For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

CONSTRUCTION

This section not to be construed to extend application of Education Amendments of 1972, Pub. L. 92–318, to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a note under section 1687 of this title.

ABORTION NEUTRALITY

Pub. L. 100–259, § 8, Mar. 22, 1988, 102 Stat. 31, provided that: ‘‘No provision of this Act or any amendment made by this Act [see Short Title of 1988 Amendment note under section 1681 of this title] shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds [sic] to perform or pay for an abortion.’’

CHAPTER 39—EQUAL EDUCATIONAL OPPORTUNITIES AND TRANSPORTATION OF STUDENTS

SUBCHAPTER I—EQUAL EDUCATIONAL OPPORTUNITIES

PART 1—POLICY AND PURPOSE

Sec. 1701. Congressional declaration of policy.
1702. Congressional findings.

PART 2—UNLAWFUL PRACTICES

1703. Denial of equal educational opportunity prohibited.
1704. Balance not required.
1705. Assignment on neighborhood basis not a denial of equal educational opportunity.

PART 3—ENFORCEMENT

1706. Civil actions by individuals denied equal educational opportunities or by Attorney General.
1707. Population changes without effect, per se, on school population changes.
1708. Jurisdiction of district courts.
1709. Intervention by Attorney General.
1710. Civil actions by Attorney General; notice of violations; certification respecting underachievement areas and deans pending exercise of appellate remedy; expiration of section.

PART 4—REMEDIES

1712. Formulating remedies; applicability.
1713. Priority of remedies.
1714. Transportation of students.
1715. District lines.
1716. Voluntary adoption of remedies.
1717. Reopening proceedings.
1718. Limitation on court orders; termination of orders conditioned upon compliance with fifth and fourteenth amendments; statement of basis for termination orders; stay of termination orders.

PART 5—DEFINITIONS

1720. Definitions.

PART 6—MISCELLANEOUS PROVISIONS

1721. Separability.

SUBCHAPTER II—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

1751. Prohibition against assignment or transportation of students to overcome racial imbalance.
1752. Appeals from Federal district court transfer or transportation orders affecting school attendance areas and achieving balancing of students; postponement of Federal court orders pending exercise of appellate remedy; expiration of section.
§ 1703. Denial of equal educational opportunity

No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;
(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part 4 of this subchapter, to remove the vestiges of a dual school system;
(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;
(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;
(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or
(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

§ 1704. Balance not required

The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

§ 1705. Assignment on neighborhood basis not a denial of equal educational opportunity

Subject to the other provisions of this subchapter, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

§ 1706. Civil actions by individuals denied equal educational opportunities or by Attorney General

An individual denied an equal educational opportunity, as defined by this subchapter, may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this chapter referred to as the “Attorney General”), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

§ 1707. Population changes without effect, per se, on school population changes

When a court of competent jurisdiction determines that a school system is desegregated, or
that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.


§ 1708. Jurisdiction of district courts

The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 1706 of this title.


§ 1709. Intervention by Attorney General

Whenever a civil action is instituted under section 1706 of this title by an individual, the Attorney General may intervene in such action upon timely application.


§ 1710. Civil actions by Attorney General; notice of violations; certification respecting undertaking appropriate remedial action

The Attorney General shall not institute a civil action under section 1706 of this title before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part 2 of this subchapter; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.


PART 4—REMEDIES

§ 1712. Formulating remedies; applicability

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.


§ 1713. Priority of remedies

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 1714 of this title;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 1714 and 1715 of this title.


§ 1714. Transportation of students

(a) Limitation to school closest or next closest to place of residence

No court, department, or agency of the United States shall, pursuant to section 1713 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) Health risks; impingement on educational process

No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) School population changes resulting from population changes

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement.
any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.


§ 1715. District lines

In the formulation of remedies under section 1712 or 1713 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.


§ 1716. Voluntary adoption of remedies

Nothing in this subchapter prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this subchapter or shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this subchapter, if such plan is voluntarily proposed by the appropriate educational agency.


