

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

ANTHONY T. LEE, ET AL.,
Plaintiffs,

UNITED STATES OF AMERICA,
Plaintiff-Intervenor
and Amicus Curiae,

v.

MACON COUNTY BOARD OF EDUCATION,
ET AL.,
Defendants .

CIVIL ACTION NO. 604-E

ALABAMA NAACP STATE CONFERENCE
OF BRANCHES, ETC., ET AL.,
Plaintiffs,

UNITED STATES OF AMERICA,
Plaintiff and
Amicus Curiae,

v.

GEORGE C. WALLACE, Governor of
the State of Alabama, ET AL.,
Defendants,

CIVIL ACTION NO. 2457-N

JOHN W. GARDNER, as Secretary
of Health, Education and
Welfare, ET AL.,
Impleaded Defendants.

J. JULIAN NEWMAN
SUPERINTENDENT OF ATHENS CITY SCHOOLS

Page

Direct Examination by Mr. Murphy

This is my twenty-second year as superintendent of education for the city of Athens. I am secretary of the board and am responsible for keeping the records. 6

There are five schools in the school system. They are Athens High School, Athens Junior High School, Athens Elementary School, Julian Newman Elementary School, and Miller Elementary School. 7

Ex. 1 shows the enrollment at each school in our system over the past several years according to race, and the teacher assignment of the school by race. The teacher assignments are for the current year. Two items listed at the bottom of the page show the degrees held by the teachers and the rank of certificates held by them. 8

The geographical boundary of the school system is the city of Athens, but pupils from outside the city limits come in to the school. We are in Limestone County. The Athens and Limestone County school systems are the only school systems in Limestone County. We have had some students come from Madison County but I don't know if we have any from there now. We did not have a significant number of them. 9

Our elementary schools include grades 1 through 6. Our junior high school is seven through nine. The senior high school is ten through twelve.

Ex. 2 is a map of the city of Athens showing the boundaries between the two elementary schools. This boundary is represented by a red line drawn by me on the map. This line represents the boundary between the Julian Newman Elementary School and the 10

other two elementary schools, Miller and Athens. The schools in the city are indicated on the map by numbers. The Julian Newman School is not on the map legend so I have drawn in its location and put the initials JN next to it.

The population of Athens is about 15,000. 12
Based on the elementary school population, I would say the Negro population is 25%. The largest group of Negroes is in the area southwest of the square and then there is an area northeast of the square. This is near the streets Trinity and Allen. The other area is near the central north border of 13
the city around Elm Street. There are a few Negroes scattered around over the city in other areas.

I believe between 200 and 300 students who reside outside the city of Athens attend Athens schools. Practically all of them come from Limestone 14
County. They come from all around the borders of the city.

Roughly between 200 and 300 students residing in Athens attend school outside the city. I would have to more or less guess what schools they attend in Limestone County, but I would say Piney Chapel, Edgemont, and perhaps Tanner.

Last year there were two Negroes who came into the city schools from Limestone County. I don't know whether there are any this year or not.

There is a Negro high school located in the 15
city of Athens but run by Limestone County. When I referred previously to Athens students going to school in Limestone County schools I was thinking in terms only of those who go outside the city limits. I was thinking you said white children going outside the city limits. There are over 200 Negro students 16
residing in Athens who attend the county high school located within the boundary of the city. There are also Negro children from Limestone County coming into this school. The name of the school is Trinity. It is an all-Negro school.

Trinity School is financed under the minimum program of the State of Alabama. These funds are received by county board of education. Athens' city system makes no contribution toward the operation of Trinity, but we have made considerable contributions towards improvements and expansion of the building. We do not pay any salaries there. There is only an informal, not a written, agreement between the city and county districts regarding the operation of Trinity. It was here when I came here. Under this arrangement the Negro children who want to go to Trinity go there rather than the city of Athens or outside the city limits. We have made capital contributions to the Trinity High School in the last four or five years, at least within the last six years. We contributed \$40,000 for building additional classrooms. The city of Athens has a one-cent city-wide sales tax and also participates in a county-wide sales tax of one percent. I wouldn't know if the contributions to Trinity High School were paid out of the minimum program fund. They were paid from current revenues. We have never borrowed money through tax anticipation warrants or through bond issues to contribute money to Trinity High School.

We have an informal agreement with the county system so that anybody who wants to come to our schools from the county or anyone who wants to go from the city to the county schools can do so. We charge a tuition fee of \$50 a year for one member of a family and \$25 for each additional member of that same family for students coming into the city schools. The county doesn't charge tuition for city people going to the county schools. The city provides no transportation for any of these students. The county does not transport the county students into the city. I assume that the county provides transportation for Athens city schools for students going out to their schools.

I would estimate that the enrollment at Trinity High School is 700. Between 200 and 250 of these students are city students.

During my ten years as superintendent we have made two contributions to Trinity High School. They were the one I mentioned just now and one prior to that.

I don't recall how many years ago the first one was, but it was a number of years ago. We did also assist them in building a swimming pool at Trinity School six or eight years ago. That was the third contribution. It was roughly \$10,000 and financed in the same manner as the other contributions. 21

The county system gains the teacher units for city children attending Trinity High School. The same applies to city schools with reference to county students. 22

The city of Athens adopted a desegregation plan for the 1965-66 and 1966-67 term. The first year of operation was 1965-66. It was adopted some time in the spring of 1965. All 12 grades are covered. The plan is a combination freedom of choice and geographical zoning.

All pupils living in the Newman district go to that school except in the case of overcrowding. In the other areas the pupils had the choice between the Miller Elementary School and the Athens Elementary School and between the Athens Junior and Senior High Schools and the Trinity Junior and Senior High Schools. The only zone was the zone around the Julian Newman School. The zoning does not apply to junior and senior high school students but only to elementary students living in that zone. 23

The Julian Newman School was completed in 1964 and was in operation for the 1965-66 school year. Students outside the zone are given freedom of choice under our plan. The students within the Newman zone have no freedom of choice. There are some Negro students living within the Newman zone but they go to the county schools. None of them attend the Newman school and none are going across the line. At the time the ground was purchased and the building built there were niggers living in the area but they were beyond the elementary school age before the school was completed. I understand there are some elementary-age Negro children now living in the Newman zone, but they are going to the county school. That is my understanding, I haven't checked it. 24

There are some county students who come in to attend the Newman School. These county students must live within the zone created by our boundary line outside the city limits. These students do live in that zone. No students crossed the lines within the city limits to come in to the Newman zone. All of the students residing within the City or the County who live west and north of the zone line go to other schools. We have no children at Newman School who live in the area west and north of the zone. I don't know how many Negro children of elementary age are living in the Newman zone who go out of the city to the county schools. The nearest Negro school to the Newman zone is about three miles southwest of town. I don't know the name of that school. I don't know whether or not the Negro students in the city who are residents of the Newman zone go to that Negro school.

The children who come from Limestone County into the city school and who live outside the Julian Newman zone have a choice of schools. Miller is a nigger school and Athens Elementary is white.

During 1965-66 no Negro students attended the Athens Elementary School. Three or four Negroes attended the Athens Senior High School. I think about two-thirds of the county students who come into Athens schools come into junior and senior high school.

Trinity High School includes grades 7 through 12. It is a combination junior and senior high school. As superintendent of the city district, I have no responsibility for the operation of the Trinity High School.

One item which I haven't mentioned is that the Trinity School does not have a lunchroom but Miller Elementary School does and they are just across the street. Trinity has the use of the lunchroom facilities at Miller. Miller Elementary is a city school and Trinity is a county school. The pupils pay for the food, and then all the reimbursement from the USDA goes to Miller. The salaries of the persons who

prepare the food and operate the lunchroom are paid by Miller School. The lunchroom is self-sustaining when the federal contribution is included. 30

We have a relationship between the county and city boards of education. The two superintendents have always been very friendly and we constantly, informally at least, discuss our mutual problems and help each other.

Prior to the desegregation plan in 1965 the Athens City School System was segregated by race both as to students and faculty. During the second year of our plan HEW form 441-B was executed by the Board of Education. That was done in the spring of 1966. We mailed it on April 14, 1966. We added a clause, in accordance to the Civil Rights Act of 1964. No subsequent amendment was made. I received a letter dated May 24, 1966, from A. R. Meadows dealing with the handling of 441-B by local school boards. 31

Our addition to 441-B was suggested by the State Superintendent of Education. He did not suggest that particular one, but suggested an addition that local boards might want to put in. That suggestion was made some time prior to April 14. This suggestion was made at the general meeting of superintendents, and it might be in the letter too. No amended form was ever filed by us after this first amendment. 32 33

As far as I know for the school year 1966-67 all students in our schools executed a freedom of choice. There was no group of non-choosers. The same was true of the previous year. No choices by Negro students to attend formerly all-white schools were rejected in either the first or second years of our desegregation plan. 34

Mr. Bankhead's survey team found that the bus driver serving Trinity High School had been picking up 13 elementary school niggers and bringing them to Miller Elementary School without the knowledge of the county or city superintendents. This was a bus operated

by the Limestone County system. The elementary school students were residing in the city outside of the Newman zone. This transportation arrangement is not presently being done, if the bus driver is following instructions from the superintendent. Mr. Bankhead mentioned that some of the choice forms were not handed in. I am sure that that is a fact. If a child does not hand in a choice form he is assigned to the school he formerly attended. 35

Voir Dire Examination by Mr. Sikes

Mr. Bankhead is a member of Mr. Crowder's survey team who made a survey of the Athens and Limestone County Schools back in the summer of 1965. Mr. Crowder is from the Department of Health, Education and Welfare. 36

Direct Examination by Mr. Murphy

No official action was taken, but the children who did not fill out choice forms just went back to their former schools. None of them went back to a school other than the one to which they had been going. The students making a choice were notified of the acceptance or rejection of the choice. This is done on a standard notice indicating the student was assigned to a certain school. 37

When we built the Julian Newman School we considered the natural boundaries. We need a small school and there are enough pupils living in that particular area to fill the size school we wanted to build. The L. & N. Railroad and Pryor Street just made an automatically natural boundary for the school system. At the time we adopted the free choice plan there were two white elementary schools, Athens Elementary and Newman Elementary. Athens Elementary served the rest of the white population outside the Newman zone. 38

I have attended all the school superintendent's meetings. If there was a meeting of the school superintendents in June of this year in Montgomery, then I was there. There was a telegraphed invitation sent 39

out by Governor Wallace to attend this meeting in June and the Governor spoke at the meeting. The Governor made remarks with regard to the desegregation of schools. The Governor insisted that we not go beyond the Civil Rights Act of 1964 in anything we might do towards the desegregation of schools and faculty. He stated that balancing the student body and faculty desegregation were not a part of the Civil Rights Act of 1964.

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Voir Dire Examination by Mr. Sikes

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A few minutes ago my memory of the meeting was somewhat vague. I was just attempting to have a few minutes to think it through. My recollection of the meeting is now clear in my mind.

Direct Examination Resumed

I did not attend any other meetings at which the Governor spoke on this subject during the spring of 1966 or any meetings held in Governor Wallace's office. I attended a meeting in Montgomery at which the Governor spoke two or three days after we returned from a trip to Washington in September, 1965. The desegregation plan we were beginning in September 1965 included 12 grades. I don't recall whether the Governor said anything on the subject of the number of grades covered in our plans. Dr. Meadows also spoke at that meeting. Governor Wallace and Dr. Meadows both spoke about desegregation. I don't recall what the Governor said. The meeting I am speaking of was when Dr. Meadows said that if we signed form 441-B we should put the qualifying clause in it. I don't recall whether that was the meeting in June, 1966.

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The Julian Newman school is our most recently constructed school. It was completed in 1964 and financed by the state bond issue and local funds. The bond issue was passed some time in the 1950's.

We also added two rooms to the Miller School this past year and we have under construction an entirely new building for a new school. 45

This new school will be away from the other schools. It will be named West Athens Elementary School and will be located in the western part of town. I have located it on the map. This new school 46 is financed by a state bond issue plus local funds. The architect is E. M. Perry from Birmingham. The architect was selected by the Athens Board of Education and the contract was executed on forms provided by the State Department of Education. The name of the architect and his plans were submitted to the State for approval. The State Department of Education Architect must approve all buildings that we build. 47 The site for the new school was selected within the past 12 months. The site was inspected for approval or disapproval by persons from the State Department of Education from Montgomery. The contractor for the building is Rush Engineering from Albertville. No state approval was sought in regard to the selection of the contractor; the contractor must just be certified. The contract for construction was furnished by the architect. The architect's con- 48 tract is on a form bearing the name of the Alabama Public School and College Authority. That contract was submitted to the State for its approval. The same applies for the construction contract. Monthly 49 reports are made to the State regarding the process of construction. The contract is paid monthly. Up until we used up our part of the building commission funds, the State Building Commission paid the contract.

The cost of the new school is roughly \$340,000. Local funds comprise roughly \$150,000 of that total. The balance is comprised of State Building Commission funds and state bond issue funds. I think three or four inspections have been made by agents of the State 50 Government since we began construction. I don't always know how regularly the inspections are made. Construction on the Negro school was begun in the last of April or around the first of May 1966. 51

The State Department of Education conducted a survey of the Athens School System two or three years ago. The location of the new elementary school in Athens coincides almost exactly with the recommendations of the survey report. All that the survey said was, on the western part of town. The recommendations of the Education Department's Survey staff did have a bearing on the location of the site for the new school. The survey is dated for the school year 1965-66, State Board of Education. The State Department of Education approved the particular spot that we built on. We discussed the site with the State Department of Education even before the site was purchased by the School Board. The state Department of Education recommended that the building be built in the western area of town and, on two of three occasions, they went on after making a study of the school population and the spot available and recommended that spot. Three or four other sites were discussed with the State Department of Education. They recommended a site further south as their first choice, but it was not available; that is, we could not purchase it. The site we are using was ranked number 2 if I remember correctly.

We have not done any financing by tax anticipation warrants in recent years.

We conduct special education programs at the Athens Elementary School, Miller Elementary, and the Junior High School. Four special education teacher units are allotted to our system. We obtain teacher units for special education from the State Department of Education. They are on the basis of psychological tests on the people that need the special educational training, and by teacher opinions. Special education teaching units are allotted in the same manner as regular teacher units except the number of pupils per teacher is much more. The State Department of Education has some discretion and much more flexibility in awarding special education teacher units.

We have a vocational industrial education program. We receive teacher units to pay the salaries of the vocational teachers. The schools apply for that sort of aid and the Education Department of the State reviews it and approves or disapproves it.

The curriculum in our schools is designed within the framework of the state course of study and then from there each local system is approved in expanding their curriculum. The State Department of Education prescribes the State course of study. 56

- Under the state law, the Athens City School Board has to prepare a budget once a year. The budget is prepared as of October 1 for the ensuing 12 months. This budget is submitted for approval to the State Department of Education. We are getting more money than we were expecting and we can spend it. We are permitted to depart from the budget to spend unexpected receipts. The budget is flexible. If we budget certain amounts for maintenance and don't need that much for maintenance, we could use it for other equipment. We don't have to spend all the money. We may also exceed the budget. This has been done many times by this board. This has occurred because we were not getting the allocation from the State that they had budgeted to us in the amount they had budgeted to us. 57 58

We receive some federal financial aid. We receive a small amount of vocational education money and we are in a federally impacted area and get Public Law 874 funds. And, of course, everybody is getting Public Law 89-10 funds. We have gone under only Title I and II of Public Law 89-10 thus far. We submit all these applications under Public Law 89-10 to the State Department of Education. There are persons employed by the State Department of Education who are specialized in the area of federal grants and are available to advise us, and we have utilized their services. 59

The Athens City Board contributed to the construction of a swimming pool at Trinity High School. I assume that that pool is used by persons other than high school students. I have never known of any white person in there except swimming instructors. The pool was constructed some 6 or 8 years ago.

Cross-Examination by Mr. Sikes

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There is no legal restriction against white persons going swimming in the pool if they desired; I don't know if they could go

Re-direct Examination by Mr. Murphy

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U.S. Ex. 3 is a survey made at the request of the Athens Board of Education to the State Department of Education. This survey was made early in 1966 for the school year 1965-66. This survey was made in accordance with standard State procedures.

Voir Dire Examination by Mr. Sikes

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When I say that this survey was made in accordance with the regular procedures of the State Department of Education, I just assumed that when the local board asked somebody to make this survey they came in and made the survey, located the pupils, and made a study of the school district as a whole. I have never done anything except ask them to make the survey. The only criteria that they use that I know of is to find where the pupils are. I do not know what method they use. Two persons that I know of worked on the survey. The survey took several weeks between the time they started and the time I got the report. I have not verified the accuracy of these maps, but in general observation I would say that they are accurate. I did not make the survey so I could not, of my own personal knowledge, know about the accuracy of the maps. I do not know whether or not these maps here are originals or duplicates.

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Direct Examination Resumed

In 1953 I believe a survey was made county-wide to locate proposed recommended school sites. I don't, of my personal knowledge know of any of their surveys.

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U.S. Ex. 4 is a high school map of white and non-white junior and senior high school pupils. The location of each pupil was indicated by a spot. I guess you would call that a spot map. The white pupils are identified by the triangles, the others by the squares, apparently. The symbols for white students and non-white students are different. I acquired this map from the State Department of Education. It was prepared by the State Department of Education. This map was connected with the survey which is U.S. Ex. 3. Based on my observation of the distribution of high school students throughout the city at this time, I think the map in U.S. Ex. 4 is fairly accurate.

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U.S. Ex. 5 shows the school buildings and sites presently used in Athens, and their recommended schools. The spots outlined in red are the recommended sites. There is a recommended site near the area of our new West Athens School. No elementary schools are indicated on this map, and neither Miller nor Trinity Schools are on the map. I don't know why. Those are the schools that are all Negro both in student body and faculty. The schools indicated on the map are predominantly white, and the one is not yet in existence. That is the site of the proposed school, West Athens Elementary.

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Further plans for expansion of our system are presently only in the talking stage. This map plays very little part in those plans. We pretty well know more than that map tells us. We are considering the need for building another high school in the not too distant future. We have discussed possible locations for the other high school

quite a bit. We have not considered any locations around the present high schools. If we build a new high school the present high school complex will be made into a junior high school. I don't think that is the procedure recommended in this survey, because I don't think the survey went that far.

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DESCRIPTION OF EXHIBITS
DEPOSITION OF NEWMAN (ATHENS)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	7-8	List of the schools in the Athens School System showing the enrollment of whites and Negroes in each school for 1963-64, 1964-65, 1965-66, and 1966-67; also showing the number of teachers by race assigned to each school, the number of masters and bachelor degrees held by teachers of each race, and the number of different ranks of certificate held by teachers of each race.
U.S. 2	10-11	Map of Athens, Alabama, showing the schools, and the boundary of the Newman School district.
U.S. 3	60-65	Report of a partial survey of the Athens City School System, 1965-66, State Board of Education (Govt. Ex. 144-G).
U.S. 4	65-66	High School spot map locating white and non-white junior and senior high school pupils (Govt. Ex. 144-G).

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 5	67-68	Map of Athens showing recommended school centers for white schools, 1965-66 (Govt. Ex. 144-G).

Newman Exhibits - 2

CHARLES H. PARRISH
SUPERINTENDENT OF FRANKLIN COUNTY SCHOOLS

<u>Direct Examination by Mr. Allen</u>	<u>Page</u>
I have been Superintendent of Schools for Franklin County for five years. Prior to that I was principal of Rockwood Junior High School in this school system. I have been associated with this school system for thirteen and one-half years.	7 8
As superintendent I am secretary of the county board of education. I am elected to my position, as are the board members. We are all white.	
My duties as superintendent, or areas of responsibility, include hiring the teachers, seeing that the schools are run, capital outlay program. I am the head administrator of all the schools in this county. The board must give its approval before a teacher is hired. The board and I assign the teachers to particular schools. It is rare that the board would disapprove my hiring recommendations.	9 10
We have fourteen schools. Four of them are high schools with grades one through twelve. We have eleven junior high schools, what we call grades one through nine, and we have two one through eight and two one through six.	
We are operating under a freedom of choice plan adopted in April 1965. Prior to that we had white schools and Negro schools. We have only one nigger school, Rocky Glenn, an elementary school. We had it then and still got it today. We now have one school integrated, Red Bay High School, with 818 whites and thirteen niggers, as of yesterday. One started in the twelfth grade yesterday. Every colored student on that end of	11

town is in school, my choice, not theirs. They chose to come back to Russellville, we had to make them go. They went to the separate city system before this desegregation business got started. We transported them there.

The Negro students are spread out one through twelve grades; there is not one in the twelfth grade because there is not one old enough, but they are spread out from the first through the tenth. 13

We have a map of all the white schools and there is a map of the colored school. U.S. Ex. 1 is a school survey for 1960-61, made by the State Department of Education at our request to see if we could improve the educational facilities. It has to do with physical facilities and consolidations and recommended building sites. Red Bay, which is in Franklin County almost next to Mississippi, is the only colored community we have. There are about seven or eight families out of three thousand, and that's the ones in our school there. 14 15 16 17

The population of Franklin County is about 26,600. There are about one thousand Negroes, including Russellville. About 950 or 925 live in Russellville. There is a group out there in Red Bay that you couldn't get into school with a hickory stick. After they get sixteen we can't do nothing with them. There are about 75 or 100 out there. 18 19

The schools are marked on the map. The triangular and square shaped marks on the white high school map accurately represent the residential area of the white people in the county. One school has been closed since the map was printed. 20

The dots on the Negro elementary school map accurately reflect the residential pattern of Negroes in the county. Rocky Glenn School has been in existence ever since I can remember, I would say thirty years. Red Bay is a county school operated in our system. Ever since I have been involved with Rocky Glenn School it has covered grades one through six, but once it used to cover one through nine. The school burned down, I think on Thanksgiving night, in 1965. We transported the children into Russellville and brought our two teachers in until we built the building back. They attended Reedtown, colored school, in Russellville. That is still a colored school, previously all colored.

Before Rocky Glenn School burned down it had two rooms and the physical facilities were bad. It also had two teachers. It covered six grades, with three grades in each room. After we rebuilt the school its physical facilities were perfect. It had two rooms, a little kitchen, the same two teachers with three grades in each room. We got teachers teaching forty more students that they have, didn't have as many kids. We also got white schools--predominately white schools -- one teacher teaching three grades. The board voted to rebuild Rocky Glenn School on May 28, 1965, and the board's minutes for that date so indicate.

Russellville is the only separate school system other than ours in Franklin County. Our system is not set up for students from outside the county, but some ten or twelve or fifteen students come in. They meet our bus at the county line. Belgreen and Red Bay is the only two schools.

U.S. Ex. 2 is a report to H.E.W. showing the resident pupils enrolled in Russellville schools,

how many non-resident pupils come into our schools 28
from Marion and Colbert Counties and from Russell-
ville. This information was compiled under my
supervision, in the Spring of 1966.

U.S. Ex. 3 shows the non-resident pupils 29
enrolled in this system and resident pupils en-
rolled in Russellville city schools, prepared under
my supervision in the Fall of 1966. There are 30
about fifteen students grades one through six
from Marion County, and twelve from Colbert County.
It's about the same percentage for grades seven
through twelve, about ten and eight. There's no
more than a verbal agreement with the other
counties about these students. That agreement is
that if they live close to the line and their
mother and daddy finished high school at Belgreen, 31
they want their kids to finish. Same is true on
the end of the county. Some go over there and
some come over there on the county line. They
are all white. The only prerequisite for coming
from another system into our system is just
getting to school. They would have to pass the
same as the others, but no one is turned down.

We have the same sort of informal arrange- 32
ment as to students from our county going to
another system. We give them freedom of choice to
go anywhere they want to now.

The Board formally adopted a desegregation
plan on April 3, 1965. All 12 grades were covered in
this freedom of choice plan.

There were no changes in this plan for the 33
school year 1966-67. During both years of the
plan's operation there were no Negro teachers
assigned to white schools and no white teachers
assigned to Negro schools. The Rocky Glenn
School is still open now and both teachers in
that school are Negro.

During the first year of the plan's operation no Negro students attended white schools and none of them chose to do so. During the second year of the plan eleven Negroes chose to attend formerly all white schools and two more have moved in since then, for a total of thirteen. They are all at one school, Red Bay. They live in the Red Bay area. The Rocky Glenn School is located about five miles outside the city limits of Russellville. The students who attend school at Rocky Glenn all live outside the Russellville city limits.

All students in the whole system made a choice during the choice period this year. No student was assigned to any school other than his first choice.

I will explain our teacher assignment policy. In April every year our teachers are given a choice whether they want to come back. Most of them, of course, say yes. I make out a list what school they want to go to. Ninety-nine percent of them, of course, choose the same school. I present it to the Board of Education and they are hired back or relieved by May 1, of each year, and placed at the schools that they chose to teach. Quite often we have a situation where there are not enough teachers that ask to go to a particular school. We go out and hire them all summer long as long as we got a vacancy. They are hired for a particular school. They come up here and apply for a particular school. If there is no vacancy at that school they are not placed there. They are told there are vacancies at other places if they ask.

U.S. Ex. 4 is a directory of Franklin County School Teachers and Personnel, showing the schools in which they teach, and a list of all bus drivers and their addresses.

In the early part of 1966, we received a
copy of HEW revised statement of policies. We
resolved to follow those guidelines and executed
a Form 441-B on March 31, 1966, as indicated in
the Board minutes for that date. We later amended
Form 441-B. 39

U.S. Ex. 5 is Form 441-B with our amendment
saying "this Board of Education intends to obey the
laws of the United States of America including
the Civil Rights Act and all aspects of it that
are legal." 41

U.S. Ex. 6 is a letter from the Franklin
County Board of Education, signed by me, to
Lawrence Crowder sent on or about June 15, 1966.

I attended one out of two meetings held in
Montgomery at the invitation of Dr. Meadows. I
have no earthly idea about when that was. 42
Dr. Meadows, the Governor, the Lieutenant Governor,
and the Speaker of the House were at the meeting 43
I attended. They spoke on school desegregation and
told us what was legal and what wouldn't be. Some
of us was going beyond the law; that's when this
letter was written, that we were only to obey the
law. All they said to me was that you shouldn't
go beyond the law. I do not know what they consti-
tuted as going beyond the law. They didn't single 44
out a single one as going beyond the law. I did
not say that they said some of us were going
beyond the law.

The body of a letter reprinted in the
board minutes for May 27, 1966, to Dr. Meadows
indicates that it is in reply to his letter of
May 24, 1966, that he is certain that the United
States Commissioner of Education will not withhold

funds for failure to carry out either or both of two cited regulations, and that the Board requested from Dr. Meadows a delay on any formal action in regard to his letter until after they had met with him on June 6, 1966, to discuss his letter with him.

The letter referred to above was a telegram 45
called in by telephone. The Board minutes for 46
May 27, 1966, indicate that this telegram from
Dr. Meadows requested that no superintendent or
Board of Education sign an agreement, and if signed,
withdraw their agreement, and that a report from
each county board be sent to Dr. Meadows by May 30.
We have received no other communication from
Dr. Meadows or the Governor or anyone representing
the Governor regarding school desegregation.

We did not submit any sort of application to 47
the State when we rebuilt the Rocky Glenn School.
We don't do it on white schools either, nor little
local problems.

We have undertaken other building in the
last few years. If it is the state bond fund,
like we are under right now, we submit appli-
cation to the State. All of it comes through the
State and the State Architects. Rocky Glenn was
built with local money.

The State does not furnish an architect to 48
design the buildings, we hire one. We are in the
process of drawing up the plan for school buildings
under the State Building Programs, \$111,000,000
bond issue. These plans must be approved by the
State 100%.

No one from the State came by and surveyed the
site before we rebuilt the Rocky Glenn School.
Fifty-six niggers came up here and wanted to build

it back. That's why we built the building back. They offered to pay part of the money, but we paid it.

U.S. Ex. 7A through 'O are a summary of the enrollment and staff for each school in our system for the current school year, dated October 6, 1966. 49

U.S. Ex. 8 is the letter to the Board of Education that I sent to Dr. Meadows and is the same letter that I just read from the minutes. This was taken from my file as were all the other exhibits except U.S. Ex. 6. U.S. Ex. 6 is an accurate reproduction of a letter which was at one time in my files. 50

Cross-Examination by Mr. Crook

The survey made in 1960 was at the request of our local board and the recommendations are only recommendations. The designation in the report of Negro and white schools were catagories that were set locally, that we all had established. This was before our voluntary desegregation plan. 51 52

The non-resident pupil report is required by HEW, not by the State Board. We had to make out all these forms in March or April and then come right back again and do it over in October of this year. We have had a great deal of contact with the Department of Health, Education and Welfare and they require us to make quite a few reports. 53

We have never turned down either a non-resident white or non-resident colored pupil's request to attend a Franklin County School. We have never turned down a request of a resident Negro pupil to attend any County schools since our freedom of choice plan was adopted. There are thirteen Negro pupils in formerly all white schools. 54

The 13 Negro pupils in Red Bay School did not request that school, we forced them. They signed a choice to go back to Reedtown, in the Russellville City system. We had been hauling them in a yellow stationwagon for the last five years I have been here, 60 miles a day. Lawrence Crowder said our form would not be approved and our money would be cut off unless we sent them to the Red Bay School. I talked to the students and their parents purely at my instigation right here in the office. They didn't want to go. Lets put it this way; they signed up to come back up here. I don't have anything about this in writing.

I have a letter from Lawrence Crowder on August 15 that told us we were to close Rocky Glenn School. I told him those students would still ride into Russellville. He said no, we will see to it that they won't. We got junior high schools out there that we will make them go to. I received a phone call from Mr. Frost and Lawrence Crowder on August 15. I got the letter on August 15 that he decided I would close Rocky Glenn School. I called him and told him we started the 29th and I didn't have time to close it. I didn't close it.

One telephone conversation got very hot and we had an argument between me and Lawrence Crowder. He called and said, "I decided to close the Rocky Glenn School." I said, "the Board of Education closes and opens the schools in our county." I said, "I will close the school when the community out there wants it closed." He said, "you don't have any small white schools." I said, "yes sir, we do." I got the attendance reports. He said, well, they decided I close it. I said, "who is we. Harold Howe hasn't told me." Our guideline has already been approved and we have a letter from the fellow in Washington that out plan had

been accepted way before Crowder started doing that, when me and him had arguing words. He had a man named Frost call me a time or two.

At a meeting in Florence, Alabama, Crowder told me we would have to go ahead and get Negro students in white schools. There was also a lady, a doctor, at that meeting, who was a very nice person. But two or three more were there and Lawrence Crowder. Me and him didn't see eye to eye. I invited him up here a hundred times but he would never come. He told me we could not drive that stationwagon 60 miles today any more no matter what freedom of choice was signed. He told the other 34 superintendents up there the same thing. One of them got pretty angry. These statements were made in my presence at that meeting. It was the meeting of all the Alabama Superintendents of the Northwest Alabama District. I talked to him in private after the meeting was over.

We have never had any Negro teachers request transfer to a previously all white school and no such requests have been denied. During the first year of our plan's operation it was given widespread publicity and printed in the Franklin Citizens Times, the county paper. Letters calling attention to the plan were given to every single child in the system. Rocky Glenn was burned at that time and put down at the bottom of the choice form. We gave them two choices. If Rocky Glenn wasn't to be rebuilt then they could pick one of our schools.

Voir Dire Examination by Mr. Allen

This choice form has the former school attended on it. Trapptown is white. Belgreen is white -- predominantly -- previously all white.

Cross Examination Resumed

Def. Ex. 1 is a freedom of choice form that we sent out to every student in our county in 1965. In 1965 and 1966 we took to them to the schools. In 1966 we mailed every one of them since HEW said we had to. This form lists every school in our system. The note regarding Rocky Glenn School indicates it was uncertain what other school would be rebuilt. A delegation of the colored community and two teachers came up here to meet the Board. They said they wanted the school and would help to pay to build it back. We built it back and it didn't cost them any money. We put in tile -- got everything in that school. It is a small school, I don't deny that, but we got white ones too. At that time Negro students were going to the Reedtown School in Russellville, and we took the form over there and gave it to them in person.

Neither I nor anyone on our faculty nor anyone on the local Board attempted in any way to exercise influence over the Negro choices. They were not harassed or coerced or intimidated in any particular manner. No Negroes chose to attend the previously all white schools in the current year. We do not have any Negro students being transported from Red Bay to Russellville. We were directed to abolish that transportation by Lawrence Crowder. HEW exercises far more control over the operation of our local system than the Alabama State Department of Education. I refer to two or three men that gave me trouble all summer long, it is not these two sitting here.

At the end of each year the teachers choose whether or not they want to continue in the system and at which school they want to teach. We have never had a Negro teacher apply for a previously all white school.

The Amendment to our Compliance Form was done between the State officials, me and Dr. Meadows. He talked to me and he thought, and half the Board members thought, that we had gone beyond the law. He didn't threaten or intimidate me, but said I had gone beyond the law. The only change we made was to say that we would comply with the laws of the United States to the extent they were legal. I knew that this amendment actually would have no substantial effect on the operations of our school system. We did not change the manner in which we were operating. We did limit our freedom of choice plan. We did not limit our degree of compliance with HEW regulations. We continued to operate in compliance.

These gentlemen from the Justice Department came up here Saturday morning and went through a little bit of my file. They didn't go through much. The letter to HEW regarding this amendment was in the material that I provided these gentlemen. We haven't removed anything from files and I am sure these gentlemen have not either. I received a phone call from Washington telling me about this meeting today and asking me could they meet. On a Friday afternoon about 3 or 4 o'clock, Mr. Murphy called me and I told him I had a few minutes. But I was going to a football game and he said he would come back Saturday morning, which he did. He was very nice. He was here about an hour.

I was invited to this meeting in Montgomery by Dr. Meadows. The only statement that was made to me was that some of us have gone beyond the law. Dr. Meadows requested me not to sign any compliance statement. This was in the form of a request. I did not consider this to be a binding directive; my Board of Education makes the final decision. The Franklin County School Board has the final and sole responsibility for operating our local school

system, according to my knowledge of the Alabama law. The State Department of Education or Dr. Meadows have no authority to control the manner in which students or teachers in this County are assigned. They have never attempted to exercise any such authority. The same is true with regard to the construction of new buildings. These plans have to be approved by the State Building Commission. Any highway department or school building or welfare building has to be approved by the State Building and Planning Commission. The architect that designed our local school construction was designated by the local Board. We hired him. The specifications are prepared by the architect under the direction of the local school board. The local board exercises control over any new buildings in construction.

Our contact with the State Board of Education is generally regarding matters of information and advisement. The State Board provides quite a few services in the way of recommendations and so forth, but these are not binding directives. We don't acknowledge their authority for issuing directives in those areas.

There was no suggestion or encouragement or discouragement from the State Board or any State official for preventing us from adopting our freedom of choice plan in 1965. We went out on a limb up here, as one of the first counties to ever adopt the plan, and we are faced with tremendous local criticism. There was no harassment or intimidation from the State level.

In the letter of June 15, 1966, in which I spoke of trouble with State officials, I was talking about me and Dr. Meadows. He told me I had gone beyond the law, or he thought I had. When I say trouble I don't mean he had attempted to coerce or harass or intimidate us into changing.

Personally, I didn't mean for that letter to get into anybody's hands, but it did, and there you are. I will use a different word, trouble was between me and him. We have not taken any action in response to communications we have had from Dr. Meadows or any State official. The operation of our local system has proceeded as the local Board has decided regardless of anything said by Dr. Meadows or the State Board. The same goes for HEW, too, we are still running it just like we were. 78

Re-Direct Examination by Mr. Allen

The meeting with HEW officials in Florence was around April 1, 1966.

There were no students in the delegation that came to see us about the Rocky Glenn School.

In our meetings with HEW officials we never talked about anything other than desegregation and race. 79

I haven't seen Mr. Horton in three or four years. I know him^{and} know he used to be a surveyor. He worked for the State Department of Education.

Re-Cross Examination by Mr. Crook

The delegation that came to see us about rebuilding the Rocky Glenn School were all parents of students and local trustees. We've never have sixteen or seventeen year old students sent in a delegation to see us about anything. 80

Lawrence Crowder ordered us to close the Rocky Glenn School. I don't know the extent of his ability. Me and him have had trouble several times. He told us that in order to comply with HEW guidelines we would have to close that school. He said it was a shack and he had a picture of it to prove it. That's when I told him he didn't know what he was talking about. 81

DESCRIPTION OF EXHIBITS

DEPOSITION OF CHARLES PARRISH (FRANKLIN COUNTY)

<u>Dep. Ex.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	14-17	State Department of Education partial survey of the Franklin County school system, 1960-1961.
U.S. 2	27-28	Number of resident pupils enrolled in Russelville schools and the number of non-resident pupils enrolled in Winston County schools, as of Spring 1966.
U.S. 3	29-30	Number of non-resident pupils enrolled in Winston County schools and the number of resident pupils enrolled in Russellville schools, as of Fall 1966.
U.S. 4	38	Directory of Franklin County schools 1966 through 1967 listing faculty and staff.
U.S. 5	40-41	Form 441-B, April 15, 1966, Franklin County.
U.S. 7a-0	49	Enrollment and staff for Franklin County schools by school and race, October 6, 1966.
U.S. 8	50	Letter, May 27, 1966, Parrish to Meadows (Govt. Ex. 107).
Defendant 1	61-63	Freedom of choice form for 1965-66.

JOSEPH A. PICKARD
SUPERINTENDENT OF THE SELMA CITY SCHOOLS

Direct Examination by Mr. Quaintance Page

I am Superintendent of the Selma City School System and have held this position since July 1, 1957. My office on the corner of Washington Street and Dallas Avenue is located next door to the Baker Elementary School. 4-5

On the map which is marked U.S. Ex. 1, I have indicated the location of the schools in our system and the areas of the city which one race predominates. The Negro sections are: 6-8

1. In the Hudson school area, Second Ave. on the north and Broad St. on the West.
2. From Second Ave. South to Jeff Davis Ave. throughout the east-west axis of town.
3. From Green St. North of Selma Ave., South of Jeff Davis and going East.
4. To the South and East of Alabama Ave., with the exception of parts of Water Ave.

The white parts of town are:

1. West of Broad St. and South of Jeff Davis
2. Selma Ave.
3. Broad St. on the west, Green St. on the east, Jeff Davis on the north and extending South to the river, but not including the area to the southeast of Alabama Ave.

The following reflects the Fall, 1966 figures showing the race of the teachers and students at each school in our system:

Parrish High School - 76.5 teachers, 3 principals, and four other people such as guidance counsellors and librarian, all of whom are white, there are 1645 white and 19 negro students in grades 7 through 12.

East End Elementary - 13 full-time faculty members, all Negro except personnel serving art, physical education and reading consultant who goes to all the schools in the system. There are 363 all of whom are Negro.

Byrd Elementary - 13 full-time white teachers. There are 342 white pupils.

Edgewood School - 20 full-time and one half-time white teachers. There are 688 white and 11 Negro students. 10

Francis Thomas Elementary - 6 regular and 4 part-time white teachers. There are 181 white and 21 Negro pupils.

Meadowview - 13 staff members and 2 part-time people, all of whom are white. There are 400 white pupils.

Clark - 19 Negro full-time staff members and several part-time people, some of whom are white. The white part-time teachers have their offices in Baker School. There are 615 Negro pupils.

Knox Elementary - 20 full-time Negro teachers and several part-time people, some of whom are white. There are 552 Negro pupils.

Payne Elementary - 20 full-time and several part-time people, some of whom are white. There are 653 Negro students.

Baker Elementary - 11 full-time and 3 or 4 part-time people, all of whom are white. There are 168 white and 15 Negro students.

Hudson High - 58 full-time Negro and 2 full-time white teachers. The white teachers instruct English and Social Studies. There are 1469 Negro pupils. 12

Pickard - 2

There are several white teachers, all but one Title I personnel, who work at all the schools in the system.

The eight regular members of my staff and the eleven 13 members of the Board of Education are all white. The Title I people, however, also work out of this office and some of them are Negroes.

Our Board of Education is self-perpetuating, when one member leaves the remaining members replace him. I cannot remember of a Negro serving on the Board of Education. In addition to the Board of Education for the Selma City System, there is also a Dallas County Board of Education. 14

The children who live in the city are supposed to go to our schools, but there are children of both races who go to the county schools and that come in to our system. The students listed in item 5 of the HEW form (students attending private schools) are both white and Negro.

There are approximately 50 white children who go to the County schools. I do not know specifically how many Negroes living in the city attend other public schools. There is no set procedure followed by those attending schools outside our system. They merely requested a transfer and it was not opposed. These students would have to furnish their own transportation to the school or the bus route outside the city. 15 16

A fair number of Negro and white students come into our schools from the county. These children pay a small tuition fee and must provide their own transportation. We have no arrangement with the county concerning the teacher units for students crossing the district lines. The schools which these pupils actually attend would get ADA credit for budget purposes. 17

A freedom of choice desegregation plan was adopted on May 6, 1965. Prior to that time the educational facilities for Negro and white students and faculties were separate, except for one Negro who, in 1964 or 1965, 18

attended an adult education class which was taught at Craig Field.

In 1965 approximately 30 Negroes chose to attend previously all-white schools. Some of these children went back to the Negro schools and others moved out of the city and only 21 were actually enrolled. 19

There was no faculty desegregation during the first year of our plan.

On March 10, 1966, the Board decided to file a 441-B form which was filed with HEW on May 6, 1966. Exhibit number 2 is a copy of that assurance form. 20

I attended a meeting in Montgomery with Governor Wallace and Dr. Meadows sometime about June, 1966.

On June 7, 1966 the Board held a special meeting and adopted an amendment to our 441-B form. U. S. exhibit 21 number 3 is a copy of that amendment.

Our desegregation plan for 1966-67 covered grades 1-8. The forms we used were provided by HEW and they allowed transfers of children in grades 9-12, but the Board never spoke specifically concerning them.

On August 13, another special session of the Board was called and a resolution was adopted stating that "in view of the action taken by the legislature of Alabama concerning desegregation guidelines issued by the Department of Health, Education and Welfare, that . . . [this district] will accept transfers from formerly all-Negro schools to formerly all-white schools in grade 1 through 8 only." This resolution ~~as~~ printed in the minutes book has the word "only" underlined. 22

Exhibit number 4 is a letter which we sent out to parents and students who had applied for transfers in grades 9-12. These letters requested that the persons meet me at my office. At the meeting, we explained that

the courts had not ruled on the guidelines and that the State legislature had passed an act declaring the guidelines null and void. And in light of those facts, we could not accept transfers in those grades not covered in the plan approved by HEW, in 1965. After this meeting, some of the students enrolled at Hudson High for this year. 23

The transfer application filled out by Earnest Doyle requesting to be changed from Hudson High School to Parish High School has a notation that the request for transfer was not granted and on the application, in my handwriting, appear the words "Desegregation plan in force only through 8th grade in '66-67. September 2, 1966, is the date filled out and the date it was received. 24

For the 1966-67 school year approximately 125 Negro students filled out choice forms requesting to attend formerly all white schools. Of these 125, 66 enrolled in white schools this year. As far as I know, none of the 66 students have withdrawn since school started. 25

At present, there are 3 full time white teachers employed at Hudson High. There are also white part-time teachers who teach in both the Negro and white schools. There are no Negro teachers teaching in white schools. 26

The documents marked U. S. exhibit 5A, B and C are directories of school personnel in this district. 5A includes all previously white schools, and 5B all previously Negro schools. 5C is Title I personnel.

At present, the Board of Education contemplates continuing the free choice plan of desegregation. The Board has made no specific future plans for faculty desegregation. "That is one of the things you don't necessarily specifically plan for." 27

Sometime about April 1965, I attended a meeting with Governor Wallace and some 20 other local superintendents. Desegregation and the guidelines were discussed. It was the position of Governor Wallace and others that some of the guidelines were illegal. 28

I do not remember all the other superintendents who were present, but I believe the Tuscaloosa City System, The Calhoun County System, and Anniston Systems were represented. I believe I received a telegram notifying me of this meeting which was held in the Governor's office. In addition to the Governor, the meeting was also attended by Lt. Governor Allen, the Speaker of the House and some members of the Governor's Cabinet. I don't remember faculty 29 desegregation being specifically discussed.

U. S. Ex. 6A is a letter dated May 24, 1966, from Dr. Meadows and U. S. Ex. 6B is my reply.

U. S. Ex. 7 is a letter from Governor Wallace to the Board of Education. The date of that letter is May 27, 1966.

U. S. Ex. 8A is a telegram to me from Dr. Meadows, 30 dated July 29, and Ex. 8B is my reply, which is dated August 1.

U. S. Ex. 9 is a letter from Dr. Meadows dated October 27 and my reply to that letter.

I do not recall any specific telephone conversations 31 on July 6 and July 12 with Dr. Meadows. Dr. Meadows' office might assist us in arriving at decisions in certain matters including our desegregation plans, but I don't recall specific things that he has said.

Each year the board files attendance reports and financial reports with the state. Our budget is submitted annually for the state's approval and I believe in 32 recent years, is accompanied by a signed affidavit saying that we have complied with the state law.

Before we receive state funds for the construction of new buildings, approval must be received from the 33 State architect.

About 5 years ago, East End and Meadowview schools were constructed. Meadowview was placed in West Selma

because there was no school in that part of the city. East End was a replacement of an old school which was inadequate. The sites for both these schools were approved by the state. Other construction which was approved by the state is currently being completed at Hudson High. I believe that Governor Wallace has to sign approval for construction. Normally it is all handled by the architect.

34

The board has recently asked the city of Selma to acquire land in the north part of the city which is primarily a white neighborhood, and construct a school there. This site has been chosen, but is not yet approved by the state. If it is not approved, another place will have to be selected.

35

Under the state minimum program, funds are allocated on the basis of average daily attendance. This system works so that the funds are calculated on the number of students for the year that has just been completed. However, if during the last year there has been a decrease in student population, the funds will be based on the average daily attendance for the preceeding year. Therefore, there would have to be a decrease in population for more than one year before funds were reduced.

36

This school system receives free textbooks from the state and normally uses state approved textbooks. However a special bill has passed in the legislature which permits us to choose our own textbooks.

37

With respect to vocational education, if you wanted to build a shop the same procedure would be used as in constructing other buildings. The state architect and the Building Commission would approve your plans. The Vocational Department would also approve the plans to meet the requirements for teaching in the particular area. There are recommended lists of equipment, but no rigid requirements.

If you desire to get a new course or an additional teacher unit you would apply to the State Department of Education. You would first go to the supervisor of the particular area and he would make a recommendation to the

38

Director of Vocational Education and the State Superintendent. If your needs are established and there are sufficient funds, you would be granted a course or teaching unit.

We have been trying to get an additional teaching unit at Hudson High School for the Home Economics course for the last 6 or 7 years. We have sufficient pupils to meet the requirements, but apparently there are insufficient funds to grant our request.

U. S. Ex. 10A is plans for a vocational home economics program prepared by a teacher at Parish High School. This is submitted to my office and then to the State Department of Education. 39

10B is a monthly progress report submitted by a home economics teacher. This also goes to my office and then to the State Department of Education.

The minutes for the Board meeting November 12, 1964, reflect that a Cosmetology Class for Hudson High School had recently been approved by the State Department of Education. This is the normal procedure for setting up a new vocational education course. 40

In setting up most special education courses, forms indicating the number of pupils who need instructions and the nature of the instructions must be submitted to the State Board of Education. We would also have to have a teacher who met the state and federal requirements.

The minutes of the board's meeting of September 16, 1965, reflect that I have written to the State Department of Education to find out what the procedure was for obtaining assistance in instituting a driver education course. 41

U. S. Ex. 11A through 11H are various releases and requests for information from Dr. Meadows. In order, they deal with:

Financial information.

Teacher units.

Segregation.

42

ETV Art Program for Secondary Schools.

English Consultant Workshop.

Arithmetic.

A visit from the State Supervisor of Home Economics.

And 11H is notes made at a conference with the State Supervisor of Home Economics.

U. S. Ex. 12 is a monthly attendance report for the city of Selma schools for the month of October. There is a similar chart in my conference room here which shows the enrollment at the 5 formerly all white elementary schools and the names of the teachers. 43

The menus for the particular schools each day are left to the cafeteria managers. I have no knowledge whether all the white or Negro menus are identical from day to day. 44

An entry in the minutes of the Board meeting for May 20, 1965 contains a list of salaries for cafeteria workers. The first 7 names are white women and the others are Negro. The salaries as listed are \$190, \$190, \$250, \$190, \$200, \$185, \$350, \$110, \$100, \$180, \$180 and \$210. 45

U. S. Ex. 13 is a list of suggestions for transition of pupils issued by one of the principals. These were issued at the beginning of the 1965-66 school year.

DESCRIPTION OF EXHIBITS
DEPOSITION OF PICKARD (SELMA)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	6-8	Map of Selma showing the location of the schools and the areas of the city, by race.
U.S. 2	20	Compliance form signed by the Chairman of the Selma City Board of Education, May 6, 1966.
U.S. 3	21	June 9, 1966 amendment to assurance of compliance form 441-B, signed by the Chairman of the Selma City Board of Education.
U.S. 4	22-23	Letter, August 31, 1966, from Superintendent Pickard to certain parents and students.
U.S. 5A	26	Directory of school personnel at previously white schools.
U.S. 5B	26	Directory of school personnel at previously Negro schools.
U.S. 5C	26	Directory of Title I school personnel.
U.S. 6A	49	Letter from Doctor Meadows, May 24, 1966, to Superintendent Pickard. (Govt. Ex. 49)
U.S. 6B	29	Letter, May 24, 1966, from Superintendent Pickard to Doctor Meadows.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 7	29	Letter, May 27, 1966, Wallace to Board of Education City of Selma. (Govt. Ex. 65)
U.S. 8A	30	Telegram, July 29, 1966, From Meadows to Pickard. (Govt. Ex. 88)
U.S. 8B	40	Letter, August 1, 1966, Pickard to Meadows in reply to Meadow's telegram of July 29, 1966.
U.S. 9	30	Letter, October 27, 1966, Meadows to Superintendent Pickard and his reply.
U.S. 10A	39	Plans for the vocational home economics program, 1965-1966, at A.G. Parrish High School.
U.S. 10B	39	Monthly program report, division of vocational educa- tion for February, 1966 at A.G. Parrish High School.
U.S. 11A	41	Letter, September 9, 1966, from Doctor Meadows to County and City Superintendents of Education.
U.S. 11B	41	Release by Meadows, October 25, 1966.
U.S. 11C	42	Release by Meadows, July 1, 1966. (Govt. Ex. 81)
U.S. 11D	42	Release by Doctor Meadows August 15, 1966, ETV ART PROGRAM FOR SECONDARY SCHOOLS, 1966-1967

Pickard Exhibits - 2

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 11E	42	Release by Doctor Meadows, September 13, 1966, to principals of junior and senior high schools concerning English teachers.
U.S. 11F	42	Release by Doctor Meadows, May 6, 1966, to County and City Superintendents of Education and Supervisors therein.
U.S. 11G	42	Letter, September 2, 1966, from Ruby C. Philips, Southwest District Supervisor, Home Economics Education to Mrs. Peggy T. Rayvon, A.G. Parrish High School, Selma, Alabama.
U.S. 11H	42	Notes on Mrs. Philips visit to Parrish High School, September 8, 1966.
U.S. 12	42-43	Monthly attendance report for October, 1966.
U.S. 13	45	Suggestions for transition of pupils.

J. R. PITTARD
SUPERINTENDENT OF THE TALLADEGA COUNTY SCHOOLS

<u>Direct Examination by Mr. Ortenberg</u>	<u>Page</u>
I have been superintendent of the Talladega County schools since August 1963. I am not a member of the Talladega County Board of Education but I am executive secretary to the Board of Education and in that capacity I attend all meetings of the Board of Education. U.S. Ex. 1 shows the number of students, by race, for 1966-67, and U.S. Ex. 2 gives that information as to teachers. They were prepared in response to this subpoena.	6 7
On the map marked U.S. Ex. 3, although I made no definite study, it would indicate I suppose the greatest concentration of our Negro student population would be in the Childersburg area. U.S. Ex. 3 shows the location and grades covered for each school in the system.	8
We have a few students from Calhoun County and Clay County and Coosa County students living right along county lines. For many, many years the school boards have had cooperative arrangements where it would be more economical and feasible to take the students, we would do so. Approximately 70 students come from three counties. We provide transportation for students from out of the county attending Talladega County schools; this arrangement has existed for a long, long time. I couldn't tell you when it was initiated.	9 10
We register students in the Spring of the year which is customary throughout the State and if a family should move into our school district he would ordinarily report to the nearest school. Ordinarily we don't take students from outside of our school district -- in other words, we don't try to go out and try to recruit students from other school systems within the County nor outside of the County either. The forms for out of county students are identical to the ones used by children who live in the county.	10 11
I remember in the Spring of 1965 our board began to consider desegregation. Along about in March I prepared one plan that was based on state laws. After the Guidelines came out I Prepared another.	

Then we went through three months (June, July and August) negotiating 12
with the U. S. Office of Education. Finally, the latter part of
the summer our board approved the plan they gave us. They sent
us a so-called model plan and about the latter part of August 1965
we approved their plan. It covered grades 1-12. The plan is
U.S. Ex. 4.

I know that choice forms were sent out to the students 13
in the school year 1965-66 pursuant to the desegregation plan.
I assume that most choice forms were returned the first year. In
1965-66 we mailed out the letter to the parents and those students
that elected to go to the same school they had been previously
attending returned the choice forms to the principal and I in-
structed him to maintain a file of those choice forms and they have
them at the schools for last year and for the current year. Those
students requesting a change from the schools they had been attend- 14
ing to a new school, those forms were sent directly to me at this
office. I assume all the students submitted choice forms. As a
result of the plan for desegregation 21 Negroes attended formerly
white schools. There was no faculty desegregation in the 1965-66
school year.

We have not submitted another plan for the 1966-67 school
year. But we have submitted a form 441-B which was approved by the 15
Board on July 16, 1966. It is U.S. Ex. 5. I saw that choice
forms were sent out in a 30-day period last Spring, April 15 to
May 15. I assume all students returned choice forms. I don't 16
know of any who did not return them. There is no faculty desegre-
gation in the 1966-67 school year. As a result of the 1966-67
desegregation plan, the enrollment of Negro students in formerly
all white schools totals 76 for the current school year.

I received an undated telegram marked U.S. Ex. 6 from 17
Gov. George C. Wallace, Lt. Gov. James B. Allen and Speaker of
the House Albert Brewer. I answered it on September 2, with
U.S. Ex. 7, a letter dated September 2, 1965 to the Governor.
U.S. Ex. 8 is a telegram we received September 3, 1965 from the 18
same people and on the same subject. U.S. Ex. 9 is a copy of a
State Board of Education resolution dated September 2, 1965 and
received in this office.

U.S. Ex. 10 is a telegram from Dr. A. R. Meadows re- 19
questing the number of Negroes in the schools. U.S. Ex. 11 is
my reply to the telegram, sent early in September of 1965. [On
pages 20 through 23 the deponent identified U.S. Exs. 12 through
20].

I recall having attended meetings in Montgomery at which the Governor of Alabama and/or the State Superintendent of schools Dr. Meadows was present but I don't recall the dates. Some were in the spring and some in the fall. I do not remember exact dates. I attended some of the meetings with Erskine Murry who was then Assistant Superintendent of schools. At the meeting in the Spring of 1966, Dr. Meadows was present. The Governor was present at some of the meetings but again I can't identify the meeting. The best I recall Dr. Meadows did not make a lengthy speech or statement and it related generally to this whole subject of civil rights legislation and so forth. I cannot recall specifically anything he said. By law we are supposed to go to meetings called by the Superintendent. At one of these meetings Dr. Meadows did discuss the 1966 Guidelines but not in great detail. Of course he made clear his opposition to them.

Well, I would say that Dr. Meadows position has been that the 1966 Revised Statement of Policies as you identify it of the United States Office of Education, that it has exceeded its authority. That basically was Dr. Meadows position on the Guidelines. I can't spell out in his statement whether he specifically mentioned faculty desegregation but his position was pretty clear I think all along that the U. S. Office of Education exceeded its authority in trying to give quotas for faculty desegregation.

If we are going to build a school building or additional classrooms, we would have to get approval of the State Department of Education in respect to the site and what we propose to do. Then, the second step, of course, would be to get on with our plans and so forth, and then we would have to submit plans and specifications to the State Building Commission. The State Building Commission, as you know, employs professional personnel, engineers, architects and so forth, and so the second step would be for us to get the approval of the State Building Commission.

I received a letter (U.S. Ex. 21A) dated August 24, 1966 from Mr. Marvin H. Killingsworth, Jr., School Architect employed by the State Department of Education. The subject matter is an owner-architect agreement. The agreement, U.S. Ex. 21B, signed by the State Superintendent, the architectural firm of Charles H. McCauley Associates and I approved it as representative of the Talladega County Board of Education.

If I were asking for an additional teacher unit for vocational education, I would send my application to the Director

of Vocational Education at the State Department of Education because they administer the vocational funds.

Regular teacher units are apportioned on the basis of what we call the Minimum School Program. They distribute teacher units under the Minimum Program based on a formula that takes into consideration the wealth of the county, the student population and all these other factors. The vocational education teacher units are not distributed under the same program as the other teacher units. The vocational program is made up of federal and state funds, so the vocational program is outside the Minimum Program Law, so to speak. The teacher units awarded in the Minimum Program is dependent on the amount of funds available and the number of teacher units awarded in the vocational program likewise is dependent on the amount of funds available. The funds never meet the need.

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Cross-Examination by Mr. Crook

Public Education in Talladega County is under the Talladega County Board of Education which consists of five elected Board members. My position is filled by appointment by the Board. The Board controls public education in Talladega County with exception of the City Systems established in the County. They establish the policies under which the school system is operated and employs the superintendent and personnel. Authority for the assignment of pupils and for the hiring and firing and placement of personnel rests with the County Board of Education. Recommendation is made by me as superintendent but the final approval and authority is vested in the County Board of Education.

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To the best of my knowledge, no member of the State Board of Education or Dr. Meadows or Governor Wallace has attempted to exercise control of assignment and placement of teachers and students in this county system nor has the County Board of Education relinquished this authority to any agency.

A small number of students from our adjoining counties, Clay, Calhoun, and Coosa have more or less an arrangement whereby we might go over the line a mile and pick up a youngster in Coosa County which would save them sending a bus 15 or 20 miles and that has existed many years. If we had any Negro students living in Coosa County in the same area we are serving whites we would allow them to attend our Talladega schools also. I don't know whether we have ever had a Negro student from another county request to attend Talladega County schools. But I think there was a Negro family in the lower part of the County that has four children and I think the first year we desegregated

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the schools they lived in Coosa County, but at any rate I believe they now live in Talladega County, but anyway, we accepted them. To the best of my knowledge we have not declined to take a Negro student from any area outside of our county where we were picking up white students.

In the 1965-66 school year, the first year of our desegregation plan, we did not turn down any Negro pupils who chose to attend previously all white schools. 38

We have had no requests this year or last year from Negro staff or personnel to be assigned to teach in previously all white schools.

We turned down one Negro student who chose to attend a previously all white school because there is a board policy that any girl that becomes pregnant must drop out of school for one semester. That policy was established on a request by the Negro principals of the county. That applies with equal force to white children as well as Negro children. It came to my attention after school began this fall that one Negro student attending Childersberg High had to drop out last spring semester because of pregnancy. She had enrolled in Childersberg High in September and attended some two or three weeks and then we asked her father to take her out and he did. Her choice was honored but she was requested to withdraw because of the pregnancy rule. 38-39 40

The first year of desegregation we sent a letter and the choice form home to the parents by the pupils but last spring we mailed out the letters along with the choice form. The plan was also published in the papers both years. We gave a supply of choice forms to the principals of all white schools and Negro schools, and they were available at the office.

A student wishing to remain at the same school had to enter that on the form and if he wishes to change to another school he had to enter that on the form by checking the other school. 41

To the best of my knowledge no individual in this school system has exercised any undue influence or intimidation or pressure on any parent or student to influence their choice. 42

Our procedure required that all students execute choice forms. There were a few who did not fill out forms and return them. These youngsters could not be registered until they executed a choice form.

The condition or reservation on the 441-R that was executed on July 16, 1966 was made entirely by the members of the local school board. To the best of my knowledge no outside pressure or influence was exerted on members of the Board in regard to the action taken on the compliance form. The drafting of the condition on the back of the 441-R was done by someone in Washington, I assume. I talked to someone up there and understood this particular language would be acceptable to them:

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This assurance does not commit this school system to comply with any requirement of the Department of Health, Education and Welfare that is contrary to Section 406B or 604 of the Civil Rights Act of 1964.

I simply informed them that I wanted to put a reservation or condition on the compliance form and they suggested this language and told me it would be acceptable. Neither Dr. Meadows nor any member of the State Board of Education nor Governor Wallace had anything to do with the drafting of this language or its insertion on the form.

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U.S. Ex. 6, a telegram that was sent to me by Governor Wallace, I assume was sent to me in his capacity as Governor of the State of Alabama, not as an ex officio member of the Board of Education. The telegram is also signed by Lt. Gov. Allen and Speaker of the House Brewer, neither of whom have any control over the assignment of teachers or pupils in the Talladega County school system. I did not look on this telegram as an order or direct me to exercise authority in any particular manner. "And, of course, Governor Wallace's opposition to the Guidelines is generally known over the State."

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I don't think any state official influenced our Board of Education. We desegregated our school system in the first twelve grades the first year "and everybody knows Governor Wallace wanted it to be - if we had been influenced by Governor Wallace, we would have desegregated only four grades." Governor Wallace did not influence us in the adoption of our freedom of choice plan. The only possible influence was the Office of Education that we went through 90 days. We negotiated with them all summer long. We had one to three telephone calls per week and finally we took their model plan and accepted it.

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We tried to get the people to accept the federal government's position but many of the people in this county don't accept the federal government's position. All school boards and superintendents have felt the pressure from the local community in connection with your decisions in this matter. We were simply trying to comply with HEW regulations and at the same time maintain our position in the community where we could continue to operate a good school system. Our position was simply that if the Federal Court should ever make decisions that counteracted the regulations or HEW we wanted the reservation in there. 48

We receive many releases from Dr. Meadows who is rather a prolific writer. His releases cover many subjects and I couldn't begin to identify them. Sometimes he may get out statements that are specific that may relate to textbooks or something of that sort. We abide by those instructions. Others we just file away. The majority of the releases are informational. We did not regard U.S. Ex. 9 as binding. 49

When I wrote the letter (U.S. Ex. 16) to Dr. Meadows that the County Board met in accordance with his instructions, we didn't take it as a "must" action that we must take and it had no effect on any decision we made. 50

I assume the telegram, marked U.S. Ex. 12, from the Governor was sent in his capacity as Governor of the State of Alabama because it is signed Governor of the State. I did not interpret that he was speaking as a member of the State Board of Education.

When he spoke at the meetings, I attended, I considered him to be speaking as the Governor of Alabama. I didn't recognize any authority on his part to direct the manner in which the Board members exercised authority. Neither Dr. Meadows nor Governor Wallace has "ever called me or visited this office or exercised any pressure I am aware of, sir, other than the communications we have received." 51

I considered the meetings in Montgomery were called by the State Superintendent of Education and therefore all superintendents of education are supposed to go unless they are ill. 52

The State Department of Education employs an architect we can call on for help, but all local boards retain their own architects. The State Department primarily approves school sites but, as I pointed out, the State Building Commission has to approve our plans and they exercise considerable control.

Basically the State Department of Education provides information and services when requested by us. The State Department administers various statutes and benefits such as the 53

certification of teachers and the allocation of teacher units. Their activities are mainly applying various formulas or statutes set out by the legislature.

I do not know whether or not Dr. Meadows approval on a school construction contract is required by any statute or regulation nor do I know whether the form of this contract is required by the State Department of Education. We have our own architect who advises us after we decide the expenditures we want to make. Then we start the procedure of submitting it to the State Department of Education and getting their okay and presenting our plans to the State Building Commission and so forth. The State Department of Education doesn't give us much trouble but the Building Commission haggles over a lot of little things and another example is the State Health Department. There is no connection as far as I know between the State Health Department and the State Department of Education. They are independent agencies, as is the State Building Commission.

Re-Direct Examination by Mr. Ortenberg

Teachers in our system are certified by the State Department of Education. Teachers are paid on a salary schedule based on rank of certificate and number of years experience. Part of the money paid the teachers is local money; about 75% of our total budget is state money from state funds and our salary schedule is based on rank and experience and, of course, the salary schedule is approved by the Board of Education and we don't get enough money from the State of Alabama to pay all our teacher units. We don't get enough funds from the State to operate our transportation system. We have to put local money with it.

About two years ago the legislature made available additional funds to provide free textbooks for all twelve grades. So the State Department of Education made an allocation to each school for textbooks based on the number of students and so forth. Of course Dr. Meadows gets out instructions how we should organize or establish our textbook system, how much money we had to spend and naturally we try to follow those instructions because we are audited by the State.

U.S. Ex. 22 is a release from the State Superintendent dated October 25, 1966 concerning additional teacher units in which he advised of certain conditions that additional teacher units might be made available to the Board of Education.

Re-Cross Examination by Mr. Crook

The certification of teachers by the State Department of Education is based on standards promulgated by the Department of Education pursuant to specific authority to do this granted by the State legislature. 58

We follow the textbook procedure set out in the releases from Dr. Meadows to take advantage of the funds to which we are entitled. The releases are in the nature of information. The release that applies to teacher units is also informational. I haven't made any application for it and it doesn't apply to me in any way. 59

Further Re-Direct Examination by Mr. Ortenberg

It doesn't apply to me because I interpret it to mean school systems who desegregated faculties.

DESCRIPTION OF EXHIBITS

DEPOSITION OF PITTARD (TALLADEGA COUNTY)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	6	Chart, by race and school, showing number of students who chose to attend, were registered, enrolled, and have to withdraw, for the 1966-67 school year.
U.S. 2	7	Chart showing number of teachers, by race, currently employed in each school.
U.S. 3	8	Map of Talladega County, showing location and grades covered for each school.
U.S. 4	12	Desegregation plan. May 11, 1965.
U.S. 5	15	Talladega form 441-R, dated July 16, 1966.
U.S. 6	16	Telegram to Pittard from Governor Wallace, Lt. Governor Allen, and Speaker Brewer. (Govt. Ex. 8)
U.S. 7	16	Letter dated September 2, 1965 from Pittard to Governor Wallace responding to U.S. Ex. 6 (Govt. Ex. 104).
U.S. 8	16, 18	Telegram to Pittard from Governor Wallace, Lt. Governor Allen and Speaker Brewer. (Govt. Ex. 16).
U.S. 9	18	Meadows release, dated September 3, 1965, of text of State Board of Education Resolution of September 2, 1965. (Govt. Ex. 9).
U.S. 10	19	Telegram to Pittard from Dr. Meadows. (Govt. Ex. 14).
U.S. 11	19	Pittard reply to U.S. Ex. 10.
U.S. 12	20	Meadows release dated April 15, 1966, of telegram from Meadows to Congressman Martin. (Govt. Ex. 102).

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 13	20	Meadows release dated May 16, 1966: Resolution unanimously approved By The Governor, The Lieutenant Governor, The State Superintendent of Education, The Speaker of The House, and The Alabama Congressional Delegation--U.S.Senators and Representatives--Montzomery, Alabama, May 13, 1966.
U.S. 14	20	Meadows release dated May 19, 1966: Alabama Delegation-Congress, Governor, Lieutenant Governor, Speaker of House, and State Superintendent of Education, commended.
U.S. 15	20	Letter dated May 24, 1966 to Pittard from Meadows. (Govt. Ex. 54).
U.S. 16	20	Pittard's response, dated May 27, 1966, to U.S. Ex. 15. (Govt. Ex. 116)
U.S. 17	21	Telegram dated June 11, 1966 to Pittard from Governor Wallace, Lt. Governor Allen, and Speaker Brewer. (Govt. Ex. 74).
U.S. 18	21	Pittard reply, dated June 13, 1966, to U.S. Ex. 17.
U.S. 19	21	Telegram dated July 29, 1966 from Meadows to Pittard. (Govt. Ex. 90).'
U.S. 20	21	Pittard's reply, dated July 29, 1966, to U.S. Ex. 19.
U.S. 21A	31	Letter dated August 24, 1966 to Pittard from State School Architect Marvin Killingsworth.
U.S. 21B	31	Ownes-Architect contract attached to U.S. Ex. 21A.
U.S. 22	57	Meadows release dated October 25, 1966.

RUBEN H. PORCH
SUPERINTENDENT OF SYLACAUGA SCHOOLS

Direct Examination by Mr. Watkins

Page

I have been superintendent of schools of Sylacauga for 3 years beginning last July. My duties are mostly administrative. I am not a member of the Board of Education but I attend all Board meetings in my capacity as Secretary to the Board of Education. U.S. Ex. 1 is a map showing the location of the schools in Sylacauga, and the grades covered by each school. We have about 30,180 total enrollment, about 29% of whom are Negroes. The heaviest concentrations of Negroes are in areas in the northeastern and southeastern sections of town. There are five members of the Board of Education, none of whom are Negroes.

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We adopted a desegregation plan in May of 1965. It was a freedom of choice plan and covered twelve grades. Pursuant to this plan, choice forms were distributed by mail to be returned by mail or to my office or to any school in the system.

As a result of that choice period we had nine Negroes who chose to attend formerly all white schools and no whites chose to attend Negro schools. All nine Negroes showed up at the schools and were all enrolled, but one dropped out. He dropped out because of lack of interest. His attendance was very poor and he worked on a job and we checked and it seemed to be for a lack of interest. U.S. Ex. 2 is our desegregation plan for 1965-66.

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In the school year 1965-66 there were no Negro teachers or staff teaching a full day at a predominantly white school. We had white supervisors of a Negro program and in the summer of 1966 we had a head start program with a mixed faculty and also had a teacher who taught Negro children reading for two hours a day in the summer of 1966. The only Negro teachers teaching white students were in the head start program.

We executed 441 for the school year 1965-66. We also had a freedom of choice plan in 1966-67. It differed from the 1965-66 freedom of choice plan principally in the notification of the parents and the forms used for the choice of the pupils. Of course in the 1966-67 plan there was an agreement to further desegregate the faculties. The forms were distributed by mail and could be returned by mail or to return it to my office or to the principal of the schools. 11

We probably didn't have all the choice forms returned even though we made a special effort to. If a student didn't exercise a freedom of choice form, he was allowed to go to the school he wanted to the first day and enroll. 12

None of the Negroes who chose to go to previously all white schools were rejected during the 1965-66 or 1966-67 school year. A Negro child that had not sent in a choice form went to a white elementary school and he's in there now. The results of the 1966-67 choice period were that twenty-seven Negroes chose to attend formerly all white schools. Also, a Negro who moved in after school began attends a white school. U.S. Ex. 3 shows white and Negro enrollment, by school, for 1966-67. 12-13 13

There are three school systems in the County. We accept students who do not live in the City of Sylacauga. They only have to present themselves to the school to be enrolled. There are at least two Negroes who live outside the City of Sylacauga that attend formerly all white schools in the Sylacauga City System, and there may be more. 14

We have four buses in the Sylacauga City System and Negroes and whites ride the same buses. We don't transport any students from outside the system.

U.S. Ex. 4 shows the non-resident students attending Sylacauga schools in 1966-67. 15

There are no Negro teachers or staffs teaching in predominantly white schools in Sylacauga.

U.S. Ex. 5 is the minutes of a combined meeting of the School Board and City Council on April 14, 1966. The Assurance of Compliance form, freedom of choice form, was executed on April 15 for the school year 1966-67. There was no subsequent modification of this form. [On pages 16-24 the deponent identified U.S. Exs. 7 through 27 B as documents from his files.]

I did not attend meetings of school superintendents in Montgomery in the last two years. The approximate date of one was August 1965. The meeting was held at the State Office Building. Superintendents of Boards of Education, some members of the State Department of Education staff and the State Superintendent and Governor Wallace were present.

I know the meeting started with business with the schools pertaining to the individual schools and later there was a discussion by the Governor and Dr. Meadows was in charge of the meeting. The best I remember, this meeting in 1965 was a matter that we were urged not to go any further than the law specified in desegregating. This was urged by the Governor. I don't remember what Dr. Meadows said at that meeting. It seems to me Governor Wallace was the principal one that talked about it.

I attended a meeting in the spring of 1966 probably June 10 or 11 or somewhere along there. I am not sure of the date. The meeting was held at the State Office Building. Superintendents of Education, Board members, Mr. Meadows and part of his staff and Mr. Wallace, Lt. Gov. Allen, Mr. Brewer, and I believe Mr. Satterfield and some of the Governor's legal staff were present, I believe. The Governor spoke and urged Superintendents and Boards of Education not to sign 411-B. He indicated that it wasn't law and the guidelines were not lawful, went beyond the law. "Well, the best I remember, he indicated that faculty desegregation was unlawful." He referred to the fact that within the bill itself it said there would be no interference from the Federal Government with Boards

of Education hiring of personnel. I recall he urged that we not go any further than the law allowed and he referred to the fact that the number of grades covered under the freedom choice plan might be unlawful. Mr. Satterfield spoke at the meeting. He had long written speech pertaining to the unconstitutionality of the 1966 Guidelines. I can't remember what specific areas of the Guidelines he objected to. We have vocational education in Sylacauga. Teacher units for the vocational education program are granted differently from the normal method of giving teacher units. Of course teacher units for regular academic work are allotted on the average daily attendance for the prior year. This year it is allotted on the year preceding this. Your vocational education units are allotted to you or given to you and are approved by the State Vocational Education Department by programs. In order to get another vocational education teacher in a school, I would apply to the State Department of Education, Vocational Department and they make a survey to determine if there is a need. 29 30

We have to prepare a budget at the beginning of each school year. The local board approves it and we submit it to the State Department of Education and it is approved there. All federal projects we participate in, we go through the State Department of Education. Some of our projects, for instance Title I project, they approve that. Who else approves it after they approve it, I don't know. 31

The standards for accreditation of teachers come from the State Department of Education. They are all certified by the State Department of Education. 32

One building was completed in this system shortly after January 1, 1963. U.S. Exs. 28 and 29 are letters from Marvin H. Killingsworth to my predecessor, C.C. Martin.

Cross-Examination by Mr. Sikes

Pursuant to the 1964 Civil Rights Act in the Spring of 1965, the Sylacauga Board of Education adopted a freedom of choice plan affecting the assignment of pupils in 33

the public schools of Sylacauga covering all twelve grades. Notices of the choice period were made over the radio and in the newspaper and copies of the plan and the choice form were made available to each student. In 1965 the choice forms were sent out by the pupils and as far as I know, all the students made choices as to the school they wanted to attend. We made an effort to see that the forms were completed and returned. As best as I can remember nine Negro pupils applied for a previously all white school, and none of them were rejected. 34

In 1966-67 school year, choice forms were made available to all the students. The forms were mailed to the parents of the pupils because that was included in the 1966 Guidelines. For the 1966-67 school year, twenty seven Negro students applied to previously all white schools. None of them were rejected. We had some of the white students who were not given the school of their first choice because we had one school overcrowded and we needed to transfer some of those students from one school to another. We had about fifteen or twenty white students that were reassigned on the basis of proximity to the school. 36

After a joint meeting by the Sylacauga City Board of Education and the Sylacauga City Council at which I gave an explanation of the 1966 Guidelines, the revised statement of Policies, commonly called the Guidelines, I executed the 441-B. On or at least two occasions subsequent to the signing of 441-B the 441-B was considered again, but on neither occasion did the City Board of Education revise or amend or place any form of restriction on Form 441-B. 37

I have not heard of any rumors concerning any persons or groups of persons or organizations who have attempted to threaten, harass, intimidate or otherwise interfere with the free exercise of choice provided in the choice plan for any pupil or parent of such pupil in the Sylacauga City School System. 38

The discussions in Montgomery centered primarily around legal matters with respect to the revised statement of policies and 441-B. The Governor urged superintendents not to go beyond the law but he did not urge superintendents to violate the law. 39

I attended a meeting in Birmingham with officials of the Department of Health, Education and Welfare. The purpose of the meeting was to discuss the new Guidelines for 1966; the legality or the legal basis for the 1966 Guidelines was discussed. Dr. Marie Barry was there, but Eugene Crowder wasn't.

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At the meetings held in Montgomery, which I discussed, when I referred to members of the Board of Education, I was referring to local boards not members of the State Board of Education.

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U.S. Exs. 3 and 4 were prepared specifically for this deposition. I don't have a system of record keeping whereby the races of pupils are maintained in a segregated manner.

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We give students who come in from outside the city the same freedom of choice as the students who reside within the Sylacauga City School District. But the Board does have the power to forbid the entrance of students who reside outside the city. And as far as I know, it doesn't require the approval of the State Department of Education.

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All facilities, extra curricular activities, athletics, are available to Negro students attending formerly all white schools.

Students not executing a choice form and desiring to enroll in a school only have to present themselves at that school and they will be assigned on a non-discriminatory basis.

About four or five Negro pupils attending previously all white schools withdrew this year. One moved out of the system, and one withdrew because of poor grades, and one transferred to a county school at the doctor's suggestion. None withdrew because of pressure, as far as I know.

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We received federal funds under Public Law 89-10 and other Acts of Congress in the 1965-66 and 1966-67 school years. The Department of Health, Education and

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Welfare has never indicated to me that the funds were in jeopardy of being suspended or deferred or cut off. But they don't consider us to be in compliance with the 1964 Civil Rights Act.

Redirect Examination by Mr. Watkins

Negro students were in attendance at schools where some of the white students were not able to attend the schools of their choice because of overcrowding. The decision to send some students to other schools was based on proximity. The Negro students that attended this particular school lived closer than the white students that were told they had to attend another school.

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DESCRIPTION OF EXHIBITS
DEPOSITION OF PORCH

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
1	6	Map of Sylacauga showing location of schools and grades taught.
2	9	Sylacauga school desegregation plan adopted May 21, 1965.
3	13	Chart showing, by school and race, the number choosing to attend, number rejected, number enrolled, and number withdrawn for 1966-67.
4	15	Chart showing number of non-resident students attending school in Sylacauga City System, by grade school, race, and county of residence.
5	15	Minutes of combined meeting of Sylacauga City Board of Education and City Council, April 14, 1966.
6	15	Sylacauga form 441-B, dated April 15, 1966.
7	16	Minutes of Sylacauga Board of Education meeting, June 27, 1966.
8	17	Minutes of Sylacauga Board of Education meeting, July 28, 1966.
9	17	Letter of August 9, 1966 from Porch to Harold Howe describing faculty desegregation program.
10	17	Minutes of Sylacauga Board of Education meeting of October 27, 1966.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
11	18	July 29, 1966 telegram from Meadows to Porch. (Govt. Ex. 89).
12A	18	Letter of March 10, 1966 from Porch to Meadows.
12B	18	Memorandum to County and City Superintendents from Meadows, dated March 9, 1966.
13	19	Meadows Release dated March 23, 1965.
14A	19	Letter of May 24, 1966 from Meadows to Porch. (Govt. Ex. 52).
14B	19	Letter of May 30, 1966 from Porch to Meadows, replying to U.S. Ex. 14A. (Govt. Ex. 114).
15	20	Letter of May 11, 1966 from Meadows to Porch. (Govt. Ex. 31).
16	20	Meadows Release dated May 16, 1966, entitled "Resolution Unanimously Approved By The Governor, the Lieutenant Governor, the State Superintendent of Education, the Speaker of the House, and the Alabama Congressional Delegation--U.S. Senators and Representatives--Montgomery, Alabama, May 13, 1966." (Govt. Ex. 36).
17	20	Meadows Release of September 22, 1966 and attached resolution of Southern Governors' Conference: " <u>No. 7. Guidelines For Administration of Civil Rights Act.</u> " (Govt. Ex. 94).
18	20	Meadows memorandum of October 27, 1966 to County and City Superintendents of Education. (Govt. Ex. 127).

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
19	21	Meadows release of May 19, 1966 of State Board Resolution: "Alabama Delegations--Congress, Governor, Speaker of House, and State Superintendent of Education, Commended. (Govt. Ex. 37).
20	21	Meadows release of July 1, 1966.
21	22	Meadows memorandum of September 10, 1964 to Principals of All High Schools regarding improvement of school acreages.
22	22	Meadows Release of September 1, 1964: "Approved List of Alabama Contests and Activities for High School Students, 1964-65."
23	22	Meadows release of December 19, 1963: "1963 Progress in Public Education in Alabama."
24A	23	Meadows memorandum of September 8, 1965 to County and city Superintendent of Education.
24B	23	Monthly Report of Private Non-sectarian School for Pupils Who Have Been Refused Transfers By A County or City Board of Education and Who are Applying For Tuition Grants.
25	23	Meadows release of March 19, 1965.
26	24	Meadows release of May 19, 1966 calling June 7, 1966 meeting. (Govt. Ex. 37).
27A	24	State Department of Education list of County and City Institutes for white teachers, 1964.
27B	24	State Department of Education list of County and City Institutes for Negro teachers, 1964.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
28	32	Letter dated February 26, 1962 from Marvin Killingsworth, State School Architect, to Sylacauga superintencent Martin.
29	32	Letter dated July 26, 1962 from Killingsworth to Martin.

Direct Examination by Mr. Quaintance

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In Alexander there are 272 white children and 8
11 teachers, all white. At Bibb County Junior High
School, they are all white, 442, and there are 17 white
teachers. Bibb County High School has 292 children,
and 15 teachers, and they are all white. Brent School
has 285 and 11 teachers. Those are white. At Eoline 9
School there are 67 students and 3 teachers, white. At
Howison School there 59 students and 3 teachers. At Six
Mile School, 82 students and 3 teachers and those are white.
At West Blocton Elementary School there are 327 students,
12 teachers, and they are all white. At West Blocton High
School, 383 students and 18 teachers, who are white. Bibb 9
County Elementary, which is Woodstock, 129 students and
5 teachers, and they are white. At Davidson High, 630
students and 27 teachers. Those are colored. At Faucett 10
Junior High School, 477 and they have 13 teachers and
they are white (sic; read "Negro" for "white"; see p. 7).

We are transferring, beginning Monday, all of the seventh grade at Faucett to Davidson. There are three teachers with 73 pupils each, and we are trying to move the seventh grade.

West Blocton Heights Junior High School has 172 and 6 teachers, who are Negro. There is just one Negro High School, but we are trying to get all of the seventh grade there at Davidson. That is because of the equipment and facilities. The program out there is much better than they can get up there (at Faucett).

"We don't have much money in this County to buy a lot of science equipment." Not long ago I told the Governor we were in debt \$43,000 due to proration. Governor Wallace said they were trying to follow the legislative program. 11

There are no Negro students attending white schools in Bibb County, and there are no Negro teachers in white schools. There are no white teachers or students in Negro schools. The five members of the Board of Education, the three people working in my office, and myself are all white people. When I was superintendent before, I had a colored Supervisor. 12
If I was able, I would have one now. I need one. If we had money, I would have one. I had a white elementary supervisor, too.

In Centreville we have Davidson School, 12
Alexander, Bibb County High School and Junior High School. In Brent "you have the elementary school for white and Fossett (Faucett) for colored." At West Blocton you have "the white elementary and white high school, six through twelve, and West Blocton Heights, for Negroes." Howison School is at Randolph, about 13
six or eight miles north of Maplesville, and Six Mile School is about nine miles northeast of Centreville.

West Blocton High School and Elementary School practically adjoin.

We have a new building at the West Blocton High School (sic; read "Heights School"). That is approximately three-quarters of a mile to a mile from the West Blocton Elementary School. It is located in the mostly Negro neighborhood; however, within 200 14
yards there are a lot of houses of white people on a hill. The two white schools are in white neighborhoods.

In Centreville the three white schools are about 100 yards apart, in a mostly white neighborhood. There are some colored people over there, on the west side of the river. The Negro community is about a mile south of the white school.

Davidson school is a mile or a mile and a quarter east of the Bibb County High School. 15

In Brent the schools are about three-quarters of a mile apart. The Faucett School is located right next to the housing development in a Negro neighborhood, and the white schools are located in a white neighborhood.

Howison School is located in a community with very few colored people; Negroes who live near there would come into Davidson School. Most of them in the eastern part of the County live between here and Davidson school; those Negroes who live over near the Chilton County line would come into Davidson. Negroes up by Marvel go to West Blocton Heights. 16

White children from Perry and Tuscaloosa Counties, near the line, come into Bibb County. We provide the buses. We buy the buses on sales tax money. We divide them equally among the races; "their buses are just as good as the white buses." Some white children in the Woodstock area go outside the county to Brookwood. 17

There has never been a Negro child attend a white school in this county or the other way around, not to my knowledge. I don't know of any Negro teachers who ever taught in a white school in this County or a white teacher who taught in a Negro school. 18

The Board of Education of Bibb County had adopted a freedom of choice plan. The resolution we have in the Board minutes is "the only plan we have." At a special meeting on August 23, 1965, we adopted a plan. It reads, 19
Resolved that the Bibb County Board of Education give careful consideration to any applicant of transfer to the public schools of Bibb County without regard to race, color, religion, or national origin. Be it further resolved that the Bibb County Superintendent of Schools as soon as practical contact all principals of public schools of Bibb County and all other

persons of interest and advise each of them of the action here taken by the Board and that any applicant for transfer to the public schools of the county whose application requires attention by the Board should be directed to the superintendent who would call a meeting of the Board immediately thereafter to consider such application and for admission or transfer and that at such meeting the applicant and his or her parent or guardian would be invited to attend.

It wasn't placed in the minutes, but in a discussion they said any child with their parents, white or colored, who wanted to apply to a school of another race, upon presenting their report, would be immediately approved to enter that school. That wasn't put in the resolution because we felt there might be some instances, for instance, if they had been expelled or had been in trouble with the law, we couldn't approve their applications. "If they were qualified they would be approved." We would use their report card, and if they passed then we would take them. If we had put in that we would take any person, that would involve a lot of things. We wouldn't approve a child who had had trouble with the law and been expelled for destroying property or drunkenness or something of that.

Frankly we thought some would apply to go to the high school, but they didn't. The Board never held a choice period for the students. We never have had any requests. We told the principal to tell all the teachers and children and notify the parents. I think it is well understood throughout the County that they can go to any school they so choose.

The principals had no instructions to hold an assembly, but just to notify them and explain they could have the choice period. They were supposed to explain it to every student in the school. No form was given to the students explaining it, unless the principal gave them one.

There was never any notice of the Board's resolution or its policy in the newspapers. We felt like if we advertised it two or three months before school started some hothead would possibly cause trouble, coming with a shotgun or something of that kind. The Board decided if there were applications made they would just tell the principal to enter them in the proper grade.

I notified "everybody I talked to about the thing." I talked to colored people and white people too. In fact, it was so well known we have had several white children who wanted to move to another school and we had to let them under the freedom of choice. They came before the Board, and the parents came before me and signed applications. We sent a copy to the principal, and the Board approved them at a meeting.

Prior to the resolution, the procedure was that the principal would state that certain children had requested the Board to accept them, for instance at the West Blocton School. Any child who transferred either sought permission of the Board or the principal requested they be transferred.

Anyone who wanted to transfer, we required the parent to fill out a form referred to in the August 1965 resolution. The form states that the undersigned parents request the Board to allow the children to be admitted to a named school in Bibb County. It states the parents make the request under provisions of the August 23 freedom of choice plan. It has a space for the Board to approve or disapprove.

The last date to fill out a form this year was September 9. To obtain a form, they can come and get their applications and fill them out themselves or fill them out up here. They are available to anyone who wants to transfer.

The Bibb County Board of Education never executed any kind of form with the HEW. That is true of the 65-66 year as well as the 66-67. The first form we received from HEW had in there that this constitutes the legal contract between HEW and the Board of Education and its "heirs and assigns." There was one sentence in there that we agreed to abide by any directives sent out from that office. We felt we would be binding members of the Board yet unborn and turning completely all affairs of the school over to HEW. We never made any effort to determine what HEW meant by that provision. We talked to Lister Hill and explained to him why we didn't sign it. I have known him well and, in fact, I was State campaign manager for him when he ran against Jim Simpson in 1941.

Our lawyer and Lister Hill have a copy of everything that we got and our answers. I am not sure that the Board has all of them. We probably kept copies of some of them. I don't think all of them are in here in that group of stuff.

There are no white teachers in the Negro schools or Negro teachers in white schools. We do not have any faculty meetings that we hold together: "each of them have their own faculty meetings." We did have in-service meetings before school started, but we don't have any more. They were not with both races; we stopped having the in-service meetings when the first guidelines came out. Of course, the AEA has meetings but it is a voluntary meeting. The Board has nothing to do with that.

White students and Negro students do not ride together on buses. We have one set of buses for the white schools and one for the Negro schools. I imagine those routes overlap. I am sure they would. The race of the bus driver is the same as the race they haul. Negro drivers drive Negro buses and white drivers drive white buses.

There are no contests between teams of white and Negro schools. We played Holt and they had a Negro player, but not in this County. The colored schools just started football this year. They do not play white schools. "They have a schedule among the Negro schools." I can't think of any activity the School Board sponsors where Negro and white students participate together. I don't think there is any. We don't sponsor athletics. All we buy is physical education equipment. 30

In the Board minutes of July 1, on page 181, there is a list of teachers. The first four are white teachers and the next three are colored; 31 there is a space between them. For vocational agriculture, there is one white person and one colored person listed. Then there are two whites and one colored listed. Then the head coaches are listed and then the assistant coaches. White and then two colored. And then the band directors. There are one white and one colored. Then there is a supervisor 32 listed. She works in my office; she is a white lady. For each item on that page, the white persons are listed and then there is a space and then the colored people are listed. I don't know why, I didn't tell her to list them that way. There is no particular reason for it.

On page 165, the minutes of May 27, 1966, the trustees of the different schools are listed. Each school has a meeting on a certain day in May and six names are submitted to the Board. From that the Board can pick any three. They can't pick anybody except from those six that have been nominated. The patrons nominate them. On page 165 there is a list of the white schools. On page 166 the Negro schools are listed. The trustees of the white schools are white people and the trustees of the Negro schools are Negro people.

On page 190 they have a salary schedule. In the lists of principals, coaches, and band directors, the white persons are listed and then a space and then the Negroes. I didn't tell my secretary to list them that way. "Frankly, I don't see that there is any harm but it shows there is a division there." Then the teachers are listed in alphabetical order, "white schools first and then colored."

On May 28, 1965, we raised the salaries of persons working in the bus shop. Six white persons received \$600 raises and Willy Fleming, a colored person, received a \$300 raise. He is old and not very active.

We have mailboxes in my office for each school. All of those on the left are white schools and the bus drivers and then the colored schools. Those were put in there before I came back in August.

I have made no plans for desegregation of faculty next year. I am going out in July. If they do that, "I will just ask Judge Johnson to appoint them." They will quit because you can't do that unless they want to. They will say you are violating their civil rights.

We have made no plans for unifying our bus system into one system. We have no plans to have Davidson Athletic teams play Bibb County High School teams. I don't have anything to do with that. The coaches and the principals make the contacts with the schools they play. We have no authority to tell them what to do with the money they make.

"Q Have you done anything yourself or has the Board, to your knowledge, done anything to bring about desegregation of the schools in Bibb County?

37

"A No, no more than passing the resolution and that they were welcome to transfer to any school they wanted to.

"Q Do you know of any plans for the future?

"A No, none that I know of."

I have attended most of the meetings in Montgomery, I think. I might have missed one or two. In the Board minutes for April 1, it shows that I reported concerning a meeting in Montgomery on March 31 of the superintendents of schools and State officials. The meeting was to discuss the new guidelines put out by the HEW. The minutes say, "the Board members felt that the guidelines were not intended for the Bibb County Board of Education since the Board did not sign the form 441. The Board took no action on this."

38

I received a letter concerning legal service from, I don't know which, whether the Governor signed it or some Commissioner signed it, but it was, I believe, a mimeographed form. If we needed legal assistance in any court matters with the HEW, if the Board decided they wanted to do so, they could by motion request the State to take care of the legal expense. That might not be exactly the words but that is what it meant. If the Board wanted to, it could by a motion, request assistance from the State in obtaining legal counsel. That came after the school guidelines came out. The letter was addressed to F. B. Pratt, I believe, but I couldn't say. I understand it was a mimeographed letter, I think sent to all superintendents. It was some time after the new guidelines came out, the second group of guidelines. Ex. 1 is a copy of a letter from Mr. C. E. Hornsby to the members of the Board of Education, dated February 3, 1965. Ex. 2 is a letter to Francis B. Pratt, Superintendent, from George White. The date of the letter was October 15, 1965. Mr. White is the County Board lawyer. In the letter he speaks of obtaining some funds from the Sovereignty Commission to reimburse the Board for any legal activity on its behalf. I don't know

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whether they did or not. I know we didn't pay him the \$750. C. E. Hornsby was a member of the Board when he wrote Ex. 1. He is Chairman now.

41

Governor Wallace is a good friend of mine. I think he is a sincere man and I don't think he is a racist. He helps us just as much as he can with the Negro schools as well as the white schools. Oh yes, I have had contact with the Governor in the last year; I wrote him a letter today that I wanted to see him.

I have told Dr. Meadows that we would take any child who makes an application. If the Board and I were of the opinion that the student couldn't take the academic load, we would tell the teacher to try to help them catch up and if they were so far behind they couldn't, then we would recommend they be placed in a lower grade.

42

We had a survey conducted by the State Department three or four years ago. We consolidated two colored schools since then, Briarfield and Mt. Tabor. Briarfield students go to Davidson School and Mt. Tabor's go to Faucett.

We built the High School at West Blocton and Davidson in the last five years. Both are identical. The Davidson School cost \$400,000. We have let a contract to build a gymnasium at Bibb County High School because the State Board of Education has said by 1960 [sic], all children must have four credits in physical education. In the colored school we have adequate facilities, "and I don't think there is a nicer Negro school in the country." We submitted our plan to the State Department on construction; we got to under the bond issue. We had to get them to OK the architect. And the State Department approved the plans.

43

The minutes for November 27, 1964 state, "Upon receipt of request from the Negroes that the name of Bibb County Training School be changed to H. D. Davidson School, the Board agreed to ask the State Board of Education to make this change."

44

The Board has applied to the State Department of Education for special education units. "We got one pending at the Davidson School, and we had one at Brent that they gave us." We lost that; they had to have as many as 10 in the class and they have to have an IQ between 50 and 75. We have one at the junior high school and one at the elementary school and one at West Blocton Elementary and high school and have an application for the Davidson School. As soon as we can find a teacher we can work it in. Mrs. Brown, the State Supervisor of special training told me it would be in the high school and probably the junior high school. We also have a homebound class. We have no Negroes enrolled in special education classes; "we expected to have one this year but we haven't been able to find a qualified teacher." We made no effort to find a white teacher for those students. I leave that to the principal. We have white students in the Centreville special education classes from other schools, some come from Six Mile. We haven't had any requests from a Negro child.

45

We have units in the vocational field. We started out in federal vocational education and now we call them State vocational. We have no federal funds. We have them at two high schools, one white and one Negro. We have had to cut down to some extent since losing the federal funds. We haven't been able to get equipment and stuff we need. There is no difference in what the State is doing now that I know of. We did not have to drop any units; we haven't been able to supply them as well.

46

We have been trying to obtain additional vocational units. My efforts have been to get the State Board to allow 6 or 8 teacher units for Davidson School and West Blocton High School. They are built to put in classes such as masonry and plastering and maybe cabinet making and auto mechanic and plumbing and things like that. The plans for the buildings were approved, but we have had no approval as far as teacher units. I think we might get one or two in each school before the year is out. "I talked to the Governor about it

47

and he is very anxious to see it done." We wouldn't be able to finance them from local funds. We have to pay vocational teachers more than regular teachers and we are over the teacher allocation anyway. We have four or five more teachers than they allocated us. We would have to get the State to allocate us a certain number for the trade schools; "we couldn't run three weeks on local funds."

48

I never did inquire how much federal money would be available to us. Prior to the time our money was cut off, we had federal programs for our lunchroom and Title II or III. We had a guidance counselor at Bibb County High School and we didn't replace her when she resigned. We have one at Davidson School and at West Blocton. We pay them out of regular teacher's salaries.

49

In 1964-65, we had \$19,697.69 in federal revenue. I think it would have been allocated for vocational agriculture and home economics. Our budget for vocational agriculture and home economics has not dropped by that amount; we just had to make up the difference in local funds. How long we will be able to continue it, I don't know. We will get through it some way this year. The State acts as disbursing agent for both State and federal funds. I don't know if the amount the State has paid us as disbursing agent has dropped in the last two years for vocational training. It would not have dropped \$20,000. I think it dropped about five or six thousand dollars. We have had a drop in spending for vocational programs of about three or four thousand dollars. I guess practically all of the \$19,697.69 of federal revenue in 1964-65 would have been in the vocational program.

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51

DESCRIPTION OF EXHIBITS
DEPOSITION OF PRATT (BIBB)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	39	Letter from C. E. Hornsby, Jr., to Francis Pratt and four others, dated February 3, 1965. Mr. Hornsby notes that on January 29, 1965, he relayed to the Board of Education of Bibb County an offer made by Governor Wallace to the Sovereignty Commission to the effect they would bear all legal expenses involved in the event the Board entered into federal court and requested a restraining order to prevent HEW from withholding funds from Bibb County Schools. Mr. Hornsby stated he could not sign the compliance form "without having first made a fight for what I think to be our constitutional rights."
U.S. 2	39	Letter from G. P. White to Francis Pratt, received October 18, 1965. The letter concerned possible payment through the office of Mr. Eli Howell of the Governor's office of Mr. White.

FREDRICK RAMSEY
SUPERINTENDENT OF THE MARENGO COUNTY SCHOOLS

Direct Examination by Mr. Quaintance

Page

I am Superintendent of the Marengo County Schools and have held this position since July 1, 1961. My office is located in the Linden, Alabama. I attend all board meetings.

4

We have nineteen schools in the Marengo County System, two white and seven Negro.

6

U.S. Ex. 1 is my Attendance Report from the various schools for the 1966-67 school year. These reports are for September, the first month of the school year and show the number of children at each school.

7

There are no Negro children or teachers in the white schools and are no white students or teachers in the Negro schools. The white schools are Sweet Water High School at Sweet Water and Marengo County High School at Thomaston. Sometimes the Sweet Water High School (he means Marengo County High School) is listed as Thomaston School.

My staff here includes custodian of funds who also keeps our books and the minutes of the board, my secretary, a lunchroom supervisor who handles the lunchroom program for both white and Negro schools, and a Title I coordinator under PL. 89-10 and his secretary. All these people are white.

8

There are three systems in Marengo County Demopolis City, Linden City, and the County System. Demopolis and Linden are the two largest towns and both of them have Negroes living within their limits with Demopolis the larger of the two. The other main towns are Thomaston, Sweet Water, Faunsdale, Dickson's Mill, and Mertlewood. Next to Demopolis in size comes Sweet Water and Thomaston. Sweet Water is located in south Marengo County and Thomaston in east Marengo County.

9

10

The white children who live in the north part of the county attend Demopolis City School. We transport them, and Demopolis gets the teacher units for them. We also have Negro children in the north end of the county that go into the city schools in Demopolis.

The white children in the center part of the county attend Linden School. We have the same arrangement with respect to transportation and teacher units.

There are from 250 to 300 white students and between 40 and 50 Negro students who live in the county and attend the Demopolis City School. At Linden I would say there are probably 300 to 350 whites and possibly 400 Negro students who would come into the Linden School. I do not know of any children from the Marengo County System who attend school systems other than the ones I have mentioned.

11

12

I understand that there are no white students who live within Demopolis or Linden that come to our schools, but there are a few Negro children who live on the west side of Demopolis that attend John Essex. I don't think there would be over 30 or 40 or 50 of these Negro children. The way it works is that we transport them on our buses. It is the U.S. Jones Negro school area, and the bus comes from the outlying areas on the west side of Demopolis and picks up the number of students and then goes on into the John Essex School. We get the teacher units for these students.

13

We have not had students coming into our system from other counties. However, in the fall of 1966 we had some from Wilcox County and other places who tried to come to our schools when theirs were integrated, but we did not accept them. No Negro has ever attended a white school in the county system,

but they have in the city system. And no white children have ever attended a Negro school. We have had some "half-breeds" that look white go to Negro schools.

We have had a lot of white in-service people who came from the state and taught our counsellors and that sort of thing who worked with Negro schools, but no Negro has ever taught in a white school in Marengo County and no white teacher has ever taught in a Negro school. The in-service people who come down from the State Department work with us on our accreditation program and worked in an advisory role. We had several of these people who came down last year. We had the heads of the math [counselling service for the State Department of Education] come down and actually taught a course in modern math, explaining it. "[W]e are adopting this modern math in all our schools; of course, the whites went to--they went out of the county. They went to college over there at Livingston for their seminar, if you want to put it that way."

14

15

We adopted a desegregation plan in June, 1965, I believe. U.S. Ex. 3A is the minutes for the February 26, 1966 meeting of the Board of Education. Page 89 of the minutes book which has been marked U.S. Ex. 3B is for June 8, 1965 meeting, and reflects that we agreed to submit a freedom of choice plan for the county schools.

16

17

U.S. Ex. 3C is a plan we submitted on June 11, 1965 to HEW it includes the cover letter to Mr. Sealey.

U.S. Ex. 3D is another letter in our negotiating with HEW. This is dated August 27 to John Crager. The next letter is dated August 19, and it is to Mr. Sealey, after having a telephone call from him. The last letter was the final acceptance of the plan and there are two pages to that letter.

18

U.S. Ex. 3E is another letter, dated October 27, 1965, making a final revision with respect to our freedom of choice plan. This letter is to Mr. Dodds.

The plan we submitted was a combination of freedom of choice in geographic zones with every Negro child in the county having the opportunity to attend a formerly all-white school, if he so desires. Any child in group 2 can attend any school in that area and it is the same for groups 1, 3, and 4. He would have to live in that area which would save us from running buses from one end of the county to the other.

19

In 1965, at the recommendation or suggestion or order of HEW. We held a choice period during the first ten days of school. At that time, we did not have a single applicant who chose to attend a school of the opposite race. "However, we did have some that chose to leave our county school and go to the city school here in Linden which caused us to lose school money because of additional transportation."

U.S. Ex. 3E, the letter to Mr. Dodds in 1965 states "[t]he principals will meet on desegregated basis when it is deemed necessary. 1966-67, all faculty and faculty in-service programs will be desegregated." Now, by that I simply meant "I was not going to set up and beat those people into integrating. If we had something beneficial to both groups, we would meet on an integrated basis. We have not had integrated faculty meetings, we had them meet in small portions."

20

The County Board has not held faculty meetings this year. The white teachers have a professional group and when they meet is left entirely up to them. The County Board has nothing to do with that and we have not had any in-service programs as yet this fall. We've had integrated principal meetings a number of times.

I have not met with the two white principals this year. I have talked to each one of them individually, like when they come for a conference. We have met with practically all the Negro principals in regard to Title I funds, which do not affect the white schools. When I said "the interest of all" in my letter I meant that I'm not interested in just setting up a meeting just to tell HEW or the Department

21

of Justice or anyone else that we are meeting on an integrated basis. When we took up something in which both groups would take mutual interest we would meet together. That has not happened since the year started.

22

Paragraph 5 of my letter to Mr. Dodds states that we will amend the letter we send to parents to assure that every child or parent understands that they can make a choice of schools regardless of their race.

HEW seems to have thought that my letter was too difficult to understand, but I didn't think so. I don't think anyone could have misinterpreted the meaning of my letter.

With U.S. Ex. 3F is a letter which every parent in the county received this past April. It explains that they could send their child to any school listed on the choice form. The choice form pertained to their particular school area and we had a different form for each area. This second sheet of 3F is the form for the southern group. Every form included a white school or formerly all-white.

23

The Marengo County Board has never executed a 441-B form, but it has considered that matter.

U.S. Ex. 4 is a letter from me to my board members informing them of a meeting on Friday, May 27, which was to be held for the purpose of discussing local legislation, the new Guidelines and other items of business. At this meeting, we decided not to sign a 441-B form until the courts could resolve the legality of the 441-B requirement. That meeting, however, was not recorded, because we didn't take any official action. "When you don't do anything, you don't want to put that down where the public can read about it."

24

U.S. Ex. 5 is a letter I wrote to Governor Wallace on June 13 concerning the action of the Marengo County Board of Education with respect to 441-B forms, telling him that HEW has given us twenty days to answer charges. U.S. Ex. 5A is a letter from Dr. Meadows dated July, 1966. I received no reply from the Governor with respect to my June 13th letter, but I got a letter from Dr. Meadows, and assume that the Governor turned my correspondence over to Dr. Meadows.

25

U.S. Exs. 6A, 6B, and 6C are correspondence between Dr. Howe and myself. The first letter is from me to Dr. Howe dated June 13. The second letter, dated June 21, is from Dr. Howe to me, and the third letter, dated July 18, is directed to me from the attorney for the Department Health, Education and Welfare.

26

Fifteen Negro children made application to attend white schools for the 1966-67 school year. I wrote each one of them a letter asking that they meet with me at my office. Only one set of parents came, and I eventually had to go "chase them down and talk to them in their homes." No Negro children actually enrolled at the white schools and no white children chose to attend Negro schools.

27

U.S. Ex. 7A is a directory of the white teachers, and 7B the Negro teachers in this county. On 7B, Wesley Chapel is listed, but that has since been consolidated with Marengo.

28

We have three Negro high schools and fourteen Negro schools which feed into them. The fourteen schools feed into the two school systems, particularly Linden, not so much Demopolis. The feeder system generally corresponds with the map in U.S. Ex. 2 so that the Negro elementary and junior high schools in group 4 which feed into the John Essex School, those in group 1 into Marengo, group 2 into County Training and groups 2 and 3 into Linden.

29

We have one Negro student riding a white county bus going to Linden School. We run buses to the school which the children attend. If a Negro child goes to a white school, he rides the white bus. We have several buses that serve more than one school, but no bus that serves both white and Negro schools. At times, the Negro and white bus routes overlap.

30

Bus drivers are Negro for the Negro students and white for the white students, except that one Negro child I mentioned. White bus drivers go to white schools and Negro bus drivers to Negro schools. However, we have an integrated school here in Linden. Does one Negro child in the white school make an integrated school or not? Nobody has defined it yet, but actually, "all our schools are very integrated. We got maintenance shop, I go into the Negro schools, maintenance crew and shop crew, we got Negro maintenance men that go to white schools, we've pretty well integrated."

31

U.S. Ex. 8A is the October payroll for the Negro bus drivers, and 8B the payroll for the white bus drivers. All bus drivers, Negro and white, get \$125 a month to drive a bus. Those that are making more are working within the school. The white people do extra work at the white schools, and that money is for the most part paid by the local schools who reimburse us. It is generally janitorial work that these people do and we pay \$150 a month for janitor service at both white and Negro schools that have janitors. This will include the five high schools and some of the larger junior highs. But with respect to the high schools, the white schools take their \$150 a month and give \$75 each to two bus drivers. At the Negro school, however, they prefer not to use the bus driver but hire a separate janitor for \$150 a month.

32

U.S. Ex. 9 is the annual attendance for transportation at the public schools for 1965-66. On page 2(a) of the exhibit, white and non-white are written in at the top of the page. These were written in by my office, and we also keep files of the graduates and withdrawals from our schools by race.

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At the present time, I have not made plans to hire any Negro teachers for white schools next year, other than the fact that I have informed all my Negro teachers that if they wish to teach in a white school to make application with me at my office. I have made no plans for white teachers to teach in Negro schools, and, with respect to allow busing system in the future, the present plan of integration is simply routing the buses to the schools. If Negro children make applications to white schools, they ride the bus going to that particular school and the same would be true of a white child attending a Negro school. Our plan also will include having a bus serve two schools as long as they were all Negro.

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We have done a lot as far as desegregating our filing system is concerned. About the only way we still keep our files separate are the list of graduates and withdrawals. Of course, we have a payroll by school and naturally if the schools are all Negro, they are going to be separate. Our attendance reports that go to the state, I believe, are on a single list.

Our teacher application blank and the school bus driver application blank use to refer to race, but we eliminated that. I can assure you this directory (U.S. Ex. 9) from now on is going to be the same. "If it will make you happy to integrate the directories, we will darn sure do it. If there is a demand for it, we will certainly do it."

37

I expect we will have some student desegregation next year. "There will be a few that can be paid or brain washed or pressured, that will be the number." If money becomes available, I intend to consolidate our schools so that there will be six schools in our system, and I have no objection to any white children wanting to go to Negro schools. As long as Congress says it is alright, I will stay with freedom of choice desegregation plans.

With respect to the consolidation I intend to keep the three high schools and probably have three more junior high schools. We intend to have

38

six to eight schools. The six schools I had in mind are presently all Negro making a total of about eight schools. It would be the five high schools I now have, plus probably Faunsdale, Coxheh, and Palmetto.

I attended two meetings with respect to desegregation and all my board members and other superintendents were invited. The state hasn't said anything, but, "of course, Governor Wallace made a couple of real high-powered speeches." "You know him and you know what he advocates." In essence, he said not to do anything more than we had to. He also said HEW who asking more than the law required.

39

We asked the state to conduct a survey of our schools in 1961 or 1962 and as a result of that survey, a number of schools were disapproved. However, I have closed about 15 or 20 schools in the five years since I became superintendent. These were closed because of the facilities rather than state recommendation, and because there were not enough teachers.

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Very few children are transported to our approved schools. The ones that were not approved were kept open for the people who lived nearby. The state has never disapproved money for the transportation of those children.

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With respect to construction, I submit plans to the State [Department of Education] and also to the State Building Commission. Both either approve or disapprove. The Building Commission is concerned with the type of building, and, of course, the State Department of Education is concerned with the location of the school.

42

With respect to school construction since I took over superintendent, the first was when we had jurisdiction over the Negro school plant here in Linden. We constructed two Negro schools in Linden, classrooms at Thomaston which was a county training school, a partial building at Sweet Water which is a white school, and a building at Marengo School. We also put in gymnasiums and cafeterias at two places, and a complete school and gymnasium at John Essex. The latter school is a major school center, and very few white people live in that area.

The majority of the building at the Negro schools was done with state funds, but Title I money was used for the two cafeterias.

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I would hope that our building projects would make the Negroes more satisfied with the schools they attend, but that is not the particular reason why we spent more money on Negroes schools. It was because they needed more. "We are not going to buy them off, and I don't think it could be done because " we don't have money to match some of the people who are going to pay them to come.

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The state provides us with vocational units and reports on our vocational education plan are sent to the state and approved by them.

We do not have a special education unit. We have requested them, but so far have not received any. The main problem here is getting parents, both white and Negro, to admit that their children are slow learners. It is difficult to get the required number of students in order to qualify for a teacher unit. We are handling a remedial reading course during the summer, and we are trying to get special equipment for these students and also an additional teacher for slow learners. These are coming through Title I.

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We have never applied to the state for extra units to equalize our schools.

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Our teachers have certificates issued by the State Department of Education.

We have meetings of superintendents for the western part of Alabama and we invite people from the State Department of Education to attend our meetings so that we can ask questions or get information. For example, last week we had the Title I people from the state come down to answer questions.

48

Four of our high schools, County High, Sweet Water, Marengo, and County Training. County Training is not fully accredited. We couldn't get a librarian, but I am sure they will accredit us. We did not make any effort to get a white librarian for the school. We can't get a white librarian for the white school, much

less for Negro. We make accreditation reports and occasionally they will investigate a school where there is something questionable.

We plan to have someone from the State Department visit the John Essex School. There probably will be different people, one for the science department, one for the library department, and so on.

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I don't expect the teachers in Essex School will present any problem concerning accreditation.

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Recently we hired a Negro teacher with two years of college because none were available who had AB degrees. We didn't have any applications from white teachers for that position.

By law, we must use textbooks approved by the state.

U.S. Ex. 10 is the inventory of textbooks we have at the various schools of our system. Some of these inventories are listed as 1966, while other say 1965. The ones saying 1965 were used by my secretary instead of getting a complete set for 1966, but they are all for the year 1966. For example, the County Training School grade 1 in column 5 where it says number of copies on hand, 6-30-65, you can read 6-30-66. These copies or the originals are turned into the state.

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U.S. Ex. 11 is the annual attendance report for 1965-66 which shows the number of students enrolled at each school and the average daily attendance.

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U.S. Ex. 12A, 12B and 12C are financial statements for 1962-63, and two copies of the 1963-64 statement, respectively.

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U.S. Ex. 13A is an attendance report for 1962-63 and 13B is the attendance report for 1963-64. These annual reports are sent to the state and show the number of students by race.

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U.S. Ex. 14A and B are statements from the State's Insurance Fund showing the cost of our insurance for current year. U.S. Ex. 14A shows the value of each building in the system that is insured, and the value of its contents. After I set these values, it is approved by my local board and then turned over to the State Department of Finance. The "C" in front of the names of the some of the schools designates a Negro school. On page 1 of U.S. Ex. 14A from Marengo County School to Coxheath School are all white, then from Coxheath down to Sweet Water is all colored. Sweet Water is a white school, County Training is a Negro school and all the buildings on page 2 are Negro schools. Marengo High and Marengo County Training School are Negro, while Marengo County High School is white.

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U.S. Ex. 15 is a State Insurance Inspector's report of the conditions of our schools for the current year. Copies of these go to the State Insurance Department and there is a report on each insured building.

57

The minutes of the October 1, 1963 Board meeting reflect that resolution number 9 was adopted. This resolution directed that \$500 be given for library uses at Sweet Water, Thomaston, Marengo and County Training. Essex was not given money at that time, because their library was inadequate and they didn't have a place to put the books. The minutes for the October 1, 1965 Board meeting reflects that Sweet Water, Thomaston, County Training, John Essex and Marengo be allocated \$500 for their library.

58

Resolution number 7 for the minutes of the October 26, 1965 meeting of our Board says that the following funds for janitorial help will be given to the schools at Thomaston, \$60 for one person, \$60 for another person; Sweet Water, \$60 for one person, \$60 for another person; Faunsdale, which is a junior high school, \$50 and Palmetto \$50. Part of that was out of context because we allocated \$150 this year while last year it was \$120 for each school for janitorial service. The junior high schools don't use full-time janitors. We now provide janitors at Faunsdale, Coxheath, Palmetto and Jefferson Junior High School. And they received \$75 this year.

59

U.S. Ex. 16 is an inventory of all the property owned by the County Board of Education. It is the property at our schools belonging to the County Board of Education. The first figure at each school is the amount that has been accumulated up to the dates shown on the first line. The other entries are additions since that time.

60-61

DESCRIPTION OF EXHIBITS

DEPOSITION OF RAMSEY (MARENGO)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	6-7	Monthly attendance report for the Marengo County Schools, September, 1966.
U.S. 2	11	Map showing the geographic locations of the Marengo County Schools.
U.S. 3A	16	Minutes of the February 26, 1965 Board of Education meeting.
U.S. 3B	17	Minutes of the June 8, 1965 Marengo County Board of Education meeting.
U.S. 3C	17	Letter, June 11, 1965, from McKee and Ramsey to Sealy, transmittal letter and desegregation plan.
U.S. 3D	17	Letter, August 27, 1965, Ramsey to Prager. Letter, August 19, 1965, Ramsey to Seely. Supplement to Marengo County Desegregation Plan.
U.S. 3E	18-20	Letter, October 27, 1965, Ramsey to Dobbs.
U.S. 3F	23	Letter, April 1, 1966, Ramsey to Parents.
U.S. 4	24	Letter, May 27, 1966, Ramsey to Board members announcing meeting.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 5	25	Letter, June 13, 1966, Ramsey to Wallace.
U.S. 5A	25-26	Letter, July 19, 1966, Meadows to Davis.
U.S. 6A	26-27	Letter, June 13, 1966, Ramsey to Howe.
U.S. 6B	26-27	Letter, June 21, 1966, Howe to Ramsey.
U.S. 6C	26-27	Letter, July 18, 1966, Ramsey to Davis, copy to Meadows.
U.S. 7A	28-29	Teacher Directory for Marengo County and Sweetwater High, 1966-67.
U.S. 7B	28-29	Teacher Directory, for Negro Schools, 1966-67.
U.S. 8A	31-32	Monthly payroll for Negro bus drivers, September 26--October 21, 1966.
U.S. 8B	31-32	Monthly payroll for white bus drivers, September 26--October 21, 1966.
U.S. 9	33-34	Annual Report, attendance and transportation, Marengo County Schools, 1965-66.
U.S. 10	51-52	Inventory and Annual Report of State-owned textbooks at Marengo County Schools, 1964-65.
U.S. 11	51-52	Annual Attendance Report for Marengo County Schools, 1965-66.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 12A	52-53	Draft of Financial Statement, Marengo County, 1963-64.
U.S. 12B	52-54	Financial Statement, Marengo County, 1963-64.
U.S. 12C	52-54	Financial Statement, Marengo County, 1965-66.
U.S. 13A	52-54	Annual Attendance Report, Marengo County, 1962-63.
U.S. 13B	52-54	Annual Attendance Report, Marengo County, 1963-64.
U.S. 14A	53-56	Insurance statement, Marengo County Schools, October 1, 1966.
U.S. 14B	53-56	Insurance statement, Marengo County Schools, November 1, 1966.
U.S. 15	57-61	State Insurance Fund, summary report for Marengo County Schools October 28, 1966.
		State Insurance Fund Inspection Report for each school in the Marengo County System.
U.S. 16	53, 59-61	Inventory Record, Marengo County Schools, 1963-1966.

WARREN N. RICHARDS
SUPERINTENDENT OF RUSSELL COUNTY SCHOOLS

Direct Examination by Mr. Frankland

Page

My name is Warren N. Richards. I am the Superintendent of Education, Russell County. I have been superintendent since July 1, 1962. Previous to that I was assistant superintendent of schools, Phoenix City. As superintendent of schools I attend all board meetings. I am the secretary of the board. I make recommendations to the board and the board acts on them. I have authority to make day to day decisions. These decisions are not of a policy manner.

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The county is rural about 600 square miles. The northeast section around Phoenix City is the most heavily populated. Almost the southern half of the county would be predominately Negro.

There are fourteen schools throughout the county system. Russell County Training School, grades 1-12, predominately Negro, 34 teachers. Total enrollment 953. At this school we have a special class for educable retarded children, 13 in all.

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Mt. Olive School, grades 1-12, 33 teachers, predominately Negro, total enrollment 965, is about ten miles south on highway 165.

9

Chavala High School, grades 1-12, located in Seale, predominately white, 32 teachers, total enrollment 752. It has a special class of mentally retarded children, eleven in all.

Oliver High School, located at Seale, predominately Negro, 12 grades, 16 teachers, total enrollment 431.

10

Glennville School, a few miles from Barbour County, grades 7-12, fourteen teachers, 285 students, predominately Negro.

Ladonia Elementary School, about five miles west on highway 80, grades 1-8, 21 teachers, total enrollment 643, predominately white.

Russell County High School, in Huntsboro, grades 1-12, 10 teachers, total enrollment 165 white.

Pittsview Elementary School, on highway 431 in the southern part of the county, eight teachers, six grades, 263 students, a Negro school.

Sand Fort Elementary School, northwest of Seale, eight grades, eight teachers, 185 children, a Negro school.

11

Wills Valley, northwest near Lee Castle, eight teachers, 267 students, a Negro school.

Dixie Elementary School, fifteen miles from here on highway 80, eight grades, six teachers, 128 students, predominantly white school.

Cottonton Elementary School, in Cottonton, six grades, three teachers, 73 students, predominantly Negro school.

Mt. Sinai Elementary School, in Hatchechubbee, six teachers, 144 students, six grades, predominantly Negro school.

St. James Elementary School, near Cottonton, six grades, five teachers, 142 children, a Negro school. 12

In those schools which were predominantly Negro there are no white students. In the predominantly white schools there are 35 Negro students enrolled at Chavala High School, 17 Negroes at Dixie Elementary-Junior High, and 12 at Ladonia Elementary School, a total of 64 in the system. To my knowledge there have been no Negro students withdrawn from predominantly white schools.

There were approximately 70 Negro students exercising a choice to attend a white school. I did not compile a list of all the students who exercise forms but put the folders for each school together. 13

At the white schools there are all-white teachers, at the Negro schools there are all Negro teachers.

We do not have geographic boundaries for attendance areas. The only boundary we observe is the extent of the county excluding Phoenix City. To my knowledge there are no students who reside in the Phoenix City who attend schools operated by the county. The county does not transport any student into the city system. A student who lives in Phoenix City would not have a choice to attend schools in Russell County. There is a choice of those who live in Russell County to go to the Phoenix City schools because they have a district fee situation that we don't have. 15

Around June 1965 the county adopted a freedom of choice plan. Prior to 1965 there were no Negro students in white schools and no faculty desegregation. Any child may select any school they wish to attend, and all twelve grades were covered. Notices were sent home with the children and put in the paper. Last year eleven Negro students attended formerly all-white schools. There was no integration or faculty desegregation. 16 17

Russell County adopted an assurance of compliance form for federal financial assistance in 1965-66. For 1966-67 Russell County did not file a Form 441-B. We sent a letter to the Commissioner stating we would operate under the 1965 plan. 18

In 1965-66 we received federal financial assistance. Under Public Law 89-10 roughly \$340,000. Title 2, \$20,000. Public Law 875, \$51,000. Vocational program, \$25,000. I have no idea off-hand what we received from NDEA for purchasing certain materials.

The minutes of April 12, 1966 read a delegation of 25 to 30 patrons requested the board not to sign Form 441-B. The board moved and seconded not to file Form 441-B and sent a letter to the Commissioner of Education and a copy to the state superintendent and that the instructions received from the state office will be observed as received relative to signing such form. 20 21

U.S. Ex. 1 is a copy of a letter sent to Commissioner Howe regarding the board's resolution not to file 441-B.

We have a fairly large construction program underway in Russell County. There are eleven projects all totaled. They fall in three categories. One category being construction of a central kitchen located at the Seale, Alabama area to provide hot lunches for some eight schools, I think. The schools are predominantly Negro. One or two white schools may operate under the central kitchen. The second category of construction is with local funds. An addition to Ladonia School and one to the Chavala School, classrooms and restrooms. At Ladonia, five classrooms and two restrooms; at Chavala, three classrooms and two restrooms. 22 23

The first project was financed with federal funds; the second on a local warrant.

The third category are eight projects financed by the \$116,000,000 state bond issue. It is to improve the facilities and up-grade existing accommodations, in other words getting rid of the outhouses, pot-bellied stoves. These projects are predominantly at Negro schools. The total amount of the state funded projects in Russell Count available to us is \$392,765. 24 25

We sold some warrants to finance the local building. The warrants themselves totaled \$118,492. We submitted the proper forms that an Alabama Act prescribed to the State in order to get the warrants. The state approved the issuance of the warrants and they were sold to the public. Construction financed under state funds, I believe, we submit these projects for approval to the Building Commission on the State level. 26

U.S. Ex. 2 is a letter sent to Mr. C. G. Horton, School Plant Consultant, State Board of Education dated January 31, 1964. The purpose of forwarding such a letter to Mr. Horton is that he is a member of the state survey team who on request visit school systems and provide suggestions concerning school plants, locations of construction, etc. Mr. Horton doesn't approve construction projects. 27

He is part of the survey team that recommends that a building might be constructed here, or possibly that we should look into some place else. We use his experience and advice. We have a great deal of regard for his opinion. We had a survey in 1964. Some of his recommendations we follow and some we do not. We have been implementing the survey by and large.

If we are going into a new school site before we let a contract for a particular building we need the approval of the state consultant. If we already have a site approved for a school and add on to this we don't need their approval. Some times we occupy buildings before the state runs a final inspection. The purpose of the inspection is part of Building Commission of the Public Schools and Colleges. The contract goes through them; they pay the architect, therefore they inspect them, I guess, to validate the payment. We recommend the architect; they enter into the contract with the architect but we recommend them. I don't know of an approved list of architects. Financing of these projects is not in the regular budgets. A \$116,000,000 bond issue handles the money for us.

We submit our budget to the state for approval. That is in October. The fiscal year is from October 1 to September 30.

You can make changes or additions to your budget that you submit in October because it's only an estimate. We are talking in terms of using what we received differently from what we anticipate in the budget. The minimum program as appropriated by the state is included in the budget. We receive state funds for vocational education. We have one year in the vocational agriculture and one year in a vocational home economics at Chavala High School and Glennville High School. Chavala High School is the white school and Glennville the Negro school. Students who do not live in that area have an opportunity to transfer at the proper time if they want to take that course.

I am not aware of any students who live a great distance from those schools who transferred to those schools.

For federally financed programs, we generally submit the programs to the state agency for approval. We go through them for all programs except things like head start. In all the federal programs we participate in the money comes through the state agency. On the vocational program its a reimbursable one. We pay expenses and the state reimburses us. Title I is paid in advance on an estimate basis. Public Law 875, the federal impact program the funds come to us in a lump; they don't go through the state. The money we received from the state on federal programs we report at the end of a year. The financial report does this. It says where it came from and where it went. If we have any money left over from a federal program as far as I know we return it. That would be under Title I money. Money we receive from federal impact children goes in the general fund and we may carry over a surplus.

We do as much as we can with our transportation money. We have 'x' number of dollars for transporting and we try to transport the number of children where they need to go and it costs us so much. We report revenues and expenditures on our budget and finance statement to the state. We show the number of children transported and the distance they come to attend schools. This is the basis used to determine the allocation of our minimum program fund.

If we want to purchase a bus we usually include it in the budget for the next year. The state runs a purchasing pool that we may participate in. If we do that the state approves the purchase of the bus. We do not need the state's approval to sell a bus. Such revenue can be put into the general fund. 36

Russell County follows the approved state curriculum. We don't need to ask the state's approval to add courses to our curriculum. We follow the approved textbooks that the state has established; we can buy only those books they have on a list. If we want any other we might buy them. If we want a book not on the state list we simply write a purchase order and buy it, we don't need approval of the state. 37

We have several factors enter into teacher units. We have an accredited high school. Where we are accredited we strive to continue it by providing the number of teachers to keep the teacher roll in proportion where it should be and teachers that will provide expansion and curriculum and services to the children. We employ the teachers that we can pay. If you find out you don't have enough teacher units you go ahead and hire the teachers and pay them as you can. I think we are thirteen teachers over state allocation this year. 38

U.S. Ex. 3 is a letter to Mr. O. P. Richardson asking information about children attending school out of the district, dated May 29, 1963. Teaching units are allocated on the prior year's attendance record. Phoenix City paid 'x' dollars for educating our children. In 1963 Phoenix City decided to charge \$45 for county students who went to city schools. That brought about the problem. We tried to determine whether we could get more pupil-teacher units from the state to reflect the increased enrollment. Teacher units are allocated on the prior year's attendance records. When a transfer of this nature exists there would be no way this school system benefited from this attendance of the other school system unless there was an agreement between the school systems. It is possible to transfer units from one system to another. An agreement between the systems would be the first step to transfer these units. It is approved by the state. 39 40

I attended meetings in 1965 that were called by the State Superintendent but I don't remember the date. It is possible that there was one called just prior to the beginning of school in 1965. 41

U.S. Ex. 4 is a release from State Superintendent Meadows - a resolution of September 2, 1965. I recall attending a meeting in September 1965 in Montgomery when the Governor spoke. The nature of the Governor's remarks was the legality of the guidelines. He said things having to do with the signing of 441-B. His legal advisors and others, I don't remember their names, cited reasons why these were not valid. The Governor made recommendations that we should not sign anything that wasn't legal. 42

U.S. Ex. 5 is a release dated March 31, 1966 to the Alabama members of the House of Representatives. It is a resolution addressed to the county and city superintendents of education and executive officers of the county and city boards of education. An official assembly March 31, 1966 passed the following resolution. I recall attending that meeting. As best I recall I received a mimeographed notice possibly from the State Department of Education. If I remember correctly, the Governor and members of his staff were present and spoke. In essence, the Governor said the guidelines were illegal and don't sign the forms. The Governor, at that meeting, recommended just don't sign them. If it is illegal, don't sign them. The resolution is marked as U.S. Ex. 5. I don't know what triggered this resolution. This is just part of the conference. This resolution was apparently adopted by the Conference as a whole. I'm not too sure. 43 44

U.S. Ex. 6 is a release dated May 16, 1966 from Dr. Meadows. It's a resolution unanimously approved by the Governor, Lt. Governor the State Superintendent, the Speaker of the House, and the Alabama Congressional Delegation dated May 13, 1966. 46

From time to time throughout the year we have attended meetings called by the State Superintendent. Occasionally the Governor may be present at one of these. I would say I don't know the March 31, 1966 meeting called by Superintendent Meadows for the Governor.

Cross Examination by Mr. Sikes

The members of the Board of Education are white. Personnel in the office are both white and Negro. The Negroes on the staff vary from clerical and supervisory work. My office employees are an elementary supervisor, who is Negro, an attendance supervisor who is Negro, coordinator of federal projects, who is white, three directors, another coordinator, one white, one Negro and one not presently filled; my bookkeeper is white, and I have a Negro clerk. 47 48

The minimum program is a formula developed in 1938. It seeks to distribute the resources the state provides, minimum financial funds 49

for educating throughout the state. One of our major bases for distribution of funds is based on the number of children who attend school. There is where we get into ADA. Teacher units are allocated on an average daily attendance in various schools and certain grade levels. Teacher unit for elementary teachers is 29 children ADA and for high school it is 28. The size of the school enters into it. The state looks at the annual attendance report and determines the number of teacher units which should be allocated. After the state allocates our teacher units we can hire as many teachers as we can pay. If we hired less teachers than teacher units earned they could not receive a larger salary.

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Funds for our transportation system comes from the state also. The state exercises no control on the routes we assign busses.

We can hire teachers who do not have what we term a regular certificate. They don't have to be approved by the state. We must have a certificate in order to pay them but we can get them. We submit a list of teachers to the state but this is after employment, not prior to employment.

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Last year, 1965-66, we operated under the freedom of choice plan. We had a lot of Negro students attending previously all-white schools. That was in three schools. I believe they attended ten out of twelve grades.

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At the present time there are some 64 Negro pupils attending previously all white schools. That is in three schools. They are in twelve grades. Yes, the percentage increase - a figure of 64 over the previous figure of eleven - is nearly 600%.

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I think there is one thing we should put in here. In school year 65-66 we had three white children attending the formerly all Negro school. We do not have any white children attending previously all-Negro schools this year.

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Copies of the forms are available in all schools. They are available to all students regardless of race. The plan was published in the newspaper. The information was available through the radio and television. There were approximately 70 requests for transfers by Negro students to formerly all white schools. I don't know how the eleven in the prior year fit into that category. The six or more who are not now attending previously all white schools have not been rejected by the Board. Yes, it is possible that these students may not be in school system at all this year. In our office we have not received a request, either by teacher or on behalf of a teacher, to transfer to a school, the predominant color of which is different from the race of that teacher. I have had Negro parents make requests for Negro students who are now attending previously all white schools to transfer to some other schools. But I haven't had Negro pupils make such requests. The requests were not granted.

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Under Public Law 89-10 a project was designed to define educational opportunities for children attending schools which were eligible under poverty classifications, to provide them better educational opportunity than they had in the past. We are continuing the projects this year that participated in last year. I understand that the Department of Health, Education and Welfare has neither cancelled nor deferred any projects, to my knowledge. 58

There are certain activities of the State Department that I consider advisory and certain capacities that are carrying out the rules and regulations of the legislature. It depends on what we are doing. The matter of teacher allocation and payment of salaries is set out by law. I get my instructions from the State Department of Education. If I want to add a room on the school, I may not ask them if we had the money in our funds and the Board of Education has said we will build this room. We may have better working relations if we go through the agencies. We do like to work together. 59

Re-direct Examination by Mr. Frankland

The enrollment figures which were given previously may not reflect all the students who should be enrolled in classes. There will be an increase in enrollment from now to Thanksgiving. I estimate 200 right now in this category. They are practically 100% Negro. The enrollment figures would probably be increased in subsequent monthly reports. 60

DESCRIPTION OF EXHIBITS
DEPOSITION OF WARREN N. RICHARDS
(RUSSELL COUNTY)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	20-21	Letter, April 12, 1966, Cooper, President of the Russell County Board of Education to Howe.
U.S. 2	26-27	Letter, January 31, 1964, Richards to Horton.
U.S. 3	39-41	Letter, May 29, 1963, Richards to Richardson, Assistant Director of the Division of Administration and Finance, Department of Education.
U.S. 4	41-43	Release by Meadows, September 3, 1965, of resolution of State Board of Education, September 2, 1965.
U.S. 5	43-45	Resolution passed by county and city superin- tendents, March 31, 1966.
U.S. 6	45-47	Release by Meadows, May 16, 1966, with resolution approved by Governor, etc.

WALTER J. RIDDLE
SUPERINTENDENT OF PHENIX CITY SCHOOLS

	<u>Page</u>
<u>Direct Examination by Mr. Frankland</u>	
My name is Walter James Riddle. I am Superintendent of Education, Phenix City School System. I became Superintendent on September 1, 1965. Prior to that I was principal of Central High, Phenix City for 4 years and Principal of Georgianna High, Georgianna, Alabama for 10 years. I am only an agent of the Board of Education but attend all meetings as secretary and have custody of the minutes.	4 5
U.S. Exhibit 1 is a map of Phenix City [Stipulation that map came from Superintendents records]. This map contains all the schools in the city system. Mother Mary Mission School is a Catholic private school noted on the map.	6
The enrollment figures, the grades taught, the number of teachers, and the predominant race for each school are:	7
North Girard High School has 983 students, grades 7-12, predominately Negro. We have 34 Negro teachers, 2 full time white teachers, one colored principal, one white curriculum director.	8
Central Elementary - 573 white and 7 Negro students, grades 1-6 and two kindergarten classes which are all white. We have 18 full time and two part-time teachers, and one principal, all white.	
Sommerville Elementary School - 166 students, 1-6, 6 teachers and one principal; all students and teachers are white.	9
Phenix City Elementary School - 301, 1-6, 11 teachers and one principal, all students and teachers are white.	
Girard Elementary - 329 white and 13 Negro students, grades 1-6, 12 full time and one part-time teacher, all white.	
West View Elementary - 338 students, grades 1-6, students are all Negro; 12 Negro teachers, one part-time white teacher. We have one white teacher who teaches music in these 3 schools.	10
Susie Allen Elementary - 454 Negro children, grades 1-6, 14 teachers and one principal, all Negro.	
Sherwood Elementary - 413 white children, grades 1-6, 13 teachers and one principal, all white.	

Central Junior High - 933 white and 87 Negro children, grades 7-9, 36 teachers, one principal, one assistant principal, all white. 11

Central High School - 698 white and 36 Negro children, grades 11 and 12, 33 teachers and one principal and one assistant principal, all white.

From those figures just given, there were no white students attending Negro schools.

U.S. Exhibit 2 -- faculty directory. I am indicating the race of the white faculty members at Negro schools and the Negro employee, Mr. James Merriweather, attendance supervisor, in the administrative office. I am writing Negro and white. All the others are of the same race as the predominant race of the students. 12

We don't have any specific line drawn as to what area the pupils have to attend school in. Students living outside the city limits can attend school within the city. They must pay an out of district fee. There are 78 of them. Some live in Georgia. The city school system has no bus transportation. The county doesn't provide transportation for those students. 13 15

We offer a freedom of choice to county students under the provisions we already stated. I don't know if city students have a freedom of choice of county schools. 16

The Board of Education adopted a freedom of choice plan for the 1965-66 school year. It was for the 1st, 10th, 11th, and 12th grades. This past year they were allowed to enter the 2nd, 7th, 8th, and 9th grades. Students were allowed to transfer to grades not desegregated this year provided they had a valid reason. I don't recall how many but none were declined in this group. Last year 25-30 Negro students attended formerly all-white schools. Our plan didn't ask for faculty desegregation. 17

Last year we signed an assurance of compliance form of the Department of Health, Education and Welfare. 18

For 1966-67 we signed 441-B, I believe, in March. The entry of the minutes on page 112, dated March 24, 1966, reads, "By unanimous vote the Board approved signing of form 441-B signifying compliance with the desegregation guidelines, March, 1966." Subsequent to that date we wrote a stipulation we would abide by the 1964 Civil Rights Act but reserved the right to not comply in the event a Court of competent jurisdiction ruled any part illegal as to the desegregation guidelines. 19

U.S. Exhibit 3. This is the resolution drawn by the Board, 20
June 16, 1966 sent in a letter to Commissioner Howe.

I can identify the minutes, page 117 and it says we changed 21
441-B to read "which the Federal Courts" established to be
contrary to the Civil Rights Act of 1964 where the stipulation
previously read, "Court of Competent Jurisdiction." The date
is July 13, 1966. Page 117 marked as U.S. Exhibit 4.

For 1966-67 approximately 141 Negro students exercised a
choice to attend formerly all white schools. None were re- 22
jected. To my knowledge 7 of those have withdrawn. I don't
know if they were included on the September 30 enrollment
figures I gave you before.

From time to time the local superintendents meet with the 23
state superintendent to discuss policies of education in the
state. We are notified by letter requesting our presence at
these meetings by the state superintendent.

I attended the meeting with the state superintendent on 24
March 31, 1966. The Governor and Dr. Meadows spoke. It was
in the auditorium at the office building at Montgomery. In
essence the Governor questioned the validity of the guidelines
and requested that we give further consideration to resending
441-B if we had signed it and not to sign it if we hadn't.

I attended a meeting on June 6th in Montgomery. I re- 25
ceived notification of the meeting by regular channels from the
State Superintendent of Education. U.S. Exhibit 5. This is a
copy of a letter I received from Dr. Meadows dated May 23, 1966
notifying us of the June 6 meeting.

Dr. Meadows, I recall, spoke at the June 6 meeting, 26
Governor Wallace too. A Mr. Satterwhite talked to us at one
of the meetings, also Lt. Governor Allen and Speaker Brewer.
We were discussing again the validity of the guidelines. As
such according to the Civil Rights Act of 1964. At that meet-
ing again the question was that we rescind form 441-B. I 27
hesitate to use the word request except we were asked to
consider it again.

Counsel stipulated that the following documents were taken
from the records in the office of the Superintendent of Educa-
tion, Phenix City.

U.S. Exhibit 6 is a letter from Dr. Meadows to Superinten-
dent Riddle dated May 11, 1966.

U.S. Exhibit 7 is a state Department of Education release dated May 19, 1966 from Dr. Meadows' office. Resolution of the state Department of Education commending Alabama Congressional Delegation for action taken in their meeting held in the Governor's office on May 13, 1966.

U.S. Exhibit 8 is a letter dated May 24, 1966 to Supt. Riddle from Dr. Meadows. Under authority of section 262 of the Alabama Constitution, Dr. Meadows requests no superintendent sign any agreement and if signed, withdraw the agreement regarding HEW Forms.

U.S. Exhibit 9 is a telegram dated June 10, 1966, addressed to Supt. Riddle signed George C. Wallace, James B. Allen and Albert P. Brewer requesting a copy of the letter I sent to HEW. Requesting status of school system with respect to HEW Form 441-B.

U.S. Exhibit 10 is a letter addressed to Honorable George C. Wallace from Supt. Riddle dated June 16, 1966 regarding telegram of June 14, 1966. 28

The Phenix City Board has made no definite commitment concerning desegregation of faculty.

U.S. Exhibit 11 is a letter dated May 27, 1966 to the Board of Education for the City of Phenix from George C. Wallace, Governor.

My letter of June 16 was in response to Governor Wallace's telegram of June 10 rather than as indicated in the letter as June 14. I don't recall any other telegram other than the June 10 one. 29

During the one year that I have been superintendent, we have had two projects for construction. One a multi-purpose room in Central High School and the other, renovation of the superintendent's office.

Final approval hasn't come for the construction of the art room but it was started in the past school year. I am referring to the architect's approval. We need the final approval of the state architect as to whether or not the construction is in compliance with the plans we sought approval on. We submit the plans to the state architect for approval of the drawings, but to begin construction projects you don't have to have the state approval. 30

There was a survey recently by Mr. Horton, State Department of Education, approving two potential sites. One is at the 31

south end of Phenix City, the other is on the property of the Board of Education in the northwest part of the property in which South Girard High School is now located. The area of the first site would be about 50-50 as far as race is concerned. The area of the Board of Education property would be predominantly Negro.

We were in accordance with the recommendations the State survey team made. The actual purchase of a new site has to be approved by Mr. Horton and then in order to begin construction of the new site, building plans have to be approved by Mr. Horton's office. When the building is constructed the state agent of the Board of Education inspects the building. We usually occupy a building but there must be a final inspection from the state before you can have it approved as far as the contract is concerned. 32

School construction can be financed through state bond issue or through local revenue. The local board of education can issue warrants to finance buildings provided they have the tax revenue. I don't think we need the approval of the state Department of Education to issue warrants. 33 34

The Budget is sent to the State each year. It goes to the finance department and is sent in during month of October. We are allowed 10% leeway on the budget so that we might amend the budget within that range. Money for teachers' salaries, construction, and capital outlay must go for that. At the end of the fiscal year if there is a surplus, I think, for instance, we could transfer from salaries of janitorial personnel to maintenance or something like that. 35

When we submit our budget we also request our federal financial assistance in the area of vocational teachers. When we submit our budget we anticipate the contract we feel we have in which the federal government does contribute a part. We submit our Title I program to the State. The funds are allocated directly from the State to us. In the past year under Title I we received money for construction, equipment and supplies, consultant coordinator and renovation.

Our Title I funds come to us monthly and we put them under a separate bank account. At the present time we do not have an indication whether we can carry over a surplus into the next year on Title I funds. Our funds under the vocational education program come from both state and federal. They are included in the regular budget. 36 37

The Phenix City School System follows the approved state course of study. We are allowed to vary as far as the 38

curriculum is concerned under certain conditions. For textbooks we have requisition forms to the state and ask to obtain the number of books we want for each grade. We requisition these books from the state textbooks department who in turn orders them and ships them to us. They handle the financing of these acquisitions. For a book not on the approved list we secure approval from the state superintendent. If he approves the use of the textbook we can use it against the free textbook fund. If a book is not on the so called approved textbook list you can use it in your system and it can be taken out of your textbook money provided it is approved by the State Department of Education. You write a letter to the superintendent requesting the use of books describing what grades it is for to get approval. 39

On the minimum fund program, teacher units are computed through the average daily attendance of students enrolled in the system. On the basis of the teacher unit earned, you are allocated a certain amount of money. This money is to be expended on teacher salaries. It is expended exclusively on teacher salaries. We take the teacher allocations, the teachers earned on the ADA, and fill our quotas according to the needs of the schools. We try to give the schools the allocated number of teachers as earned under ADA. In fact, we have extra teachers, we have allocated more. They are not allocated from the state on the basis of different schools but only by total amount earned in the ADA to the Board to use the money in placing the teacher units where they feel they are needed. The allocation is on a county-wide basis, it come in one lump sum from the state to the board for the use of salary purposes. 40

Cross Examination by Mr. Sikes

Under the 1965-66 freedom of choice plan there were some 25 to 30 Negro pupils enrolled in previously all white schools. For 1966-67 under the same plan approximately 141 Negro students are attending previously all-white schools. In 1965-66 of the students who attended previously all-white school there were none in grades not covered by the plan. For this year there are 8 grades open under the plan. We have Negro students attending a previously all-white school in every grade. In 1965-66 we had teachers under the Title I program who worked in all schools. For this year we have four white teachers who are teaching in predominantly Negro schools and one white curriculum director in a Negro school. 41 42 43 44

No member of any state agency has threatened to cut off any of our school funds because of any actions the local board might take.

Our resolution on June 16, 1966 which we read in the minutes previously was communicated to HEW in a letter to Mr. Harold Howe, II. I had a phone call from HEW and I was advised they could not accept the stipulation as sent in by the Board and on that basis our money would be deferred. The Board meeting on July 13, 1966 took place after we had been informed by HEW our federal funds might be deferred because of the stipulation attached to Form 441-B. At that meeting we changed the wording of the resolution as previously indicated. This new resolution was communicated to HEW. They advised us that they could not accept the stipulation unless the changes were made to read "Federal Courts" instead of "Courts of Competent Jurisdiction."

Question, They told you they would cut off your federal funds unless you changed five or six or seven words of your resolution? Answer, Right.

Yes, information on freedom of choice plan was made equally available to all students of all races in the school system.

We do not receive money from the state under the minimum program to pay a specific teacher. We receive an allotment from the state based on average daily attendance in the system the year before. You can hire as many teachers as you want with the allotment of money. The Superintendent recommends the hiring of teachers and the board approves or disapproves. That is the local board of education.

The Phenix City School System textbooks are selected by the local textbook committee composed of a principal, supervisor and a teacher. The local people select the textbooks.

No, I have never been coerced or threatened by any agency or any official of the state government with respect to the operation of the local school system in Phenix City.

Re-direct Examination by Mr. Frankland

We have a white curriculum director to work within the South Girard High School, a Negro school. His function is to upgrade the instruction within the school. He only works in one school. He is paid out of Title I. funds. That's federal funds. I have never received a printed notice of deferral of funds from the Department of Health, Education and Welfare.

DESCRIPTION OF EXHIBITS

DEPOSITION OF WALTER J. RIDDLE (PHENIX CITY)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	6-7	Map of Phenix City with schools indicated.
U.S. 2	11-13	List of employees of the Phenix City School System.
U.S. 3	19-20	Letter, June 16, 1966, John O. Bryant, Chairman of the Phenix City Board of Education, to Commissioner Howe.
U.S. 4	21	Minutes of the Phenix City Board of Education, July 13, 1966, page 117.
U.S. 5	25	Letter, May 25, 1966, Meadows to members of County and City superintendents (Govt. Ex. 61).
U.S. 6	27-28	Letter, May 11, 1966, Meadows to Riddle (Govt. Ex. 33).
U.S. 7	27-28	Release by Meadows, May 19, 1966.
U.S. 8	27-28	Letter, May 24, 1966, Meadows to Riddle (Govt. Ex. 45).
U.S. 9	27-28	Telegram, June 10, 1966, Wallace, Allen and Brewer to Riddle (Govt. Ex. 71).
U.S. 10	27-28	Letter, June 16, 1966, Riddle to Wallace.
U.S. 11	27-28	Letter, May 27, 1966, Wallace to Riddle (Govt. Ex. 98).

LEON ROBERTS
SUPERINTENDENT OF DE KALB COUNTY SCHOOLS

Direct Examination by Mr. Ortenberg

Page

I have been Superintendent of Education in De Kalb County since July 1, 1965. Before that I was a classroom teacher at Sylvania High School in the De Kalb County School System. I am also the executive secretary of the De Kalb County Board of Education and in that capacity I attend all meetings of the Board of Education.

5
6

U.S. Ex. 1 is a complete list of all schools in the system. U.S. Ex. 2 is a map of De Kalb County, Alabama, [upon which the deponent marked the name and location of each school in the De Kalb County School System].

7
8

Most of the Negro students live in the area around Collinsville and go to the Gregory School. There are Negro students that reside near the Log Cabin School and they also attend the Gregory School. There are Negro students that live near the Valley Head School and as far as I know they all attend the Valley Head School. The Negro students who live near the Log Cabin School are transported to the Gregory School on De Kalb County school buses.

9

U.S. Ex. 3 is a chart prepared by me showing enrollment by race from 1963 to 1966 in the De Kalb County School System.

10

U.S. Ex. 4 is a directory of the De Kalb County teaching personnel by schools. The race is written in by the school. I don't list the teachers by race on the teacher roster. U.S. Ex. 4 was prepared since I received the subpoena.

11

The De Kalb County School System is not the only school system in the county. The other system is the Fort Payne City School System which is an independent system. There are students

residing in Fort Payne who attend school in De Kalb County and there are students who reside within the jurisdiction of the De Kalb County School System who attend schools in Fort Payne. 12

U.S. Ex. 5 is a partial report that was sent to the State Department of Education a few days ago of non-resident and resident students in the De Kalb County School System pertaining to the 1966-67 school year.

A student who resides outside the jurisdiction of the De Kalb County School System just appears at the school that he wishes to attend and asks to be registered. 13
14

[The following was read by the deponent from the Board Minutes of October 23, 1963] Students who live in the city limits of Fort Payne and who enroll in the Fort Payne City Schools may not transfer to a De Kalb County School unless his parents or guardians move into the De Kalb County School area outside Fort Payne and who enroll in De Kalb County Schools may not transfer to Fort Payne schools unless his parents move into the city limits of Fort Payne. Students who live in the city limits of Fort Payne and who enroll initially in a De Kalb County School may transfer to a Fort Payne School within one month of the date of his initial enrollment provided he is in good standing and students who live in De Kalb County and who enroll initially in a Fort Payne School may transfer from the Fort Payne School to a De Kalb County school within one month of the initial enrollment provided he is in good standing. The rules read from the Minutes from the Board of Education of De Kalb County with respect to the transfer of students between the Fort Payne City system and the De Kalb County system are still in effect to the extent that they do not conflict with the freedom of choice plan. If a student residing in Fort Payne desires to transfer to a school in De Kalb County and requests a freedom of choice form we give him one. 15
16

We have had one request this year to transfer from Fort Payne High School to Gregory School and the student's parents went first to the Superintendent of Fort Payne Schools and then came to my office and asked if that would be permitted and both Superintendents agreed that it would be all right to transfer and the student was transferred. The students listed on U.S. Ex. 5 did fill out the choice form.

17

All students who live on Lookout Mountain that have completed the 8th grade go to Fort Payne School. Students from the area west and north of Fort Payne, known as the Wills Valley area, by agreement come to Fort Payne Schools. It is difficult for them to go to other county schools. In this situation, it is not necessarily only after the 8th grade. All of these students on the Lookout Mountain area which is served by Adamsburg and Fincher, go to Fort Payne schools. I wouldn't say all of them, but most of them do. I believe they fill out choice forms for Fort Payne.

18

19

As I understand it, there is no financial arrangement between the systems. Each system is appropriated funds from the State based on the student enrollment in the system regardless of what system they live in according to the average daily attendance in the school system. Students who reside in De Kalb County and go to Fort Payne schools are accounted for on average daily attendance at the Fort Payne School. I think there was a formal agreement between the systems but I don't know what it is; it was made a long time before I was Superintendent, if there is one.

20

Transportation for students who reside in De Kalb County but who attend school in Fort Payne is provided by the De Kalb County School system and is paid for in part by the State Department of Education. [The department then agreed with a statement made by the Board attorney to the effect that the school system receives State funds appropriated directly from the legislature according to the number of students transported.]

21

Our first plan for desegregation was established and adopted May 28, 1965.

U.S. Ex. 6 is the freedom of choice plan that I provided in De Kalb County to the Board of Education. Under this plan, all students were required to fill out a choice form in order to register at the school they wanted to attend. 22

There is a provision in the plan for the desegregation of faculty and staff, but there was no desegregation of faculty during the 1965-66 school year.

No Negro students attended white schools during the 1965-66 school year. Prior to the adoption of the desegregation plan by the Board of Education, the schools in De Kalb County were segregated by race. 23

In preparation for the 1966-67 school year, we sent freedom of choice registration blanks to each student who had been enrolled in the school system the previous year. I received from the Department of Health, Education and Welfare a copy of the revised statement of policies and pursuant to the revised statement of policies I submitted a form known as 441-B. At a meeting on April 7, 1966, the Board passed a resolution authorizing the submission of HEW 441-B on or before April 15. I submitted the 441-B form on or before April 15. 24

U.S. Ex. 7 is a copy of HEW 441-B dated April 14, 1966, that was submitted by the De Kalb County Board of Education.

U.S. Ex. 8 is a letter written to Commissioner Howe informing him of the action of the Board rescinding the submission of HEW form 441-B. I am sure that we sent copies of the letter to Dr. Meadows and Governor Wallace. This is not a regular procedure. 25 26

U.S. Ex. 9 is a copy of HEW 441-B which was sent to the United States Office of Education August 12, 1966.

None of the choices made for the 1966-67 school year were rejected and none of the students who 27

chose schools withdrew from those schools that I am aware of. All students in the school system chose the school to attend and filled out a form making that choice. There has been no faculty desegregation for the 1966-67 school year.

The Whiten School burned down this summer. It is one of the schools that is indicated on the map but it is still in operation at churches in the area. It was not necessary to transfer any of the students out of the school but I believe this might be another instance in which we do have some that did transfer without requesting transfer. Some did go to the Geraldine School and perhaps some to Crossville, but the majority of them are going to school at church buildings. All of the students at the Whiten School are white and all of the students at the Geraldine and Crossville Schools are white. 28

U.S. Ex. 10 is a letter from Dr. Meadows, State Superintendent of Education, dated March 28, 1966. I attended the meeting referred to in this letter. I don't recall the name of all the speakers. The State Superintendent of Education and the Governor of Alabama were there. The meeting pertained to the HEW guidelines and it is no secret. Dr. Meadows objected to the guidelines. Generally he said that certain parts of the guidelines did not agree with the Civil Rights Act and that's the general impression I got. 29 31 33

U.S. Ex. 11 is a letter written to me by Dr. Meadows dated May 24, 1966. 34

U.S. Ex. 12 is a letter written to me by Dr. Meadows dated May 11, 1966.

U.S. Ex. 13 is a release from State Superintendent Meadows concerning the resolution of the State Board of Education sent to me and dated September 3, 1965. 35

U.S. Ex. 14 is a release sent to me by State Superintendent of Education, Dr. Meadows, dated September 22, 1966. 37

I attended a meeting with other local school officials in Montgomery on September 7, 1965. I did not attend a meeting in Montgomery on March 17, 1966. I did attend a meeting with other superintendents of schools on March 31, 1966. I have no record of having attended a meeting on April 6, 1966 with other school superintendents. I did attend a meeting on June 6, 1966 with other school superintendents. The June 6, 1966 meeting was held in Montgomery.

38

As best I recall, Superintendent Meadows was present. I do not recall whether the Governor of Alabama was present at that meeting. As I recall, State Superintendent Meadows was present on March 31, 1966. I am not sure; I don't remember whether the Governor of Alabama was present on March 31, 1966. Superintendent Meadows was present on September 7, 1965.

I think I could say yes, that the guidelines were discussed at those meetings.

39

The De Kalb County Board of Education holds title to the property upon which the schools in De Kalb County School System are located. The property was acquired from the State Board of Education, State of Alabama Board of Education on May 31, 1966. [The De Kalb County School Board attorney noted that all the property at one time was owned by the State of Alabama and that on the recommendation of the State Board, the State would deed it to the County if the County requested it]. [The deponent then read the whereas clauses from the deed which stated in part that the Board of Education of De Kalb County has certified to the State Superintendent of Education that the transfer is for the benefit of the public schools in De Kalb County, that the State Superintendent of Education with the approval of the Governor as negotiated this transfer and that it has been certified by the State Superintendent of Education to the Governor that the request for the transfer has been obtained and that all requirements of the law with respect thereto have been complied with and that such transfer of title is concurred in by the Governor.]

40

41

There are no plans at this time to reconstruct a school on the site of the Whiten School which was burned this summer. There have been additions recently to schools in De Kalb County. We have an addition under way at Ider School, Sylvania School, Plainview School, Geraldine and Crossville. In connection with those additions, the De Kalb County Board of Education hired an architect.

42

43

U.S. Ex. 15 is a letter to me from the State school architect, Mr. Marvin Killingsworth, Jr., dated July 13, 1966, with reference to architectural contracts for the additions to the schools. The letter approves the architectural contract.

U.S. Ex. 16 is a letter from Mr. Marvin Killingsworth, State school architect, approving the construction contract for the Geraldine School addition. U.S. Ex. 16 is dated July 1, 1966.

44

U.S. Ex. 17 is a letter dated July 22, 1966 to me from Mr. J. H. Boockholdt, coordinator of the Title I program for the State of Alabama, Department of Education.

45

There has been a survey of the De Kalb County School System conducted; I don't recall when it was completed. The survey was conducted by Mr. Horton who is with the State Department of Education.

46

U.S. Ex. 18 is a report of the partial survey of the De Kalb County Schools. It is the survey to which I referred, and it was completed in 1966. The maps at the end of the survey show the locations of the school pupils in this County. The first one is an elementary school map and we have a high school map. The third map says elementary and high school map. The third map does not refer to the same schools as were referred to in the first two maps, it shows the location of the Negro students in the County and it shows the location of the Gregory School. These documents accurately represent the residences of all the students in the De Kalb County system at the time the survey was taken as far as I know, and it approximates the residences of students in De Kalb County at this time.

47

48

Cross Examination by Mr. Crook

The De Kalb County Board of Education has responsibility for operating the public school system in De Kalb County. It exercises full and complete authority over all aspects of public education in the county. The De Kalb County Board of Education has the responsibility for assigning students and teachers in this county. It has always exercised that authority since I have been superintendent.

49

No other state agency or person outside the De Kalb County Board of Education has exercised or attempted to exercise the authority to assign students or teachers to the various schools in this county.

In addition to an interchange of students between the De Kalb County system and the Fort Payne system there is also some interchange of pupils between De Kalb County and other surrounding counties. Transfer among these various county and city systems is allowed freely. Any student who wants to attend a particular school is allowed to do so, whether he lives in the geographic boundaries of the city or county system. Any student can attend any school he presents himself to.

50

There were certain rules that I read from the minutes earlier, but any student who presents himself at any school can attend that school by a mutual understanding of the two principals [sic] if his attendance and everything at the other school has been satisfactory.

Negro students are allowed to transfer just as freely and on the same basis as white students, from one school system to another. The same procedure is followed for Negro students as for white students. I know of no instance in which such a transfer was denied. The rules I read from the minutes includes the only formal procedure.

51

The De Kalb County Board of Education adopted a freedom of choice desegregation plan in May, 1965. In the 1965-66 school year, no Negro pupils attended previously all white schools and no Negro pupils exercised a choice to so transfer.

52

There were requests by white teachers to go to other all white schools. I don't recall that any of those requests were denied. We only have one Negro school--Gregory. 53

For the 1965-66 and 1966-67 school years the freedom of choice forms were mailed directly to the parent of each student in the system. The same form was not used for both years.

Def. Ex. 1 is a freedom of choice registration form and letter to the parent. It was mailed directly to the parent. It lists every school in the system, but does not list schools in other counties or any of the city schools. It related to the 1965-66 school year. 54 55

Def. Ex. 2 is the choice form for the 1966-67 school year. It was sent out to all the parents of all the students. It lists every school in the county system.

Def. Ex. 3 is a choice form which we sent as a second choice for students that were enrolled at Gregory School. After our report on enrollment was sent to the U.S. Office of Education, showing no integration, we were requested to give a second choice to those students at Gregory School. This was at the end of the 1965-66 registration. We complied with that request. This form was sent only to Negro pupils. 56 57

All schools in the county system are listed. No Negro student requested to previously all white schools. We received no reaction from H.E.W. to our report of the second choice results. I don't recall having any correspondence from H.E.W. after that. That seemed to satisfy them. I do not recall that H.E.W. outlined any consequences that might follow from a failure to send out a second freedom of choice form. They did not threaten to cut off any funds at that point, as I recall. We complied with the request in an effort to comply with the law. 58 59

For the 1966-67 school year we received about seven forms from Negro pupils choosing to transfer to an all white school. All the requests were honored.

60

We presently have nineteen Negro pupils in previously all white schools. We have a school bus that has been carrying Negro pupils from the north end of the county all the way to Gregory School. This practice was not economically feasible so I asked the Board to stop that bus from going all the way from one end of the county to the other. The Board passed the resolution and since those Negro students in that area had no means of transportation to Gregory, they had no choice but to go to Valley Head.

None of them asked to go anywhere other than Valley Head. They were placed in a previously all white school because of the voluntary action of the County Board.

61

Since the freedom of choice plan has been in operation we have never had a Negro teacher request to be transferred to previously all white schools. The freedom of choice plan has a clause concerning faculty desegregation but no Negro teacher has exercised a choice to transfer.

62

We have never turned down a choice by a Negro student to enter a previously all white school.

We haven't had any white pupils or teachers exercise a choice to transfer to a previously all Negro school.

In putting our freedom of choice plan in effect and carrying it out, we have never had any discouragement or intimidation or harassment of any kind from the State Board of Education or any of its members, or Dr. Meadows, or Governor Wallace. None of those people ever attempted in any way to induce me not to comply with our freedom of choice plan.

63

There has never been any intimidation exercised by me or any faculty members of any student to exercise in any manner he wished, to my knowledge.

In May 1966 the Board of Education authorized the President of the Board to sign the 441-B. The rescission of the 441-B on May 30, 1966 was not the result of any orders from the State Board of Education, Dr. Meadows or the Governor. I had no orders. There was no intimidation or threats made against me or the local Board to induce us to rescind the previous action. I think it would be correct to say that the rescinding of the previous action was the result of local feelings. 64 65

We reversed ourselves and later approved the compliance form because of the knowledge that we must submit 441-B in order to be eligible for Federal Funds. We were not told by HEW that funds would be cut off. It was general knowledge that schools that did not comply and submit 441-B would receive deferrals. Deferral means the money is withheld. HEW communicated those facts to us.

Def. Ex. 4 is a letter to me from Mr. Howard Howe, U.S. Commissioner of Education, dated October 13, 1966, and I assume that this was written after the second submission of 441-B had been received and studied. 66

The Head Start Program started operating in this county in June, 1966. It is full integrated. The classes are attended by both white and colored pupils. There are Negro teachers teaching white students and white teachers teaching Negro students. 67

I received an invitation from the State Superintendent to attend the meetings that I have testified about. Matters other than the guidelines were discussed. At least at some of the meetings, a variety of subjects were discussed. I don't recall the total number of meetings that I attended.

I did not regard as directives the communications I had from Dr. Meadows with reference to the guidelines. 68

Dr. Meadows does not have the authority to control the assignment of students or teachers in our county system. He has never attempted to exercise such authority.

The transfer of title of school property to the De Kalb County Board of Education was done after a Board resolution was passed requesting the transfer.

The State Building Commission is the agency that exercises control over the construction of any public construction project. Plans have to be submitted to the Building Commission for approval. That is our practice. I am not sure of the connection between the State Building Commission and the State Board of Education. It is true that the State Building Commission is an independent commission, independent of the State Board of Education. 69

The architect is recommended by the Local Board. We have two different types of construction going on. One is under the State Board issue and one is under our Title I program. Under the State Bond building program, the architectural agreement is drawn by the Alabama Public School and College Authority, which is separate from the State Board of Education. Under the Title I program the County enters into the agreement with the architect. 70

There are Federal procedures for applying for Federal funds, and the State Board of Education is required to take certain actions in regard to these applications. 71

We have Federal Wage Rate determinations for the building of the project. As I recall, that was the subject of the letter of July, 1966 from Mr. Boockholdt. It is a federal requirement.

Construction financed by State bonds is under the control of the State Building Commission. As I understand it, any building that is constructed for public use must be approved and built under the specifications of the building commission. Plans and specifications for our local school buildings have to be approved by the State Building Commission, not by the State Board of Education. 72

Decisions as to where a school building will be located and what is needed, are, as a practical matter, made by the local board. 73

The survey was conducted at the request of the De Kalb County Board of Education. It is conducted by representatives of the State Board of Education. The survey contains recommendations and advice in regard to what we need for further development of our system, such as whether or not a building should be continued to be used or abandoned. They are recommendations, not requirements or directives. I know of no requirement of the State Board that we build or abandon a particular school building. To my knowledge, they do not have that authority. 74

Most of my communications with the State Board and with Dr. Meadows are primarily in the nature of informational services provided for guidance and advice. That is the main function of the State Board of Education. They have no real authority with regard to the actual operation of the system. 75

Def. Ex. 5 is a copy of a letter sent to Mr. and Mrs. Bernard Vaught by State Superintendent Meadows.

Cross Examination by Mr. Beck 76

I know Gene Crowder. He is a representative of the United States Office of Education. He attended a meeting of the De Kalb County Board of Education at which I was present. He was here to offer assistance in the desegregation of De Kalb County schools. It was before the second form was filed. He informed us at that time that we were not in compliance with respect only to our faculty desegregation. Subsequent to that I received a letter from HEW stating that funds were being deferred. Crowder insisted at the meeting that there would have to be some desegregation in order for us to be in compliance. He had reference to the guidelines, and not the Civil Rights Act of 1964. He didn't say specifically that Gregory faculty members had to be transferred as white faculty members transferred to Gregory but that was the understanding I had. 77 78

Subsequent to the letter from HEW regarding deferral of funds, I received another letter from HEW removing that restriction. The letter was dated October 13, 1966. It came after there had been pressure brought to bear on the question of the legality of the guidelines--after all the discussion with reference to the legality of the guidelines. 79 80

We have not desegregated any faculty and we have had no request from white or colored faculty members to interchange in any of the schools. 80, 81

Gregory School is the only colored school in our area. It covers grades 1 through 12. It is a modern brick building having as good or better facilities as we have in any other school.

It was built in 1960 or 1961. There have been no additions to it; however, in the building program, an additional room has been authorized. That school is being treated like the rest of them in reference to the building fund money we are getting. 82

They have a modern gymnasium in that school and all the rooms are heated with central heating. There are modern, inside bathrooms and a good faculty. It is operated just as efficiently as any school.

The educational program in Gregory is just as good as any white school to a certain extent. Of course, we can't offer as extensive a program there as we can at some of the other schools because there is a limited number of faculty members and because there are more students at the other schools. 84

We have the same courses at that school as at the other schools but if a student wants to take Chemistry, for example, he might not be able to register for a Chemistry course every year. He might be able to register for it every other year. But during his four years in high school he would get Chemistry.

They can get every course there that is available in every other school in the county, except vocational agriculture. That course is given at 85

every other high school in the county. We do not have an agriculture teacher at Gregory. Agriculture is taught there as part of the science courses.

The teachers at Gregory are happy and contented with the program they are getting. We have had no complaints. Gregory is regularly inspected by the authorities to see that it is properly operated, the same as the other schools. There is no discrimination as to facilities between the schools. 86

The salary schedules are the same. Colored and white teachers attend meetings together. 87

Redirect Examination by Mr. Ortenberg

The secondary schools in De Kalb are accredited with the State Department of Education. The State Department of Education has certain standards for accreditation that have to be met. The De Kalb County school system receives money from the State Department of Education under the minimum program fund. It is apportioned on the basis of average daily attendance for pupils. The money is apportioned by teacher units which is based on average daily attendance. Teacher units are determined by one teacher per each 28 students in secondary schools and one teacher for each 29 students in elementary schools. For smaller schools the divisor is lower, down to as low as 20. Where the divisor is lower, it means that we would get more teacher units. The teacher units are awarded on the basis of survey-approved schools; however, that is not on the basis of the most recent survey. The divisor that is used is different for schools that are survey approved then for schools that are survey unapproved. 88 89 90

For example, a survey non-approved school, the same divisor would be more than as for the survey-approved high school that had in elementary school. We have a few small schools that are not approved by survey and their divisor is 28 and 29 respectively, where as if they had been survey approved, it might be 24, 26, or 22.

If a Negro student who lives near the Log Cabin School chooses to attend the Collinsville School, he would be picked up by the bus, if the bus going to the Collinsville School goes by his place. If the Collinsville bus did not come by his place, we couldn't send buses to accommodate individuals, it would not be feasible. When we have requests to reroute buses where it wouldn't inconvenience other people, we do reroute buses for people that make requests. Every request that we have for transportation for any student, I send my transportation supervisor to investigate the case and if it is feasible and does not interfere with the privilege of other students, we send that bus.

We have not formulated any plans for the next three or four school years because we don't know what to expect. If we know, for example, what HEW plans that they are going to submit, and we don't know what we will be expected to do; we plan to abide by the law, and we have no plans to start discriminating against any of our people.

The salary schedule for teachers is the same all over the county based upon the certificate of the teacher. The salary of a certified teacher is determined by the De Kalb County Board of Education. The County Board sets up a salary schedule based upon the state allotment. All of the teacher's salaries come from funds received under the minimum program fund. There is no state salary schedule, but there is a minimum amount that the county system can pay, in other words, we cannot pay a teacher below the minimum that is set by the State Board of Education. I'll have to clarify myself on that last statement. I said that we could not pay less than that amount set by the State Board of Education. We base our salary schedule on the figures provided by the State Board of Education, and we do pay less for the beginning salary, but this is equal to all, I mean, this is equal, all teachers receive the same pay at the beginning salary, depending upon the certificate they hold.

I received a letter from the State Superintendent of Education concerning the possibility of obtaining

additional teacher units so that the students will be able to make a choice between teachers. I do not recall the date that I received the letter.

Recross Examination by Mr. Crook

Our form 441-B with a reservation saying, in substance, that we will abide by the guidelines to the extent that they are legal.

Previously we had signed the compliance form without reservation. Since we added the reservation, the method of operation of our schools has not changed. 97

We do not have separate schools for whites and separate schools for Negroes as such. It would depend upon your interpretation.

We plan to continue to follow the freedom of choice plan that we promulgated. 98

To the extent that capacity and transportation permits we plan to continue to allow any Negro pupil in the county to go to any school he designates on his freedom of choice.

In order for a Negro pupil to choose to remain at the school he is attending, the previously all Negro school, he has to mark an "X" next to the name of the school.

He has to take the same action to transfer to a previously all white school. There is no more difficulty in exercising one choice than the other. 98,99

DESCRIPTION OF EXHIBITS

DEPOSITION OF ROBERTS (DE KALB COUNTY)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	8	List of the schools in the De Kalb County School System for the 1966-67 school year showing the name of the principal and address of each school.
U.S. 2	8	A map of De Kalb County on which the name and location of each school in the system is marked.
U.S. 3	10	A chart showing the enrollment at each school in the system by race for the school years 1963-64, 1964-65, 1965-66 and 1966-67.
U.S. 4	10	A 1966-67 directory of De Kalb County school personnel showing the grades included in each school and the race of the teachers in each school.
U.S. 5	12,13	A chart showing the number of non-resident students, by race, attending De Kalb County Schools; the number at each school; and the school systems from which they came.
U.S. 6	22	A copy of the plan for desegregation of De Kalb County schools for the 1965-66 school year.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 7	24	A copy of the form 441-B dated April 14, 1966, submitted to the U.S. Office of Education.
U.S. 8	25,26	Letter from Superintendent Roberts to U.S. Commissioner of Education, Harold Howe II, dated May 30, 1966 informing Howe that the De Kalb County Board of Education voted unanimously to rescind its action on the signing and submission of HEW form 441-B.
U.S. 9	26	HEW form 441-B, dated August 12, 1966, submitted to the U.S. Office of Education.
U.S. 10	29	Letter from A.R. Meadows, addressed to county and city superintendents of education, dated March 28, 1966, calling a conference of county and city superintendents and local board Chairmen on March 31, 1966 at 10:00 A.M. at the State Department of Education Auditorium and stating that Dr. Meadows will discuss Title IV and Title VI of the Civil Rights Act.
U.S. 11	33,34	Letter, May 24, 1966, Meadows to Roberts, (Govt's Ex. 42).
U.S. 12	34	Letter, May 11, 1966, Meadows to Roberts, (Govt's Ex. 29).
U.S. 13	35	Release by Meadows, September 3, 1965, of State Board of Education Resolution, September 2, 1965 (Govt's Ex. 122).

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 14	35	Release by Meadows, September 22, 1966, attaching Resolution passed by Southern Governors Conference on September 21, 1966.
U.S. 15	43	Letter dated July 13, 1966 from Marvin H. Killingsworth, Jr., State School Architect, to Roberts, approving architectural contracts for school construction projects.
U.S. 16	44	Letter dated July 11, 1966 from Killingsworth to Roberts, approving construction contracts for school construction projects.
U.S. 17	45	Letter dated July 22, 1966, from J.H. Boockholdt, State Department of Education, to Roberts concerning wage determination modifications for a Title I construction project.
U.S. 18	47	A copy of a report of a partial survey of De Kalb County schools for the 1965-66 school year (Survey No. 203).
Def.'s 1	54	Choice form and notice letter to parents for the 1965-66 school year.
Def.'s 2	55	A copy of a completed choice form dated April 1, 1966.
Def.'s 3	56	A form entitled "Choice of School Form" required to be mailed or brought to any school or to the Superintendent's Office by September 10, 1965.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
Def.'s 4	66	Letter from Harold Howe, II to Roberts, October 13, 1966, saying that rate of desegregation is not satisfactory and suggesting steps to improve the progress of desegregation in De Kalb County.
Def.'s 5	75	Letter dated October 22, 1965, from Meadows to Mr. and Mrs. Bernard Vaught, saying that the Supreme Court of Alabama ruled in 1964 that matters pertaining to pupil placement, routing and scheduling of school buses, and employment, discharge, and transfer of teachers do not come under the jurisdiction of the State Board of Education under present school law.

ROBERT D. SIMPSON
SUPERINTENDENT OF RANDOLPH COUNTY SCHOOLS

Page

Direct Examination by Mr. Loper

I have been Superintendent of the Randolph County School System for about the last three years. Prior to that I had served as a high school science teacher. I have been a teacher in this school system for 32 years. As superintendent I am the administrative officer for instructional, transportation and teacher placement. I discuss policy matters with my Board and from time to time I make recommendations. I am specified as secretary to the Board of Education. The members of the Board of Education, and the Superintendent are chosen by election. 6 7

U.S. Ex. 1 is a general highway map of Randolph County and contains a list of all the Randolph County schools that are presently operated. The schools have been located on the map and identified by number. 10

The Randolph County School System includes Randolph County, except for the area within the city limits of Roanoke. 11

Randolph County is predominantly rural. I would say the population is about one-third Negro and two-third white. The Negro population density is greater in the city than in the rural area, but by and large the racial population is fairly mixed. It is thinner in the northern part than in the south. 12

Some students who reside outside Randolph County attend Randolph County schools. We have half a dozen or so children from Tallapoosa County. A few students in Chambers County have been coming into our system for 20 years or so because of the great distance and the difficulty in Chambers County reaching them. They go to Wadley School by mutual verbal agreement. Some Chambers County students live closer to Wadley than to their county school and wanted to come to Wadley but Chambers County would not okay that. I believe the students who come in to Randolph County from other counties in the southwest are all white. 13 14

Randolph County Training School is located within the city limits of Roanoke. It is a county school. Roughly one-half of the students enrolled in the Randolph County Training School reside within the city limits of Roanoke. This is a predominantly Negro school. No white students are enrolled. The Roanoke City School System does not operate the Negro school. About 700 students are enrolled in the Randolph County Training School. Roughly 350 of these students are Roanoke City students. 15

Some Randolph County students attend school in the Roanoke City System. These students are predominantly white. They attend grades 1-12. Rock Mill Junior High School is predominantly white. It includes grades 1-7 this year. After the seventh grade these students, almost of necessity, have to go to Roanoke schools because of the great distance they would have in going some other place. 16

There are eleven county schools in Randolph County. U.S. Ex. 2-13 accurately reflect the enrollment for each school and each grade by race. These documents were prepared under my supervision. They also reflect the number of teachers for each grade by school and by race. 17

There are no financial arrangements between the Roanoke School System and the county school system as a result of the sharing of facilities by students of both systems. We just get teacher units for the students that go to our schools no matter where they come from. 18

We first adopted a desegregation plan in 1965.

Students who finish Folsom Junior High go to Randolph County High in Wedowee. Children who finish elementary school at Pine Hill are carried to Woodland. Children who finish school at Big Springs Elementary go in two different directions. Those who live south of Big Springs go to Roanoke. Those who live generally north of Big Springs would go to Woodland. And some would come to Wedowee. The bussing of these students is done by the county. The elementary schools generally serve the areas that are adjacent to them. Some children, however, who live in Pine Hill ride to Woodland for elementary school. 19 20

The county also furnishes transportation to county 21
students who attend school in Roanoke, both for the
Roanoke City Schools and and for the Randolph County
Training School. This is done for convenience.

Our 1965 desegregation plan was a freedom of choice 22
plan. It covered four grades in 1965-66. These grades
were 1, 7, 9, and 12. Prior to the adoption of this plan
the students and faculty of each school were racially
segregated. In 1965-66, two Negro students chose to
attend previously all-white schools.

Our freedom of choice plan operates both in the Roa-23
noke City System and in Randolph County. Students who live
in Roanoke City have a freedom of choice of schools in
Randolph County, and students living in Randolph County
have a freedom of choice of schools in the Roanoke City
School System. Exhibits 14 and 14A are the freedom of
choice plan which we adopted in 1965.

In 1965, the two Negro students who chose to 24
attend the previously all-white schools did attend
those schools, and remained in those schools for the
duration of the school year. During the 1965-66 school
year, no Negro teachers taught in predominantly white
schools. During the same school year some of our white
music teachers taught in all of our county schools,
including our Negro schools. There were two such 25
teachers, mainly in the elementary grades, and they
taught under the Title I program.

Our County Board adopted an Assurance of
Compliance Agreement with the Department of Health,
Education and Welfare on January 29, 1965.

Our school system continued under the desegrega- 26
tion plan for 1966-67. In 1966, four more grades were
added under the plan. These grades are 2, 8, 10, and
11. Thirteen Negro students exercised a choice in the
county system to attend predominantly white schools in
1966. Four of these Negro students have withdrawn,
leaving nine at the present time. These students trans- 27
ferred to predominantly non-white schools.

U.S. Ex. 15 is the first 441-B signed by our
Board. It is dated April 11, 1966.

U.S. Ex. 16A is a letter from me to the Department of Health, Education and Welfare dated July 26, 1966. U.S. Ex. 16B is a revised form 441-B signed by me on August 26, 1966. This was the second 441-B signed by our Board in 1966. There were no subsequent forms signed. This form 441-B was never approved by the Department of Health, Education and Welfare.

During the 1966-67 school year the racial composition of the faculties was the same as the previous year.

U.S. Ex. 17 is a letter from Dr. Meadows dated April 28, 1965.

U.S. Ex. 18 is a letter from Dr. Meadows on September 3, 1965. Exhibit 18 bears the title "A Resolution by the State Board of Education, September 2, 1965, 8:00 p.m."

U.S. Ex. 19 is a letter from Dr. A. R. Meadows to all county and city superintendents of education dated September 8, 1965.

U.S. Ex. 20 is a Western Union day-letter to Commissioner Howe dated April 12, 1966. The second page of U.S. Ex. 20 is also a letter from Dr. Meadows to Commissioner Howe dated April 11, 1966.

U.S. Ex. 21 is a release from Dr. Meadows dated May 16, 1966.

U.S. Ex. 22 is a letter from Dr. Meadows dated May 19, 1966, bearing the title "Alabama Delegation - Congress, Governor, Lieutenant Governor, Speaker of House, and State Superintendent of Education, Commended."

U.S. Ex. 23 is a letter from Dr. Meadows dated May 24, 1966.

U.S. Ex. 24 is a letter from Dr. Meadows dated October 27, 1966, with some blanks that have been filled out by me. This was a report requested by Dr. Meadows of me. U.S. Ex. 24 is a copy of the report which I sent back to him.

U.S. Ex. 25 is a release from Dr. Meadows dated October 25, 1966.

U.S. Ex. 26 is a letter from the Governor's office from Maddox. That letter requested us to furnish certain information to Mr. Maddox. I spent a couple of hours complying with his request. 34

I have been at a number of meetings of superintendents, but I cannot recall the date of any of those meetings. I recall seeing the Governor at such meetings only once. I do not recall even the year of that particular meeting. I remember that the Governor spoke at that meeting, but to be honest with you, I couldn't relate the substance now. 35 36

U.S. Ex. 27 is a copy of a letter I mailed to the Governor in response to a request made by the Governor for information from me.

Since I became superintendent we have completed a contract for construction of an elementary school at Randolph County High. This contract was let before I came in. We have also built four rooms at Woodland High. 37

On forms filled out for HEW in May 1966, we estimated that nine Negro students would be enrolled in the Woodland High School for 1966-67. At the present time no Negro students are enrolled or attending the Woodland High School. I cannot explain why. The estimates on the HEW forms were made on the basis of some reports I had gotten at that time and on choice forms. I also estimated that more Negroes might actually come than had indicated they would come. But it developed that none came. 38 39

We have future construction plans for three schools - Mt. Carmel, Wedowee High, and Pleasant Grove. All of these schools are predominantly non-white. 40

Mt. Carmel will receive a new building. Wedowee High will have a lunchroom, and Pleasant Grove will have a lunchroom and kitchen. The number of students at Mt. Carmel has not changed a great deal in the past few years. These projects have all been approved by the State Building Commission. The approval of the State Board of Education is not required. We do get approval of the site from the State Board of Education.

We are required to submit a budget to the State Board of Education for approval. 41

U.S. Ex. 28 is a letter from Dr. Meadows dated February 15, 1965. U.S. Ex. 29 is a letter from Dr. Meadows dated October 22, 1964. U.S. Ex. 30 is a letter from Dr. Meadows dated July 19, 1963, and consists of two pages. 42

The Mt. Carmel School is approximately one mile from the Woodland School. Both of these schools are in the Woodland community.

U.S. Ex. 31 is a letter from J. H. Boockholdt, consultant for school plant maintenance for the State Department of Education. The letter is dated August 10, 1965 and contains Mr. Boockholdt's approval for the site of the Mt. Carmel School. 43

The Mt. Carmel School has running water, but it does not have modern plumbing. The toilet facilities are outside, and, I guess, about 100 yards from the building. There is no shelterway or covered walkway going from the building to the outside toilets. Mt. Carmel does not have a cafeteria. It does not have a gymnasium. I don't know whether it has playground facilities. Each school provides its own facilities, because we don't have the money to go into that sort of thing. I believe that the approach roadway to the school consists of a hard surface. The surface of this road was previously dirt. I am not sure this road has been paved yet, but I think it has been. That is part of their plan. It was a recent thing if it has been paved. The surface of the front yard of this school is soil. I believe each classroom in the school has a teacher's desk. There are no kind of walkways or sidewalk to or from the building. Mt. Carmel is heated by individual natural gas space heaters in each room. 44 45

Woodland school has modern plumbing in poor repair. It has a gymnasium. It also has a cafeteria, which is provided by the people in the school themselves through the P.T.A. rather than by the County Board. Woodland has paved walkways to and from the school building. The walkway leading from the 46 47

schoolhouse to the lunchroom is a covered walkway.

We have five members on the Board of Education and all are white. I am white.

All of the U.S. Ex's. 2-31 have come from my files and records this afternoon.

DESCRIPTION OF EXHIBITS
DEPOSITION OF R. D. SIMPSON
(RANDOLPH COUNTY)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	8-9, 10-11	Map of Randolph County with location of schools.
U.S. 2-12	16-17	Randolph County school enrollment and staff by race for each school and grade, October 6, 1966.
U.S. 13	16-17	Summary of enrollment and staff, October 6, 1966.
U.S. 14	23-24	Desegregation plan for Randolph County, August 19, 1965.
U.S. 14A	33	Attachment to desegregation plan regarding pupils residing outside Randolph County school system, August 26, 1965.
U.S. 15	27	Assurance of compliance Form 441-B, Randolph County Board of Education, April 11, 1966.
U.S. 16A	28	Letter, July 26, 1966, Simpson to Department of Health, Education and Welfare withdrawing Form 441-B dated April 11, 1966.
U.S. 16B	28-29	Assurance of compliance Form 441-B, August 26, 1966.
U.S. 17	30	Release by Meadows, April 28, 1965, regarding conference on May 4, 1965.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 18	30	Release by Meadows, September 3, 1965, of State Board of Education, September 2, 1965 (Govt. Ex. 121).
U.S. 19	30	Release by Meadows, September 8, 1965.
U.S. 20	30-31	Release by Meadows, April 12, 1966, containing a copy of a telegram from Meadows to Commissioner Howe and a copy of a second telegram from Meadows to Commissioner Howe dated April 11, 1966.
U.S. 21	31	Release by Meadows, May 16, 1966.
U.S. 22	31	Release by Meadows, May 19, 1966.
U.S. 23	31	Letter, May 24, 1966, Meadows to Simpson (Govt. Ex. 47).
U.S. 24	32	Memorandum by Dr. Meadows to all county and city superintendents, October 27, 1966.
U.S. 25	32	Release by Meadows, October 25, 1966.
U.S. 26	34	Letter, October 20, 1966, memorandum from Hugh Maddox to superintendent of education.

Simpson Exhibits - 2

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 27	36	Letter, June 11, 1966, Simpson to Wallace.
U.S. 28	42	Memorandum, February 15, 1965, Meadows to county and city superintendents.
U.S. 29	42	Memorandum, October 22, 1964, Meadows to county and city superintendents of education.
U.S. 30	42	Memorandum, July 19, 1963, Meadows to all city and county superintendents of education regarding white and Negro area conferences relating to the State's testing program.
U.S. 31	43	Letter, August 10, 1965, Bookholdt to Simpson, giving official approval of Mount Carmel School as an elementary center.

J. R. SNELLGROVE
SUPERINTENDENT OF ENTERPRISE CITY SCHOOLS

<u>Direct Examination by Mr. Frankland</u>	<u>Page</u>
I am starting my 19th year as superintendent of schools in Enterprise. Prior to that I was a principal of Hayneville High School. I haven't missed a Board meeting since I have been in Enterprise.	6
We have five members on the Board of Education, appointed by the City Council. The Board selects the Chairman and Vice-Chairman and selects my secretary. I serve as secretary of the Board and keep the minutes.	
We presently have seven schools in the Enterprise City System. These schools are Enterprise High School, Hillcrest Elementary School, Holly Hill Elementary School, on the north side of town, Coppinville High School on the southeast side, Enterprise Jr. High School on the west side, College Street Elementary School, and Carroll Street Elementary School.	7
We have three sections in Enterprise where the nigger race predominates. The area around Holly Hill doesn't have anything but white people. There is not a nigger that lives over in that section of the community and none ever requested a transfer there.	8
Hillcrest Elementary, where there are six grades, has an enrollment of 580 whites and 15 niggers. Carroll Street Elementary, with six grades, has an enrollment of 565, all niggers. Holly Hill, with six grades, has an enrollment of 612, all white. College Street Elementary, with six grades, has 565 whites and 26 niggers. Enterprise Junior High School, with grades 7 and 8, has 535 whites and 15 niggers. Enterprise High School, with grades 9-12, has 912 whites and ten niggers. Coppinville High School, with grades 7-12, has 389 niggers.	9 10

Carroll Street has 23 nigger teachers,
plus my supervisor - She is white and works at all
schools out of this office. Hillcrest has 20
white teachers. Holly Hill has 19 white teachers.
Coppinville has one white teacher and 18 full-time 11
nigger teachers and one part-time white teacher,
who is a driving training instructor. There is
also a nigger guidance person over there. Enter-
prise High School has 35 white teachers, one nigger 12
teacher and a part-time driver training teacher.
College Street has 21 full-time white teachers.

There are no geographic boundaries within
the Enterprise City System.

We have some students in Enterprise that go 13
to schools in other systems. We have a flock of
students coming from other systems into Enterprise.
Some of these students live in a short strip of
Coffee County between Enterprise and the Dale County
line. There wasn't room for Coffee County to build
a school building in there and those children have
always come to Enterprise. The County assumes the
responsibility of busing them. There are also some
students from Dale County attending school in
Enterprise. Dale County is only two or three miles
away. A few students come from Ft. Rucker and fur-
nish their own transportation. The Enterprise
School System does not have a system of transportation
for their students.
The County has some colored children riding on their 14
white school busses, if that will help your cause.

The Enterprise City System adopted the freedom
of choice plan in the first year we had to. That was
last year. Prior to that, we didn't have any integra-
tion, so far as we knew. Our local colored never
tried to enter the school, but some came in from Ft.
Rucker. The maids could tell the colored ones. They
know their own blood.

All grades were covered in the 1965 desegre- 16
gation plan. There were no provisions for faculty
desegregation except that it was stated that we

would work towards that. We started last year with some meetings. We have always been having joint meetings of our principals when we had something to talk to the principals about. That was even before Washington got all hot. We also had our in-service training programs last year.

Last year about 21 or 22 Negro students were attending formerly all white schools. 16

This year we were led to believe that it was our responsibility to get more in and to do something about faculties. It was suggested that we should have probably one to a school. This year 63 Negroes exercised choice forms for predominately white schools. We now have 66 Negroes in predominately white schools. Some Negro students came in September that had not made a choice. Some did not return to school this year. I was told that two of the girls got pregnant and didn't come back to school and another one left the community, but there are presently 66 Negroes in predominately white schools. I allowed two Negroes to transfer back to Coppinville because they moved into another locality closer to that school. I had some more requests to transfer back to Negro schools but I would not allow them. 17

We signed an Assurance of Compliance Form for 1966-67 with the Department of Health, Education and Welfare. The first one we signed had two clauses added. One was that we would not agree to try to transfer students to get racial balance. The second clause was that we would not agree to employ teachers simply to get colored people in one school or white people in another. But our language didn't suit the lawyers in the office of Education and we revised it to say the same thing in substance except in legal terms. 18

This first 441-B was sent to Harold Howe on June 8, 1966 and had been adopted by the local Board of Education on June 7, 1966. 19

We sent a communication to Governor Wallace and one to Dr. Meadows saying that the Enterprise City Board of Education was operating under the Freedom of Choice Plan. 20

We had to revise the first 441-B that we sent in because it wasn't in legal language. They told me out of Washington what to write down and I took it down and sent in the revision.

I attended a meeting in Montgomery, Alabama on September 7, 1965 mentioned in a telegram to me from Governor Wallace, Lt. Governor Allen, Speaker of the House Albert Brewer, and the State Superintendent of Education Meadows. This telegram is included in U. S. Ex. #1 and is dated September 3, 1965. 21

There was another meeting in 1966 held in the same building on March 31. I attended this meeting. 23

I just don't recall whether there was a resolution adopted by the local superintendents at that meeting. 24

U. S. Ex. #2 is a letter to me from A. R. Meadows dated May 24, 1962. There is also a letter from me to Dr. Meadows dated June 1, 1966 explaining to him why we could not reply to his letter until after the Enterprise City Counsel and Board of Education had a meeting.

U. S. Ex. #3 is a letter from Governor Wallace to the Board of Education of the City of Enterprise, dated May 27, 1966.

U. S. Ex. #4 is a telegram from A. R. Meadows to me and it was sent because I hadn't gotten a letter to him in time enough for him.

The State Superintendent and the Board of Education have the authority to cut off our funds until we furnish them with information as requested. It was this delay in reporting that caused the telegram in U. S. Ex. 4 from Dr. Meadows to me. 25

In U. S. Ex. 4, there is also a release from A. R. Meadows dated June 6, 1966, which is a copy of a telegram from Harold Howe to Austin Meadows dated June 3, 1966. 26

U. S. Ex. 5 is a telegram to me from A. R. Meadows requesting a report on the number of nigger teachers assigned.

We interpreted these communications from the state as an attempt to keep us informed what was the law and what wasn't the law in this thing. 27

We agreed to operate a freedom of choice plan and that is what we have done. We told the office of Education what we were going to do about teacher personnel and we didn't hire those people until we told them we were going to hire some whites for Carroll Street school. We even asked Gene Crowder to send us a list of white teachers that would teach in a nigger school. We couldn't get the teachers and didn't fill them until a week before school opened. I called Gene and he gave me permission to go ahead and hire the niggers. In fact, that's the only fun I got out of the whole thing. I had niggers wanting those \$5,000 jobs and they were hollering discrimination worse than you boys were hollering.

The State Department came down and made a survey with spot maps to determine the new location for the Holly Hill School, but it was so obvious the town was going that way that they wouldn't have had to make the survey. Holly Hill was built before 1963. We built seven rooms and a cafetorium and the next year we added five additional rooms. This year we added five more rooms. 29 30

We also added four rooms to Enterprise High and have a field house under construction here.

We have a new elementary school under construction just beyond Coppinville High School on the Dothan highway.

We submit construction project plans to the state for approval, if the state's money is in it. They don't tell us what to do, but they check for sound construction, even for our federal programs under 8115 and under Title I. These plans are submitted to the state Building Commission. They merely review our plans, not for location, but for sound construction. Our present construction projects are financed with state money plus some local money. The contractors are approved by the state. Holly Hill did not have any Building Commission money. That was local money. 31

We had a survey made by the state if we are in doubt about where a new school should go. If we are footing the bill with local money, the local board of education runs that business. 32

The major categories under the state minimum program are salaries, capital outlay, etc.

We have a seven mill county-wide tax, a district tax of three mills, and we have a three mill and a one mill county-wide tax. The four mills goes to your county superintendent and that is figured in your minimum program. It is a fair formula. 33

I can use our capital outlay money in other categories if we have any of it left over. We get money from the city in addition to our taxes. We have a one-cent sales tax and 40 percent of it comes to the schools, after we retire the bonded indebtedness on this new nigger high school. We take \$2,000 of this to retire those bonds and the rest of it comes to the Board of Education, which is allowed to use it in maintaining operations or capital outlay. We put in capital outlay to take care of this overrunning on the building. We also 34

get an equal amount of parking meter money for school construction.

The allocation for teachers' salaries is based on average daily attendance except for vocational people. The allocation is arrived at in Montgomery and the money is distributed to the counties. We get a certain percentage of that money. This money is not allocated to any particular school. 35

The teacher units are earned on a school by school basis and the funds are distributed to the county. We don't have a school in the system that doesn't have more teachers than units earned - white, colored, blue, black, purple or pink. 36

We submit programs under Title I of the 1965 Elementary and Secondary Education Act to the state for approval and to Washington too, I guess. These funds are received from the state on a quarterly basis and are kept in a separate account. 37

Generally, we follow the state approved course of instruction, but I just tell you, point blank, that we had a better instruction program than the state of Alabama has. 39

We generally follow the state approved textbook list. In order to meet the various needs of children in a large high school, we ask for special permission to get books for that particular course. We ask the State Department of Education for such permission. We do this out of courtesy. The city is given the authority to use books not on the state list. Counties are not given such authority, unless they have a special law. Such textbooks are paid for out of the state funds if we purchase them through the State Purchasing Department. 40

We do not have auto mechanics over here at Enterprise High School and we do have auto mechanics over there. When we sent out our freedom of choice forms, we listed what was offered at Coppinville High School and what was offered at Enterprise High School. 41

The course offerings balance out because you've got auto mechanics at Coppinville and over here I think there is one math course that is not offered over there. We have three years of French over here and are working to four.

42

On my staff, I have one white supervisor and three girls, who are white.

Cross-examination by Mr. Goodwyn

43

Our Board of Education is appointed by the City Counsel. I am hired by the Board, and serve at the Board's pleasure under a contract. My duties are to carry out the policies of the Board of Education.

Most, if not all, of my contacts with the State Board of Education or any state officer are advisory. I know of no report that I have to make to the State Board of Education or any other state agency that goes beyond merely furnishing information.

44

It is the State Board's responsibility to check our figures on average daily attendance and so forth to see that they are mathematically correct.

No white teachers in our system have applied for jobs in predominately Negro schools. I hunted to find some to fill over here at Coppinville. The auto mechanic person at Coppinville High is a white teacher.

No Negro parent or student has requested the transfer of white teachers to predominately Negro schools. No white parents or students have requested the transfer of Negro teachers to predominately Negro schools. We have never turned down any Negro student's request to transfer to a white school even though some of them came in about a week late.

45

We don't assign students any more; they make their choice.

46

The County transports those students that
come from outside the city into the city schools,
plus a few that live on the outer edge of the city. 47

The State Board of Education does not direct
us to assign students and has no authority to do
that. At least if they have the authority, they
haven't ever told me to do it.

We only offer a course when we have a demand. 48
We put in courses that we think are needed in a parti-
cular school. They have a special education class,
but we don't have a special education class here. We
have two special education classes in Carroll. Now
we have training classes put in over at College Street
and one special education class. The fourth year of
French that we are working toward is strictly an 49
elective.

Re-direct Examination by Mr. Frankland 50

The state survey for Holly Hill was based on
a spot map for the whole system. We have an expand- 51
ing population, that is 98 percent white.

The telegram from Dr. Meadows about cutting 52
funds off was not because of this integration busi-
ness but was because I did not respond to his re-
quest for information in time. I did not think he
had authority to do that. I questioned it but I 53
didn't care.

He had never done that to me before. I think 54
I heard that he did it to the Superintendent of
Ozark Schools. But I don't know if that is true.

My letter in response to the telegram I 55
received in September 1965 was to explain to the
Governor why we desegregated all 12 grades during
the first year of our plan. I don't know whether
it satisfied the Governor or not, but he did not
make his changes.

I don't guess you would call the new school we are constructing either white or Negro. It is a school that anybody in town can go to if they want. It is located as close to the niggers as it is to the whites.

The members of the Board of Education are white.

When I have been saying "we have this" and "they have that" I am referring to our location here at Enterprise High School. 57

Re-cross Examination by Mr. Goodwyn 58

The state approves or disapproves our budget in the sense that they won't let things go in a school system and let them overspend their budget in a big amount. The only thing they look at is do you have the money to do it, and if you don't where are you going to get the money. The State Board has no discretion in the amount of money that we can spend if we can get local money.

The State Board could set off a certain amount of money if we didn't pay the minimum for a certain class of teacher when it is spelled out in a law like it was this time. For instance, I forgot to sign the budget when I sent it in this time and they sent it back to us. They can penalize you if you overspend by withholding a certain amount of your money. 59

DESCRIPTION OF EXHIBITS

DEPOSITION OF SNELLGROVE (ENTERPRISE)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U. S. 1	20-22, 54-56	Telegram, September 3, 1965, Wallace, Allen, Brewer and Meadows to Snellgrove (Stamped September 4, 1965) (Govt. Ex. 22). Telegram, September 3, 1965, Wallace Allen, and Brewer to Snellgrove (U. S. Ex. 19). Telegram, August 31, 1965, Wallace, Allen and Brewer to Snellgrove (Stamped September 1, 1965) (Govt. Ex. 11). Letter, September 1, 1965, Snellgrove and Bromberg to Wallace (Govt. Ex. 103).
U. S. 2	24-25	Letter, May 24, 1966, Meadows to Snellgrove with attached memorandum of subsequent telegram from Meadows to Snellgrove (U. S. Ex. 43). Letter, June 1, 1966, Snellgrove to Meadows, (Govt. Ex. 105).
U. S. 3	25	Letter, May 27, 1966, Wallace to Enterprise Board of Education with attached memorandum "Summary of Statutory Prohibitions binding upon the U. S. Dept. of HEW" (U. S. Ex. 63).
U. S. 4	25-26	Telegram, June 2, 1966, Meadows to Snellgrove (Govt. Ex. 66). Meadows' release, June 6, 1966, containing copy of telegram, June 3, 1966, Howe to Meadows.
U. S. 5	26	Telegram, July 29, 1966, Meadows to Snellgrove (Govt. Ex. 86).

Snellgrove Exhibits

DR. FARNEST STONE
SUPERINTENDENT OF THE JACKSONVILLE CITY SCHOOLS

Direct Examination by Mr. Gorman

Page

I am the Superintendent of the Jacksonville City Schools and have held this position since January 1, 1946. Prior to that time, I worked in the field of education both in the United States Navy and in other school districts in Alabama.

4

I am the executive officer of the Jacksonville City School Board, and as such, I am responsible for the administration and supervision of the school district. I am also Legal Secretary of the Jacksonville City Board of Education and, by virtue of that office, attend all meetings of the Board.

7

The Jacksonville High School has 45 full time teachers, a librarian and one counsellor. This school has an all white faculty and 1,086 white and 20 Negro students. It covers grades 7-12. It serves the corporate limits of Jacksonville and the following outlying areas:

8

9

The Roy Webb Community located approximately six and one half miles north of Jacksonville.

The Williams School which is approximately five and one half miles northwest of Jacksonville;

The Cedar Springs Jr. High School community which is three miles west of here.

10

The Weaver community located southwest of Jacksonville.

The students coming in from these areas are all white in number over 100. With respect to pupils from the Roy Webb, Williams, Cedar Springs and Weaver schools, they are all in the Calhoun County School System, and we receive the state allocation of moneys per child for those who attend our schools. We do not receive any local money for education that is collected in Calhoun County. All the schools in the communities I have just mentioned which feed children into our schools, are white.

11

There is a very fine school in the Weaver community which covers grades 1-9.

The elementary laboratory school had an enrollment of 12
761 white and 33 Negro students as of October 1, 1966. It
has 29 full time teachers and 1 part-time counsellor, all of
whom are white. It covers grades 1-6. This school covers
the corporate limits of the city of Jacksonville and 3 areas
to the south and southeast of Jacksonville, White Gap, 4-Mile
and Bonny Brook. These are respectively 1, 4 and 3 miles 13
outside the city limits. All the students coming from out-
side Jacksonville are white and I don't believe there are any
Negro schools in any of those areas where children come into 14
this district.

Three buses bring children to both the elementary and 13
high school from White's Gap, 4-Mile and Bonny Brook.

I do not know where the Negroes who live in the out-
side the city limits which are served by our schools go. We 15
are not responsible for any children who live outside our
district.

The Eastwood school has 149 students in grades 1-12
and 9 full time teachers, plus a principal who teaches part
time. Both students and faculty in this school are Negro.

At one time there was a one-teacher school located in 16
a small mill village in this community which was run by the
Profile Mills. However, this school was subsequently taken
over by our system and has been closed since 1936 or 37.

U.S. Ex. 1 is an accurate copy of the report of a 17
survey conducted by the State Department of Education during
the 1964-65 school year. The dot map showing the location 18
of the children attending the Jacksonville Elementary
Laboratory School which is part of the survey is accurate for
the period in which the map was made, and it is generally
correct as of this date.

Map 2 is a similar dot map which reflects the location
of the children attending Jacksonville High School, and I
believe that this too is generally correct as of today.
These maps merely reflect the students living within the
corporate limits.

The other 2 maps which reflect the students attending the Eastwood Elementary and High School are also correct as of this date. 19

The section of the city in which the Eastwood school is located, is 100% Negro in population. There are no other Negro communities within the city of Jacksonville, though some Negroes live in other sections of the city. 20

I believe that there are a few students who live in the city of Jacksonville and attend schools in other counties. However, these students would be few in number and they are probably only those who ride with their parents who teach in another school system. There could be both Negro and white children going out of the city. Many individuals who have graduated from the Jacksonville State College live in the city and teach elsewhere. The Jacksonville State College is predominately white. 21 22

The Calhoun County Board of Education transports children who live outside of Jacksonville into our schools. Those children who live on the base at Ft. McClelland are transported by the Army. Our system furnishes no transportation for non-resident students. 23

Our agreement with Calhoun County was set up so that we get state funds for their children who attend our schools but do not share in their local revenues.

The Jacksonville High School, the Elementary Laboratory School and my office are all located on the campus of the Jacksonville State College. Of course, all this property is owned by the State of Alabama, as is the property on which the Eastwood School stands. The hiring or selection of all teachers in the Jacksonville System is controled to a great extent by the Jacksonville State College. They have the power to select the teachers and our board retains the power to veto these decisions should any incompetent teacher be selected. All the teachers at the city schools are full-time employees of those schools and are not merely 24 25 26 27

staff of the Jacksonville State College, with the exception of psychologist, special art teachers, and accelerated music teachers. This latter group of teachers from the Jacksonville State College not only come to the laboratory school, but, on invitation, go to the all Negro school. 28

On March 17, 1965, the Board of Education passed a freedom of choice desegregation plan, and in September, 1965, every child was given his choice of attending school for that year. 29

U.S. Ex. 2A is a copy of the May 1965 desegregation plan, it covered all grades in 1965-66. I interpret paragraph C on page 1 of our desegregation plan to mean that we would send children to the school nearest their home when requested, in so far as possible. Pupils will be assigned to school selected regardless of where they live, provided we were not overcrowded at that school. We were not overcrowded, but if we had been we would have had to send them back to the school nearest them. This would apply equally to both races. 30 31

U.S. Ex. 2B is a copy of the letter which was sent out to parents for the 1966-67 school year. A similar letter was sent out in the 1965-66. 32

On February 1, 1965 the Board of Education met and passed a motion authorizing the president of the Jacksonville City Board of Education to execute and sign Form 441. This compliance form was in fact signed, submitted to the Department of Health, Education and Welfare and was accepted by them. The compliance form was submitted without amendment or reservation. 33

Prior to the adoption of our desegregation plan, there were some very dark-complected children attending the white schools in Jacksonville. I could not swear that they had Negro blood because they said they did not, and I had no way of knowing. There was one in particular who started attending our school in 1963 who said her father was Cuban and that her mother lived in Jacksonville. 34

Before the adoption of our desegregation plan, no teachers of the Negro race taught in predominately white schools. The Jacksonville Elementary and High School had a great number of Chinese, Japanese, Cuban and Puerto Ricans. There were no full-time teachers of the Caucasian race taught in Negro schools prior to our plan. We did have special help in all the schools. Most, or all of these people are white. The special help teachers mainly consulted with the full-time teachers at the particular school, but, when requested, they might teach a particular song or something similar.

35

There are 5 members of the Board of Education. My staff consist of a single secretary, who also does my bookkeeping. These people are all white.

36

Fourteen Negroes applied to attend the predominately white school for the 1965-66 school year. These applications were all accepted. However, three or four of these students moved out of the county and two others insisted upon returning to the Negro school. Their parents requested the Negro school they attended the year before to readmit them, which was done.

37

38-39

There was no faculty desegregation during the 1965-66 school year.

40

There have been no changes in our desegregation plan this year. We simply signed the 441-B form.

U.S. Ex. 3 is a plan that was passed by the Board of Education on March 31, 1966, and sets the dates of May 1, 1966 to June 1, 1966 as the choice period. The compliance form (441-B) was signed and submitted without reservation or amendments.

41

U.S. Ex. 4 is a letter from HEW dated May 27, 1966, acknowledging receipt of our Assurance of Compliance.

Twenty-one Negroes applied to enter the Jacksonville High School for 1966-67 school year. Twenty came, including the seven who were here in 1965-66. The parents of one of the applicants were transferred from Ft. McClelland and he did not enter our school. All Negroes who applied to the predominately white elementary school were admitted and I believe the total for both schools was 33.

42

The reasons for the difference between the estimate of Negro students who would attend predominately white schools in 1966-67 which we gave HEW and the number who actually enrolled was caused by the fact that we estimated more Negroes would be coming into our system from Ft. McClelland than actually enrolled. We received an estimation from the authorities at Ft. McClelland which was not broken down by race. We then used our imagination, and a somewhat professional guess to determine how many of those would be Negroes. Some of the students that we included in the estimation given HEW did not actually fill out application.

43

44

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Of those who did fill applications, all but one or two who had moved out of the community, actually attended the predominately white schools this year. We had approximately 2 more Negro students attending formerly all white schools this year than there were applications.

44

The present extent of faculty desegregation consist of a combination counsellor-psychologist who works with the children in the all Negro Eastwood school upon call. I think she has been called two or three times. This woman's office is in the elementary laboratory school.

46

U.S. Ex. 5, a release from Dr. Meadows dated May 16, 1966, is a resolution unanimously approved by the Governor, the Lt. Governor, the State Superintendent of Education and other state officials passed on May 13, 1966.

47

U.S. Ex. 6 is a release from the State Department of Education and Dr. Meadows dated May 19, 1966. It is titled Alabama Delegation, Congress, Governor, Lt. Governor, Speaker of the House, and the State Superintendent of Education, Commended.

48

U.S. Ex. 7 is a document entitled Tuition Grants, Revised State Board of Education Regulation Approved May 19, 1966. I feel certain I received this document from Dr. Meadows and I have marked State Department of Education in the upper right-hand corner. The marking means that it is supposed to be filed with other documents from the State Department of Education.

49

U.S. Ex. 8 is a letter addressed to me and dated May 24, 1966. This letter is signed by A. R. Meadows, State Superintendent of Education and request that I take certain action with respect to 441-B compliance form and report whatever action I take to the Superintendent of Education.

50

U.S. Ex. 9 is a letter from me dated May 27, 1966 and is in response to Dr. Meadows' letter of May 24. The letter says that at the May 1966 annual meeting of the Jacksonville City Board of Education we did not consider the matter of form HEW 441-B. Our board meets again on June 9, 1966, to receive bids on some new construction. This was in response to Exhibit 8.

51

U.S. Ex. 10 is a release from Dr. Meadows dated July 1, 1966. ("Segregation" is a perfectly good word.)

52

U.S. Ex. 11-A is a telegram to me from George C. Wallace, Governor of Alabama, James B. Allen, Lt. Governor of Alabama, and Albert Brewer, Speaker of the House of Representatives, dated 9/3. No year is given, but I believe the year should be 1965. Exhibit 11-B is a telegram received on August 31. It is addressed to me and is signed by the same individuals. The date is August 31. No year is given, but I believe it should be 1965.

53

54

U.S. Ex. 11-C is a letter I wrote to the Governor on August 31, 1965. Someone had quoted to me the fact that the governor was disappointed "that we had agreed to go for the whole 12 grades" with respect to a freedom of choice desegregation plan. This was my explanation to him why the Board did it.

55

U.S. Ex. 12 is a request for information concerning faculty desegregation and is dated October 27, 1966.

On June 6, 1966, I attended a meeting with the Governor, the Superintendent of Schools, other state officials and superintendents of other school districts in the state. The president of the Alabama Bar Association and the ex-president of the American Bar Association were also there. The meeting was called by the State Superintendent of Education. Each person I mentioned had something to say and I think that the one that spoke most and claimed to have spoke with the greatest authority was the past president of the American Bar Association.

I can't remember the things that the governor said specifically, but he had considerable to say about desegregation of faculties and transportation of children from one school district to another. The Governor seem to think that the Guidelines went beyond what was required by the Civil Rights Act of 1964. I cannot remember what he definitely said, but I would say that I got the impression that he did not want us to agree to desegregate the faculties.

U.S. Ex. 13 is a copy of a letter dated June 23, 1966, that I wrote to David S. Sealey of HEW.

(The letter explains to Sealey that "we are in a terrific bind in public education in Alabama." It goes on to say that "on June 6, 1966, all school superintendents and school board members were officially summoned to our state capitol" where form 441-B was discussed.)

U.S. Ex. 14 is a letter dated March 28, 1966 and is directed to all county and city superintendents of education. The letter refers to a March 31, 1966 meeting which I did not attend.

U.S. Ex. 15 is a May 3, 1966 letter from Dr. Meadows requesting the attendance of superintendents of local school boards at a meeting on June 7, 1966. This is the meeting I attended but it seems that the June 6th and June 7th dates are mixed up.

I did not attend any other meetings with the State Superintendent, the Governor, or other state officials in connection with the desegregation of schools.

I have not received any telephone calls from Dr. Meadows, the Governor, the Lt. Governor, nor from anyone else in Montgomery, or officially connected with the State government in Alabama, concerning the desegregation of schools. Dr. Meadows calls me frequently, but I have no recollection of him calling on February 11, 1966 or July 6, 1966, and I have no recollection of his ever having called me concerning desegregation. My office telephone number is area code 202-435-7981.

I submit a balanced budget to my City Board of Education, and, after they approve, it is sent to the State Department of Education for approval or rejection, as the case may be. In submitting your budget now the superintendent must sign a statement which is an affidavit that he has raised salaries a specific amount for the record. I forgot to sign the affidavit for our 1966-67 school year, and they sent that portion of my budget back to me.

U.S. Ex. 16 is a standard form that the State Department of Education sends out in aiding the local superintendents to compile their budgets under the minimum program.

U.S. Ex. 17 deals with the procedures used in the allocation of transportation funds under the minimum program for 1963-64. This form was sent to all counties and cities alike but did not apply to us because we do not have any public transportation in our system.

U.S. Ex. 18 is a release from Dr. Meadows' office dated May 21, 1965, saying that state minimum program funds shall not be used to operate any classroom or any school for any day or one half day in which the attendance falls below 66%. The percentage used is based on the enrollment for that particular class.

U.S. Ex. 19 is a monthly attendance report for the Eastwood High School. It shows the enrollment, those who have been withdrawn, and the entotal enrollment of the Eastwood School, as of October 28, 1966. The monthly attendance reports are not submitted to the State Department of Education but an annual report is submitted. The annual report contains the same categories included here.

With respect to Table I which is located on page 2 of U.S. Ex. 1, the survey of the Jacksonville City Schools, it is my best judgment that column 1 represents white children and column 2 represents Negro children, although neither are identified as such. The table reflects the number of children between the ages of 6 and 20 living in the school system. Percentage-wise, I would say that columns 1 and 2 represent about the same number as Negro and white children who live in Jacksonville and currently attend our schools. We have proportionally as many Negro high school graduates in the Jacksonville system as we do white and the holding of the Negro school is as good as the white school.

The last part of page 1 of the survey which refers to the increase in column one and column two on table I, states that this is an important factor to be considered in planning for a long-range program for schools. It is my opinion that the people who made the survey were simply advising us in the future to watch the trend of the population. You must build where the children are and where they are most likely to be living in the years ahead. It seems to me that they were trying to advise us of the school district rather than the race of the student body.

The chart designated Table II on page 3 of the survey has 2 sets of enrollment figures which deal with the white and the Negro schools in Jacksonville.

Table IV and [V] on pages 7 and 9, respectively have to do with the holding power of the white and Negro schools in our system.

With respect to particular school construction, let me say that when I came here in 1946, we had only 8 white classes, and had 6 Negro classrooms. The other classes were held in the basement of the college and in various places in the community. Of course, the Negro school was much better housed than the white school, and the first priority, not on the basis of race, was a white high school which was built in 1948. We then put a white elementary laboratory school in some of the basement rooms, and about 1950 we added 8 classrooms to that school.

79

In 1952 we added 2 more classrooms and a lunchroom at the Negro school, and in 1963 we added a lunchroom and 6 classrooms to the white high school. That same year, we added teaching space for 2 home economic instructors at the Negro school.

This year we built an addition of 11 classrooms and some vocational rooms at the Jacksonville High School. The Eastwood school and the Jacksonville High School are now adequately housed for the first time since 1946 and when the reading clinic at the elementary laboratory school is completed on January 1, we will be adequately housed there.

80

The building program I described was done partially with state funds. State funds come to us on the basis of teacher units when they have money available. The only time money has been available since 1948 has been based upon bond issues.

For each construction project, I submit a program to the State Building Commission. If I understand it correctly, information or data in connection with any proposed building no longer is sent to the State Board of Education. I think it all goes to the State Building Commission and the State Building Authority.

81

The State Superintendent is a member of the State Building Authority, and he can ask for information concerning construction. If they do request information, we would certainly respond immediately.

U.S. Ex. 20 is a letter from C. G. Horton, School Plant Consultant for the State Department of Education requesting information. Attached to that request is my response dated September 3, 1964. 82

In formulating our plans for additional construction, we use the recommendations concerning consolidation and sites for new schools made in the state survey. It might well be more necessary to rely upon information of that nature in a larger school system. 83

U.S. Ex. 21A is a letter dated December 17, 1964 from C. P. Nelson, Executive Secretary of the Alabama Education Association, asking for specific information concerning construction needs in certain areas including that part of the state in which we are located. The letter says that he has been in contact with the Governor, and the Governor is most anxious to have this information. The Alabama Education Association is not a state organization but it will work closely with any organization that is working to improve the education for the children of Alabama. 84

U.S. Ex. 21B is my response to Dr. Nelson's letter and is dated May 23, 1964. (This is a misreading by Dr. Stone, the actual date of his response is December 23, 1964.)

U.S. Ex. 22A is a letter from C. G. Horton, dated September 30, 1964. (Horton's letter informs Stone that the school survey committee is going to be in his area soon and if they would like a survey, to contact him.) U.S. Ex. 22B is the answer I sent to Mr. Horton and is dated December 3, 1964. 85

As I understand it, a survey will have an impact on teacher units in certain areas. However it does not effect us because all 3 of our schools are approved centers. 87

In this school system we have vocational education programs in home economics, vocational agriculture and diversified occupations. The latter program is where students work in certain technical, business establishments while they are in school. There is also a trade school in Jacksonville which is operated by Calhoun County. It is predominately white, but some of our Negroes go there. 88

With respect to the organization of vocational education in the state, the State Board of Education has a plan with the United States Office of Education, and then we simply comply with that plan through the State Board of Education.

There is a difference between the State Board of Education and the State Department of Education. Some things that go on in the State Department of Education do not have to be approved by the State Board of Education. In most cases we are talking about the State Department of Education. Our vocational education plans are originally approved by the State Department of Education.

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Our special education program is composed of special reading teachers to instruct slow learners but teachable children. We do not have any program for the non-teachable child. I do not believe that the special education programs are submitted by each district to the State Department of Education. But there is a State Supervisor of Education who works in this area and we must employ a teacher who is certified to instruct special education classes.

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Maybe we don't work as closely with the State Supervisor of Special Education as we would like to, because we would like to have a few more of their services. However, we certainly depend on these services when we can get them.

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We have lunchroom programs at each of our 3 schools. The only program that is supplemented is the one at the Negro school, because they have fewer eating in their lunchroom program. Application for a lunchroom program is made to the State Department of Education and, I presume, have to be approved by the State Department of Health because food is served.

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The mechanics of the state textbook program operate so that if a book or series of books has been adopted by the State Textbook Committee and State Department of Education, you must select from those books or finance the purchase yourself. However, you can sometimes get a book approved where the state has not adopted any book at all. Books are adopted by the State Board of

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Education upon recommendation of a State Textbook Committee selected from all the congressional districts in Alabama.

U.S. Ex. 23 looks like the State Textbook Committee list which was sent to us, I presume, by the State Department of Education on October, 1964. 94

I believe that some seven to nine members of the Textbook Committee are selected by the school superintendents in the several geographic areas of Alabama. I think that these areas have a close relation with the congressional districts in the State. Also, I think some are appointed by the Governor, and perhaps by other people. 95

U.S. Ex. 24 is a copy of a letter written by Dr. Meadows to Mr. Paul Malone, State Textbook Depository, dated June 10, 1964 and deals with requisitions for state-owned textbooks. Books and other things which are received through the State Department of Education are ordered through requisitions forms which are furnished by the State Department of Education. As far as obtaining requisitions forms is concerned, sometimes we request them and other times they are sent to us. U.S. Ex. 19 is part of a booklet which we acquire through the State. 96 97

U.S. Ex. 25 is a release, dated September, 1964, from the State Department of Education listing the high school graduates in the State of Alabama for 1963-64, by race and by school systems. From time to time the State Department of Education will request information from us for lists such as this, but in most cases, they get the information from our annual reports and other records which are submitted to them. 98

U.S. Ex. 26 is a release from the State Department of Education relating to county and city institutes for white teachers in 1964. This particular release was sent to me but I am sure these were sent to all superintendents. U.S. Ex. 27 is a similar release that relates to institutes for Negro teachers in 1964. 99

Teachers' institutes are a legal requirement in Alabama. However, these are not necessarily set up or coordinated by the State Department of Education. They might coordinate such a meeting if called upon to do so and such a request is often made. 100

The State Department of Education helps the local superintendents with respect to what is available under government programs and are available themselves for consultation. This is true in all areas of school operation and is done on a non-segregated basis. When a local board participates in most federal programs, it goes through the State Department of Education and the program must be approved by it. However to get some federal funds, such as under the impacted area program, you deal directly with the office of education.

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The Jacksonville City Board of Education has no written rules or policies other than those stated in the minutes of the Board of Education meetings. We start and end school on certain times, operates schools for a minimum of 175 days and also operate summer school.

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All the records that were marked as exhibits and identified by me during the course of this deposition came from my records.

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DESCRIPTION OF EXHIBITS

DEPOSITION OF STONE (JACKSONVILLE)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U. S. 1	17-19, 72-78	REPORT OF A PARTIAL SURVEY OF THE JACKSONVILLE CITY SCHOOL SYSTEM, 1964-65.
U. S. 2A	30-31	Desegregation plan passed by the Jacksonville City Board of Education on May 17, 1965.
U. S. 2B	31-32	Desegregation notice, Jacksonville City Board of Education, for choice period, May 1, 1966 to June 1, 1966. Letter to parents, Jacksonville City Schools, explaining the choice period 1966. Freedom of Choice Form, Jacksonville City Schools, 1966-67. Letter from Dr. Stone, Sept. 1, 1966, to parents notifying them that their applications have been accepted for 1966-67.
U. S. 3	40-41	H. E. W. Assurance of Compliance with the revised Statement of Policies, signed March 31, 1966, by Harry M. Dempsey, Jr.
U. S. 4	41	Letter, May 27, 1966, David S. Seiley to Harry Dempsey, Jr.
U. S. 5	47	Release by Dr. Meadows, May 16, 1966, Resolution unanimously approved, May 13, 1966.
U. S. 6	48	Release by Dr. Meadows, May 19, 1966, ALABAMA DELEGATION-CONGRESS, GOVERNOR, LT. GOVERNOR, SPEAKER OF THE HOUSE, AND STATE SUPERINTENDENT OF EDUCATION, COMMENDED.
U. S. 7	49	Resolution by the State Board of Education, TUITION GRANTS, REVISED STATE BOARD OF EDUCATION REGULATIONS, APPROVED May 19, 1966.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U. S. 8	50	Letter, May 24, 1966, Dr. Meadows to Dr. Stone. (Govt. Ex. 44)
U. S. 9	51	Letter, May 27, 1966, Dr. Stone to Dr. Meadows. (Govt. Ex. 108)
U. S. 10	52	Release by Dr. Meadows, July 1, 1966. (Govt. Ex. 78)
U. S. 11A	53	Telegram, September 3, 1965, Wallace, Allen and Brewer to Dr. Stone. (Govt. Ex. 17)
U. S. 11B	54	Telegram, August 31, 1965, Wallace, Allen and Brewer to Dr. Stone. (Govt. Ex. 9)
U. S. 11C	54-55	Letter, August 31, 1965, Dr. Stone to Wallace, explaining why the desegregation plan for the Jacksonville city schools included 12 grades.
U. S. 12	55	Letter, October 27, 1966, Dr. Meadows to county and city superintendents of education.
U. S. 13	60	Letter, June 23, 1966, Dr. Stone to David S. Seeley stating the Jacksonville City system was in a <u>terrific bind</u> . In describing pressure with respect to the 1966 guidelines.
U. S. 14	61	Letter, March 28, 1966, Dr. Meadows to county and city superintendents of education.
U. S. 15	61-62	Letter, May 25, 1966, Meadows to county and city superintendents of education. (Govt. Ex. 59)
U. S. 16	67	Standard form for budgetary report under the minimum program.
U. S. 17	68	THE PROCEDURE USED IN THE APPLICATION OF THE MINIMUM PROGRAM FUND FOR TRANSPORTATION, 1963-64.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U. S. 18	69	Release by Dr. Meadows, May 21, 1965.
U. S. 19	70	Monthly Attendance Report for Eastwood High School, October, 1966,
U. S. 20	82	Letter, November 30, 1964, from G. T. Horton to Dr. Stone requesting the race at Jacksonville High School. Letter, December 3, 1964, Dr. Stone to C. G. Horton in reply to 11/30/64 Letter.
U. S. 21A	83	Memorandum, December 17, 1964, from C.P. Nelson, Executive Secretary, Alabama Education Association to certain Superintendents of Education stating that the Governor was anxious to have information with respect to certain school districts.
U. S. 21B	84	Letter, December 23, 1964 from Dr. Stone to C.P. Nelson responding to Nelson's Memo. of Dec. 17.
U. S. 22A	85	Letter, November 3, 1964, C.G. Horton, to Dr. Stone.
U. S. 22B	85	Letter, December 3, 1964, from Dr. Stone to C.G. Horton in response to 11/30 letter.
U. S. 23	94-95	STATE TEXTBOOK COMMITTEE, OCTOBER, 1964.
U. S. 24	96	Letter, June 10, 1964, from Dr. Meadows to Paul R. Malone.
U. S. 25	98	TOTAL NUMBER OF HIGH SCHOOL GRADUATES, 1963-64.
U. S. 26	99	COUNTY AND CITY INSTITUTES FOR WHITE TEACHERS, 1964.
U. S. 27	99-100	COUNTY AND CITY INSTITUTES FOR NEGRO TEACHERS, 1964.

ROBERT A. THORNTON
SUPERINTENDENT OF LAUDERDALE COUNTY SCHOOLS

Direct Examination by Mr. Murphy

Page

I have been superintendent of the Lauderdale County School System for approximately thirteen and one-half years. Prior to that I was principal of the Underwood Elementary School in Lauderdale County for one year and for nine years previous to that I was supervisor of school attendance of Lauderdale County. 6

I am secretary to the board of education and attend board meetings. I keep the records of the board and have custody of them. U.S. Ex. 1 includes the names of all the present schools in Lauderdale County both Negro and white for the school year 1966-67. This list was prepared by me and copied by my secretary. My secretary, at my direction, has written in the words "all Negro" beside two schools on U.S. Ex. 1. 7 8

U.S. Ex. 2 shows the number of pupils enrolled in the freedom of choice period in April 1966 for the school year 1966-67. That is the number of forms actually executed. However, we found that we had duplications made of the children we actually have enrolled in the school. The figures in ink at the bottom of the last column were put in by someone. Evidently it is the number now enrolled in school who actually showed up. We found a difference in the number that were to enroll and the number that actually enrolled and that looks like the figure. U.S. Ex. 2 was prepared under my supervision by one of the secretaries. 9

U.S. Ex. 3 shows the number of pupils enrolled at each school in the county at the end of the second month of the current school year. This was prepared under my direction by one of our secretaries.

U.S. Ex. 4 shows the number of children who have withdrawn from each school during the first two months of school during this school year. This was prepared by my secretary under my direction.

U.S. Ex. 5 is the number of teaching personnel at the present time. It was prepared by my secretary under my direction.

To the best of my knowledge U.S. Exs. 1 through 10 5 are accurate summaries of the original records as they appear in my office prepared by me or under my direction. On these exhibits the race of the teachers and students is indicated.

U.S. Ex. 6 is the teacher directory prepared under my direction by my personal secretary. The notation "N" indicates the Negro teachers in the county. Where there is no notation the faculty is all-white and where there are all-Negroes it is so indicated by the secretary's notation in pen. This is for the 1966-67 school year and was prepared under my direction. The roster of teachers in U.S. Ex. 6 is accurate as of the present time to the best of my knowledge.

U.S. Ex. 7 is a map of Lauderdale County, Alabama, prepared by the Highway Department. The location of both Negro and white schools in Lauderdale County are indicated on the map. The red numbers correspond to U.S. Ex. 1. U.S. Ex. 7 is a list of the schools by grades and race. 11

The Lauderdale County School System includes all the area of Lauderdale County outside of the city limits of Florence. The City of Florence has the only other school system besides ours in Lauderdale County.

The major population centers in Lauderdale County are Lexington, Killen, Rogersville, and Waterloo. Each end of the county is rural and the center is fairly urban. 12

Negroes are located in three general areas in Lauderdale County outside of Florence. These locations are around Rogersville, a small group in the center of the county between Florence and Shoal Creek, and the majority are in what we call the bend of the river down west of Florence. Some Negro families live all the way from the river to the state line. A few scattered isolated cases.

The overall population of the county is approximately 35,000. About ten percent are Negro. 13
The school population is around ten percent.

The boundary between the two Boards of Education stops at the city line but there is an exchange of students. We have been operating under a freedom of choice plan for the past two years. One section of that plan provides that if either board accepts a child from the other's district then they must accept all children they want to exchange.

Under this plan approximately 550 or 600 14
children go from Florence into the county schools under the freedom of choice plan. They come from all over the city of Florence. Between 450 and 500 children who reside within Lauderdale County attend school in Florence. That count was made this fall. No formal or informal agreement is involved. There 15
is no exchange of finances or contributions between the systems toward the capital outlay or the teacher units.

We transport students out of the city but do not transport them into the city. Part of the bus drivers live within the city and they drive out. Part of them come within the edges of the city limits. This has been going on twenty years or more. I would say some 20 or 25 Negro students who reside in Florence attend school in the Lauderdale County district. The majority of these Negro students attend West End Negro School.

I don't know of any Negro students in Lauderdale County who attend schools in Florence. There were some but I don't have the record. That would have been last year. To the best of my knowledge there was ten or fifteen. There was no noticeable change this year in the number of students interchanged between the city and county.

The Lauderdale County Board of Education adopted a desegregation plan on April 23, 1965.

U.S. Ex. 8 is a copy of the Board minutes of April 23, 1965, in which the freedom of choice plan was adopted and mailed to Washington, D. C. It is a true and accurate copy of the minutes. The Board executed a form 441, assurance of compliance, with the Department of Health, Education, and Welfare prior to the adoption of the desegregation plan.

This was done on February 22, 1965. All twelve grades were included in the plan for desegregation. The plan was a freedom of choice for all students of the county. All students were required to execute the freedom of choice form. These forms are included on page 553 in U.S. Ex. 8. A free choice period was held in the spring of 1965 for three weeks.

During that period 82 Negro children chose to attend formerly all-white schools for 1965-66. Six schools were involved. To the best of my knowledge all grades had some Negro children in them. The formerly all-white schools chosen by the Negro students were Lauderdale County High School, Rogers School, Killen School, Oakland School, Rhodesville School and Waterloo. Eighty-two of the Negro children actually attended formerly all-white schools. No choices were rejected by the Board. To the best of my knowledge all students executed a choice form in 1965-66. We did not find it necessary to assign any students for failure to make a choice or for any other reason.

Prior to the 1965-66 school year we operated a dual school system segregated by race. That was true as to faculty as well as to students.

There were no Negro teachers in formerly all-white schools and no white teachers in formerly all-Negro schools during 1965-66. There were no circulating teachers who taught part time at some schools in the 1965-66 school year.

There was a similar choice period in the spring of 1966 for the 1966-67 school year. In the spring of 1966, 216 Negro students elected to attend formerly all-white schools. At the present time 218 are presently enrolled to the best of my knowledge. The two additional persons made their choice after the choice period. One school, Lexington, is being desegregated for the first time this year. Above 95 percent of the students executed choice forms in 1966. If those students who failed to execute choice forms came to school we required them to execute a choice form. There was no additional choice period. We notified those students who had not executed a choice form that they still had the right to choose a school through the first week after registration, but that if there was any assignment for overcrowding at any school they would be assigned before those who made their choice during the April period.

There was some faculty desegregation for 1966-67. Two Negro teachers were placed in Lauderdale County High School and two in Central High School. At Lauderdale County High School one Negro teaches seventh and eighth grade social studies, and one teaches math and works part-time as a counsellor. At the other school one Negro teaches eighth grade social studies and one is a school librarian. They are still teaching at the present time. To my knowledge there has been no special problem in connection with these assignments and no loss of attendance over the average of what we normally have.

The freedom of choice applies to students who come to us from the city of Florence. Anyone who has made any indication that they want to go has been given a freedom of choice blank to fill out. To the best of my knowledge students from Lauderdale County attending school in Florence also make a choice of schools in Florence. As far as the Board of Education was concerned all of our schools became desegregated schools when the freedom of choice plan was written. To my knowledge no white children exercised a choice to attend formerly all-Negro schools either last year or this year. 24

U.S. Ex. 9 is the minutes of the Lauderdale County Board of Education for May 6, 1966, about 5:00 p.m. Our Board of Education executed a form 441-B with H.E.W. for the school year 1966-67 with certain reservations. This is included in the minutes which are U.S. Ex. 9. A subsequent amendment was made which changed the phrase "a court of competent jurisdiction" in our original reservation to read "Federal Court." 25

The State Department of Education has made many surveys, but the most recent survey of the Negro schools of Lauderdale County was in 1959-60. A copy of this survey was furnished to us and I was able to find the map but not the written part this morning. The survey indicated the number of Negro schools that were in operation in this system at the time the survey was made. There were ten Negro schools in 1959-60. The survey recommended that all the Negro schools in Lauderdale County be consolidated into two schools. The survey recommended that those two schools be located one in the east end of the county and one at the west end of the county. Each school was to have one through twelve grades. Since that time our Negro schools have been consolidated. There are now two schools, East and West End High Schools. Each school has grades one through twelve. The remaining schools have been closed and the property sold. These changes were made in accordance with the State Department of Education's survey. This consolidation 26 27

has been going on for years. The consolidations 28
were under the recommendations of the State Board
of Education but the final action was taken by the
local Board of Education to close the schools and
sell the property. This process was completed in
the spring of 1966. The last two schools to be
closed were Mt. Zion and Bethel. There were students
attending those schools last year. The enrollment at
Bethel was 55 or 56 students and three teachers.
Mt. Zion had approximately fifteen students and one
teacher.

A survey of the white schools in Lauderdale 29
County was made for the school year of 1962-63. This
was done by the State Department of Education. When
they make a survey they send specialists to each
school and determine what section of land each child
in the county lives on. Those are turned in to
Montgomery and are put on maps showing a scattergram
where the children live both elementary, junior high
and senior high schools. From that the survey team of
the State Department of Education makes recommendations
as to where they think schools should be kept and
which schools should be closed. This is done by using
the population trends over a number of years. They
have a Department of Surveys. I don't know who composes
that.

We were given a copy of the survey of the white 30
schools made in 1962-63 and copies of the maps that
accompanied the surveys. We have subsequently closed
some white schools. Ebenezer and Center Star were
closed in 1964-65 and the children given a freedom of
choice. Springville was consolidated with Lexington
and Crossroads. That was before the freedom of choice
period. Grassy and Powell Schools were closed in the
spring of 1966 and the students were given a freedom of
choice. McGee is still in operation but it has been 31
recommended to be consolidated in the 1962-63 survey.
Given a freedom of choice the children may leave a
school and as more buildings become available we may
close them.

Since we have been desegregating schools we have not made any major change or any study of our transportation routes. The only changes made in the last six years were when children dropped out of school and are no longer picked up. Bus transportation was integrated two years ago and a freedom of choice given to all children who were provided the transportation. The students had a choice of riding the bus that went to the school he had chosen and any child who chose a school was carried to the school of his choice if it wasn't completely out of the way. That did not happen. No major change in bus routing was called for. The way the system operates, we carry children to high schools, pick up elementary children and junior high children and carry them by one school and on to another. Any child has a choice to go to almost any school within reasonable distance of his home. Our transportation and our desegregation plans don't allow us to carry a child from the west end of the county completely over to the east end or vice versa, whether white or Negro. We wouldn't do it for any child. 32

I received a telegram dated September 3, 1965, addressed to me as superintendent and signed by Governor Wallace, Lieutenant Governor Allen, and Speaker of the House Brewer. The telegram begins by stating, "This follow up telegram comes after a meeting of the State Board of Education." 33

I also received a release from Dr. Meadows dated September 3, 1965, which embodies a resolution of the State Board of Education adopted September 2, 1965, at 8 P. M.

I was invited to a meeting to be held in Montgomery on September 7, 1965, by a telegram signed by the Governor and by Dr. Meadows. I attended that meeting in the state office building in Montgomery. The meeting was attended by a large group of school superintendents from the State. The best I remember, the Governor, the Lieutenant Governor, Mr. Brewer, and Mr. Meadows spoke at that meeting. It has been a 34 35

long time and I don't remember specifically the things the Governor said at the meeting. The gist of the speeches were to the effect that they didn't want the boards of education to go beyond what the courts said.

I received one other telegram at about this time that I can remember. I have lost this telegram or hid it from myself or somebody picked it up. All I can find is a news article printed in the Florence Times on September 3, 1965. To the best of my recollection this is a correct copy of the telegram, except for one part that might have been left off which said that this telegram was being given to the national television media and to the radio and to the U.P.I. and to the A.P. In essence this copy in the newspaper is correct. It reads as follows: "Your statement to the Governor's office on Tuesday, September 2, that you are satisfied with the public school situation in Lauderdale County where more Negro pupils are enrolled in the previously all white schools than are in any of the large cities, Birmingham and Montgomery, and your further statement that you plan to eliminate eventually all Negro schools in the county and transfer the pupils to white schools could do more to destroy the public educational system in Alabama than any action since the infamous 1954 decision of the United States Supreme Court. Those who have worked diligently to raise support for public education to the highest level in the history of our state resent and reject this attitude. We call upon you to align your policy with the minimum requirements of the law and court orders." The additional portion I previously mentioned about releasing it to the press was in the telegram I received, to the best of my knowledge.

My position is elective. Our board of education is elected. The telegram is addressed to me as superintendent of education and signed by Governor George C. Wallace, Lieutenant Governor James Allen, and Albert Brewer, Speaker of the House of Representatives.

I and our board of education had consulted with our attorney at the time we prepared our desegregation plan.

U.S. Ex. 10 was received by me in the due course of the mails. It is a letter signed by Austin Meadows and dated May 10, 1966. I had written Dr. Meadows on or about May 7 concerning our signing of Form 441-B. Prior to my letter to Dr. Meadows we had attended a meeting of all county and city superintendents in Montgomery and discussed school desegregation. Dr. Meadows spoke at that meeting with reference to the signing of 441-B.

U.S. Ex. 11 is a communication from Dr. Meadows dated May 12, 1966, which I received in the normal course of mail. I am not a handwriting expert. I do recognize the handwriting at the top of this communication. It appears to be Dr. Meadows' writing.

I received a telegram dated June 11, 1966, addressed to me and signed by Governor Wallace, Lieutenant Governor Allen, and Speaker of the House Brewer, asking me to report on the status of our compliance with the H.E.W. 1966 Guidelines and the assurance of compliance. We replied to that telegram and stated to the Governor our status regarding compliance with the H.E.W. Guidelines. I attended a meeting on or about June 6, 1966, with school superintendents. The Governor spoke at that meeting and said, to the best of my knowledge, that he would hold public meetings throughout the state. He did not say definitely that he would hold them. These meetings would be concerned with explaining the Guidelines to the people. He suggested that he may hold such a meeting in the Tennessee Valley.

U.S. Ex. 12A is a telegram I received from Dr. Meadows about July 29. U.S. Ex. 12B is a copy of a letter I wrote in reply to that telegram.

U.S. Ex. 13 is a release I received in the regular mail about October 26, 1966, signed by Dr. Meadows.

U.S. Ex. 14 is a form I received from the State Department of Education about October 27 requesting certain information regarding the number of teachers assigned to different schools in the county. The spaces on this form were blank when I received it and 44 the numbers written on those spaces were written there by me. I sent the original copy of this to Dr. Meadows in the regular mail.

We obtain the majority of our textbooks through 45 the warehouse in Birmingham. Some of them come directly from the publisher. We send a requisition form to the State Department of Education and I assume they send it to the warehouse in Birmingham. The particular textbooks we are going to use are selected by a committee of teachers in accordance with the textbook committee law. There is a list from which the committee may make selections. We have a local law to use any book we want to if we don't want to adopt one from that list.

We are presently engaged in constructing some additional classrooms and office space at the Lauderdale County High School. We have a proposed library and 46 classrooms at Anderson Junior High School, a lunchroom and some classrooms at Lexington School, some office space and classrooms and a lunchroom at Rogers School, a gymnasium and proposed classrooms at Wilson School. We are establishing a new high school at Wilson. Classrooms and a vocational agriculture department are under construction at Central High School. At Waterloo a lunchroom is under construction and we have plans to build an area vocational training school in the Center Star area. A new high school, called Brooks High School, in the Killen area is in the planning stage. The majority of the sites for these projects have been obtained. All but one are on sites that have been owned by the board of education for some time. The new Brooks

School site is donated by a citizen of the Killen area. He donated 30 acres, the people of Killen paid for one half of 16 acres and the board paid the other half, \$1,000.

When we obtained a site to build a school we informed the State Department of Education that we are proposing to build a high school there. They made a formal recommendation that the site would be an acceptable location for a new high school. Then they came on the site and rejected the first site and accepted the second site, which was a more acceptable piece of property. This was done by the Department of Surveys which is a part of the State Department of Education.

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The new construction at Rogersville and Brooks High School will be financed partly through the state bond fund money of the last issue, and the rest is being done with local money financed through a million dollar issue. The vocational school is being financed one-half by local board of education money and one-half under the federal vocational act of 1963. We sold interest bearing bonds to raise the local money. Those are ones issued in anticipation of revenue. We had to submit certain forms showing the status of our money and asking for permission to sell the bonds. This is submitted to the state superintendent of education. The parties to the contracts necessary for the construction of projects constructed under state bond issues are the architect, the contractor, the State Building Commission, and the Board of Education. We did not make a contract with the architect. I assume the State Building Commission made it directly with the architect. I haven't seen the contract. The State Building Commission reviews plans on projects built with state bond funds. Provisions have been made on completed plans as a result of submission to the state. Some of these changes were suggested by the State Building Commission and some by the State Architect, Marvin Killingsworth.

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All of our high schools are accredited. The 50
most recently accredited school is West End School,
which was accredited, I think, in 1964-65. To get
accreditation we submit certain forms to the State
Department of Education showing the training of the
teachers and the number of each of the grades and
subjects taught. These are reviewed by the State
Department of Education and accepted or rejected.
They may come back for recommendations for improve-
ment where there are deficiencies. The State Depart-
ment of Education looks for the kind of course taught,
the number of children in certain classes, and the
training of the teachers. I have a general knowledge, 51
but not a full knowledge, of the standards employed by
the State Department of Education in passing on the
accreditation applications of schools. Prior to the
submission of any application for accreditation there
are no actions particularly taken by the local
district to make their own examinations or their
own improvements of the schools. The only thing we
do when a submission of an application for
accreditation is made is to work with the schools to
meet certain standards.

We are involved in a state sick-leave program.
If a teacher is sick we hire a substitute. We then
try to claim that money back from the state. There
are certain regulations prescribed by the State 52
Department of Education or the law, I don't know
which, for determining whether or not we will obtain
the reimbursement from the state.

We participate in about seventeen federal
programs for aid to education. We participate in
the Smith-Hughes Act which is submitted to the
Department of Vocational Education of the State
Department of Education to receive money for voca-
tional agriculture and home economics teachers. Title
I programs are submitted to the State Department of 53
Education for approval as a prerequisite for
participating in the federal program. The Vocational
Act of 1963 provides money for certain vocational
education projects, certain vocational counselors and
teachers, and work study programs for school children

who work part-time. We receive aid to federally impacted areas for maintenance of the school district. We submit this to the State Department of Education which submits it to the Federal Government. It is submitted to Mr. Boockholdt in the State Department of Education. I think it is subject to his review. We have programs under the National Defense Education Act of 1958. I believe Title III programs are submitted to Mr. Benton in the State Department of Education. I believe Title V programs are submitted to Mr. Nash in the State Department of Education. There are several different departments in the State Department of Education which deal with application for federal grants. We receive Title IV grants under the Civil Rights Act of 1964 to study problems of desegregation. Applications for this program are submitted directly to the H.E.W. We also participate under the Elementary-Secondary Education Act of 1965. Applications under Title I go to Mr. Boockholdt and under Title II to Dr. Meadows. Applications for Title III programs go to the Department of Health, Education and Welfare. We also participate in the School Lunch Program, Mr. Roy Alverson. The applications for these programs that are submitted to the State Board of Education for federal grants are subject to the approval and review of the State Department.

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We have special education classes for mentally retarded children. We have five teacher units for these classes. They are obtained through the State Department of Education. The main body of our teachers comes through the minimum program based on average daily attendance of students. The special classes come under a special act of the legislature and is given to us on the basis of need or the availability of teachers. I don't know how many teacher units are allocated annually throughout the state. We fill out application forms and send them to the State Department of Education. We

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discuss teacher units with the State Department of Education in order to iron out differences or straighten out errors we have made or usually to find out about the availability of money and the possibility of getting the teachers. This is headed by Mrs. Brown. I don't know who makes the final decision in determining how many teacher units will be allotted. There are certain rules and regulations set up regarding the granting of special education teacher units. We never negotiate for such teacher units. We make out our application. When we could not find a person they have held it, hoping we would find someone to fit the unit. We might not be able to find a wualified person. Each class we apply for is a special application. We do not know when we make the application whether a particular teacher unit will be allotted to us. We have never had one turned down. In fact, we have had them issue it to us when we couldn't find a teacher. I have read the proposal by Dr. Meadows contained in U.S. Ex. 13 but I have not given it real thorough study. My understanding is that we would be allowed certain teacher units.

Voire Dire Examination by Mr. Sikes

I have knowledge of the state minimum program respecting counties other than my own county. Based on the facts and figures distributed by the State Department of Education I know what grants or appointments of teachers in this county does to other counties. Under the minimum program an extra teacher in our county would mean another county would lose a teacher. When the teachers are all allocated they are all allocated. I don't have the facts and figures on whether or not teachers are all allocated. I have no specific knowledge as to what this particular instrument or particular thing would do to the whole state program or whether it is under the minimum program or where it is coming from.

Direct Examination Resumed

I received a memorandum from Hugh Maddox, Legal Advisor to the Governor, dated October 20th, requesting us to prepare certain materials. We have prepared part of them and are preparing to send them to him. 61

Cross Examination by Stanley Sikes

The racial notations on U.S. Ex. 1 through 6 were made pursuant to the subpoena issued for the taking of this deposition. We do not ordinarily distinguish between Negro and white in keeping records in our office. 62

We adopted our freedom of choice plan with respect to all schools and all students in April 1965 after seeking and receiving the advice of our local attorney. This plan has been in continuous operation since then. We mailed out and tried to get each student registered at that time, plus publication in the newspapers, radio, and television. The forms were made available at all schools and at the superintendent's office. 63

In 1965-66 82 Negro pupils chose formerly all white schools. The board did not reject any student application, either Negro or white for the 1965-66 school year. In 1966-67 there was a choice period during the month of April 1966. To the best of my knowledge, every student attending school in Lauderdale County school system was given an opportunity to exercise his choice. I want to correct something. The first year 1965-66 we gave the forms to the students at the schools. During the 1966-67 school year we mailed them to the parents of the children. 64

During 1966-67 216 Negro pupils during the choice period chose to attend previously all white schools and two additional Negro students subsequently

made that choice sometime between April 30th and the closing date after the school started. Those students who had not exercised a choice would sign a form on the opening day of school. Such a student would be allowed to enroll. I don't know of any rejected. I can't point out any specifically. We do not make distinctions based upon race even on the opening of school whether or not the student had exercised a formal choice, but it was pointed out that if there was overcrowding they would be the first to be asked to go to another school. The 450 or 500 students who reside outside the county school district and attend county schools were also given a free choice. We did not discriminate against the students that came in from outside the county or outside our school district.

We transport both Negro and white pupils on the same buses. We try to transport every child where they need transportation. There are no set places on the buses for the Negro pupils to sit. Yes, our lunchrooms, physical education and extra curricular activities, athletics, and so forth are available to all students regardless of race. We have Negro students now participating in varsity athletics in previously all white schools. Lauderdale County High School and Central High School this year have Negroes participating. Lexington has one and Killen Junior High School has one Negro on the basketball squad. Waterloo does not have one.

In my opinion the Lauderdale school board could, by its own action, refuse to continue to accommodate students from outside the district on a non-discriminatory basis, or could charge an out-of-district fee. I don't think this would require approval or action by the State Department of Education.

In my opinion the surveys by the State Department of Education are directives to the board of education since you must build by the state survey. We can continue to operate schools that

are recommended to be closed by the survey if we so desire. However, if you want to spend state money building at that site, then the state tells you whether you can spend the money or not. I would answer "yes" and "no" to your question whether the survey is merely advisory. I would say "no" in the fact that they have the determination of the location of high school, accredited high schools. Our schools are accredited by other agencies than the State Department of Education, but the state agency comes first when it comes to spending state money. Another accrediting agency is the Southern Association of Secondary Schools and Colleges. Certain requirements have to be met to obtain accreditation from that agency and we have to submit forms.

I have heard no incident of any student being harassed in this area. To the best of my knowledge every pupil or their parents have been able to make a free choice of the school. I am familiar with OE Forms 7001 and 7002 which request information as to the assignment of students and teachers by race at various schools. The information in U.S. Exs. 12A and 12B and 14 is part of the same information that could be found on OE Form 7001 and 7002.

To the best of my knowledge we received all federal funds for which we applied during 1965-66 school year. There was no question of our funds being deferred or cut off. Our board has not changed its position as the result of any telegrams, meetings or other communications. Our plans remain as originally set up in the spring of 1965. We have received advice of counsel that it is a matter for local jurisdiction whether or not to change our plan, and we have maintained this local jurisdiction. Again for the 1966-67 school year on the advice of counsel we did not change our plan regardless of any telegrams, meetings or other communications from state officials. We have maintained complete control over the assignment of pupils and teachers in the county

school system. The first part of paragraph 5 of U.S. Ex. 9, which is a copy of the Lauderdale County board of education minutes for May 6, 1966, reads as follows: "A motion was made and unanimously passed that four Negro teachers, which is, ten percent of the Negro teachers employed in Lauderdale County School system, would be placed in various all white schools for the 1966-67 school term in keeping with out plan of desegregation." We are presently employing four Negro teachers in previously all white schools in Lauderdale County. This policy has not changed since it was promulgated in August 1966. We are receiving all the available federal funds for which we have applied for the year 1966-67 so far.

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We have had a telephone conversation with an official of the United States Department of Health, Education and Welfare to the effect that our stipulation on 441-B was not acceptable at that time. He indicated that unless the stipulation was changed our funds were in danger of being deferred. I think he was concerned with what we were doing and also with the statement itself. He said it did not indicate which court we were talking about. Our local attorney drew the original stipulation which read "courts of competent jurisdiction." We changed the wording to the "federal court" after our conversation with the Department of Health, Education and Welfare.

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Our textbooks are adopted by a local textbook committee. This local committee is made up of teachers, principals, supervisors, assistant superintendents, and other teachers and school personnel. The local board or textbook committee can choose textbooks other than the ones recommended by the state textbook committee.

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OE Form 7001 indicates the statistics for the end of the second month. U.S. Ex. 3 gives the number of Negro students we have in the schools, 781. 218 of these presently attend previously all white schools. That is approximately twenty-eight percent.

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Re-direct Examination by Mr. Murphy

They called me from Washington, but I cannot identify the person who called. He said funds would be deferred until we came to some understanding about our reservation. The problem was that we had not made it clear whether the court of competent jurisdiction would be a state or federal court and he wanted to know if we would be willing to accept the interpretation of the federal court. We discussed this matter with our board and counsel and made the change. There was no further problem with respect to our funds. They were deferred only a couple of days. We were in touch with them. There was no delay in payment.

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Re-cross Examination by Mr. Sikes

The Department of Health, Education and Welfare had been informed of the board's plans to hire four Negro teachers for previously all white schools at the time of this telephone conversation. They had also been given information as to the anticipated number of Negro students to attend previously all white schools. I consider that the freedom of choice plan which we have adopted has worked freely and effectively.

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DESCRIPTION OF EXHIBITS

DEPOSITION OF ROBERT THORNTON (LAUDERDALE COUNTY)

<u>Dep. Ex.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 1	7-8	List of Lauderdale County schools.
U.S. 2	8-9	Number of pupils by race who chose to attend each school in Lauderdale County.
U.S. 3	9	Enrollment by race at each school.
U.S. 4	9	Number of pupils withdrawn from each school.
U.S. 5	9-10	Number of teachers by race currently employed at each school.
U.S. 6	10-11	Lauderdale County Board of Education Directory, 1966, 1966-1967, personnel and faculty.
U.S. 7	11	Map of Lauderdale County with school locations indicated.
U.S. 8	17-18	Minutes of the Lauderdale County Board of Education, April 23, 1965, pages 551-554.
U.S. 9	24-25	Minutes of the Lauderdale County Board of Education, May 6, 1966, page 28.
U.S. 10		Letter, May 10, 1966, Meadows to Thornton (Govt. Ex. 27).

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U.S. 11	40-41	Letter, May 12, 1966, Meadows to Thornton, with note (Govt. ex. 34).
U.S. 12a	43	Telegram, July 29, 1966, Meadows to Thornton (Govt. Ex. 87).
U.S. 12b	43	Letter, July 29, 1966, Thornton to Meadows.
U.S. 13	43	Release by Meadows, October 25, 1966.
U.S. 14	43-44	Letter, October 27, 1966, Meadows to County and City Superintendents of Education.

HAROLD L. WEAVER
SUPERINTENDENT OF THE ESCAMBIA COUNTY SCHOOLS

<u>Direct Examination by Mr. Gorman</u>	<u>Page</u>
I am superintendent of Education for the Escambia County schools and have held this position for nine years.	4
I have been connected with the Escambia County school system for the last 29 years. My duties as superintendent include keeping records, employing personnel as directed by the Board of Education, and providing an adequate curriculum for the various schools in Escambia County.	5
I am also the chief executive officer of the County Board of Education and attend all board meetings.	6
The Escambia County School System has no formal rules, as such. Any policies under which the system operates would be located in the minutes of all board meetings.	
Exhibit number 1 is a list of the teaching personnel in Escambia County, by schools, and grades or subjects that they are teaching during the 1966-67 school year.	7
Exhibit number 2 is a list of the number of students of each race enrolled at each school in Escambia County for the 1966 67 school year	8
The members of the Board of Education are all white and my staff in the office here is white, with the exception of a Negro supervisor. The Negro supervisor is particularly responsible for schools where there are no students classified as white enrolled. However, she does work with all the in-service personnel which is both white and colored	9
The school district is composed of the entire County with the exception of Brewton City. The racial composition of the County is about one-third white, one-third Negro, and approximately 140 Indians. The major population centers within the County are Atmore, East Brewton and Flomaton.	10

The majority of Negroes who live within the County are located in the vicinity of the city of Atmore or in the Boykin area which is in the eastern portion of the County.

Some of the students living in the area covered by our school system attend the Brewton City schools and there are children living within the city of Brewton who attend our schools. The children going to school outside their respective districts pay a \$25.00 tuition fee to the school districts they attend. I have no figures on the number of children involved in the cross-over between our system and the Brewton City system. The County does not provide transportation to students attending the Brewton City schools or to students from Brewton City attending our schools. As far as I know, all the children involved in these crossing of lines are white.

We have an agreement with the Baldwin County school system which permits one of our busses to transport 38 white students who live near the Perdido School in Baldwin County to attend that school. We get the transportation allocation for the children, and they get the ADA attendance. There are also less than five white children who are transferred from Baldwin County to our schools. As far as I know, all the students crossing the Baldwin County line or the Brewton City line are white.

We operate a Negro school which is located on the campus of the Southern Normal school, a private institution. As part of this arrangement, we provide transportation to the school, capital outlay for the building, and include teacher units at that school as part of our faculty.

Both the agreement with the Brewton City system and Southern Normal School are reflected in the minutes of our Board of Education meeting. The agreement with the Southern Normal School came at the time the Washington High School was built in Brewton. The agreement with the Brewton City system has been in effect since 1954.

Our agreement with these school systems were not submitted to the State Board of Education for approval. However, our budget is determined, in part, by our average daily attendance and all the children that attend these schools would be included in such calculations.

On July 1, 1966, the Escambia County system merged with the Atmore City school system. The Atmore city system was composed of two white schools covering grades 1 through 6. Prior to the merger, all the Negro students living within the city of Atmore attended county schools located within Atmore. And all the white students in grades 1 through 6 attended the Atmore City schools. Since the merger, the Escambia County Board of Education assumes the responsibility for educating all those students within the city of Atmore.

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A freedom of choice desegregation plan was adopted by the Escambia County Board of Education prior to the 1965-66 school year. This plan provided for desegregation of four grades per year for three years.

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Prior to the adoption of our plan in 1965, all the students of the white race attended one set of schools, and all the students of the Negro race attended another set of schools. The same is true of the faculty and administrative staff at each school.

During the 1964-66 school year one Negro child attended the Escambia County Jr. High School, a previously all-white school. He was transported on the same bus that carried the white children to that school.

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There was no desegregation of the faculty during the 1965-66 school year. However, all principals did meet on an integrated basis and our in-service training committee was revamped and made a desegregated committee.

No Negro children other than the one attending Escambia County Jr. High School chose previously all white schools during the 1965-66 school year.

In 1966-67 the same plan was followed. For that year, 19 applications to transfer to white schools were accepted from Negro students. Only 10 of these students actually enrolled at the white schools. One of these ten has since withdrawn and returned to the Escambia County training school in order to take a general mathematics course which was not offered in the previously all white school.

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We did not send out notices to those students indicating they had been accepted for transfer to white schools. Under our plan, the student merely shows up at the selected school for the first day of classes.

No desegregation of faculty occurred during the 1966-67 school year. I did, however, meet with the Negro teachers on March 25, 1966 and asked them to indicate when they returned their acceptance of employment forms, whether or not they would be willing to work at a white school, and a similar statement was made to the white teachers. I received several answers from both white and Negro teachers saying that they preferred to work in a school of their own race, but stating that they would accept an assignment to a school of another race, if it were necessary. 24 25

On February 19, 1965, the Escambia County Board of Education voted to sign a 441 - compliance form.

On April 22, 1966 the Board discussed 441-B compliance form but took no action. The discussion indicated that we felt the 1966 guidelines went beyond our original agreement with HEW, and we were inclined to follow our agreement rather than the new guidelines. 26

On May 27, 1966, the Board of Education officially reaffirmed its intention not to sign the 441-B compliance form. 27

I have here a copy of our desegregation plan (marked as U.S. Ex. 3) and all facilities are available to students attending that school regardless of race, but we have no plans with respect to future desegregation of faculty. 28

Although the minutes of the Board of Education meeting on October 7, 1963 reflect that we met with Governor Wallace at that time, I do not remember that particular meeting or what was said. The Board and I, along with a number of superintendents of boards from all over the State, did meet with the Governor but that was after we had already signed the 441-B compliance form. It is not a normal occurrence for us to meet with the Governor. 29

The document marked U.S. Ex. 4 is a letter dated February 19, 1965, to Dr. Meadows which accompanied the 441 - compliance form in 1965. We were informed that these documents were to be sent to Dr. Meadows and that he would forward them to the Office of Education in Washington. In that letter I indicated that the Brewton City Board of Education and the Atmore City Board of Education would also be forwarding 441 forms, because that was my understanding.

I have received numerous letters from Dr. Meadows but I do not remember one dated May 24, 1966 which indicated that Dr. Meadows felt certain that the Office of Education would not withhold funds for failure to desegregate faculties.

The document marked U.S. Ex. 5 is a letter from me to Dr. Meadows dated May 28, 1966 informing him that the results of our May 27 Board meeting and indicating that our intention not to sign compliance form 441-B was reaffirmed at that meeting. It is not our normal procedure to write to Dr. Meadows informing him of Board actions. I believe that in this instance it was in response to a request concerning our 441-B status.

Ex. 6 is a release from Dr. Meadows, dated March 9, 1966, requesting information concerning specific steps that we had taken with respect to one of the state programs. A copy of our response to that letter telling him no child had applied to transfer from one school system to another in Escambia County, is attached. This correspondence is in connection with private schools.

Ex. 7 is a request from Dr. Meadows dated October 27, 1966, in which he asked for information concerning desegregation of faculty and staff. The answer was "none at all".

Ex. 8 is a budgetary questionnaire, dated August 15, 1966, from the State Department of Education. Attached to that questionnaire I have a listing of the number of teachers by their rank or category, and by race. However, no racial identification was requested in Dr. Meadow's release.

Ex. 9 is a release from Dr. Meadows to all county and city superintendents announcing that a meeting will be held on January 18, 1965. He mentions in this release that HEW compliance regulations and other matters will be discussed.

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I was present at this meeting, which was also attended by a number of other superintendents. Governor Wallace, Dr. Meadows and an attorney named Smith, who I believe was representing the Governor spoke at this meeting. These people were in agreement that we should not go any further than the law required. I believe they agreed that we were correct in signing form 441-B, but indicated, however, that we should not desegregate more than four grades per year.

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I attended several meetings in Montgomery during 1965 and 1966. I am not sure just how many. However, the same things were discussed at each meeting and the same comments were made on these topics. The first meetings dealt with form 441 and later 441-B was discussed.

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The minutes of the Board meeting held on September 17, 1965 indicate that it was moved by the Board that the group go to Montgomery upon the invitation of Governor Wallace for the purposes of "getting Governor Wallace's ideas and instructions relative to the desegregation by local boards." I believe this might be the meeting that I described earlier and stated was held in January of 1965.

I attended a meeting in Montgomery on March 31, 1966 at which Dr. Meadows, the Governor, Mr. Satterfield and some other attorney, spoke. Mr. Satterfield and Dr. Meadows indicated a federal requirement that the faculties of school districts in Alabama be desegregated would be illegal. Dr. Meadows also felt that these requirements were illegal and insisted that we either sign a 441-B with reservations or not at all. Governor Wallace and his representatives indicated the same and requested that we take action as a group. I believe that before the meeting adjourned we passed a resolution requesting a congressional delegation in Washington to try to get relief from the guidelines.

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I do not specifically recall attending a meeting in Montgomery on June 6, 1966, but my travel vouchers for that date which has been marked as U.S. Ex 10 indicated that I was in Montgomery at a meeting called by Governor Wallace, and I probably did attend that meeting. I believe that this was the last meeting that was held and during it the same things were discussed as were submitted at the earlier meeting. We have always had frequent meetings of the local superintendents of education throughout the state, but we haven't had them regarding desegregation until the last year or so when it became such an issue.

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Ex. 11 is a release from Dr. Meadows dated April 7, 1965 in which he indicates that Dr. Keppel had specifically reversed earlier instructions.

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U.S. Ex. 12 is a partial survey of the Escambia County school system. It was made by members of the State Board of Education for the purpose of making recommendations to the Escambia County School Board concerning school planning.

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One impact such a survey might have on the school district would be that "if the survey did not recommend certain specific sites for future school building, then State bond issues wouldn't be used in that particular place." It also affects teacher units at a particular school. A survey approved school becomes eligible for more teaching units than would be available to a nonapproved school.

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The survey which is marked Ex. 12 was taken in 1965. Page 2, contains a table with figures identified as col. (1). These figures although not identified as such, represent white children, and the figures in col. (2) represent Negro children. On Page 3 of this survey in a chart marked table (2) are enrollment figures for the years 1952 through 1964. The first group of figures, although not identified as such, represent the white enrollment, and the second group of figures, represent Negro enrollment.

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The survey report is used as a basis for potential schools. We also employ architects, and either build our own schools from local funds or use state bond funds. If you use state bond funds, you make application to the Public School and College Authority and they allocate a specified amount of money to your project. Although the final authority is in the County School Board, a survey is one of the primary guides with respect to school construction.

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We have been engaged in several construction projects during the last three years, they are as follows:

(a) Hoxford Lunchroom addition - This is a white school and the project is being financed by state bond funds at an estimated cost of \$41,406.00. The construction contract was signed by me, and by Governor Wallace, who is the president of the Public School and College Authority.

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I do not know what the procedure would be if the Governor did not sign the contract. I have never known that situation to arise.

(b) W. F. Neal School - This is being financed by state bond issue.

(c) The New Oak Grove School - No contract as yet has been signed for this school.

(d) Escambia County Training School - Addition

(e) Boykin School - This is not a state bond issue project but is being financed locally.

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(f) Freemanville - This also is being financed locally.

(g) Poarch School Lunchroom - This was a state bond issue project but we are also paying part of it with local money.

All contracts that were filed under the state bond program are signed by the Governor.

Ex. 13 is a letter from Claude D. Kelley, Director of Conservation, Mr. Seymore Trummell, Director of Finance and dated March 15, 1966. A copy of this letter was directed to me. 60

Ex. 14 is a letter to me from Mr. C. G. Horton, dated March 7, 1966, which indicates that the Poarch School did not meet the legal requirement for allocating state bond funds. Since the time of that letter there has been little change in the enrollment at Port School. 61

The Escambia County School System has vocational educational programs in agriculture, home economics, diversified occupational training, and distributive education. The budget and contracts for these programs are submitted to the vocational department of the State Department of Education. Each month every vocational education teacher submits reports to a supervisor in Montgomery reflecting their activities and dependents during that month. Of course, these funds were made available by the federal government who ultimately pays for the program. 62

There is, in Montgomery, a state supervisor who works in this district and coordinates the vocational education programs in Escambia County. There is no local supervision other than the teachers and immediate principal. 63

Vocational education teachers meetings that are now held in this district are done so on an integrated basis.

The Poarch School Lunchroom construction was done partially by state and partially with local funds. 64

Application for a lunchroom program must be submitted to, and approved by, the State Board of Education, but no budget is required. The case has

not come up as yet, so I wouldn't know what happens when an application is not approved.

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All claims for reimbursement for funds used in the lunchroom program are submitted to the State Department of Education. However, as far as I know, the money comes from federal appropriations. The State Department of Education coordinates the entire state lunchroom programs.

Ex. 15 is a letter I wrote Dr. Meadows dated February 21, 1966. I informed him that the Poarch School was a nonapproved matter and indicated that Governor Wallace would like to see a lunchroom built there. I further asked him if he could get it approved.

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Our budget is submitted annually to the State Board of Education and is based on the ADA formula as specified in the minimum program. Actual approval of our funds does not take place prior to receiving them because of the time element involved.

From time to time the State Board of Education compiles directories with information furnished by the school districts. These figures, once submitted by race, are no longer broken down on a racial basis.

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Teacher institutes are held in each district. These meetings are set up by the local school system, and are not conducted under auspices of the State Board of Education. We do not have any state-wide teacher meetings. I received a letter from Dr. Meadows dated July 1965 which requested information concerning white and Negro teacher institutes. These were separate meetings for the different groups.

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The test which we give our students are requisitioned from the State Department of Education.

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Ex. 16 is a map of the Escambia County White school bus routes and Ex. 17 is a map of the Negro school bus route. Both these maps are for 1965. School bus routes are made up by the local board of education, and the buses themselves are actually purchased by us. However, under the minimum program, a certain amount of money is allocated from state funds for the transportation system of this district.

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The State Board of Education operates programs in transportation and many other areas in order to train people in the operation of their jobs. Ex. 18 is a letter from Dr. Meadows, dated April 26, 1965, inviting us to send a representative to a meeting in Bay Minette.

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We participate in the free text book program which is administered by the State Department of Education. We do not furnish any books that are not on the approved list. However, if we so desired, we could purchase nonapproved books with local money.

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All the high schools in Escambia County are accredited by the State Department of Education. There is no state accrediting agency for the elementary schools. It would be a problem for any child graduating from a nonaccredited school to get into college. The accrediting officers from the State Board of Education make reviews of two schools and come in to see if the schools are "living up to the reports".

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I do not know what would happen concerning state funds, if a high school were to lose its accreditation. We have had some with deficiencies, but that did not affect our funds.

Ex. 19 is a voucher for reimbursement I filled out which says that I was in Montgomery on March 31, 1966.

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Ex. 20 is a memorandum from Mr. Maddox, legal advisor to the Governor's office, requesting certain information and 20A is my letter in response, submitting the requested data under registered mail and separate cover. My personal secretary, another secretary and I, worked nearly all day compiling the information for Mr. Maddox. 200 odd pages of the minutes had been requested and this, plus other information, had to be copied by my staff. Such requests are not normal and this is the first I have received.

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DESCRIPTION OF EXHIBITS

DEPOSITION OF HARRY L. WEAVER (ESCAMBIA)

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U. S. 1	7	List of the Escambia County teachers for 1966-67, by school and grades or subjects taught.
U. S. 2	8	Enrollment of the Escambia County Schools, by race.
U. S. 3	27, 32	Letter, August 17, 1965, from Francis Keppel to Supt. Weaver. Letter, August 17, 1965, from Harry L. Weaver to Mr. John Prager. Letter, June 26, 1965, from Harry L. Weaver to Mr. Henry Drennan. Letter, August 11, 1965, from Harry L. Weaver to Morton Sklar. Letter, August 11, 1965, from Harry L. Weaver to Mr. Morton Sklar. Announcement of Escambia County Schools Freedom of Choice Plan.
U. S. 4	31-32	Letter, February 19, 1965, from Harry L. Weaver to Dr. Meadows.
U. S. 5	34-35	Letter, May 28, 1966, Harry L. Weaver to Dr. Meadows. (Govt. Ex. 106)
U. S. 6	36	Letter, March 9, 1966, from Dr. Meadows to county and city superintendents of education. Letter, March 10, 1966, from Harry L. Weaver to Dr. Meadows.
U. S. 7	37	Letter, October 27, 1966, from Dr. Meadows to county and city superintendents of education.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U. S. 8	38	List, by rank and race, of teachers and principals. Release by Dr. Meadows, August 15, 1966, Number Of Teachers And Principals Employed For School Year 1966-67.
U. S. 9	39	Letter, December 7, 1964, from Dr. Meadows to county and city superintendents of education.
U. S. 10	48-49	Expense Voucher for Harry L. Weaver, June 6, 1966. Texaco Gas purchase receipt for Harry L. Weaver. American Gas purchase receipt for Harry L. Weaver.
U. S. 11	51	Release by Dr. Meadows, April 7, 1965. Letter, from Francis Keppel, U. S. Commissioner of Education, to Dr. Meadows. SUPPLEMENTARY INFORMATION FOR SCHOOL DISTRICTS REGARDING COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.
U. S. 12	52-55	School survey for Escambia County, 1964-65 (Govt. Ex. 144C).
U. S. 13	60	Letter, March 15, 1966, from Claude D. Kelly to Seymore Trammell, copy to Harry L. Weaver.
U. S. 14	60-61	Letter, March 7, 1966, C. G. Horton to Harry L. Weaver.
U. S. 15	66	Letter, February 21, 1966, from Harry L. Weaver to Dr. Meadows.
U. S. 16	71-72	General Highway Map of Escambia County showing the school bus routes for Escambia County Jr. High, Huxford, Escambia Sr. High, Shomaton, A. D. Kelley, Pollard-McCall, W. S. Neil, Demascus and North Brewton Schools.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
U. S. 17	72	General Highway Map, Escambia County, showing school bus routes to Escambia County training school, Pollaird and Oak Grove, and Boykins Schools.
U. S. 18	73	Letter, April 26, 1965, from Dr. Meadows to Supt. Weaver.
U. S. 19	77	Travel Voucher for Harry L. Weaver, March 31, 1966.
U. S. 20	78	Memorandum, October 20, 1966, from Hugh Maddox to Supterintendents of Education.
U. S. 20A	78-79	Letter, October 25, 1966, from Harry L. Weaver to Mr. Hugh Maddox.

HAROLD HOWE II
UNITED STATES COMMISSIONER OF EDUCATION

I was appointed Commissioner of Education by the President in January 1966. I am the chief officer of the Office of Education in HEW. I report to the Secretary of HEW. I was not connected with HEW prior to this appointment. Page
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The 1966 Guidelines were prepared under my supervision and issued by me. The major parties involved in preparing the Guidelines were David Seeley, Assistant Commissioner of Education for the Office of Equal Educational Opportunities; Peter Libassi, Special Assistant for Civil Rights to the Secretary of HEW; and, from the Department of Justice, John Doar and David Filvaroff. Mr. Filvaroff is no longer with the Department of Justice but is now at Harvard University, I believe. 8

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Prior to the issuance of the Guidelines, I did not consult with Dr. Martin Luther King, nor did I consult with a number of civil rights leaders led by Roy Wilkins of NAACP. I do not know whether any members of my staff consulted with these gentlemen. We have had meetings with representatives of civil rights groups but I do not recall whether such meetings took place prior to March, 1966 when the Guidelines were issued. There have been conferences with school officials and other parties regarding the Guidelines and members of my staff have met with representatives of civil rights groups, but I cannot recall whether any meetings with leaders of civil rights groups took place before March 1966. 10

Mr. Seeley who worked on the Guidelines is a member of my staff, as are the people who work under him. Mr. David Barus, who is on Mr. Seeley's staff, assisted with the preparation of the Guidelines. Also, Edwin Yourman, General Counsel for the Office of Education, was in consultation on these matters at times. Other major officials in the Office of Education were advised from time to time on our progress with the Guidelines but they were not particularly involved in changes of policy. Members of 11

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Mr. Libassi's staff who also participated in this were Mrs. Ruby Martin and Mr. Derrick Bell, an attorney who works under Mr. Libassi. We did not consult with any Member of Congress concerning the Guidelines while they were being prepared. We did inform a number of Members of Congress about the Guidelines after they were prepared but before they were publicly announced. I do not know of any changes in the proposed 1966 Guidelines which were made as a result of suggestions from any Member of Congress. Neither the 1965 nor the 1966 Guidelines were formally approved by the President of the United States. I do not know of any attempt made by any person representing HEW to obtain the approval of the 1966 Guidelines by the President.

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Some members of my staff are presently making studies and preparing recommendations concerning possible changes in the 1966 Guidelines. Among the persons doing this are Mr. Seeley, Mr. Libassi, Mr. Bell, Mrs. Martin, and various members of Mr. Seeley's staff. This is substantially the group that has been holding preliminary conversations. Internal Office of Education memoranda has been prepared concerning possible changes in the 1966 Guidelines. These memoranda are largely located either in Mr. Libassi's office in the North Building, across the street, or in Mr. Seeley's office which is located in a building two blocks away. I have not requested them to make these memoranda available for use in this case. I probably have earlier working paper copies of these memoranda in my office, but I doubt that they are filed in orderly fashion yet.

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[Colloquy between counsel regarding production of memoranda.]

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I heard about the subpoena for these documents about noon yesterday, though I had not seen it at that time. It came to me during the afternoon and Mr. Barrett and I discussed it yesterday afternoon and this morning. I assume that my staff would physically be able to prepare the working papers on the revisions of the 1966 Guidelines but they would not be able to prepare anything that has any standing.

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[Further colloquy between counsel on the same subject.]

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I think that the only substantive change in the 1966 Guidelines that has been worked on so far has to do with the length of the free choice period. We are not working on any further changes at the present time nor have we set up procedures to do so, but our conversations on this are incomplete.

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I am familiar with the Elementary and Secondary Education Act of 1965 in a broad way. It is one of the Acts administered by this office. I testified twice before the House Rules Committee, on approximately September 29 and 30 and October 4, 1966. My staff has prepared Guidelines for use in connection with the administration of the Elementary and Secondary Education Act of 1965. The Guidelines for the new Act passed just before Congress adjourned are still in draft form. Both the Guidelines for the Act as originally passed and the proposed new guidelines for the Elementary and Secondary Education Acts are available in my office.

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[Colloquy between counsel on production of documents.]

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The new Guidelines do not have any major substantive changes from the old Guidelines related to this Act. They are mostly details.

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The Guidelines issued under the Elementary and Secondary Education Act are not concerned with compliance with Title VI of the Civil Rights Act of 1964. The Elementary and Secondary Education Act Guidelines deal with administrative procedures employed to meet the purposes of the Act. The 1966 Guidelines related to Title VI operate across the Board in all of our programs. It is the policy of this office to apply the 1966 Guidelines related to Title VI to all funds made available under the Elementary and Secondary Education Act.

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I am familiar with Section 604 of the 1965 Elementary and Secondary Education Act which provides, in substance, that no agency, or officer of the United States shall exercise any direction, supervision, or control over local school operations or over the

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selection of books or other published instructional materials used in local school systems. I believe the same section is repeated in the 1966 amendment. It is my interpretation that I do not have authority to exercise any of the control prohibited by Section 604, and this is the policy of my office.

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I have referred [deferred] funds under the Elementary and Secondary Education Act because the school systems involved have not complied fully with the 1966 Guidelines.

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There was a letter from the Secretary of HEW distributed to Members of Congress, Governors, State Superintendents, and other state officials having to do with the 1966 Guidelines, but my office did not prepare that letter. We simply provided the machinery for sending the letter out and it was this function that I had reference to in my testimony before the House Rules Committee where I stated that we prepared the statement. Secretary Gardner stated in that letter that the Guidelines are of general applicability while the courts fashion their orders on a case-by-case basis. U. S. Ex. 1 is a memorandum dated April 9, 1966 from me to all school superintendents and chief state school officers to which there is attached a copy of the letter sent by Secretary Gardner. U. S. Ex. 1 was distributed by my office.

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[Copies of the HEW Guidelines issued under the Elementary and Secondary Education Act of 1965 distributed to counsel in accordance with the request of defendants' counsel].

All monies that my office controls are subject to Title VI of the Civil Rights Act and, therefore, the 1966 Guidelines apply insofar as Elementary and Secondary schools are involved. I am generally familiar with Form 441-B, which is the assurance form under the 1966 Guidelines. It is the interpretation of my office that this assurance continues beyond the year in which it is executed. To my knowledge, we have not taken any

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action in any instance which would waive judicial enforcement. I don't know whether or not we would seek judicial enforcement of an assurance in the event that a school district which had been receiving money on the basis of the assurance decided that it did not want any further funds and withdraw its compliance. If Federal funds were continuing to flow to the school district we would seek to have it perform in accordance with its assurance. My understanding is that our enforcement proceedings would be before a federal examiner appointed to hold hearings in such situations. To my knowledge, we have not, and would not, seek enforcement by injunction proceedings in federal court. My understanding is that such injunction proceedings or other proceedings before a Federal court would not be handled by HEW but by the Department of Justice. My only knowledge of this is that we enforce compliance before Federal examiners and, up to this time, we have not sought enforcement before Federal courts on our own initiative. I cannot say whether or not we will, in the future, seek an injunction to enforce the provisions of an assurance, either directly or through the Justice Department.

Section 181.6 of the Guidelines requires that a school district which is under court order must submit some evidence on paper that the district will comply with the court order. It is my understanding that there are two school districts in Alabama, Crenshaw and Wilcox, which are under court order and from which we have received a form of assurance about which we have some doubts. We are not yet sure whether these assurances are adequate under the regulations. In the meantime, we have deferred federal funds to these two districts. Funds will be deferred to a district under court order unless the district submits a satisfactory assurance in writing that it will comply with the court order. It is necessary, however, to distinguish the deferral of funds from the cut-off of funds. A deferral is the temporary withholding of new funds. The district may continue to receive funds for which it became eligible prior to the deferral action. A cut-off is the termination of all federal funds. If the deferral action matured into a termination, it

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would apply to all funds administered by my office to which the Civil Rights Act of 1964 is applicable.

I believe it is correct that certain sections of the Guidelines, including Sections 181.3, 181.6, 181.7(b), 181.11, 181.32, 181.44, 181.49, and 181.54 vest discretion in me as United States Commissioner of Education to make certain determinations. In this connection, I assume it is true that I am the officer who has the responsibility to make determinations under Section 181.6(a) of the guidelines regarding whether or not a federal court desegregation order meets the requirements of HEW regulations, although my experience in regard to this provision is limited. This is not to say that I have the authority to pass upon all federal court desegregation orders to determine whether they satisfy the requirements of the 1966 Guidelines, and to cut off federal funds if they do not. The determination which I make regarding the adequacy of assurances submitted by school districts under court order has to do with the requirements of the HEW regulation and not those of the Guidelines. The HEW regulation, as I understand it, simply requires that the school district file a final court order for the desegregation of the school system along with an assurance upon which we act. The determination which we make regarding the adequacy of the assurance relates to whether or not it is a final court order for the desegregation of the school system. I am the official who makes such determinations and our attorneys are apparently looking at the assurances for Crenshaw and Wilcox Counties with this in mind.

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I am not familiar with contempt proceedings and have never participated in any. I assume it is correct to say that a person who violates an order of a federal court is in contempt. We do ask local school officials to submit an assurance of compliance as well as a copy of the final court order.

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I delivered an address on June 11, 1966, in Birmingham, Alabama before the Alabama State Advisory Committee, Civil Rights Commission, in which I stated: "Court orders offer no refuge from the requirements of the Guidelines and they involve the likelihood of an interruption in Federal payments." The statement was made against the background of many court orders which set forth standards similar to the Guidelines and this is the reason the statement was made. I did not mean that the federal funds would be interrupted if the court order did not comply with the 1966 Guidelines. I was simply trying to indicate to the persons present at the meeting that if they did not choose to use our voluntary compliance arrangement, they might expect to receive a court order similar to the requirements set forth in the Guidelines for a free choice system. The reference to an interruption in the payment of federal funds had to do with the possibility that a school district which does not voluntarily comply may be out of compliance for some time before a complaint is brought which results in a court order, and there is a likelihood of an interruption in payments during this period of non-compliance. The court order would then satisfy the provisions of the HEW regulation.

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It is my opinion that the 1966 Guidelines comply with the HEW regulations. However, it does not follow from this that compliance with the HEW regulations carries with it compliance with the 1966 Guidelines. The regulations are a general statement and do not set forth the detailed provisions of the Guidelines. That is why the Guidelines are necessary. The HEW regulations set forth broad policies which relate to a variety of public institutions receiving federal funds, as well as to schools. I think it is possible that a court order, which is acceptable under the regulations in that it is a final court order for the desegregation of the public school system, might not meet the details of the Guidelines in all respects. As Commissioner, I would determine whether the court order met the requirement of the regulations. The

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application of the standard contained in the HEW regulations might in some cases be similar to our understanding of the Guidelines, but the Guidelines, as such, are not applied to court order situations as I understand the matter.

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In my June 11, 1966, address in Birmingham, previously referred to, I stated, in substance, that it has been argued that the percentages contained in the Guidelines constitute an effort to introduce the idea of racial balance into our compliance requirement and they therefore conflict with the Civil Rights Act. I was referring then to Title IV of the Civil Rights Act. It is my interpretation of Title IV that it applies to education funds administered by my office which are subject to the Civil Rights Act.

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The terms, "teaching materials" and "educational program" used in section 181.15 of the 1965 Guidelines include textbooks. I do not consider it to be within the jurisdiction of my office to make rules, regulations or orders in connection with teaching materials. Section 181.15 of the Guidelines refers to unequal opportunities for different groups of students in excess [access] to teaching materials but does not address itself to the selection of teaching materials. We would not require specific materials to be used by the local systems nor would we require changes in the materials they are using, including textbooks. This policy is based upon our long practice, on prohibitions contained in various acts which we administer, and on a complete lack of desire on our part to act in this area. I think that the provisions of the Elementary and Secondary Education Act prohibiting federal control over the selection of textbooks applies only to that act, but similar prohibitions are found in other federal acts relating to education. Also, there has been a clear administrative policy in the United States Office of Education

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over a long period of time to avoid curriculum control. I believe that I lack the authority to take any action in this area. This lack of authority results from the specific prohibitions of a number of federal acts. If there are acts which do not contain such prohibitions -- and I am not aware of any -- , my judgment on this matter then rests on administrative considerations. Also, it is my understanding that the authority of a government official is limited to specific grants of power and I know of no grant of affirmative authority, either by the Congress or by any administrative authority superior to the Commissioner of Education, which would empower me to impose controls on textbook selection and curriculum.

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The authority for issuance of the 1966 Guidelines is found in section 601 of the 1964 Civil Rights Act and in the HEW regulations issued to implement the Act. Title VI of the Civil Rights Act does not authorize the Commissioner to make requirements concerning textbooks used in local schools except to the extent that their use might indicate a school district's decision to give different education to different groups and thus might constitute discrimination, just as might assignment of faculty and staff. For this reason my office does not have the authority to take any action on the recommendation of the 1966 White House Conference that textbooks include material on Negro contributions and Negro history and life.

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The references to a dual school structure or school system in the Guidelines mean a compulsory dual structure or the continuation of what was once a compulsory structure. Thus, a dual structure which continues to exist in fact, even though not supported by a legal basis, would be within the meaning of the terms used in the Guidelines. There is a qualification to this in that the free choice plan is a basis for a gradual move away from a dual

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structure under the free choice plan. A school system which retains some of the characteristics of a dual structure but has undertaken a voluntary compliance plan to move away from those characteristics may execute a 441-B form of compliance under section 181.7 (a) of the Guidelines. A school district which does not have any of the characteristics of a dual school structure may execute Form 441. 60-61

The phrase "schools identifiable as intended for students of a particular race" as used in the Guidelines, has reference primarily to schools in which all of the students and all of the faculty are of one race, and also means those schools in which the student body and staff are composed largely, though not completely, of one race. It is our hope that the desegregation policies of a school district will result in the elimination of the identifiability of schools as intended for a particular race over a period of time. Regardless of whether a school district can arrive at a complete non-identifiability, we believe that it should move in that direction. This is one of the requirements of the 1966 Guidelines. 61-62

I believe that we will continue to require substantial progress in this direction in the next year and, without committing us to specific policies beyond the next year, I would foresee that we would continue to require substantial progress over a period of time in order that there might be good operation of desegregation plans in local districts and this office might be less involved in these matters. As to whether this requirement will apply in future years, the 1966 Guidelines are applicable only to the current year and any re-issue will apply only to the ensuing year. It is our intention to issue a new set of Guidelines each year, applicable to the succeeding school year, in the exercise of our responsibility under law. At the present time, we are not considering major changes in the 1966 Guidelines for 1967. It is likely that the provisions relating to identifiability of schools will be retained, although that has not been finally determined. I cannot say what our policy will be with respect to succeeding years. We try to evaluate our experience and that of the school districts each year before we commit ourselves to a policy for future years. 62-63 63 63-64 64 64-65 65

The standard of non-identifiability of schools by race does not necessarily require that the racial composition of the student body and faculty at each school parallel the racial composition of the whole school system. This requirement can be met in a number of different ways in a school district, it is a flexible requirement and is not addressed toward some concept of racial balance. For instance, in a district adopting a geographical plan, the student body might be largely of one race because of residential patterns. However, its identifiability might not be very clear if there were substantial progress in faculty desegregation. Our efforts in this area are toward making progress in the direction of non-identifiability. Our standard of reasonable progress is rather limited since a very high proportion of students of a particular race still find themselves in schools in which all of the other pupils and faculty are of the same race, yet, these districts can be in compliance. We have no preconceived notion of any exact balancing and our definition of what is required under the Guidelines does not include assignment to any particular school in the same proportions of race as exists in the community or in the school district.

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I cannot comment on any requirement imposed by my department on school districts that certain grades of certain schools be closed because I do not have any detailed knowledge of that. Representatives of my office have not imposed written requirements that a certain number of students and certain number of teachers must be transferred from one school to another in a particular district.

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Local school boards have the responsibility for desegregation and for meeting the Guidelines' requirements. Our staff will frequently be asked for advice by a school district on problems relating to desegregation of teachers and students in terms of the numbers of students or teachers. Our staff

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does not impose requirements on the school district in this regard. What we are doing is responding to the request of the school district for some guidance as to what constitutes substantial progress as stated in the Guidelines. The numbers of students and teachers who may have changed from a school in which one race predominates to a school in which another race predominates do not automatically determine the compliance status of the district. These numbers are helpful in deciding whether or not a formal review should be made of the district's status, but such a review is of the entire operation of the free choice plan. There has been no authority given to our staff to require a district to move a certain stated number of students or teachers into a desegregated status in order to be in compliance. The determination that a school district is not in compliance can only be made as the result of a hearing before a federal examiner.

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Field men from my office have probably gone into school districts without a request being made. On the other hand, in many cases they were requested to render assistance. Our main purpose is to keep school districts in compliance so that federal funds can flow.

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If a letter should be sent by a member of my staff to a school district setting out recommendations regarding the closing of grades in a school or the closing of certain schools or the transfer or assignment of a certain number of teachers, this is not intended to inform the local officials that they will be approved if they take these actions. There is no process of approval involved. Such a letter does notify the local authorities of our understanding of the way in which they have met their responsibilities. It does not imply that we will probably find them out of compliance if they fail to follow the recommendations. The only probability is that there will be an intensive review of their free choice plan, which review will

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ultimately determine our position with regard to their compliance status. In some instances we have deferred funds without formal review when it is very clear that there is no evidence at all of adequate compliance with the Guidelines.

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There is no automatic deferral of funds based on the lack of transfers under a free choice plan. Prior to any deferral, the school officials are always contacted in an effort to see whether they are willing to take additional steps to make their plans work more effectively. There is a distinction between deferral and the eventual withholding of funds because in most deferral cases a large proportion of federal funds continue to flow. Usually, if there are no changes in the local situation after funds are deferred, federal funds are terminated, particularly in the case of a school district in which funds were deferred because the district had not followed a compliance statement. In cases where no desegregation at all took place in a district operating under a voluntary plan, funds are deferred and termination proceedings are begun only after the school district has been contacted and given an opportunity to take additional steps to implement their plan. Non-performance of this kind has occurred very rarely; I believe that there is just one school district in Alabama where this was the case. There have been a number of school districts in other states where this was the case, but not a large number. The existence in a school district under a freedom of choice plan of an amount of student transfers and faculty assignments which is not sufficient reasonably to meet the requirements of the Act and the Guidelines is sufficient to result in the deferral of funds and a subsequent hearing unless there is a change in the situation. We have experienced a number of examples in which such changes have taken place and the deferrals have been removed.

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I do not think that the elimination of the racial identifiability of schools is going to require school districts to have an approximately similar racial composition in each school. There are a variety of situations that are going to result and I expect many districts will ultimately find that freedom of choice plans are inconvenient arrangements and do not lead to good planning in the schools. They allow us to work constructively on a difficult situation for a period of time and substantial progress can be made under them, but I believe that school districts are going to find that a plan of geographical assignment, which is the preponderant form of school organization throughout the county, is a more viable arrangement than the free choice plan. If a school district is not making some progress under a free choice plan, we believe that it is reasonable to suggest to them that they consider some other plan, as provided in the Guidelines. It has been our experience that school districts with free choice plans in operation for several years tend to change to a geographic plan on their own initiative. We would hope for this kind of progress over a period of time. We have no preconceived notion of a federally imposed system of complete racial balance throughout the schools. If a school district declined to follow our suggestion that they substitute some other plan for a free choice plan in order to comply with the requirements of the Guidelines, we would then further suggest that they make their free choice plan work, and they might do this. Such a suggestion would contain recommendations concerning the number of students and teachers transferring. The refusal to follow either of these suggestions would be one element considered in deferring funds and holding a hearing on the termination of funds.

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Section 181.11 of the 1966 Guidelines authorizes me to determine the conditions under which a plan based on freedom of choice is not an acceptable way to undertake desegregation.

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Section 181.14(b)(4) of the 1966 Guidelines provides that free choice procedures normally may not be applied to special educational programs. Usually, the application of a freedom of choice plan

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to such programs would be a violation of the Guidelines, however, the use of the word "normally" leaves us an option. There could conceivably be a situation in which it would make sense to apply a free choice plan to some special program.

The special care with which freedom of choice plans are scrutinized, as provided in section 181.4 of the Guidelines, is as compared with the scrutiny given to geographic plans.

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Section 181.54 also provides that the best indicator of whether a free choice plan is actually working to eliminate the dual school structure is the extent to which students have transferred from segregated schools. A low rate of transfers or the lack of any transfers does not directly result in a decision that the free choice plan is not being properly administered. The result would be that there would be an administrative move to take a look at the operation of the plan. This might result in the determination that the plan is not being properly administered. The percentage figures contained in the Guidelines act as administrative guides which are helpful in determining where we will focus our limited staff for the purpose of examining plans. These percentages are not automatic determinates related to compliance. In reviewing the plan we would look at all of its aspects, not just at the transfer of Negro students to white schools. We would look at faculty desegregation and we would seek to determine whether the school district had met the Guideline requirements for administrative procedures such as informing people about their rights under the plan. We would try to determine whether the entire process had been conducted in accordance with the Guidelines, as well as examine the results. In every case where we have used the percentage indicators to bring about review of the plan, we have found some deficiency in the administration of the plan or in the procedures followed under it. We have not found any school district in which a plan was properly operated that did not result in a reasonable number of choices which tended to break down the dual school system.

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In the event that the reviews showed that the plan was being properly administered but it was not resulting in the desegregation of the student body and staff, we would suggest to the school district steps by which it might make its plan work better and try to persuade the local officials to take some of these steps or other measures that they might suggest. I think that we would probably defer funds at the beginning of this negotiation with the school district and continue to work with the local officials to try to obtain compliance with the Guidelines. If that were unsuccessful we would then call hearings. There might be a considerable period of time during which the deferral of funds would be operating; I believe a 60-day period is allowed under the new amendment. If the hearing examiner found that there had been no change in the situation, federal funds would be terminated in accordance with the Civil Rights Act. This would hold true although the children had exercised their choice to remain in the school they were attending; however, this situation is hypothetical because it has never occurred.

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Action to defer and subsequently terminate federal funds does not result automatically from the failure of a local system to attain the percentages of desegregation of students and faculty recommended by my office. This depends on a number of factors including such matters as the action taken by the local board on other possible measures they might employ and their action in regard to faculty desegregation. We would make some judgment about the leadership shown by the school system in making the plan work. There has to be some flexibility 88 rather than a hard and fast numerical rule. School systems differ markedly in the nature of the problems they face and we must allow for processes of adjustment since we are dealing with a broad program involving 2,000 or more school districts. But we might arrive at a judgment that the plan is not being operated in good faith, that its results are not adequate, that its procedures are not proper, or some combination of these things which would result in a determination to defer funds and possibly hold hearings. If there were no evidence of a lack

of good faith or a failure to carry out such additional measures as we suggested and, nevertheless, the rate of student and faculty desegregation did not attain that which we determined to be reasonable, funds would be deferred for that district and a hearing would be called so long as faculty desegregation were a part of the picture. We would not call a hearing solely on the basis of the pupil figures. It should be noted that no percentages are involved for faculty desegregation. In this situation, we would ultimately call a hearing but we would hope to redress the situation in the period of time after deferral of funds and prior to the hearing.

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The result of the hearing would be subject to the ruling of the hearing officer. As I recall the process, the hearing examiner would make his recommendation to me. Either party may present further qualifications to the findings of the hearing examiner. After a stipulated period of time I transmit the findings to the Secretary. He has another waiting period and then I believe the Examiner's report goes to the appropriate committees of Congress for information purposes. The final determination of the action to be taken as a result of the hearing is made by me or the Secretary.

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I assume it is correct that our staff has been recommending to some districts that they pair a Negro school with a white school but I am not aware of this. In appropriate situations, it would be in accordance with our policies. I am not personally familiar with any recommendations regarding the pairing of schools but I am advised by Mr. Seeley that we have suggested this to school districts, usually at some point where there seems to be some problem with the free choice plan. This is one device we might use to make the plan work better and the school district is always free to suggest other alternatives. We have advised school districts about the effects of construction programs in regard to desegregation problems.

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If all of the students in three grades in a Negro school exercised their choices to remain in that school and we recommended those three grades be transferred to some other school, it would appear that this action would be contrary to the choice of the students. 94-95

Section 181.49 of the 1966 Guidelines provides that school districts under a freedom of choice plan may not deny a choice for any reason other than overcrowding. My office enforces this provision to the extent that it is able, considering the limited number of people available for this purpose. 95-96

Section 181.54 of the 1966 Guidelines contains a schedule of percentages which reflects our expectations of the rate of desegregation which should be achieved by various districts. This expectation has been communicated to the districts by sending them copies of the guidelines. Of course, these percentages are used for the purpose of scheduling desegregation plans for review and they do not have other implications. I do not think that we are calling hearings on the matter of percentages of student transfers alone. The operation of the entire plan and the factor of faculty desegregation are always part of the picture. 96-97
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In a speech before the Alabama State Advisory Committee, I said, in substance, that our responsibility under Title VI is to insure that Federal funds do not flow to any school district which is not making progress in eliminating desegregation. I have the responsibility of determining whether a district is making sufficient progress to be in compliance. HEW regulations require immediate desegregation of all facilities receiving federal funds, except schools. They allow for a more gradual process in the case of schools because of the nature of the problem, and thus, we have the responsibility of defining what that gradual process is. 98
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I did state to a committee of the House, with reference to transportation of students, in substance, that we get into the question of busing students because a Negro student who exercises his free choice to go to a white school has the right to ride on a bus. If he is denied the right to ride a bus to the school he has chosen we have to deal with the local communities about busing questions. But we are not generally engaged in exercising federal authority on the question of busing students or in establishing quotas of people who ought to be taken to any particular schools.

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I believe the intent of the transportation provision in section 181.51 of the 1966 Guidelines is to guarantee a child who makes a free choice under a plan that he will have a ride to the school he chooses. This is not to say that local authorities may not consider any factors other than overcrowding in limiting the transportation of students under a free choice plan. A student has a right to elect to go to a school that has been predominately for the other race, but if he selects a school that is a long distance away when there is one more conveniently located that has the same characteristics, the school district is not obliged to transport him unless his choice of the nearby school was denied because of overcrowding. We do not interpret Section 181.14 (b)(2) of the Guidelines to mean that the transportation system in a school district must be operated so as to bring about maximum desegregation. The requirement is that it must be operated so as to provide transportation that is equally convenient to everybody who exercises free choices. According to our principles, buses should not aid or hinder the process of desegregation. We do require that bus routes and schedules be changed to the extent necessary to comply with this section of the guidelines.

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My office enforces section 181.45 of the Guidelines which requires that a student who fails to exercise a choice within a week after school opens must be assigned to the school nearest his home having available space. I do not know how much that provisions has come into operation in practice. If a student fails to make a choice and is assigned to a school it is done in accordance with this section.

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Section 181.13(a) requires that professional staff members who have in the past been teaching in schools which are composed predominately of their own race must be assigned to schools which serve students predominately of the other race. However, this provision must be read in the context of the Guidelines as a whole since we are only asking for some progress in this area this year. The action required by this section would change the nature of the faculty of the school. In interpreting this section and working with school districts we have considered other factors than race alone, such as the needs of particular groups of students and the educational needs of the school district as a whole. We have pointed out to them that this requirement can be met in conjunction with the normal changes that occur in the staff assignment in a school district, as new teachers are hired, existing teachers are reassigned and changes are made when new schools are built. The district has a number of options open to it. I recognize that some states have tenure laws which entitle the teacher to continue teaching in the same school. However, in some states teachers do not acquire tenure immediately upon appointment and you will find 20 or 30 percent of the school staff not on tenure. In any event, there is a turnover in most school staffs anywhere from 10 to 25 percent a year so there should be an opportunity for making changes without violating the teacher tenure law. Section 181.13(b) requires significant progress in teacher desegregation during 1966-1967. The requirement of substantial further changes in staffing patterns so as to remove racial identifiability in Section 181.54 is different. It refers to additional steps a school district might take when the free choice plan is not working.

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As of September 26, 1966, there were 37 school districts which had lost all federal funds because of failure to submit an acceptable desegregation plan, there were 73 more school districts which have been cited for hearings, and there were approximately 2,000 school districts which formerly maintained dual school systems and are now receiving federal

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funds as the result of compliance. In addition to those 2,000 districts that are voluntarily complying, there are a number of others that are under court order.

All of the states are subject to the Guidelines. The following states are involved in the use of voluntary plans: Alabama Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia. I believe we mailed copies of the 1966 Guidelines to all school systems in about all of the states in the above list, except that I am not sure that all systems in West Virginia were included. The Guidelines were mailed to the chief state school officer in all states but to the local school systems in only the states listed above since practically all of the local districts in the remaining states had on file with us a Form 441, a continuing document. School districts in the states other than those listed above were not required to submit a desegregation plan since they submitted 441 forms. This form is, in effect, a declaration that no desegregation plan is needed. There were some districts in those states listed above which also submitted Form 441. I assume that these districts were not required to submit a plan of desegregation, although I am not sure of this and would have to check on it. We did find some school districts in those 17 states listed above which submitted Form 441 but were not eligible to do so since they continue to operate a dual school system or retained the vestiges of one. Those forms were not accepted.

The first step in the process of deferring and terminating federal funds to a school district is the notice of deferral which is sent by letter. After that, we contact the school district about the more effective operation of the plan of compliance. This process might extend for several months. We have been trying to handle deferral situations within 90 days but have not been able to do this in all cases because of a limited staff. Congress has

recently enacted an amendment to the Elementary and Secondary Education Act placing a limit on the length of time during which funds may be deferred. I believe the amendment provides for a total deferral period of 90 days, including 60 days prior to the hearing and 30 days during and after the hearing. I am sure that there are some school districts that fail to file any compliance forms and have been under deferral for a considerably longer period than 90 days. I do not know what the longest such period is. I believe there have been instances in which the period from the date of deferral of funds to a determination at the hearing has been as long as six months. After deferral, if it is determined that a hearing should be held, a federal examiner must be appointed. This sometimes delays the proceedings because of the unavailability of people to do this work. I do not know how long this might take. After the examiner is obtained there may be further delays at the request of the parties. The hearing is then held and the examiner requires some time to reach his decision. After the examiner has made his determination there is a period of time during which the parties may file exceptions. Altogether, nine months or a year may be consumed in the process. I believe the schedule involved is set out either in the Civil Rights Act or in the Regulations issued pursuant to it.

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During the period in which the deferral of funds is applicable the local district cannot receive any federal funds except those which were approved prior to the deferral. However, since the deferral applies only to new requests for funds, in most cases a very large proportion of the funds for which the school district is eligible continues to flow during that time. Usually, allocations are made to local school systems on a yearly basis but it is our policy on deferrals to allow the existing projects to continue, even though they extend over new budget years and even though they involve new appropriations so long as they are substantially the same project that was originally initiated. I believe that our policy in this regard has changed somewhat in recent months and that the original deferrals were somewhat more restrictive.

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[Colloquy between counsel in which it is agreed that the Fountain Amendment shall be made a part of the record of this case].	123
The deferrals of funds to which I have referred are made prior to the hearing and prior to the filing of a report on the deferrals with the appropriate committees of the House and Senate.	124
Sections 181.11 to 181.19 of the Guidelines are applicable to all voluntary desegregation plans regardless of the basis on which the plan operates. Section 181.11 would be applicable to any arrangement that would involve discrimination. According to the language of the section, it is not limited to a dual school system situation but applies to all other forms of discrimination. It is the responsibility of the school systems to have a desegregation plan where there are any forms of discrimination. Section 181.12 applies in any situation in which there is some provable form of discrimination by a public body. Section 181.13 applies in any instance in which the staff is assigned on the basis of race.	124-125 125 125-126 126 126-127 127
It is necessary to keep in mind though, that the various subheadings, Sections 181.11 through 181.19, are requirements for districts which must submit voluntary desegregation plans. These are districts which are not eligible to file a Form 441 but must file a Form 441-B and adopt a voluntary desegregation plan. Thus, these sections deal with plans for desegregation of a dual school system. I believe that if there is clear evidence of discrimination in a school system it would be unable to sign the 441 form of assurance, if I recall the nature of the assurance correctly.	128 129
Section 181.32, dealing with attendance zones, comes under the heading of requirements for voluntary desegregation plans and these are plans which apply when there has been a dual school structure.	129-130

A school district which has not had a dual system but which is clearly discriminating would be required to change the particular discriminatory practices but would not be required to submit a voluntary desegregation plan since such plans are designed to handle the problem of a dual school system. Section 181.3 provides that the Guidelines are applicable to public elementary and secondary schools undergoing desegregation to eliminate a dual structure. The main focus of the guidelines is to provide special guidance for systems which have a dual system or retain the vestiges of one. This is not to say that the Civil Rights Act of 1964 and the Regulations and Guidelines issued in connection therewith are not applicable to school systems in which discrimination exists in some form other than a dual school system. For example, Section 181.5 requires the submission of a 441 Form of assurance by districts which have not had a dual system. We are obliged under Title VI of the Civil Rights Act to try to deal with discrimination by public bodies whether or not there has been a dual school system and we are involved in trying to bring about some solutions to these problems. Section 181.5 applies to school systems which do not have a dual school structure but for the most part, and certainly in Subparts B and C, the Guidelines are concerned with the special problems of school districts which have had a dual structure.

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Section 181.12, like the others mentioned, is a part of the provisions dealing with voluntary desegregation plans; hence, our view is that it is primarily related to those plans which are used in districts having a dual system. Reference is made in Section 181.12 to school district policies designed to promote segregation and should such policies exist in a particular district which has not had a dual system, we would consider this fact in connection with our obligation to withhold federal funds. But the Guidelines would not provide the applicable standards in such cases because a voluntary desegregation plan is not the appropriate remedy in a district which has not maintained a dual system.

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Section 181.12 refers to inaction designed to perpetuate or promote segregation but, again, this is a part of a series of requirements for voluntary desegregation plans to solve the problems of dual school systems. The courts have not fully examined the problem of inaction by a school district which has not had a dual system and we are in need of their guidance. I do not believe that there is any reference to dual school systems in the Civil Rights Act.	133-134 134
Defendants' Exhibit 2 is a memorandum, dated November 2, 1966, containing a report of civil rights enforcement proceedings conducted by the Office of Education which reflects the numbers and results of such proceedings. I am not familiar with the details or the policy underlying the seven p proceedings which are noted in Defendants' Exhibit 2 as, "Dismissed without Decision." Defendants' Exhibit 3 is a memorandum from me, dated March 2, 1966, addressed to Superintendents and Boards of Education of school systems qualifying for federal financial assistance under voluntary plans for desegregation. This memorandum was enclosed with copies of the 1966 Guidelines and distributed to local school officials in the 17 states I previously listed. Defendants' Exhibit 4 is a copy of the 1966 Guidelines. Defendants' Exhibit 5 is a copy of the 1965 Guidelines. Defendants' Exhibits 6 and 6a are regulations issued by HEW and compiled in the Code of Federal Regulations as Title 45, Parts 80 and 81, respectively. Defendants' Exhibit 7 is an HEW Memorandum entitled, "Discussion of Questions about HEW Form 441-B." Defendants' Exhibit 8 is a letter dated August 8, 1966 and is a copy of a form of letter used in dealing with school districts which had not submitted an acceptable Form 441-B. Defendants' Exhibit 9 is an HEW memorandum, dated August 17, 1966, from John F. Hughes, Director, Division of Compensatory Education, which was addressed to and distributed to the State Title I coordinators, ESEA.	136-137 137-139 139-140 140 140-141 141 141-142 142-143 143

My office enforces Subpart 3 of the 1966 Guidelines which deals with the requirements for geographic desegregation plans. However, our enforcement is more in the nature of persuasion. The obligation to meet the Guideline requirements lies with the local school districts. If a district chooses not to comply, our recourse is not to continue to enforce the Guidelines, but to take action under Title VI. Ultimately, enforcement is by the courts rather than by the Office of Education. I do not know whether or not we have the authority to seek judicial enforcement of assurances filed by school districts. I believe that my office has been involved with some school districts regarding geographic plans but I can not name a school district where this has occurred.

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I believe that no reference is made in either the Civil Rights Act or the HEW Regulations issued thereunder to dual school systems, although I have not had a chance to examine them to make certain. I assume that the only reference to dual school systems in the 1965 Guidelines is found in Paragraph 1 thereof. The 1966 Guidelines do not deal exclusively with school districts which have maintained a dual school system since Section 181.5 makes reference to districts which have not had a dual structure and establishes a procedure for submitting Form 441. However, the rest of the Guidelines, for the most part, apply to systems which have had a dual structure. At the present time we are not contemplating issuing detailed administrative stipulations in regard to districts which have not had a dual system. We are considering the ways by which we can make our activities under Title VI more effective in these districts. We may decide to issue further statements of policy, which may or may not be of the same nature as the 1966 Guidelines, to clarify the situations with regard to such districts. In any case, we have not picked out some 17 states in which to carry on our Title VI activities to the exclusion of the other 33 states.

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Since I have become Commissioner of Education I have made a number of public addresses, copies of which have been released by my office. The copies released by my office do not always reflect the changes I may make in the speech. My speeches are not

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always released in the form I prefer, but I have to accept that so I stand behind the speech in the form in which it was released by my office.

The following statement is from a speech I made to the Mississippi State Advisory Committee to the Civil Rights Commission on April 16, 1966:

151-152

"De facto segregation, whether in the North or South, is a much more difficult matter to deal with. It is more subtle, mor complicated, mor elusive. But its effects are no less harmful and destructive than segregation based on formal local decisions. We are therefore working diligently on problems of school segregation in the North whenever our information indicates that they can be attacked under Title VI. Members of the Office of Education staff have been gathering data in several major northern cities for months."

The following statement is from my speech to the United Negro College Fund Symposium on March 28, 1966:

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"As we move toward general integration at every level of our educational system, the efforts of the Fund become important [sic], not less."

On June 11, 1966, I spoke to the Alabama State Advisory Committee, Civil Rights Commission, and said:

"Our basic responsibility as established by the Congress in Title VI of the Civil Rights Act has been to ensure that Federal funds do not flow to any school system which is not making progress in eliminating discrimination, based on race, color or national origin."

I made the following statement in an address delivered on April 24, 1966, to the National School Boards Association:

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"The question might therefore logically be raised, if Washington's investment has increased so rapidly, will it not continue to do so until the Federal contribution dominates school budgets? As a former practicing educator who expects one day to return to a life of virtue, I share that fear, were it not for one factor: Congress and the Administration have carefully prescribed procedures for Federal programs to ensure that the control of education continues to rest in state and local bodies. The Elementary and Secondary Act of 1965 is probably the best examples of these procedures. The intent of Congress is spelled out in Section 604, titled 'Federal Control of Education Prohibited'. That section reads as follows:

"Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision or control over the curriculum, program or instruction, administration, or personnel of any educational institution or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.'

"This is the law of the land, and any Federal official who tampers with its provisions does so at his peril. Even so, one can bend a law without breaking it, and to prevent this possibility, Congress carefully specified how aid provided under the ESEA should be channeled to local school districts. Let us look at those specifications."

I spoke to the School Administrators' Conference on June 18, 1966, and said:

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"Thus the Civil Rights Acts [sic] makes of every Federal program, whether it be for education, urban development, or water pollution control, a powerful financial tool in the drive against racial inequity. The rationale behind this Act is simple: no desegregation, no Federal money."

* * *

"To say this is by no means to say that the Office of Education is caving in on de facto segregation -- on segregation northern-style. It is to say that the issues are complicated and subtle, that establishing a clear-cut legal basis on which to take action -- and be confident of withstanding any challenge -- has required far more investigation and study than we would have preferred. We are not satisfied with our pace. But that dissatisfaction is not to retreat but to determination [sic] to redouble our enforcement efforts where they are pertinent. This broad position we must all assume on this matter comprises two parallel and equally important policies. One cannot work without the other. The first is to make the schools of the central city such good schools that they attract people rather than repel them. The second is to use every possible device to include within each school a cross-section of the social and economic backgrounds of the metropolis."

* * *

"Gradualism -- no matter what we call it -- has failed, and I think it is fair to say that those who continue to espouse it are fooling themselves and in many ways failing our nation."

The following is from an address I made
at Vassar College on June 5, 1966:

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"This is especially true with regard to civil rights, for the great battles remaining to be fought will not be waged in Selma and Watts, Montgomery or Bogalusa. The most enduring and critical victories will have to be won in the quiet communities, in the pleasant neighborhoods in our cities and in the suburbs that ring those cities. The great civil rights demonstrations have made their point, and governments at every level -- federal, state, local -- are responding with legislation designed to bring the Constitution and the Emancipation Proclamation up to date. Much remains to be done, of course, and perhaps more demonstrations will be needed to spur action. But the task of achieving genuine equality of opportunity throughout the United States will not be completed until the desirability of racial justice is accepted by the polite people, as well as the violent people."

In the speech I made to the School Administrators Conference on June 18, 1966, I also stated:

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"While we have gone on urging moderation, sweet reason, and bigger and better panel discussions, the schools throughout the nation remain almost as segregated today as they were in 1954, when the Supreme Court decided that racially segregated education was illegal. The small progress that the South has toward desegregation [sic] has been offset by increasing de facto segregation in the cities of the North."

In one of these speeches I did say that it may be that more demonstrations will be needed to spur action. This, and all of the other quotations, must be taken within the total context and spirit of the speech.

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As I said, my office has no present intention of preparing statements of policy with respect to segregation in the North. As I point out in the speeches, however, the problems of de facto segregation are legally more difficult and we have more difficulty working with them administratively. We have not ignored the problems existing in areas outside of the 17 Southern states. We have conducted a great many activities related to schools in these areas and some of these activities have brought about constructive changes. The changes have not been as large or general as we would like but they have been partially effective. The Guidelines were distributed to the chief state school officers in 33 states but not to all of the local school districts in those states. We do not collect information regarding the racial distribution of pupils in each school in those states. This information regarding the racial distribution of pupils is obtained only from school districts using a voluntary desegregation plan. Even in the 17 southern states I previously listed, we have not requested this information from school districts which are under court order or which have submitted Form 441's.

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I believe that there were a number of school districts in the 17 states which submitted Form 441's that we felt were unacceptable because the district still maintained a dual school system in some fashion. We have not declined to accept Form 441's from any school systems in the other thirty-three States.

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HEW regulations issued in connection with the Elementary and Secondary Education Act of 1965 contain the following provision which is applicable to the various titles of the Act:

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"Grants made pursuant to the regulations set forth below are subject to the regulations in 45 CFR Part 30, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of Section 601 of the Civil Rights Act of 1964 (Public Law 88-352)."

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The application for funds under the various programs included in the 1965 Elementary and Secondary Education Act contains a statement which the applicant must sign to the effect that the assurance of compliance with the requirements of Title VI previously filed with the Office of Education applies to the application for funds. The assurance filed with the Office of Education makes no explicit reference to the 1966 Guidelines, but an applicant for funds under the 1965 Act would have to comply with the Guidelines to the extent that they are applicable. A school district which had filed a Form 441-B [Form 441] would really be concerned only with section 181.5 of the Guidelines, while a school district which has or has had a dual school structure would be concerned with the remaining portions of the Guidelines. A school district which applied for funds under the 1965 Act, and which had previously filed a Form 441 with the Office of Education, might be affected by the Civil Rights Act and by the HEW regulations pertaining thereto if there should be some discrimination within the school system, but this district might not necessarily be involved in the submission of a voluntary desegregation plan to which the Guidelines would apply. The Guidelines are concerned almost completely with the problems of school districts which are maintaining a dual school system. They do not address themselves to problems arising out of de facto segregation. If we found discrimination in a school district which does not have a dual system we might require a voluntary plan in order for the district to continue to receive federal funds, but this requirement would not be governed by the Guidelines.

My office has not called any hearings for the purpose of terminating federal funds to any school districts outside of the 17 States I listed previously. Our enforcement of section 601 of the Civil Rights Act in the remaining 33 States has consisted of a number of discussions and activities.

The Office of [Equal] Educational Opportunity is headed by an Assistant Commissioner of Education and employs 117 people. Of these, 39 professional people and 18 clerical people work on projects in

the 17 Southern states. Ten professional people and 4 clerical people work in the other states. This totals 71 people. The remainder of the 117 persons who work in that office have broad responsibilities that would apply to all of the activities of the office. We had roughly 100 part-time employees during the summer of whom about 10% worked in the North and West. The remainder worked in the 17 Southern states. 172

The basic issue to be determined in a hearing before a federal examiner under Title VI is whether the local school district is making sufficient progress under a school desegregation plan or making its plan work properly. The Guidelines are helpful in this matter but I do not believe that they are the sole matter of discussion at a hearing. The Federal examiner who conducts such hearings is an independent examiner and he would not necessarily affirm the Commissioner's finding that the district is in violation. He would hear evidence from both sides. So far as I know, there have been no hearings which resulted in findings which were adverse to the Commissioner of Education. 172-174 174

I have not received any written communication from the President relating to the use or enforcement of the 1966 Guidelines or the HEW regulations. The only statement by the President of this kind that I am aware is one which he made at a press conference two or three weeks ago in which he mentioned the Guidelines and said that he was in favor of enforcing the law. I have not received any written communications from any of the President's associates regarding the application of the Guidelines, the HEW regulations, or Title VI. 175 175-176 176-177

The following is an excerpt from a speech I delivered in Chicago on May 13, 1966: 177-178

These are some of the immediate steps that can be taken to improve the ghetto school. But I believe that more drastic measures will be needed over the long run. For example, traditional school district boundaries often serve

education badly and may have to be changed. New York and New Jersey surrendered state prerogatives to form the Port of New York Authority in the interest of improved transportation. If we can make such concessions for transportation, I suggest that we can make them for education. We could, for example, alter political boundaries to bring the social, economic and intellectual strengths of the suburbs to bear on the problems of the city schools. Building programs for the future could be planned so that new schools break up rather than continue, segregation of both the racial and economic sort. The Office of Education will provide Federal planning funds for such efforts right now and, if I have my way, the office will provide construction funds before long.

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Altering political boundaries or consolidating the educational facilities of a large city would involve major organizational changes, major educational surgery. But I believe that major surgery is required if we are to liberate the children of the slums."

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These remarks should be considered in the context of the speech and, even as they stand, they do not connote in any way that these activities should be imposed as requirements by the federal government. If local school districts "sit on their hands", I do not have any authority to "yank the reins of educational policy from their fingers".

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The following remarks are from a speech that I gave to the School Administrators' Conference in New York City on June 18, 1966:

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But the job is there to do, and if any of us entered education with the idea that it would be a soft touch, this is as good a time as any to concede that we made a big mistake. There is lots of conversational [sic] about local control of the schools; if we really believe in it -- and I assure that I am in that number -- we must make it work. We must guide the schools to a continuing freedom while at the same time responding appropriately to calls for national action. Local school districts must not sit on their hands and then bellow about having the reins of educational policy yanked from their fingers. We are in the midst of a struggle for excellent education for every American youngster, and we must use every tool we can devise. Local school administrators must consider such means as redrawing school district boundaries and consolidating with neighboring districts for educational purposes even though political boundaries may remained unchanged. We cannot wait for mayors and city councils to do the work they hired us to do. And sometimes we must do work they do not want us to do.

In using the term "we", I spoke as an educator 180
and not as a representative of the federal government.
The purpose of these statements is to get local school
boards to take action on these matters. I do not be-
lieve that I have ever suggested that the federal
government should in any way remove authority from local
school boards and all of our desegregation activity is
directed towards getting local boards to assume their
responsibilities. I do not have the authority to step 181
in and take over from the local boards; my only obli-
gation is to see that federal funds are not granted to
school districts which discriminate. The 1966 Guide-
lines deal with the obligations of local districts and
we are trying to get them to meet these obligations. If
they fail to do so, it is our responsibility under the
law to withdraw federal assistance.

I gather that there has been a situation in which my office has recommended that a local school close certain specified grades and transfer the pupils into another particular school, but I am just not aware of it. I think that we may have also suggested to local authorities that they consider transferring a certain number of teachers from one school to another, but this is dependent on the local authority and not on our authority. The implication of such recommendations is that we are seeking to keep the school district in compliance.

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Richard L. Fairley is the Acting Director of Area III, Equal Educational Opportunities Program, which area includes Alabama. Defendants' Exhibit 10 is a letter dated August 15, 1966, from Mr. Fairley to the Walker County Superintendent, Jasper, Alabama. Defendants' Exhibit 11 is a letter from me to the Superintendent of Education of the Enterprise, Alabama, City Board of Education. Defendants' Exhibit 12 is a letter from Mr. Fairley to the Superintendent of Lanett, Alabama, City Board of Education. Defendants' Exhibit 13 is a letter from me to the Superintendent of the DeKalb, Alabama, County Board of Education. Our primary concern in writing the letter which is marked as Defendants' Exhibit 13 was a faculty desegregation problem. In this we pointed out that funds are not being deferred but that we would look for further progress in the area of faculty desegregation, since only one of the Negro staff members and one of the white staff members in that district were assigned to schools on a desegregated basis. The letter also makes reference to pupil desegregation in that it suggests that other districts have found it useful to hold a second free choice period after the regular choice period is over to give an additional opportunity to those who have not already done so to transfer to a desegregated school.

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Defendants' Exhibit 14 is a copy of a letter to David S. Seeley dated August 15, 1966.

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The following list of possible techniques to correct de facto segregation was inserted in the Congressional Record by Congressman Fino:

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"(1) Comprehensive, district-wide rezoning of school attendance areas to obtain maximum heterogeneity.

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(2) Pairing, grouping or clustering of adjacent Negro and white schools a division by grade level in two or more residential areas.

(3) Reorganization of the use of schools; reorganizing the grades of a school; converting schools to other uses; closing schools; changing feeder patterns; grade pattern reorganization.

(4) Careful site selection to locate new schools so as to maximize integration of residentially segregated student populations.

(5) Increased busing from overcrowded to underutilized schools.

(6) Development of "magnet" high schools, each specializing in a different subject area with enrollment open to the entire school district on the basis of interest rather than ability.

(7) Development of supplemental educational centers, comprehensive community schools and shared time programs to draw districtwide enrollment as well as participation from private and parochial schools.

(8) Open enrollment, voluntary enrollment and free transfers.

(9) Creation of metropolitan school districts to include urban and suburban areas.

(10) Suburban-Inner City pupil exchanges.

(11) In-class pupil grouping to avoid racial separation, development of upgraded primary classes remedial and compensatory programs within the framework of regular classroom structure.

(12) Inservice training for teachers and other school personnel; employment of specialists to advise school personnel, parents, children and the public on problems of desegregation; improving guidance and counseling services.

(13) Development of new curricular materials, particularly those including proper representation of racial and religious minorities.

(14) Teacher assignment to assure faculty integration at all schools.

(15) Improvement of recruitment and advancement of minority group teachers and of white teachers who are motivated to teach in ghetto schools and in transitional programs."

The Office of Education has been involved in discussions of all of these items but never with a view towards imposing them on any school districts. Rather, we have considered the possibility that school districts might want to use some of these devices to improve educational opportunities, indeed, as some districts are doing now on their own initiative. The Office of Education is presently using some of its own staff and funds available to it under Title IV of the Civil Rights Act with respect to some of the matters contained on this list to provide services to local school districts. These techniques are employed only when they are desired by the local authorities and approved by them. I cannot think of any item on that list that would be applied without local approval. A few of the items listed are presently at our disposal and they are made available only to school districts which wish to have the benefit of our assistance. This list of items comes from some preliminary papers in this office entitled "The Equal Educational Opportunity Act of 1967." These papers were made available to Congress but my office was never officially involved with them as a serious legislative proposal. I would not say that the Office of Education will never recommend legislation generally to this effect because it might be desirable sometime in the future to make federal support available to communities which might wish to develop such activities, subject

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to local decisions. In these preliminary papers it was proposed that approximately 5.5 billion dollars of federal funds be made available for these purposes during the period from 1969 through 1972. It was proposed that additional funds be made available under this Act for a total of either 7 or 12 billion dollars, I am not certain. Under the first 5.5 billion the items covered were basic grants, loans, supplemental grants, state administration and research. It was proposed that some 7 1/4 billion dollars be used for grants to local education agencies for self-assessment, planning, and evaluation; construction of school facilities; grants to assist schools in the process of desegregation; educational personnel training and staff development; expanded pupil personnel services; and educational programs for adults. The "Equal Educational Opportunity Act of 1967" never even reached the status of a bill, let alone an Act.

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There have been no changes in the policies of my office since August 1, 1966, in relation to educational matters affecting the State of Alabama, its state school authorities, or local Alabama school systems.

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Cross Examination by Mr. Ray:

I would say that a school district within which the number of Negro students attending previously all white schools increased from 88 to 289 from 1965 to 1966 has shown progress in the desegregation of students. In order to determine whether this represents sufficient progress, I would need information about the total number of students involved of both races and information about faculty desegregation. I cannot make any judgments on the operation of plan purely on the basis of students. By the same token, I could not make a judgment about the sufficiency of the progress in a particular system simply from the fact that nine Negro children attended previously all white schools when four grades were covered by the plan and 109 Negro students transferred when the plan was extended to nine grades. Also I cannot give an opinion on the

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operations of a plan based on the information that all students in the covered grades were delivered a choice card, that all the choices which were made were accepted, and that all other children were allowed to attend the schools where they appeared on the first day of classes.

Assuming that there are two high schools in a district, each covering grades 10 through 12, and that prior to 1965 one was a Negro school and the other a white school, and assuming that a choice plan was instituted in 1965 under which the parents of the students in these schools have the right to choose a school merely by checking the name of the school and signing their name, and assuming further that all choices made are accepted and that the children for whom a choice is not made are allowed to attend the school at which they appeared on the first day of classes, it is my judgment that this might be a workable freedom of choice plan under the 1965 Guidelines but not under the 1965 [1966] Guidelines. The 1966 Guidelines require that every pupil make a choice on prescribed forms and that the forms be handled in a certain way. It is possible that there are violations of these provisions occurring in this hypothetical situation. However, it is impossible to make a judgment on the operation of a free choice plan unless a great deal more detailed information is given.

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Some of the requirements of the 1966 Guidelines are procedural and others are substantive. The substantive requirements are flexible.

I am not generally familiar with the details of the desegregation plans imposed according to court order. We will continue to receive final court orders and assurances related to them as a basis for allowing federal funds to flow. The detailed arrangements of these plans are the prerogative of the courts.

Section 181.62 of the Guidelines permits the Commissioner to accept alternative procedures. I am not familiar with any specific cases but we have allowed some alternatives to Guideline procedures, particularly in connection with geographic

zoning plans. It is my understanding that it is the practice in a number of states for local districts to send reports required under the Guidelines to the chief state school officer, who then transmits them to my office. I am not sure whether or not this is a departure as authorized by section 181.62, from the regularly prescribed procedure.	202-203
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It is sometimes helpful to a degree in removing the racial identifiability of a school to change the name of the school if the former name has a racial connotation. I do not know whether painting and remodeling the school buildings would help in this. I think that assigning staff members to a school where their race is a minority is of assistance in eliminating the school's racial identification. If a school district did all of these things with respect to a particular school, it would be my opinion that it would have moved away from some of its identifiability, but the particular situation must be examined in making a judgment as to whether this represents substantial progress. Determinations that we make regarding the elimination of racial identifiability do not relate to a single school in a district, but rather to the entire district and to the efforts of the district to make its desegregation plan work. It is possible that a school located in a Negro neighborhood with a desegregated faculty but an all-Negro student body might be within a school district which we judge to be in compliance, but it would depend upon the total situation in the district. I cannot set a standard for any one school in terms of staff desegregation. All of the requests that we make of school districts relate to the entire district. It is possible that a school district will currently have an all-Negro school with all Negro teachers and yet the district as a whole might have made the substantial progress that is acceptable to us. The Guidelines provide a rule of thumb regarding staff desegregation in that it is suggested that some of the professional staff in each school be desegregated. We have used this to suggest that something like one teacher per school in the district as a whole be desegregated, although this is not an exact requirement. Thus in a district with twenty schools we	204
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would hope that about twenty teachers would be assigned to a desegregated teaching arrangement. This does not have any validity in some districts and does not apply to any individual school.

It is true that the Guidelines are administered with a certain flexibility since we are trying to provide general guides for different problems and different situations. One reason that we will not accept for failure to make substantial progress is that of local objection to desegregation, although this is urged on us frequently.

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The 1966 Guidelines prescribed certain forms to be used by school districts in notifying parents of desegregation requirements. While this is a mandatory requirement for systems using a freedom of choice plan, I do not know whether or not there were any school districts in Alabama that did not observe this requirement.

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The Guidelines also require a notice to be sent to parents and published in the newspaper, which notice includes a statement to the effect that information regarding interference with choices and information regarding any other violation of the desegregation plan should be reported to my office in Washington. The notice also provides that a complaint should first be brought to the attention of local school officials unless the complainant feels it would not be helpful to do so. Our experience under the 1965 Guidelines was that in some places there were various forms of intimidation or the plans were not operated in such a manner that the people were aware of their rights, so it seemed wise to set up rather definite procedural arrangements for the registering of complaints. I am not aware of anything involving either the Tuscaloosa City or County Boards of Education which would require such a notice to the patrons of those systems. I am told that it is not the practice of my office to accept [collect] calls on these complaints. We do not have any written regulations concerning investigations of any such complaints.

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I think that abolishing all racial designations in reports, payrolls, Board minutes, etc. is a step in the direction of the elimination of the dual school system. Opening of all schools to all students and the desegregation of the faculties of each school to some extent would also constitute a move toward the elimination of the dual school system. The elimination of the dual school system involves more than these steps and we would need to look at the detailed operation of the entire desegregation plan in order to determine what further steps might be needed. I do not think that the continuation of totally Negro and totally white schools really indicates that a free choice plan is operating successfully. It certainly indicates that the plan ought to be reviewed.

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I would say that two problems confronting education are the desegregation of faculty and the securing of qualified personnel. I could not say which is the more important; I think the two problems are very much intertwined.

Cross Examination By Mr. Reeves:

As United States Commissioner of Education, I have always tried to act within the limits of the authority conferred by Congress, in preparing, interpreting, and applying the 1966 Guidelines and in administering federal financial assistance to public education. We have received some guidance in doing this from the federal courts.

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DESCRIPTION OF EXHIBITS

DEPOSITION OF HAROLD HOWE, II

UNITED STATES COMMISSIONER OF EDUCATION

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
Def. 1	29-30	Memorandum dated April 9, 1966, from Harold Howe to School Superintendents and Chief State School Officers, entitled "Subject: School Desegregation Guidelines". Attached thereto is a letter bearing the notation, "Copy of letter sent to Members of Congress and Governors", signed by John W. Gardner, Secretary.
Def. 2	136-137	Memorandum dated November 2, 1966, containing a report of civil rights enforcement proceedings conducted by the Office of Education which reflects the numbers and results of such proceedings.
Def. 3	139-140	Memorandum dated March 2, 1966, from Harold Howe and addressed to the Superintendents and Boards of Education of School Systems qualifying for federal financial assistance under voluntary plans for desegregation.
Def. 4	140	The 1966 Guidelines.
Def. 5	140-141	The 1965 Guidelines.
Def. 6 and 6-a	141	Regulations issued by HEW under Title VI of the Civil Rights of 1964, compiled in the Code of Federal Regulations as Title 45, Parts 80 and 81, respectively.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
Def. 7	141-142	Memorandum dated July 8, 1966, on the letterhead of the Department of Health, Education and Welfare entitled, "Discussion of Questions about HEW Form 441-B".
Def. 8	142-143	Letter dated August 8, 1966, signed by David S. Seeley, Assistant Commissioner, Equal Educational Opportunities Program. This is a form of letter used by HEW in dealing with school districts which had not submitted an acceptable Form 441-B.
Def. 9	143	Memorandum dated August 17, 1966 on HEW letterhead to State Title I Coordinators, ESEA, from John F. Hughes, Director, Division of Compensatory Education.
Def. 10	183	Letter dated August 15, 1966, from Richard L. Fairley addressed to Mr. Robert Cunningham, Superintendent, Walker County Board of Education, Jasper, Alabama.
Def. 11	183-184	Letter dated October 13, 1966, from Harold Howe to Superintendent Snellgrove, Enterprise, Alabama, City Board of Education.
Def. 12	184-184a	Letter dated August 25, 1966, from Richard L. Fairley to Superintendent J. T. Greene, Lanette, Alabama, City Board of Education.

<u>Dep. Ex. No.</u>	<u>Dep. Page</u>	<u>Description</u>
Def. 13	184a-186	Letter dated October 13, 1966 from Harold Howe, U.S. Commissioner of Education to Superintendent Leon Roberts, DeKalb County, Alabama Board of Education.
Def. 14	187	Letter dated August 15, 1966, to David S. Seeley, Equal Educational Opportunities Program, U.S. Office of Education.

LAWRENCE A. CROWDER
UNITED STATES OFFICE OF EDUCATION

Direct Examination by Mr. Smith

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My title in the Office of Education is Civil Rights Specialist. I am assigned to the compliance phase of the work. I have been with the Office of Education since late February, 1966, and I deal mainly with the implementation of the 1964 Civil Rights Act and the Guidelines and regulations pertaining thereto promulgated by my office.

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I have worked with school systems in Alabama. To my knowledge, there are approximately 117 separate independent school systems in Alabama. There may be more than one school district within a particular county since any city having a population over 2,500 is authorized by Alabama law to establish a separate city school system. The school districts, including those in cities, have taxing authority. I am aware that there are three principal sources of revenue for Alabama schools: local county or district taxes, state taxes, and Federal funds.

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I worked with approximately 94 school districts in Alabama, that is, the ones which were under voluntary plans. In my capacity as a Civil Rights Specialist I called on a large number of the superintendents in those districts and met with the various Boards of Education on occasion.

Boards of Education generally are elected and they serve without pay. Most of the County Superintendents are elected and a number of the Superintendents in the cities are appointed, although some county Superintendents are also appointed.

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I found that Alabama school districts are separate and independent from one another.

State financial aid is provided to local school districts under the minimum program fund. To my knowledge financial aid was distributed without regard to race, color, or national origin, but I have never conducted an investigation of the State of Alabama as a whole and my knowledge of the financial arrangements is limited. I am not familiar with the state education trust fund. I did not make any inquiries in this regard since the only thing I was interested in was the relationship of the state and the Federal government.

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It is my understanding that funds are allocated to local school systems on the basis of teacher units. Teacher units are based on average daily pupil attendance and if one school system has a greater number of pupils than another, that system will receive a greater number of teacher units and, accordingly, the system will receive a larger allocation of state funds.

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I have no reason to question the statement that the allocation of state funds is not based in any way on the race of any pupil involved and that pupils attending predominantly Negro schools receive the same allocation of funds as pupils attending predominantly white schools. However, I have never investigated specific allocations at particular schools.

I found that each school system has the duty of providing public education within its district, separate and apart from all other school districts. One school district has no authority over another. 9

In connection with my duties I investigated a number of school systems, such as the Perry County system. My investigation of this school system included meeting with the Board of Education and numerous conferences with the Superintendent both in person and on the telephone. Although I did not conduct a detailed inspection of transportation routes and facilities, lunch room facilities, and the physical plant of the schools in this system, I did so in other school systems. For my purposes, it was necessary to investigate each school system about which there was some question as an independent unit. Each system would present different features. 9-10 10-11

My purpose in working with local school systems was to present the Act, to make explanations, and to help them to achieve voluntary compliance. We obtained a number of voluntary desegregation plans in Alabama. The 94 systems I referred to earlier are those which were in voluntary compliance for the 1965-66 school year. 11

I do not have the figures with me showing the number of school systems in Alabama that have had Federal funds deferred. Rather than approximate, I would prefer to obtain the figures.

We found that a number of the school systems which filed voluntary desegregation plans actually implemented the plans by transferring Negro students to previously all white schools, and we also found that a number of them did not. A majority of the systems granted a freedom of choice. 12

While I was working in Alabama, I usually did not attend staff conferences in Washington at the Office of Education. My chief would usually attend such conferences and bring the information back to me.

I have not looked into the question of the authority of the State Board of Education to assign pupils from one school to another school. I have no knowledge of any instance in which the State Board did assign a pupil to a particular school. 13

I did not find that the State Board of Education has any authority in the employment of teachers, other than, I think to set up standards.

So far as I know, the establishment of transportation routes is a local function, but there again, I have not gone into this. 13-14

So far as I know, the state Superintendent of Education and the State Board of Education have no authority in the assignment of pupils, transportation, or the employment school system. I make no claim to knowing the entire school law in Alabama. It is correct, though, that in my official capacity I dealt directly with each separate independent school district. 14

When I first went to Alabama I worked with the 1965 Guidelines. At that time Mr. Francis Kepple held the position of the United States Commissioner of Education. He was succeeded by Mr. Harold Howe, under whose direction the 1965 Guidelines were revised. There were certain changes made in the Guidelines.

I first went to Alabama in March 1966. I found that the local Superintendents and Boards of Education were generally familiar with the provisions of the 1964 Civil Rights Act. I discussed this Act with them, including the question of faculty and staff desegregation. I discussed Section 604 of the 1964 Civil Rights Act with the various Superintendents, but I mainly explained the requirements of the Guidelines. I made no effort to explain Section 604. It is a legal question and I referred them to the provisions set out in the Guidelines and told them that Section 604 had no application in the matter of employment of faculty and staff. As I understood it, this was an interpretation by the Commissioner. Of course, the 1966 Guidelines deal specifically with faculty desegregation. 15 16 17

I agree with the statement of Mr. Howe, Commissioner of Education, in his statement to the House Rules Committee on October 4, 1966, to the effect that Section 403 of the Civil Rights Act of 1964 provides the authority for the issuance of Guidelines. In reading Section 403, I note that the Commissioner is authorized to provide technical assistance upon the application of any school board, state, municipality, school district, or other governmental unit. 17-19

The Perry County, Alabama Board of Education asked for my assistance with the Guidelines. I have talked with Superintendent L.G. Walker, of Perry County, on a number of occasions. I do not recall whether my first contact with him was at his invitation, or if I called him. 20 21

I do not deal with Elementary and Secondary Education Funds, as such. If my office were to certify that a system is not in compliance, it would apply to all federal funds, including those authorized under the Elementary and Secondary Education Act of 1965. This is the biggest appropriation of federal funds for local boards of education in Alabama. I am familiar with this Act in general, but not specifically. 21-22 22

I have read Section 604 of the Elementary and Secondary Elementary Act of 1965. I have not discussed it in conferences at my office, nor have I discussed it with either of my superiors, Mr. Harold Howe or his assistant, Mr. David Seeley. The revised Guidelines do deal with faculty desegregation and, under our interpretation, Title VI authorizes HEW to terminate funds unless local school boards comply with the Guidelines. I can explain the intent of the Guidelines and the manner in which we enforce them, but I cannot explain the intent of Title I of the Elementary and Secondary Education Act in relation to the Guidelines.

Funds were deferred for Perry County, Alabama and a hearing was held on the question of terminating their Elementary and Secondary Education Act funds. I cannot say whether the funds were terminated after the hearing. Faculty desegregation was one of the problems in Perry County, as was transportation. My office did not request the Perry County school system to transport students into the Marion city system. As to whether or not I made such a request, I would have to check my files in order to go into specific cases.

I think funds under the Elementary and Secondary Education Act are paid to local school districts through the State Superintendent of Education, but I am not sure because I have not worked in the area of dispersal of funds and I can speak only from general knowledge. I do not know definitely the manner in which these funds are paid but as far as I know, the United States Office of Education deposits a letter of credit in a federal reserve bank for the particular school system involved. I understand that the State Superintendent of Education then releases money to local school systems. When this office defers funds, the state office is asked not to release these funds.

My office has approved freedom of choice plans in school systems in Alabama. I believe we also approved one or two plans in Alabama that have a geographic feature. I have not dealt specifically with these geographic plans to the extent that I would have complete knowledge of them. Geographic plans are not as common as freedom of choice plans.

I have not compelled, suggested, or required any boards of education to allot a quota of Negro students to particular white schools.

I am not familiar with the Singleton transfer plan as such but I would judge the refusal of a transfer in the following situation to be a violation of the 1966 Guidelines: The desegregation plan in a particular school includes grade 9 but does not include grade 3. A Negro pupil who has a brother in this school attending grade 9--an included grade--desires to transfer to grade 3 of that school--a grade that is not included in the plan. There is always a transfer provision in the Guidelines.

September 1, 1967, is the target date established when they set the rate of desegregation at four grades a year. 29

A school system which published a notice of the grades affected in a newspaper of general circulation within the county or city but did not send a written notice to each parent or guardian would be in technical violation. I would not recommend deferral of funds in this situation. 29-30

Assuming that a school system employed a freedom of choice type of desegregation plan and administered the plan in a nondiscriminatory manner in every respect but no Negro pupil applied for transfer to a white school and no white pupil made a choice for the Negro school, there would be a technical violation of the 1966 Guidelines. The violation would be in the fact that the freedom of choice plan may not work in this situation. We would request that this school do something else, although I do not say that we would require the school system to transfer pupils regardless of their choice. We would first probably meet with the local officials and ask them if they felt that there was something else that they could do to get some desegregation of pupils. There would be a number of things they might want to do. They might wish to change to a geographic plan. They might wish to hold a new choice period. This is a decision for the board to reach. If freedom of choice did not work, the school system would have an additional opportunity to do something else in this area. This is my understanding of the interpretation that this office places on the Guidelines. This is not to say that the purpose of the Guidelines is to overcome racial imbalance, rather, they are designed to end the dual school system. A dual school system is one which has both Negro and white schools, maintained separately. 30 31 32 33

As I stated before, if a school held a freedom of choice period and followed all of the procedures as outlined but there were no choices made, we would suggest to the people of the school district that some other action be taken. The local district would select the additional action which they might take to have the freedom of choice system work. I understand that this hypothetical situation assumes that every Negro pupil and every white pupil in the system chose to go to the school that each was previously attending and that the plan was administered without regard to race, creed, or national origin. In these circumstances the policy of this office would be that the system would not be in compliance with the 1966 Guidelines. I would not recommend the deferral or termination of funds at this point in the proceedings. I would first recommend that the school board may wish to follow some other procedure, some other method. Assuming that the local board did nothing further it would still not be my recommendation that funds be deferred and subsequently terminated. I would first recommend to my superiors that I conduct an investigation in this community to determine whether all of the procedures of the Guidelines have been followed, whether they have taken the proper steps, and whether there was any intimidation within the community. There are other factors coming into this. 33-34 34 35

For the first several months I was the only person from this office working with Alabama school districts. Then I was joined by Woodie Bankhead and during the summer we had a group of eight law students assisting us. All of the law students worked within the state of Alabama at one time or another. They worked with an investigator or compliance officer, a Civil Rights Specialist. They did not work exclusively with the Negro citizens in particular areas. They did not work directly with boards of education though they would meet with boards. Their work with Negro citizens consisted of interviewing parents of students and asking how the situation was handled. They also interviewed white parents. It was not their function to encourage Negro parents to have their children go to previously all-white schools. I would say they did this on rare occasions, not as a regular thing and not under any orders from this office. This was not a function of this office nor was it their job. They were there for the purpose of conducting an investigation. Actually, the students were specifically told that it was not their function to get people to change their schools.

The group of law students I worked with did not go into Lowndes County, Alabama. We went down into the area of Ozark, Dale, Covington, Opp City--in through this general area. I do not have the names and addresses of these students but I can supply them to you. These students came from various law schools around the country including Harvard, Howard, and Columbia. I had one professor working with me who was from Duquesne. These students worked under supervision in conducting investigations to determine whether or not school boards were in compliance with HEW regulations. They worked under my direct supervision and at times they went out with me. Also, Mr. Bankhead and Mr. McBaine the Duquesne professor, group out at one time. They were instructed that any direct contact with the superintendent or with the school board would be made by one of the group leaders, either Bankhead, McBaine, or myself.

To my knowledge, these students were not members of any particular organizations. They were not working in conjunction with any of the civil rights organizations, such as SNCC, CORE, or the Black Panther Group. They were specifically prohibited from doing so. They worked for the Office of Education. Some of them may have been members of these groups, I would not be able to say. But we did not go to a particular group and hire them.

We did talk to teachers in the school systems, with the permission of the school superintendent. This was not for the purpose of encouraging faculty and staff desegregation since this is not our function. That is the prerogative of the local officials.

Compliance with the requirements of faculty and staff desegregation is one of the factors involved in finding a particular board in compliance with the Guidelines. However, if a board had not taken any steps toward faculty and staff desegregation, their funds

would not be automatically deferred or terminated. There is nothing automatic about any of this. A phone call or, if possible, a personal visit would be made to ask the superintendent or the board if there was not some action they could take. It might be that there were still vacant positions on their faculty, or there were many other ways in which something could be done. But funds were not deferred simply on the basis of a district not having faculty desegregation. Steps were taken in an effort to get the local officials to do something in this area.

Even in those instances where the local officials failed to take any action on faculty desegregation, I have never deferred funds on that ground alone. 41-42

I presently have the states of Arkansas and Oklahoma under my supervision. 42

There are representatives of this office assigned to the State of New York. Our Area V handles all states other than the seventeen states. I have no idea of how many persons are employed to work in Area V.

I would say that the Commissioner of Education applies the Guidelines equally in all the states. The ones that do not have any vestiges of a dual school system may file a form 441. An example in Alabama is Cullman City. 43

I am not familiar with the States of New York and Kansas and I have no knowledge whether there are any dual school systems in those states. I have worked only in the State of Alabama and on one investigation in each, Mississippi and Arkansas. Those are the only areas regarding which I can speak with any authority.

It is my opinion that the dual school systems in the 94 systems in Alabama with which I am familiar have not been eliminated. Steps have been taken in the direction of eliminating the dual school systems in some of these districts. Some districts have gone farther than others along these lines. 43-44

We consider each school district to be independent, just as does the State of Alabama, and we consider the particular factors involved in each community and location. 44

In some cases, it has been the policy of the Commissioner to defer funds without a hearing. Recently, though, we were told that we could defer funds for 60 days but that we had to have a hearing within that time.

The districts that are under a court order merely submit a statement of compliance along with a copy of the court order. The purpose of the statement is to inform us that they plan to comply. 45

I do not know of any school system or any school official in Alabama that has been held in contempt of any court order relating to school desegregation. As far as I know, we have always accepted the court order along with the statement of compliance with the court order from the school district and have never gone beyond this. As a personal observation, I feel that we have the authority to look behind the court order but we have not done this. We have accepted the court order along with the statement of compliance.

This office has not required the assignment of white students to previously all Negro schools. Such transfers have occurred only through the operation of the school board's own freedom of choice plan. But we would not consider the districts to be in compliance unless there was some change from the previous dual system.

I went to Elmore County in September and spoke with a local official about several matters. One of the rather cursory things I took up concerned a complaint about the school lunch program. One of the specific complaints was that Negro children were being served bologna while the white children were being served chicken. This was a nebulous complaint and would not have been investigated if it had not been a part of another thing. I investigated it in the sense that I went to the school district. I think Mr. Fairley went into this at a later date. I received the first part of this complaint while I was in Alabama and I talked to the complainant and then discussed it with Mr. Taylor the local official. There were a number of factors that had been raised and there was something to do with the lunchroom, the food having been thrown on the plates. This was a very nebulous thing. I investigated it only to the extent that I brought this along with other things to Mr. Taylor. That's all I did. I did not investigate it. We normally try to investigate complaints completely, within personnel limitations. Two investigators from this office were sent to look into this matter, among others things. I do not know the specific things they were investigating, but this trip hinged in with the thing I had already been to see Mr. Taylor about. It was not limited to the complaint about the food served to the Negro children. This could have been one of several factors that were investigated. Federal funds for Elmore County were not deferred on the basis of this complaint about the lunch program. I believe the deferral was based upon the failure to file a form 441-B, but I would have to look that up. I believe the lunch room complaint was made by a Miss Williams.

In administering the Guidelines, we probably inquire to determine whether the summer program, if there is a Headstart Title I Program, has been run on a desegregated basis. I think they ran the Title I summer programs on a freedom of choice basis. On second thought, and having been referred to a letter dated September 1, 1966 from this office to Mr. Taylor of the Elba City School System which states that free choice desegregation procedures do not apply

to summer school, I now recall that section 181.14 of the Guidelines so provides. Under the Guidelines, this could be a basis for a recommendation that funds be deferred for the next school year, although I have never had an instance where this was done. 51

Cross Examination By Mr. Ray: 52

I am aware that the Tuscaloosa City Board of Education and the Tuscaloosa County Board of Education and their respective members and superintendents have been sued in federal court. I have not seen the particular suit that was filed and I am not aware of the relief that is requested.

I attended and addressed meetings in the State of Alabama in March 1966. At those meetings I recall saying that I would come in and look over the situations in the various school systems with regard to compliance efforts.

I have a GS-14 rating. I had the same rating in March 1966. I have been in the same position, more or less, regardless of the title applied to this position. My superior in Alabama was in charge of Region III which includes the states of Tennessee, Alabama, and Mississippi. During his absence, possibly for a week, I might have acted as Area Director of Region III. There were two different directors of Area III while I worked there, Dr. Benjamin Hunton and Richard Fairley. Richard Fairley is still the Area Director of Area III. I believe that Dr. Hunton is in Area V at the present time. 53
The immediate superior over the Area Directors is Mr. Seeley. My chain of command while I was in Area III ran from Commissioner Howe to Assistant Commissioner Seeley to the Area Director, Mr. Fairley, and then to me. 54

I recall that Dr. Hunton and I attended a meeting in Washington with officials of the Tuscaloosa school system. The Tuscaloosa officials had a proposed desegregation plan for the City of Tuscaloosa which we went over. I do not recall that at that meeting I received a critique of the Guidelines insofar as the Tuscaloosa City System is concerned. If it was furnished to me I would have it in my files. 54-55 55

I am generally familiar with the compliance plan initiated by the City of Tuscaloosa. The last dealings I had with this district were in early September and at that time we had accepted the form 441-B submitted by the Tuscaloosa City System. In terms of technical violations of the Guidelines, I spoke at different times with Mr. Martin Ray, attorney for the city board, about the rather low number of pupils in a desegregated situation. If the Tuscaloosa City and the Tuscaloosa County Systems did not mail the freedom of choice material to the parents it would be a technical violation. Both of 56

these systems were technically in violation in that they did not use the prescribed forms that were mailed to the boards of education. Mr. Ray and I also discussed this. There was also a technical violation in that these systems did not use the form of freedom of choice cards that was prescribed by the office of education. If 300 students in the Tuscaloosa City System chose to attend schools where their race would be the minority, I would consider this a move in the right direction. I do not know of any school system in the State of Alabama operating under a freedom of choice plan covering only nine grades, which, during 1966, had more than 300 students choosing to attend schools in which their race was a minority. Off-hand, I cannot say whether the Tuscaloosa County System showed a greater increase of Negro students choosing formerly all-white schools in 1966 than did any other county system. I think the increase would be comparable to the better group of school systems but the Tuscaloosa School Systems were guilty of technical violations. So far as I know, the 441-B forms submitted by the Tuscaloosa City and the Tuscaloosa County school boards have been accepted. I do not know whether any letters or information have been sent to these systems for something else to be done. Someone else would decide that. I would say that a situation in which all of the elementary grades were covered by a freedom of choice plan and in which some students from every Negro elementary school chose to attend previously all white schools would indicate a favorable outlook.

I had a complaint regarding the construction of a building in a particular location in either the Tuscaloosa City or the Tuscaloosa County School System. I did not make an investigation in Tuscaloosa concerning that complaint. I did make an investigation in relation to two teacher situations in the Tuscaloosa County System. It was a cursory thing, not a full-scale investigation. I talked to several people but not to the teachers since I did not feel it was necessary at that point. These were the two Negro teachers whom Tuscaloosa County System had assigned to previously all white schools. I did not file any complaints as a result of my visit to Tuscaloosa. So far as I know, no one else from my office has made any investigations in either the Tuscaloosa City or County Systems.

I feel that the Board in Tuscaloosa has made an effort when the situation there is viewed in light of the state situation and in light of their proximity to Birmingham which is under a court order but has a relatively low number of students in a desegregated situation. I do not know of any school system of a comparable size to the Tuscaloosa County or Tuscaloosa City System--that is, 12,000 to 14,000 students--that is not under a court order, unless it might be the Florence System.

It is true that every school system in the State has its own individual problems. Thus, Tuscaloosa County might have a problem

with transportation where Tuscaloosa City might not. I agree that rigid policies or guidelines cannot be equally applied to the several school systems in the South and that is the way we try to interpret it.

Cross Examination by Mr. Reeves:

My function as a Civil Rights Specialist in the Office of Education does not include formulating policy with respect to the implementation of H.E.W. regulations under Title VI. I would make recommendations in this area, but I am not at the level where I make policy. All of my statements here with respect to policy determinations represent only my understanding or opinion with regard to those policies. My personal authority with respect to deferring or granting federal funds is limited to making recommendations. In no way do I have the final say. 60-61

"I think we would have a great deal more segregation [desegregation] in the State of Alabama, if it had not been for the policies of the Governor and the proclamations of the Governor, and also the actions of the State Superintendents if what I have been informed on numerous occasions have been true--I think there is undue pressure from the organizations that at times stopped the school boards from doing more in this area. In some cases, taking inaction". 62

Direct Examination by Mr. Maddox:

62-63

A number of superintendents have said that they received telephone calls from the Governor's office and they were reluctant to give the names of any particular persons. These people felt they were pressured by state officials; it could be from the state superintendent's office. Just about anyone we talked to indicated that they have had pressures from the Governor's office. One such person is Mr. Hibbett, the superintendent who resigned in the Florence system. I received second-hand information that this is one of the reasons he resigned. In order to make a list of those superintendents who spoke to me personally about state pressure, I would like to look through the files to determine whether the person was speaking of the Governor and his office or of the state superintendent. People have said to me that they have received phone calls from what they refer to as the Governor's office which included more than the Governor's suggestion that the guidelines exceeded the law according to his opinion and the opinion of eminent lawyers. In particular, these phone calls inquired regarding the numbers of Negro teachers they plan to have in white schools. They felt these calls were in the nature of pressure. No one stated that anyone from the Governor's office directly suggested to them or told them to re-assign people. 63 64 65 66

Re-Cross Examination by Mr. Ray:

My usual procedure was to write up a report and my recommendations 67

which I would pass on to my immediate superior. That person would pass along my report and recommendations together with their recommendations. I was at the level that initiated the recommendations.

I recall the application by the Tuscaloosa City School System for a new Title IV grant. At that time there was some problem with the form 441-B and the amendment to it. The first compliance form that was sent in was from the city system and I made recommendations that it be accepted. I was leaving when the second one was sent in but I believe it was accepted later. I did not know that the application of the Tuscaloosa City School Board for a Title IV grant was denied. 68

I was relieved of my duties in Area III about October 5 but I was actually away from the office during the month of September because my wife was ill.

There was a period during the summer when the Tuscaloosa City School Board and the Tuscaloosa County School Board were on a deferred status.

Cross Examination by Mr. Barrett:

68-69

I have a Bachelor's Degree with a major in History and a minor in English. I have a Masters Degree in the field of school administration and I have done about one year's work beyond the Masters Degree level in this field. I received my B.A. Degree from Huntington College in Montgomery, Alabama in 1949. I received my Master of Science from Auburn in 1950. I did additional work at Auburn and also at the University of Alabama and at Columbia University in New York City. I received my public school education at St. Mary of Lorette in Montgomery, Alabama. I taught a year and a half in the Pike County schools in Alabama. 69

I am not an attorney. I have not made any study of the legal basis for the adoption of the Guidelines. I had never studied, nor even seen, Commissioner Howe's September, 1966 testimony before the House Rules Committee before it was shown to me at this deposition by Mr. Smith. 70

I have no knowledge of any cases in Alabama in which no Negro students chose to attend formerly all-white schools under a freedom of choice plan in a school system which had done everything to comply with the Guidelines, including faculty desegregation. 71