eventually, whatever bill is approved, to the floor of the Senate.

In closing the hearings tonight I want to say that the material, the written statements, letters, charts, graphs, and other pertinent materials relevant to the bills under review will be inserted in the record at appropriate places.

The hearing record will be kept open until the close of business, May 6, 1966 next, for the receipt of such additional written statements as witnesses may wish to offer.

With this statement, unless the Senator from Colorado has anything to add——

Senator DOMINICK. Mr. Chairman, I wonder if May 6 is going to give us enough time? Is this date very important to you?

Senator MORSE. I think it is the date suggested by Senator Javits.

Senator DOMINICK. I wonder if we could extend it to May 10, just to make sure?

Senator MORSE. All right. I accept the suggestion of the Senator from Colorado. The record will be kept open until 5 p.m., May 10.

Also I want counsel to see to it that whatever insertions in the record that the Chair from time to time has called for by way of supple-

mental statements from witnesses are inserted in the final record at the appropriate places; and that the Department of Health, Education, and Welfare and particularly its Secretary and Commissioner of Education, specifically, be advised by counsel that the record will be closed at 5 p.m. on May 10, and that any further material that they wish to have in the record in support of the administration's position on any issue should be filed with the subcommittee by that date.

I now order that statements on hand and correspondence be entered in the record at this point.

(The material referred to will appear in part 6 of these hearings.)

○

LIBRARY
AUG 15
1966