§ 1717. Reopening proceedings

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) in effect on August 21, 1974, and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.


REFERENCES IN TEXT


§ 1718. Limitation on court orders; termination of orders conditioned upon compliance with fifth and fourteenth amendments; statement of basis for termination orders; stay of termination orders

Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws may, to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable, and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.


PART 5—Definitions

§ 1720. Definitions

For the purposes of this subchapter—

(a) The term “educational agency” means a local educational agency or a “State educational agency” as defined by section 801(k)1 of the Elementary and Secondary Education Act of 1965.

(b) The term “local educational agency” means a local educational agency as defined by section 801(f)1 of the Elementary and Secondary Education Act of 1965.

(c) The term “segregation” means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin within a school on the basis of race, color, or national origin.

(d) The term “desegregation” means desegregation as defined by section 2600(c)(b) of title 42.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student’s transportation is paid by such agency.


REFERENCES IN TEXT

Section 801 of the Elementary and Secondary Education Act of 1965, referred to in subsecs. (a) and (b), is section 801, title VIII, of Pub. L. 91–98, which was formerly classified to section 881 of this title. Section 801 of that Act was renumbered section 1001 of title X by Pub. L. 95–561, title X, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was reclassified to section 3381 of this title. Section 1001 was subsequently renumbered section 8001 and amended generally by Pub. L. 100–297, title I, §403(b), Apr. 28, 1988, 102 Stat. 3519. For definitions, see section 7001 of this title.

1 See References in Text note below.
PART 6—MISCELLANEOUS PROVISIONS

§ 1721. Separability

If any provision of this subchapter or of any amendment made by this subchapter, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this subchapter and of the amendments made by this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.


REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this part”, meaning part A of title II of Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 519, which is classified generally to this subchapter.

SUBCHAPTER II—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

§ 1751. Prohibition against assignment or transportation of students to overcome racial imbalance

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.


REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484, as amended, known as the Education Amendments of 1974. For complete classification of this Act to the Code, see Short Title of 1974 Amendments of 1974. For complete classification of this subchapter and of the provisions of this subchapter and of the amendments made by this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.


§ 1752. Appeals from Federal district court transfer or transportation orders affecting school attendance areas and achieving balancing of students; postponement of Federal court orders pending exercise of appellate remedy; expiration of section

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.


§ 1753. Uniform rules of evidence requirement

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.


§ 1754. Provisions respecting transportation of pupils to achieve racial balance and judicial power to insure compliance with constitutional standards applicable to the entire United States

The proviso of section 407(a) of the Civil Rights Act of 1964 [42 U.S.C. 2000c–6(a)] providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV [42 U.S.C. 2000c et seq.], under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.


§ 1755. Additional priority of remedies after finding of de jure segregation

Notwithstanding any other provision of law, after June 30, 1974 no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.


§ 1756. Remedies with respect to school district lines

In the formulation of remedies under this chapter the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.


§ 1757. Prohibition of forced busing during school year

(a) Congressional findings

The Congress finds that—
§ 1758. Reasonable time for developing voluntary school desegregation plans following detailed notice of violations

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Student transportation orders incidental to student transfers pursuant to school desegregation plans effective beginning with academic school year

Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) “Academic school year” defined

For the purpose of this section, the term “academic school year” means, pursuant to regulations promulgated by the Secretary, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) Orders subject to provisions of section

The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.


Transfer of Functions


Section 1804, Pub. L. 89–90, title IV, §404, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 540, directed Commissioner to afford the State educational agency reasonable notice and opportunity for a hearing prior to final disapproval of a State plan.


PART B—LIBRARIES AND LEARNING RESOURCES

§ 1821. Omitted

Codification


PART C—EDUCATIONAL INNOVATION AND SUPPORT

§§ 1831, 1832. Omitted

Codification

Sections 1831, Pub. L. 89–90, title IV, §431, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 543, which provided for the use of cultural and educational resources, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles