No. 23365

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA, APPELLANT

v.

THE BOSSIER PARISH SCHOOL BOARD,
ET AL., APPELLEES

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

BRIEF FOR THE UNITED STATES

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STATEMENT OF THE CASE

Procedural history and status. This action was filed in the United States District Court for the Western District of Louisiana on December 2, 1964, by eight Negro

children residing with their parents at Barksdale Air Force Base in Bossier Parish, Louisiana.[1/] The complaint sought an injunction against the defendant Bossier Parish school officials from discriminating against plaintiffs and other Negroes in Bossier Parish in the operation of the public schools under their jurisdiction (R1.1-12).

On April 13, 1965, the district court allowed the United States to intervene as a plaintiff pursuant to Section 902 of the Civil Rights Act of 1964 (42 U.S.C. 2000h-2) (R1.111-112). On the same day, on motions filed by the plaintiffs and by the plaintiff-intervenor, the district court entered summary judgment against the defendants and placed them under a prohibitory injunction from continuing to operate a compulsory bi-racial

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1/ Record on appeal in Lemon v. Bossier Parish School Board, No. 22,675, p. 1. The record in that case has, by order of this Court of April 8, 1966, been incorporated as a part of the record in this case and will hereafter be referred to as "R1." The printed record in this case, No. 22,365, insofar as it is not already set forth in the record in No. 22,675, is printed in a separate volume which will here be referred to as "R2."

school system in Bossier Parish.[2/] The court ordered the defendants to submit a plan for accomplishing this object "with all deliberate speed." The court specifically

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2/ The Bossier Parish school system contains approximately 15,250 students including 4,375 Negroes and 10,895 whites. These students attend seventeen all-white and six all-Negro schools which are located in six different school districts numbered 1, 2, 3, 13, 26 and 27. These schools are listed below with the grades contained therein in parentheses. (R1.30-31, 45; Defendants' Exhibits 1 and 2.)

District	White Schools		Negro Schools	
1	Plain Dealing	(1-12)	Martin	(1-12)
2	Benton	(1-12)	Irion	(1-12)
3	Haughton	(1-12)	Princeton	(1-12)
	Platt	(1-6)		
13	Bossier Elm.	(1-6)	Butler	(1-6)
	Central Park	(1-6)	Mitchell	(7-12)
	Kerr	(1-6)		
	Plantation Park	(1-6)		
	Waller	(1-6)		
	Meadowview	(1-6)		
	Rusheon	(7-8)		
	Greenacres	(7-8)		
	Airline	(9-12)		
	Bossier High	(9-12)		
26	Rocky Mount	(1-12)		
27	Curtis	(1-6)	Stikes	(1-12)
	Parkway	(1-9)		

Negroes living in district 26 are assigned to either Martin in district 1 or Irion in district 2 (R2.51-52, 109-110). White high school students living in district 27 attend the Bossier High School (R2.155).

deferred ruling on the question of desegregation of faculty and administrative personnel. (R1.113-116.) The defendant Bossier Parish school authorities appealed from that order (R2.125-126), and that appeal, Bossier Parish School Board, et al. v. Lemon, et al. and United States, No. 22,675, was argued before this Court on March 3, 1966, and is awaiting decision.

The defendants filed their plan for desegregating the Bossier Parish schools on June 25, 1965 (R2.1-12). The appellants filed objections to the plan (R2.13-15, 30-33) and, after a hearing at which oral and documentary evidence was adduced (R2.34-250), the court entered its order of July 28, 1965 approving the plan, with modifications (R2.251-258). The United States appealed (R2.258) and on August 17, 1965, this Court vacated the order of the district court and remanded the case for further consideration in the light of Singleton v. Jackson Municipal Separate School District, 348 F. 2d 729 (C.A. 5, 1965), and Price v. Denison Independent School District, 348 F. 2d 1010 (C.A. 5, 1965). (R2.260.)

On remand the district court, by order of August 20, 1965, amended its prior order by requiring appellees to desegregate additional grades for the 1965-66 school year, and requiring them to extend the plan to all grades by the beginning of the 1967-68 school year (R2.261-263). It is from this order that the present appeal is taken.

The desegregation plans in the court below. The order presently appealed from must be considered against the background of the plan originally submitted by the appellees and of the original order entered by the court below approving that plan.

1. Appellees' original plan. The plan submitted by the appellees to the court below on June 25, 1965, began with a number of recitals. It recited that (R2.3-4):

> .... the Bossier Parish School Board considers that any general or arbitrary reallocation of pupils heretofore entered in the public school system according to any rigid rule of proximity of residence or in accordance solely with the requests on behalf of pupils whould be disruptive to orderly administration and would tend to invite or induce disorganization and would impose excessive burdens on the available resources as well as teaching and administrative personnel of the school ...

The plan then went on to provide that "[a]ll initial pupil assignments made for the school year 1965-66 will be

considered adequate" subject to the right of students assigned to or entering the first and twelfth grades in schools located in School District Number 13 to transfer to the formerly all-white or all-Negro school closest to their place of residence. (R2.4-5.) The plan provided for a two-week period in which application for transfer could be made, for notice of this opportunity to be mailed to affected students in the twelfth grade and for such notice to be published in a newspaper for affected students in the first grade (R2.4-5). The plan then went on to provide that affected children entering the first grade would report with their parents to the school in their neighborhood that had been traditionally maintained for children of their own race and there apply, if the parents so wished, "for the child's assignment to the nearest formerly all-white or all-Negro school" (R2.5-6). Affected children in the twelfth grade could obtain applications for transfer upon request at the School Board office (R2.6).

Appellees' plan set forth the administrative procedure to be followed in the event parents were dissatisfied with action taken by the Superintendent of Schools on their transfer applications (R2.7-8). It further sets forth six

criteria to be used in determining whether or not a request for transfer or assignment would be granted. These criteria included the space available in the schools, the age of the pupils, and the availability of requested or desired courses of study in the school to which transfer was requested. (R2.8-9.)

The plan provided that "[d]ual school districts on racial lines" which had theretofore been maintained by appellees would be abolished with respect to particular grades as the plan applied to those grades (R2.10).

Paragraph IV of the plan provided that "[t]he method of initial assignment herein provided for will, of course, be subject to all reasonable procedural requirements that may be adopted and promulgated by the Bossier Parish School Board" (R2.10; emphasis added).

Appellees proposed that for the 1966-67 school year the plan reach students in grades 1, 2, 11 and 12 in schools throughout the system, and that additional grades should be added each year thereafter until all grades would be covered by the beginning of the 1970-71 school year (R2.9). Two alternatives to this proposed pace of desegregation were set out whereby all grades would be reached by 1969-70 or 1968-69 respectively (R2.11-12).

Except for providing an opportunity for some Negroes to transfer from all-Negro to all-white schools, as their grades were reached by the plan, the proposed desegregation plan of the appellees made no specific provision for eliminating any of the various aspects of the dual racial school system.

2. Court ordered plan of July 28, 1965. After the hearing on the plaintiffs' and appellants' objections to the School Board plan, the court below entered its order of July 28, 1965 setting forth its approved desegregation plan (R2.251-258). This plan, the first adopted by the court, provided that "[a]ll initial pupil assignments made for the school year 1965-66 will be considered adequate" subject, however, to a right of students in the 1st and 12th grades in schools throughout the system to apply for assignment and transfer to a school of their choice. (R2.251-252.) Notice of this right would be mailed to students in the twelfth grade and published in a local newspaper for students in the first grade (R2.252). Applications for transfer were to be made available upon request by the School Board (R2.253). The court's order further required that the School Board, in ruling upon

applications for transfer, would apply the criteria set forth in the plan originally proposed by the School Board (R2.253-254). The court's order added, however, that "in the event a transfer or assignment is requested to a particular school, but it develops that there is available space in another school, in all respects comparable to the one to which transfer or assignment is requested, closer to the applicant's residence, the School Board may, if it deems it advisable, make the transfer or assignment to the comparable school closest to the pupil's residence rather than to the school to which the transfer or assignment was requested" (R2.254). The court also added a requirement that new students entering the school system for the first time, regardless of grade, would be offered a choice of attending the formerly all-white or formerly all-Negro school closest to their residence (R2.255).

The plan further stated that "[c]ommencing with the school year 1966-67 all initial assignments of pupils to the first, second, eleventh and twelfth grades ... shall be made purely and simply on the basis of individual choice ... reserving to the School Board ... the right to

place a pupil in a comparable school closer to the pupil's residence than is the school of his choice." (R2.256.) No provision is made for the procedure to be followed in making the "initial assignments" except for the statement that (R2.257) "[t]he method of initial assignment herein provided for will, of course, be subject to all reasonable procedural requirements that may be adopted and promulgated by the ... Board."

As in the original plan proposed by the appellees, no provision was made for faculty and staff desegregation, or for desegregation of services and programs sponsored by the school system.

The dual school districts on racial lines would be abolished with respect to each grade as it was reached by the plan (R2.256). All grades would be reached by the fall of 1968 (R2.256).

3. Amended court plan of August 20, 1965. Upon appeal from the court ordered plan of July 28, 1965, this Court directed the district court to reconsider its order in the light of Singleton and Price. On remand, the district court did reconsider its order but made no changes other than to increase the number of grades to be affected in each of the coming school years.

As amended by the district court, the plan reached the first, second, eleventh and twelfth grades beginning with the fall of 1965 and four additional grades in each of the two succeeding school years so that all grades would be affected by the beginning of the 1967-68 school year. (R2.261-262.) The district court, in amending its order to comply with this Court's directive, still made no specific provision for the procedure to be followed in the making of the "initial assignment" described in the order; made no provision for non-discriminatory use of the services, facilities, activities and programs sponsored by the school, and failed to require any steps for the elimination of racial segregation of faculty and staff.

SPECIFICATIONS OF ERRORS

The order of the district court of August 20, 1965 approving and ordering into effect the amended plan of desegregation for the Bossier Parish schools errs in that:

1. It fails to include specific provisions guaranteeing true freedom of choice in the administration of the plan.

2. It fails to require desegregation of faculty and staff.

3. It fails to prohibit racial discrimination against Negro students in formerly all-white schools in connection with services, facilities, activities and programs conducted by or affiliated with the school system.

4. The order fails to require equalization of school facilities presently maintained for attendance by Negroes and which, by reason of racial discrimination, are inferior to other facilities in the school system.

5. The order fails to provide for desegregation of the seventh grade, which is an initial grade in secondary schools, for the 1966-67 school year.

6. The order fails to provide that Negro students in grades not reached by the plan shall be allowed to transfer to formerly all-white schools upon request.

ARGUMENT

A. The court-ordered plan lacks sufficient specificity.

The order of the court below requires the appellees to effect a transition from a compulsory dual system of schools based upon race to a system in which the choice of the student or his parents shall determine the school of attendance. The need for specificity in the new system should be apparent. Students, parents, school staff and the community at large have long been conditioned to a system in which race is the determining factor. Each school has necessarily acquired the stigma of being either "white" or "Negro." To convert this system, in all of its aspects, to one in which race will no longer be a factor will at best be a difficult process if the new system is to rely for its operation upon the free volition of school patrons and upon administrators who have long been conditioned to the racial system.

This Court recognized these difficulties when in Stell v. Savannah-Chatham County Board of Education, 333 F. 2d 55, 65 (1964), it said:

> The rule is now firmly established in this circuit, Gibson v. Board of Public Instruction of Dade County, Fla., 5 Cir., 1959, 272 F. 2d 763; Evers v. Jackson Municipal Separate School District, supra, that desegregation must be accomplished in the context of all inhibitions, legal or otherwise, serving to enforce segregation having been removed to the extent that Negro pupils are afforded a reasonable and conscious opportunity to apply for admission to any school for which they are otherwise eligible without regard to their race or color, and to have that choice fairly considered by the enrolling authorities. This is the first step. 3/

Thus, as stated by the Court of Appeals for the Fourth Circuit in Wheeler v. Durham City Board of Education, 346 F. 2d 768, 773 (C.A. 4, 1965):

3/ The following language of the District Court for the Western District of Virginia, in Kier v. County School Board of Augusta County, Va., 249 F. Supp. 239, 243, 246 (1966), is equally apt:

> Unquestionably, to be constitutionally acceptable, a freedom of choice plan will impose upon the school boards additional duties not required under a geographic plan. The ground rules must be laid in a way which will not discourage desegregation, and students and their parents must be fully informed of their choices .... Where, as here, the school authorities have chosen to adopt a freedom of choice plan which imposes upon the individual student, or his parent, the duty of choosing in the first instance the school which he will attend (and where the burden of desegregating is imposed upon the individual Negro student or his parent), it is essential that the ground rules of the plan be drawn with meticulous fairness.

> A freedom of choice system, to warrant approval, must operate to prevent discrimination and not merely to correct conditions which have been deliberately created by unlawfully discriminatory procedures. (Emphasis by the court.)

The generality of the language in the plans submitted by the appellees and ordered by the lower court in this case were clearly such as to permit misunderstanding of the specific nature of appellees' obligations. Such misunderstanding cannot only permit evasion, conscious or unconscious, but necessarily breeds further litigation to give specific content to the plan's general provsisions.

The order entered by the district court on April 13, 1965, enjoined the appellees from "continuing to assign students to schools with regard to race or color" and from "continuing to operate a compulsory bi-racial school system in Bossier Parish, Louisiana." This order, properly read, would appear to require the appellees to fully meet their constitutional obligation to eliminate racial discrimination and the vestiges of past racial discrimination in the operation of their schools. In response to this order, however, the appellees submitted a plan which clearly misconceived the extent and nature of their obligations. Their plan as submitted would have permitted the existing system of assigning pupils to continue indefinitely, subject only to a limited right on the part of

students to seek transfer to schools from which they were initially excluded upon the basis of their race. The provision in Paragraph III of the plan that "dual school districts on racial lines shall be abolished" is little more than a deceptive verbal ritual in view of the provision in Paragraph I that "initial pupil assignments made for the school year 1965-66 will be considered adequate" and that even prospective first-graders will continue reporting to the particular school in their neighborhood theretofore maintained for members of their race exclusively.

The district court's Order on Plan for Desegregation of July 28, 1965 did little to disabuse the appellees of their misconceptions regarding the nature of their constitutional duty. Although the court removed the requirement that prospective first-graders report to the elementary schools theretofore maintained for members of their race, it failed to set forth specific procedures that would make it clear that initial assignments were to be made without regard to race and that the burden would not be left upon Negro school patrons to obtain assignments to schools to which white patrons were automatically assigned.

Thus, while eliminating the specificity in the proposed plan which had been racially oriented (viz. the requirement that a Negro in order to enroll in the first grade must report at a traditionally Negro school) the district court failed to substitute an equally specific procedure that would guarantee against racially- oriented administration. The uncertainty of the plan was compounded by the district court in introducing a new element - the right of the School Board to deny a choice of school upon the ground that there is a "comparable" school closer to the student's residence (R2.254).

Upon appeal from the first court ordered plan, this Court vacated the order and remanded the case to the district court for reconsideration in the light of Singleton and Price. This directive, as we read it, should have caused the district court to enter an amended order with sufficient specificity to cure the defects in the order appealed from. Singleton and Price, in effect, direct lower courts to draw upon the expertise of the Office of Education, as set forth in the Commissioner's Guidelines for school desegregation, in framing decrees. The Guidelines do in fact set forth requirements for desegregation

plans under "free choice" systems with as much specificity as could be desired in a court order.

Despite this Court's directive on remand, the lower court made no changes in its order other than to extend the coverage of the plan to an increased number of school grades. The fatal lack of specificity remained. Its result in practice soon became apparent. Only thirty-one of the approximately 4,400 Negroes in the school system were enrolled by the appellees in formerly all-white schools for the 1965-66 school year. See affidavit of St. John Barrett appended to the Motion To Consolidate And Expedite Appeals filed in this case on April 4, 1966. This can hardly be regarded as an adequate first step in desegregating a school system at this late date.

A freedom of choice plan which is non-specific in detail, not only fails to meet legal requirements, but will necessarily breed further litigation and encourage multiplicity of appeals. The lack of specificity in the order in this case left a multitude of questions for future litigation. We will now touch on some of these questions.

How shall notice be given students and parents of their rights under the plan in years following the 1965-66 school year? Shall it be by individual, mailed notice? Shall it be by publication in a newspaper? Shall it be by delivering a notice to the students in school? What should be the text of the notice? Should the entire plan be set forth? When should notice be given? Should it be given to all students and parents or only to Negroes? None of these questions is answered in the court's order. Any of them could be a matter of future dispute between the parties.

What type of form should be used when students or parents exercise their choice of schools? How and where should forms be made available to the students and parents? Should they be sent to the parents? What period of time should be allowed for the exercise of the choice? Should there be any time limit? Who must sign the choice form? May the chooser be required to state his reasons for the choice? None of these questions are answered in the order of the lower court, although these mechanics relating to the exercise of the choice must necessarily determine whether a "free" choice is being afforded.

Must a choice form be executed on behalf of every student enrolling in school? Must such a choice be exercised each year? If a yearly choice is not required may it nonetheless be exercised at the option of the student? If a choice is not required on behalf of every student, how will non-choosers be assigned? Will prior racial assignments be automatically continued absent the exercise of a contrary choice? No answer to these questions is found in the court's decree although the answers are vital to a determination of whether the dual racial system is being eliminated.

If limitations of school capacity preclude granting the choice of every student, which students will be given priority to attend the schools of their choice? Will white students who have previously attended particular schools by reason of their race be given preference over Negroes who have been excluded by reason of their race? If not, how will priority be determined? Will it be based upon date of application? Will it be based upon proximity of residence? Will it be based upon level of achievement, availability of transportation, enrollment of brothers or sisters in the same school, or on factors yet to be determined in the discretion of the School Board? These questions, which go to

the very heart of a free choice plan, were left by the district court to future litigation.

What of students whose choice of school must be rejected because of limitation of school capacity? Will they be given a second choice? What will be the basis for such choice? Will they be assigned to the closest school, or, perhaps, to the school having the most unused capacity? Or will they be assigned back to schools which they have previously attended by reason of their race? Again, these questions are unanswered by the district court.

What standards will guide the School Board in rejecting the choice of a student in order to assign him to a "comparable" school that is closer to his residence? What schools are "comparable?" Within the meaning of the order, is a traditionally all-Negro school "comparable" to a traditionally all-white school having substantially equal facilities? In implementing this rule, may the School Board reject the choice of any Negro student seeking enrollment in a traditionally white school that is farther from his residence than the closest Negro school? Again, no answer is to be found in the order of the district court.

Various of the other district courts in the Fifth Circuit have considered and resolved virtually all of the questions just raised. Although it may be that no single district court has considered and resolved all of these questions in the same case, a court clearly could do so with facility by drawing upon the already formulated standards and procedures set forth in the Commissioner's Guidelines. Indeed, in Singleton and Price, this Court has already suggested that the district courts do so. We submit that this was the course that the district court in this case should have followed.

B. The plan fails to contain a provision designed to eliminate the racial segregation of faculty and staff.

The Bossier Parish School System contains approximately 700 teachers (R2.175) and 30 principals (R1.31-32-45-46) all of whom are assigned on the basis of race to schools attended by students of the same race as themselves. (R2.179-180.)

School districts that have operated dual racial school systems have the obligation under Brown v. Board of Education, 349 U.S. 294 (1955) to "effectuate a transition to a racially non-discriminatory school system."

Racial segregation of teachers as well as segregation of students has traditionally been one of the hall-marks of the dual school system. The transition to a non-discriminatory system cannot be effected until faculty, as well as students, have been desegregated.

Here, the district court, although enjoining the appellees from continuing to operate a bi-racial school system (R1.114), specifically deferred ruling on the question of faculty desegregation "until the plan for desegregation of pupils, as finally approved, either has been accomplished or has made substantial progress." (R1.115). This ruling was clearly erroneous.

The inclusion of a provision in the plan designed to eliminate race as a factor in the employment and allocation of faculty and staff at this late date is essential. Singleton v. Jackson Municipal Separate School District, 355 F. 2d 865 (C.A. 5, 1966); Bradley v. School Board, Richmond, Virginia, 382 U.S. 103 (1965); Rogers v. Paul, 382 U.S. 198 (1965). As the Court wrote in Singleton v. Jackson Municipal Separate School District, supra at 870:

> In view of the necessity that the Jackson School system be totally desegregated by September 1967, we regard it as essential that the plan provide an adequate start toward elimination of race as a basis for the employment and allocation of teachers, administrators, and other personnel.

A desegregation plan, if it is to comply with the rule announced in Singleton v. Jackson Municipal Separate School District, supra, must (1) require the Board to cease its practice of hiring and placing teachers on the basis of race and (2) define a program designed to correct the effects of past discriminatory hiring and assignment practices. 4/ See the Revised Statement,

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4/ As the Court said in United States v. Duke, 332 F. 2d 759, 768-69 (C.A. 5, 1964):

> An appropriate remedy ... should undo the results of past discrimination as well as prevent future inequality of treatment. A court of equity is not powerless to eradicate the effects of former discrimination.

45 CFR 181.13. [5/]

Where a school board is operating under a plan utilizing a freedom of choice (or transfer) method, the desegregation of faculty and staff is particularly important. As the district court said in Kier v. County School Board of Augusta County, Virginia, 249 F. Supp. 239, 246 (W.D. Va. 1966):

> It is not enough to open the previously all-white schools to Negro students who desire to go there while all-Negro schools continue to be maintained as such. Inevitably, Negro children will be encouraged to remain in "their school," built for Negroes and maintained for Negroes with all Negro teachers and administrative personnel. [6/] See

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5 / The Department of Health, Education and Welfare recently announced new school desegregation guidelines (31 Fed. Reg. 5623-5634, April 9, 1966). They are cited herein as Revised Statement and appear at the end of this brief.

6 / By maintaining segregated or substantially segregated faculties and staffs, the Board has, in effect, labeled its schools "white" and "Negro." Brown v. County School Board of Frederick County, Virginia, 245 F. Supp. 546, 560 (W.D. Va. 1965); cf. Baldwin v. Morgan, 287 F.2d 750 (C.A.5, 1961).

Bradley v. School Bd., supra, 345 F.2d at 324 (dissenting opinion). This encouragement may be subtle but it is nonetheless discriminatory. The duty rests with the School Board to overcome the discrimination of the past, and the long established image of the "Negro school" can be overcome under freedom of choice only by the presence of an integrated faculty.

C. The plan fails to guarantee to students who transfer that there will be no racial discrimination or segregation in services, activities, and programs, provided, sponsored, by or affiliated with the school system.

The plan is silent as to the elimination of racial discrimination in services, activities and programs sponsored by or affiliated with the schools to which Negro students may transfer. Valid plans must guarantee the absence of racial discrimination or segregation in connection with all programs related to the student's attendance. 7/ Cf. Singleton v. Jackson Municipal Separate School District, 355 F.2d 865, 870 (C.A. 5, 1966); Revised Statement, 45 CFR 181.14. This is particularly true under a freedom of choice (or transfer) system, for any such discrimination or segregation would inevitably inhibit free choice.

7/ Indeed, before Brown, where the state provided one school for both races, it was prohibited from discriminating on the basis of race in connection with the school services, facilities and programs. McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950).

It is essential, therefore, that the plan specify the availability of all activities, services and programs on a nonracial basis and provide that any disqualifications or waiting period which might otherwise apply to newly enrolled students will not apply to students exercising their right to obtain a desegregated education. Revised Statement, 45 CFR 181.14 (b) (1). Similarly, if transportation services are furnished, the plan must make ample provisions to guarantee that service will be provided on a nonracial basis. Revised Statement, 45 CFR 181.14 (b) (2).

D. The plan fails to contain provisions designed to eliminate the inferiority of schools traditionally attended by Negroes.

The record below clearly shows that measured by standards of curricula and physical facilities, the Negro schools throughout Bossier Parish are vastly inferior to their white counterparts.

Thus, Negro secondary schools contain smaller course selections than white secondary schools with a similar or smaller number of students. Negro students are often presented with a curriculum containing no offerings in foreign language or speech. The Negro rural schools are generally behind the white rural schools with respect to the number of library books per pupil and there are no guidance counsellors in any Negro school in the Parish. See Plaintiffs' Exhibit 2 (page 2 of each "Annual School Report"); R2. 185-190, 192, 194.

Insofar as physical facilities are concerned, William Stormer, an evaluation planning specialist in school plant development, visited the twenty-three

public school in Bossier Parish and, using an approved rating system whereby nineteen different categories of facilities were evaluated for each school, compared the schools. His overall ratings indicate that all but one of the Negro schools rank behind every white school. The remaining Negro school is ranked fifteenth. See Plaintiffs' Exhibit 3; R2. 195-216.

This evidence, we believe, demonstrates the need for relief that will equalize the educational facilities traditionally attended by Negroes. Although Brown v. Board of Education, 347 U.S. 483 (1954), required that school boards move to eliminate the segregation of schools and to that extent repudiated the "separate but equal" doctrine, it did not remove the constitutional obligation of the school boards, during the transition period, to provide Negroes with an education equal to that provided white children. Thus, in Carr v. Montgomery County Board of Education, Civil Action No. 2072N (M.D. Ala. March 22, 1966), Judge Johnson ordered the Board to close seven inferior Negro schools before September 1966 and 14 more such schools by September 1967. He further

ordered the Board to provide remedial education to eliminate the effects of past discrimination. In Baird v. Benton County Board of Education, Civil Action No. 6531 (N.D. Miss. August 3, 1965), Judge Clayton ordered the Board to provide uniform curricula and to equalize per pupil expenditures of comparable grade levels. And in Carroll v. Bolivar County Board of Education, Civil Action No. 6531 (N.D. Miss. August 27, 1965), he granted similar relief ordering the Board not only to provide uniform curricula and equal per pupil expenditures at comparable grade levels but also to maintain teacher-pupil ratios at substantially the same levels for comparable grades. In Anderson v. Canton Municipal Separate School District, Civil Action No. 3700 (J) (C) (S.D. Miss. August 5, 1965), Judge Cox ordered the Board to install adequate flush type toilet facilities in an ill-equipped Negro school.8/

8/ Subsequently, Judge Cox modified his order, upon the motion of the Board and the stipulation of the plaintiffs, by allowing the Board to close the ill-equipped school and move the children into another plant (Order of August 21, 1965).

See also, United States v. Carroll County Board of Education, Civil Action No. GC 6541 (N.D. Miss., January 20, 1966).

It is particularly important when the Board chooses to desegregate under a plan which depends upon students choosing their schools that the schools available in the system be substantially equal. The continuing inferiority of schools traditionally attended by Negroes perpetuates the racial identity of those schools. If the dual system is to be completely abolished, inferior schools which are readily identifiable as Negro schools must be eliminated.

E. The plan fails to provide for undelayed desegregation of grade seven.

Under the plan, grade seven will not be desegregated until the 1967-68 school year. This grade is the initial grade of several junior and senior high schools in Bossier Parish. See supra, p. 3, n. 2. Thus, a large percentage of the sixth grade students in the Parish necessarily begin a new school at the start of the seventh grade.

Since July 1962, this Court has required that a desegregation plan must clearly provide, without delay, for the admission of new pupils entering the first grade, or coming into the County for the first time, on a nonracial basis. Augustus v. Board of Public Instruction of Escambia County, Florida, 306 F.2d 862, 869 (1962); Singleton v. Jackson Municipal Separate School District, 355 F.2d 865, 867 (1966). The rationale for this requirement is that although Brown, for reasons of administrative convenience, permitted school officials to temporarily leave students where they were, it did not allow such

F. The plan fails to contain a provision allowing Negro students in non-desegregated grades to transfer to schools from which they have been excluded because of race.

In Singleton v. Jackson Municipal Separate School District, 355 F.2d 865, 869 (C.A. 5, 1966), the Court wrote:

> The school children in still-segregated grades in Negro schools are there by assignment based on their race. This assignment was unconstitutional. They have an absolute right, as individuals, to transfer to schools from which they were excluded because of their race.

It is true that this Singleton decision was rendered after the order of the district court in this case was issued. But, since the Singleton transfer rule is based on a constitutional principle, and is not merely an aspect of transitional relief, it should have been included in the plan. In any event, it is, of course, proper for this Court now to require its inclusion in the plan.

RELIEF

In Singleton v. Jackson Municipal Separate School District, 348 F. 2d 729 (C.A. 5, 1965), this Court said that "The time has come for foot dragging public school boards to move with celerity toward desegregation." The Court also said (348 F. 2d at 731):

> We attach great weight to the standards established by the Office of Education. The judiciary has of course functions and duties distinct from those of the executive department, but in carrying out a national policy we have the same objective. There should be a close correlation, therefore, between the judiciary's standards in enforcing the national policy requiring desegregation of public schools and the executive department's standards in administering this policy. Absent legal questions, the United States Office of Education is better qualified than the courts and is the more appropriate federal body to weigh administrative difficulties inherent in school desegregation plans.
>
> If in some district courts judicial guides for approval of a school desegregation plan are more acceptable to the community or substantially less burdensome than H.E.W. guides, school boards may turn to the federal courts as a means of circumventing the H.E.W. requirements for financial aid. Instead of a uniform policy relatively easy to administer, both the courts and the Office of Education would have to struggle with individual

> school systems on an ad hoc basis. If judicial standards are lower, recalcitrant school boards in effect will receive a premimum for recalcitrance; the more the intransigence, the bigger the bonus.

The Court emphasized that (348 F. 2d at 731). "As to details of the plan, the Board should be guided by the standards and policies announced by the United States Office of Education in establishing standards for compliance with the requirements of Title VI of the Civil Rights Act of 1964."

In Price v. Denison Independent School District, 348 F. 2d 1010, 1013-14 (C.A. 5, 1965), this Court repeated its language in Singleton regarding the weight to be given the standards of the Office of Education and then went on to say:

> More than that, we put these standards to work. To avoid the temptation to recalcitrant or reluctant school systems to seek judicial approval of a token plan as the basis for Federal aid under alternative (1) for court plans, the Court held the Jackson plan inadequate and directed that a plan modeled after the Commissioner of Education's requirements (note 11, supra) be submitted for the fall of 1965-66.
>
> This signals what will be a frequent approach to these cases as they come to District Courts and thereafter this Court. These executive standards, perhaps long overdue, are welcome. To many, both on and off the bench, there was great anxiety in two major respects with the Brown approach. The first was that probably for the one and only time in American

> constitutional history, a citizen -- was compelled to postpone the day of effective enjoyment of a constitutional right. In Ross v. Dyer, 5 Cir., 1963, 312 F. 2d 191, 194, we recognized that under "a stair-step plan Negroes not in the eligible classes continue to suffer discriminatory treatment." That there can be a moratorium on the enjoyment of such rights runs counter to our notions of ordered liberty. Second, this inescapably puts the Federal Judge in the middle of school administrative problems for which he was not equipped and tended to dilute local responsibility for the highly local governmental function of running a community's school under law and in keeping with the Constitution.
>
> By the 1964 Act and the action of HEW, administration is largely where it ought to be--in the hands of the Executive and its agencies with the function of the Judiciary confined to those rare cases presenting justiciable, not operational questions.

The Court of Appeals for the Eighth Circuit in Kemp v. Beasley, 352 F. 2d 14 (C.A. 8, 1965), discussed this Court's ruling in Singleton insofar as it relates to reliance upon the H.E.W. guidelines. While agreeing "that these standards must be heavily relied upon to determine what desegregation plans effectively eliminate discrimination," the Court of Appeals for that circuit equally emphasized the responsibility of a federal court to exercise its own judgment in determining constitutional issues." The court states its conclusion as follows, (352 F. 2d at 19):

> Therefore, to the end of promoting a degree of uniformity and discouraging reluctant school boards from reaping a benefit from their reluctance the courts should endeavor to model their standards after those promulgated by the executive. They are not bound, however, and when circumstances dictate, the courts may require something more, less or different from the H.E.W. guidelines.

Although the Court of Appeals for the Fourth Circuit has not had occasion to consider the effect of the H.E.W. standards, district courts in that circuit have relied on them. See Kier v. County School Board of Augusta County, 249 F. Supp. 239 (W.D. Va., 1966); Wright v. County School Board of Greenville County, Civil Action No. 4263 (E.D. Va., January 27, 1966); Miller v. Clarendon County School District No. 2, Civil Action No. 8752 (D. of S.C., April 21, 1966). In Miller, the most recent of these cases, the District Court for the District of South Carolina said, with reference to the H.E.W. standards:

> Those standards have been adopted and approved generally in other forums in this circuit [citing Kier and Wright]. The orderly progress of desegregation is best served if school systems desegregating under court order are required to meet the minimum standards promulgated for systems that desegregate voluntarily. Without directing absolute adherence to the "Revised Standards" guidelines at this juncture, this court will welcome their inclusion in any new, amended, or substitute plan which may be adopted and submitted.

This case, as well as each of the other school desegregation cases now before this Court, illustrate the need for this Court to review present judicial enforcement methods to the end that the orderly transition to desegregation can be accomplished with a minimum of expenditure of judicial energy and with a maximum correlation between current desegregation standards and current desegregation practices. We suggest that this end can best be realized by the adoption of a specific decree to be entered in these cases by the district courts. This is neither a fundamental change in judicial approach nor a departure from established standards for desegregation. It would place in the courts, as it must under our constitutional system the primary responsibility for declaring the rights of the parties, and it would look to the Office of Education, rather than to the school boards, for administrative guidelines affecting desegregation so that (1) the court will not be "in the middle of school administrative problems," (2) uniformity in solving operational problems may be achieved, and (3) an efficient method of supervising school board performance can be realized.

This Court in cases involving voter discrimination has approved the same type of relief here being urged.

See United States v. Ward 349 F. 2d 795 (C.A. 5, 1965), and United States v. Palmer ___ F. 2d ___ C.A. 5, (No. 21646, decided February 8, 1966). In the Ward case the Court in adopting the former decision there proposed (349 F. 2d at 805) said:

> [G]ood administration suggests that the proposed decree be indicated by an Appendix, not because of any apprehension that the conscientious District Judge would not faithfully impose every condition so obviously implied, but rather because of factors bearing upon administration itself.
>
> It is not possible, or even desirable, of course to achieve absolute uniformity. But in this ever growing class of cases which have their genesis in unconstitutional lack of uniformity as between races, courts within this single circuit should achieve a relative uniformity without further delay.

Similarly in a recent decision involving jury discrimination this Court has emphasized "the desirability of achieving uniformity of the handling of the substantial number of cases arising in this Court dealing with the same questions of law." Scott v. Walker, ___ F. 2d _____ (C.A. 5, No. 20814 decided March 31, 1966).

The necessary function of the court in desegregation cases is to guarantee that methods adopted for desegregation do not fall below constitutional limits. It is not necessary to this function that the courts define every administrative detail necessarily involved

in day-to-day school administration. Under Title VI of the Civil Rights Act of 1964 the Executive Branch of the federal government must guarantee the fair use of federal funds by prescribing the ordinary administrative details inevitably involved in any workable desegregation plan. For the courts to look to the regulations and guidelines of the Office of Education does not involve the abdication of any judicial function, but instead is a rational method of enforcement of law under a uniform national policy.

Those regulations and guidelines are the product of the expertise of the Office of Education. They reflect the experience and knowledge of persons involved in the day-to-day administration of the schools. The courts do not have the staff, the facilities, or the time to undertake with the same precision the function of defining the workings of the desegregation mechanism.

With these considerations in mind we submit to the Court the proposed decree set forth in the appendix filed in connection with this brief and the

six other school desegregation cases before this Court to which the government is a party. The substantive requirements of the proposed decree derive from the Fourteenth Amendment and the decisions of the Courts. The administrative details are largely drawn from the HEW Guidelines. 9/

9/ Recent court-approved plans which draw on the new guidelines are: Carr, United States v. Montgomery County Board of Education, Civil Action No. 2072-N (M.D. Ala., March 22, 1966); Lee, United States v. Macon County Board of Education, Civil Action No. 604-E (M.D. Ala., March 11, 1966) (entered by consent); Harris, United States v. Bullock County Board of Education, Civil Action No. 2073-N (M.D. Ala., March 11, 1966) (entered by consent); United States v. Lowndes County Board of Education, Civil Action No. 2328-N (M.D. Ala., February 11, 1966) (entered by consent); McGhee, United States v. Nashville Special School District No. 1, Civil Action No. 962 (W.D. Ark., March 3, 1966) (entered by consent); Beckett, United States v. School Board of the City of Norfolk, Virginia, Civil Action No. 2214 (W.D. Va., March 17, 1966) (entered by consent). And see Miller v. Clarendon County School District No. 2, D.C.S.C., Civil Action No. 8752 decided April 21, 1966.

We have urged that this Court direct the district courts in these seven cases to enter a specific decree along the line proposed herein. The records in these cases fully support such relief. With the use of this method of individual enforcement there will no longer be occasion for the periodic submission by school boards of "desegregation plans," the hearing of objections to the plans and the submission of amended plans. Instead, the school boards will clearly understand their obligations, and will report to the court on a periodic basis. It may be that supplementary enforcement proceedings will occasionally be necessary, but hearings should be less frequent and should produce more effective results in bringing current practices and current standards closer. There will also be a higher probability that desegregation will proceed more uniformly among school districts under court orders and between such school districts and those desegregating on a voluntary basis under the supervision of the Office of Education.

The courts would continue to have the final responsibility for fixing constitutional standards and for compliance with its decrees. The option is

still open to any school board to come into court to prove that extraordinary circumstances compel modification of one or another of the provisions of the decree. The private plaintiffs and the United States also retain their right, as they must, under our constitutional system and Title IV of the Civil Rights Act of 1964, to come into court when necessary to seek modification of or compliance with any provision in the decree.

Special mention should be made of the faculty provisions in the proposed decree and of the district court decisions that have decreed specific and detailed relief on this subject.

Principally within the past year, district courts have been grappling with the problem of framing practical and effective relief for the desegregation of faculty. Some courts in framing their decrees have focused upon the specific results to be reached by reassignment of teachers who had theretofore been assigned solely upon the basis of their race. Dowell v. School Board of Oklahoma City, 244 F. Supp. 971 (W.D. Okla. 1965), Kier v. County School Board of Augusta County, Virginia, 249 F. Supp. 239 (W.D. Va.

1966). The orders entered in these cases required that the defendant school boards assign any employed teachers and reassign already-employed faculty so that the proportion of each race assigned to teach in each school will be the same as the proportion of teachers of that race in total teaching staff in the system, or at least, of the particular school level in which they are employed. This type of relief is justified on the ground that if faculty members had in the past been assigned without regard to race such assignments would, as a matter of mathematical probability, have yielded this same result.

Other district courts in framing their decrees on faculty desegregation have not been specific as to the number of teachers of each race that should be assigned to each school in order to remove the effects of past discriminatory assignments. These courts have focused upon the mechanics to be followed in removing the effect of past discrimination rather than upon the result as such. Thus, in Beckett v. School Board of the City of Norfolk, Civil Action No. 2214 (E.D. Va., 1966); Gilliam v. School Board

of the City of Hopewell, Virginia, Civil Action No. 3554 (E.D. Va. 1966); and Bradley v. School Board of City of Richmond, Civil Action No. 3353 (E.D. Va. 1966), the courts approved consent decrees setting forth in detail the considerations that would control the school administrators in filling faculty vacancies and in transferring already-employed faculty members in order to facilitate faculty integration.[10/]

10/ The faculty provisions in the Hopewell case, which were filed with the district court on April 8, 1966, read as follows:

> The School Board of the City of Norfolk recognizes its responsibility to employ, assign, promote and discharge teachers and other professional personnel of the Norfolk City Public School System without regard to race or color. It further recognizes its obligation to take all reasonable steps to eliminate existing racial segregation of faculty that has resulted from the past operation of a dual school system based upon race or color:
>
> In order to carry out these responsibilities, the School Board has adopted the following program:
>
> 1. Teachers and other professional personnel will be employed solely on the basis of qualifications and without regard to race or color.

(Cont. on following page.)

In yet other cases, the district court, while emphasizing the necessity of affirmative steps to undo the effects of past racial assignments of faculty and while requiring some tangible results,

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10/ (Cont. from preceding page.)

> 2. In the recruitment and employment of teachers and other professional personnel, all applicants and other prospective employees will be informed that the City of Norfolk operates a racially integrated school system and that the teachers and other professional personnel in the System are subject to assignment in the best interest of the System and without regard to their race or color.
>
> 3. The Superintendent of Schools and his staff will take affirmative steps to solicit and encourage teachers presently employed in the System to accept transfers to schools in which the majority of the faculty members are of a race different from that of the teacher to be transferred. Such transfers will be made by the Superintendent and his staff in all cases in which the teachers are qualified and suitable, apart from race or color, for the positions to which they are to be transferred.
>
> 4. In filling faculty vacancies which occur prior to the opening of each school year, presently employed teachers of the race opposite the race that is in the majority in the faculty at the school

(Cont. on following page.)

has not been specific either regarding the mechanics or the specific results to be achieved. See Harris v. Bullock County Board of Education, Civil Action No. 2073-N (M.D. Ala. 1966); United States v. Lowndes Board of Education, Civil Action No. 2328-N (M.D. Ala. 1966); Carr v. Montgomery County Board of

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10/ (Cont. from preceding page.)

> where the vacancy exists at the time of the vacancy will be preferred in filling such vacancy. Any such vacancy will be filled by a teacher whose race is the same as the race of the majority on the faculty only if no qualified and suitable teacher of the opposite race is available for transfer from within the System.
>
> 5. Newly employed teachers will be assigned to schools without regard to their race or color, provided, that if there is more than one newly employed teacher who is qualified and suitable for a particular position and the race of one of these teachers is different from the race of the majority of the teachers on the faculty where the vacancy exists, such teacher will be assigned to the vacancy in preference to one whose race is the same.

Education, Civil Action No. 2072-N (M.D. Ala. 1966).[11/]

11/ In the Montgomery case the court's decree contained the following provisions on faculty desegregation:

> Race or color will henceforth not be a factor in the hiring, assignment, reassignment, promotion, demotion, or dismissal of teachers and other professional staff, with the exception that assignments shall be made in order to eliminate the effects of past discrimination. Teachers, principals, and staff members will be assigned to schools so that the faculty and staff is not composed of members of one race.
>
> In the recruitment and employment of teachers and other professional personnel, all applicants or other prospective employees will be informed that Montgomery County operates a racially integrated school system and that members of its staff are subject to assignment in the best interest of the system and without regard to the race or color of the particular employee.
>
> The Superintendent of Schools and his staff will take affirmative steps to solicit and encourage teachers presently employed to accept transfers to schools in which the majority of the faculty members are of a race different from that of the teacher to be transferred.
>
> Teachers and other professional staff will not be dismissed, demoted, or passed over for retention, promotion, or rehiring on the ground of race or color. In any instance, where one or more teachers or other professional staff members are to be displaced as a result of desegregation or school closings, they shall

(Cont. on following page.)

The proposed decree set forth in the appendix includes a faculty provision in general terms. It does not seem desirable for this Court to compel exact uniformity as to how faculty desegregation should be accomplished in every school district within the Fifth Circuit. The appellate court should not prescribe a detailed faculty provision from which a district court could not depart. District courts should be free to add specifics to meet the particular situation. By its decree, this Court will only be recognizing that there may be differences between large and small school districts and between urban and rural school districts.

At the same time, the decree does require that a reasonable beginning be made and that a reasonable program be achieved in the actual desegregation of the faculty. The decree makes it clear that the school officials are (1) restrained from

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11/ (Cont. from preceding page.)

be transferred to any position in the system where there is a vacancy for which they are qualified.

practicing racial discrimination in the hiring and assignment of new faculty members, and (2) are required to take affirmative steps to correct existing results of past racial assignments.

This, we believe, is the minimum to be required in any school desegregation decree. The district courts, however, would be open to the plaintiff and to the United States to seek more specific relief if the facts warrant it.

CONCLUSION

Deference to local responsibility for the administration of school systems is a long established principle in the law of school desegregation -- one that continues to be valid today. However, we think it disserves the principle of local responsibility to place upon school boards the difficult and technical task of articulating judicial standards and formulating workable mechanics for free choice plans. The result is too often an inadequate plan which necessitates further abrasive involvement of the federal courts in local school affairs. Instead, we urge the Court to make the legal obligations of local officials as clear as possible and to utilize the expertise of HEW in the formulation of free choice mechanics. Local responsibility can then be turned to the far more productive tasks of administration and performance.

Respectfully submitted,

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REVISED STATEMENT OF POLICIES FOR SCHOOL DESEGREGATION PLANS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

March 1966

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education

Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964

(Superseding the General Statement of Policies Issued in April 1965—45 CFR, Part 181)

Subpart A—*Applicability of This Statement of Policies*

§ 181.1 Title VI and the HEW Regulation

Section 601 of Title VI of the Civil Rights Act of 1964 provides that:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

As required by Section 602 of Title VI, the Department of Health, Education, and Welfare has issued a Regulation to assure the elimination of discrimination in Federal aid programs it administers. The HEW Regulation was published as Part 80 of Title 45, Code of Federal Regulations (45 CFR Part 80).

§ 181.2 Compliance by School Systems Eliminating Dual School Structure

To be eligible for Federal aid, a school system must act to eliminate any practices in violation of Title VI, including the continued maintenance of a dual structure of separate schools for students of different races. The HEW Regulation recognizes two methods of meeting this requirement: (1) a desegregation order of a Federal court; or (2) a voluntary desegregation plan.

§ 181.3 Purpose of This Statement of Policies

This Statement of Policies applies to public elementary and secondary school systems undergoing desegregation to eliminate a dual school structure. It sets forth the requirements which voluntary desegregation plans must meet for the Commissioner to determine under the HEW Regulation that a plan is adequate to accomplish the purposes of Title VI. This Statement supersedes the "General Statement of Policies Under Title VI of the Civil Rights Act of 1964 Respecting Desegregation of Elementary and Secondary Schools," issued in April 1965 and published as 45 CFR Part 181.

§ 181.4 Initial Demonstration of Compliance

To be eligible for Federal aid, a school system must first assure the Commissioner that it will comply with Title VI and the HEW Regulation. It must submit the form of assurance that meets its circumstances, under §§ 181.5, 181.6, or 181.7 below.

§ 181.5 Systems Without Dual School Structure

(a) *Submission of Form 441.* A school system which does not maintain any characteristic of a dual school structure may initially demonstrate compliance by submitting HEW Form 441. This is an assurance of full and immediate compliance with Title VI.

(b) *Resubmission Not Required.* A school system which has appropriately submitted HEW Form 441 need not submit a new copy with subsequent requests for Federal aid, but need only affirm when requested that the assurance submitted continues in effect.

(c) *Supplementation of Assurance.* The Commissioner may require supplementation of HEW Form 441 when he has reasonable cause to believe that there is a failure to comply with any provision of Title VI or the HEW Regulation.

§ 181.6 Systems Under Federal Court Order for Desegregation

(a) *Submission of Order.* A school system under a Federal court desegregation order which meets the requirements of the HEW Regulation may submit, as evidence of compliance with Title VI, a copy of the court order, together with an assurance that it will comply with the order, including any future modification.

(b) *Resubmission Not Required.* A school system under a court order accepted by the Commissioner need not submit another copy, but must submit any modification not previously submitted.

(c) *Revision of Court Orders.* A school system under a court order for desegregation which is not in accord with current judicial standards is subject to legal action by the Department of Justice, or by the parties to the original suit, to modify the order to meet current standards.

§ 181.7 Systems With Voluntary Desegregation Plans

(a) *Submission of Form 441–B.* A school system with a voluntary desegregation plan must provide an assurance that it will abide by the applicable requirements for such plans contained in this Statement of Policies. Such assurance may be given by submitting HEW Form 441–B to the Commissioner. After April 15, 1966 commitments of funds for new activities will be subject

to deferral for school systems which have failed to submit HEW Form 441–B.

(b) *Changing Type of Plan.* A school system may change from one type of desegregation plan to another if such action would eliminate segregation and all other forms of discrimination more expeditiously. A school system planning to change the type of its plan must submit a new plan meeting the requirements of this Statement of Policies, together with HEW Form 441–B, for a determination by the Commissioner as to the adequacy of the plan to accomplish the purposes of Title VI.

(c) *Retaining Present Type of Plan.* A school system with a desegregation plan accepted by the Commissioner need not resubmit its plan if it intends to continue under the same type of plan. If a plan accepted by the Commissioner fails to meet any requirement under this Statement of Policies, the submission of HEW Form 441–B will be deemed to amend the plan so that it will meet such requirement. Amendments to the plan are not to be submitted unless requested. However, certain supporting materials must be submitted, as provided in Subparts B, C, D, and F below.

(d) *Initial Submittal of Plans.* If no desegregation plan has been submitted or accepted for a school system, HEW Form 441–B and a plan meeting the requirements of this Statement of Policies must be submitted.

[§§ 181.8 through 181.10 reserved]

Subpart B—*Basic Requirements for All Voluntary Desegregation Plans*

§ 181.11 Various Types of Desegregation Plans

It is the responsibility of a school system to adopt and implement a desegregation plan which will eliminate the dual school system and all other forms of discrimination as expeditiously as possible. No single type of plan is appropriate for all school systems. In some cases, the most expeditious means of desegregation is to close the schools originally established for students of one race, particularly where they are small and inadequate, and to assign all the students and teachers to desegregated schools. Another appropriate method is to reorganize the grade structure of schools originally established for students of different races so that these schools are fully utilized, on a desegregated basis, although each school contains fewer grades. In some cases desegregation is accomplished by the establishment of non-racial attendance zones. Under certain conditions, a plan based on free choice of school may be a way to undertake desegregation. In certain cases the purposes of Title VI may be most expeditiously accomplished by a plan applying two or more of the foregoing procedures to certain schools or different grade levels. Based on consideration of all the circumstances of a particular school system, the Commissioner may determine that its desegregation plan is not adequate to accomplish the purposes of Title VI, in which case he may require the adoption of an alternative plan. In any case where the State education agency is pursuing policies and programs for expediting the elimination of the dual school structure, the Commissioner will consider this factor in determining whether a particular type of plan is adequate for any given school system in such State.

§ 181.12 Student Assignment Practices

Title VI precludes a school system from any action or inaction designed to perpetuate or promote segregation or any other form of discrimination, or to limit desegregation or maintain what is essentially a dual school structure. Any educational opportunity offered by a school system must be available to students without regard to race, color, or national origin. In particular, any academic tests or other procedures used in assigning students to schools, grades, classrooms, sections, courses of study or for any other purpose must be applied uniformly to all students without regard to race, color, or national origin. Curriculum, credit and promotion procedures must not be applied in such a way as to penalize or hamper students who transfer from one school to another pursuant to a desegregation plan.

§ 181.13 Faculty and Staff

(a) *Desegregation of Staff.* The racial composition of the professional staff of a school system, and of the schools in the system, must be considered in determining whether students are subjected to discrimination in educational programs. Each school system is responsible for correcting the effects of all past discriminatory practices in the assignment of teachers and other professional staff.

(b) *New Assignments.* Race, color, or national origin may not be a factor in the hiring or assignment to schools or within schools of teachers and other professional staff, including student teachers and staff serving two or more schools, except to correct the effects of past discriminatory assignments.

(c) *Dismissals.* Teachers and other professional staff may not be dismissed, demoted, or passed over for retention, promotion, or rehiring, on the ground of race, color, or national origin. In any instance where one or more teachers or other professional staff members are to be displaced as a result of desegregation, no staff vacancy in the school system may be filled through recruitment from outside the system unless the school officials can show that no such displaced staff member is qualified to fill the vacancy. If as a result of desegregation, there is to be a reduction in the total professional staff of the school system, the qualifi-

cations of all staff members in the system must be evaluated in selecting the staff members to be released.

(d) *Past Assignments.* The pattern of assignment of teachers and other professional staff among the various schools of a system may not be such that schools are identifiable as intended for students of a particular race, color, or national origin, or such that teachers or other professional staff of a particular race are concentrated in those schools where all, or the majority, of the students are of that race. Each school system has a positive duty to make staff assignments and reassignments necessary to eliminate past discriminatory assignment patterns. Staff desegregation for the 1966–67 school year must include significant progress beyond what was accomplished for the 1965–66 school year in the desegregation of teachers assigned to schools on a regular full-time basis. Patterns of staff assignment to initiate staff desegregation might include, for example: (1) Some desegregation of professional staff in each school in the system, (2) the assignment of a significant portion of the professional staff of each race to particular schools in the system where their race is a minority and where special staff training programs are established to help with the process of staff desegregation, (3) the assignment of a significant portion of the staff on a desegregated basis to those schools in which the student body is desegregated, (4) the reassignment of the staff of schools being closed to other schools in the system where their race is a minority, or (5) an alternative pattern of assignment which will make comparable progress in bringing about staff desegregation successfully.

§ 181.14 Services, Facilities, Activities, and Programs

(a) *General.* Each school system is responsible for removing any segregation and any other form of discrimination affecting students in connection with all services, facilities, activities and programs (including transportation, athletics, and other extra-curricular activities) that may be conducted or sponsored by or affiliated with the schools of the system.

(b) *Specific Situations.*

(1) A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student.

(2) If transportation services are furnished, sponsored or utilized by a school system, dual or segregated transportation systems and any other form of discrimination must be eliminated. Routing and scheduling of transportation must be planned on the basis of such factors as economy and efficiency, and may not operate to impede desegregation. Routes and schedules must be changed to the extent necessary to comply with this provision.

(3) All school-related use of athletic fields, meeting rooms, and all other school-related services, facilities, activities, and programs, such as commencement exercises and parent-teacher meetings, which are open to persons other than enrolled students, must be open to all such persons and must be conducted without segregation or any other form of discrimination.

(4) All special educational programs, such as pre-school, summer school and adult education, and any educational program newly instituted, must be conducted without segregation or any other form of discrimination. Free choice desegregation procedures normally may not be applied to such programs.

§ 181.15 Unequal Educational Programs and Facilities

In addition to the changes made in student assignment practices under its desegregation plan, each school system is responsible for removing all other forms of discrimination on the ground of race, color, or national origin. For example, some school systems still maintain small, inadequate schools that were originally established for students of a particular race and are still used primarily or exclusively for the education of students of such race. If the facilities, teaching materials, or educational program available to students in such a school are inferior to those generally available in the schools of the system, the school authorities will normally be required immediately to assign such students to other schools in order to discontinue the use of the inferior school.

§ 181.16 Attendance Outside School System of Residence

No arrangement may be made nor permission granted for students residing in one school system to attend school in another school system in any case (1) where the result would tend to limit desegregation or maintain what is essentially a dual school structure in either system, or (2) where such attendance is not available to all students without regard to race, color, or national origin.

§ 181.17 Official Support for Desegregation Plan

(a) *Community Support.* School officials must take steps to encourage community support and acceptance of their desegregation plan. They are responsible for preparing students, teachers and all other personnel, and the community in general, for the successful desegregation of the school system.

(b) *Information to the Public.* Full information concerning the desegregation plan must be furnished freely to the public and to all television and radio stations and all newspapers serving the community. Copies of all reports on student and staff assignments required under § 181.18 below must be available for public inspection at the office of the Superintendent of the school system.

(c) *Protection of Persons Affected.* Each school system is responsible for the effective implementation of its desegregation plan. Within their authority, school officials are responsible for the protection of persons exercising rights under, or otherwise affected by, the plan. They must take appropriate action with regard to any student or staff member who interferes with the successful operation of the plan, whether or not on school grounds. If officials of the school system are not able to provide sufficient protection, they must seek whatever assistance is necessary from other appropriate officials.

§ 181.18 Reports

(a) *Anticipated Enrollment.* By April 15 of each year, or by 15 days after the close of the spring choice period in the case of plans based on free choice of schools, each school system must report to the Commissioner the anticipated student enrollment, by race, color, or national origin, and by grade of each school, for the following school year. The report submitted for the 1966–67 school year must also include the comparable data for the 1965–66 school year. Any subsequent substantial change in anticipated enrollment affecting desegregation must be reported promptly to the Commissioner.

(b) *Planned Staff Assignments.* By April 15 of each year, each school system must report to the Commissioner the planned assignments of professional staff to each school for the following year, by race, color, or national origin and by grade, or where appropriate, by subject taught or position held. The report for April 15, 1966 must also include the comparable data for the 1965–66 school year. Any subsequent change in planned staff assignments affecting staff desegregation must be reported promptly to the Commissioner.

(c) *Actual Data.* As soon as possible after the opening of its schools in the fall, but in any case within 30 days thereafter, each school system must determine and promptly report to the Commissioner the actual data for the items covered in the reports called for under (a) and (b) above.

(d) *Attendance Outside System of Residence.* The reports called for under (a) and (c) above must include a statement covering (1) all students who reside within the boundaries of the school system but attend school in another system, and (2) all students who reside outside but attend a school within the system. This statement must set forth, for each group of students included in (1) and (2) above, the number of students, by race, color, or national origin, by grade, by school and school system attended, and by school system of residence.

(e) *Consolidation or Litigation .* A school system which is to undergo consolidation with another system or any other change in its boundaries, or which is involved in any litigation affecting desegregation, must promptly report the relevant facts and circumstances to the Commissioner.

(f) *Other Reports.* The Commissioner may require a school system to submit other reports relating to its compliance with Title VI.

§ 181.19 Records

A school system must keep available for not less than three years all records relating to personnel actions, transportation, including routes and schedules, and student assignments and transfers, including all choice forms and transfer applications submitted to the school system. The Commissioner may require retention for a longer period in individual cases.

[§§ 181.20 through 181.30 reserved]

Subpart C—*Additional Requirements for Voluntary Desegregation Plans Based on Geographic Attendance Zones*

§ 181.31 General

A voluntary desegregation plan based in whole or in part on geographic attendance zones must meet the requirements of this Subpart for all students whose assignment to schools is determined by such zones. The general requirement for desegregation plans set forth elsewhere in this Statement of Policies are also applicable.

§ 181.32 Attendance Zones

A single system of non-racial attendance zones must be established. A school system may not use zone boundaries or feeder patterns designed to perpetuate or promote segregation, or to limit desegregation or maintain what is essentially a dual school structure. A school system planning (1) to desegregate certain grades by means of geographic attendance zones and other grades by means of free choice of schools, or (2) to include more than one school of the same level in one or more attendance zones and to offer free choice of all schools within such zones, must show that such an arrangement will most expeditiously eliminate segregation and all other forms of discrimination. In any such case, the procedures followed for the offer, exercise and administration of free choice of schools must conform to the provisions of Subpart D below.

§ 181.33 Assignment to School in Zone of Residence

Regardless of any previous attendance at another school, each student must be assigned to the school serving his zone of residence, and may be transferred to another school only in those cases which meet the following requirements:

(a) *Transfer for Special Needs.* A student who requires a course of study not offered at the school serving his zone, or who is physically handicapped, may be permitted, upon his written application, to transfer to another school which is designed to fit, or offers courses for, his special needs.

(b) *Minority Transfer Policy.* A school system may (1) permit any student to transfer from a school where students of his race are a majority to any other school, within the system, where students of his race are a minority, or (2) assign students on such basis.

(c) *Special Plan Provisions.* A student who specifically qualifies to attend another school pursuant to the provisions of a desegregation plan accepted by the Commissioner may be permitted, upon his written application, to transfer to such other school.

§ 181.34 Notice

(a) *Individual Notice.* On a convenient date between March 1 and April 30 in each year, each school system must distribute, by first class mail, a letter to the parent, or other adult person acting as parent, of each student who is then enrolled, except high school seniors expected to graduate, giving the name and location of the school to which the student has been assigned for the coming school year pursuant to the desegregation plan, and information concerning the bus service between his school and his neighborhood. All these letters must be mailed on the same day. Each letter must be accompanied by a notice, in a form prescribed by the Commissioner, explaining the desegregation plan. The same letter and notice must also be furnished, in person or by mail, to the parent of each prospective student, including each student planning to enter the first grade or kindergarten, as soon as the school system learns that he plans to enroll.

(b) *Published Notice.* The school system must arrange for the conspicuous publication of an announcement, identical with the text of the notice provided for under (a) above, in the newspaper most generally circulated in the community, on or shortly before the date of mailing under (a) above. Publication as a legal notice is not sufficient. Whenever any revision of attendance zones is proposed, the school system must similarly arrange for the conspicuous publication of an announcement at least 30 days before any change is to become effective, naming each school to be affected and describing the proposed new zones. Copies of all material published hereunder must also be given at that time to all television and radio stations serving the community.

(c) *Maps Available to Public.* A street or road map showing the boundaries of, and the school serving, each attendance zone must be freely available for public inspection at the office of the Superintendent. Each school in the system must have freely available for public inspection a map showing the boundaries of its attendance area.

§ 181.35 Reports

(a) *Attendance Zones.* The report submitted under § 181.18(a) by April 15 of each year must be accompanied by a map, which must show the name and location of each school facility planned to be used during the coming school year, the attendance zones for each school in effect during the current school year, and any changes in the attendance zones planned for the coming school year. The map need not be of professional quality. A clipping of each newspaper announcement and any map published under § 181.34 (b) or (c) above must be sent to the Commissioner within three days after publication and, in the case of proposed revisions, must be accompanied by data showing the estimated change in attendance, by race, color, or national origin and by grade, and in the racial composition of the professional staff, at each school to be affected.

(b) *Attendance Outside Zone of Residence.* Whenever a student is permitted to attend a school other than that serving his zone of residence, and whenever a request for such attendance is denied, the school system must retain records showing (1) the school and grade applied for, (2) the zone of the student's residence and his grade therein, (3) the race, color, or national origin of the student, (4) the reason stated for the request, and (5) the reason the request is granted or denied. Whenever the total number of transfers permitted from any school exceeds two percent of the student enrollment at that school, the relevant facts must be reported promptly to the Commissioner.

[§§ 181.36 through 181.40 reserved]

Subpart D—*Additional Requirements for Voluntary Desegregation Plans Based on Free Choice of Schools*

§ 181.41 General

A voluntary desegregation plan based in whole or in part on free choice of schools must meet the requirements of this Subpart for all students whose assignment to schools is determined by free choice. The general requirements for desegregation plans set forth elsewhere in this Statement of Policies are also applicable.

§ 181.42 Who May Exercise Choice

A choice of schools may be exercised by a parent or other adult person serving as the student's parent. A student may exercise his own choice if he (1) is exercising a choice for the ninth or a higher grade, or (2) has reached the age of fifteen at the time of the exercise of choice. Such a choice by a student is controlling unless a different choice

is exercised for him by his parent, or other adult person acting as his parent, during the period in which the student exercises his choice. Each reference in this Subpart to a student exercising a choice means the exercise of the choice by a parent or such other adult, or by the student himself, as may be appropriate under this provision.

§ 181.43 Annual Mandatory Exercise of Choice

Each student must be required to exercise a free choice of schools once annually. A student may not be enrolled or assigned to a school without exercising his choice, except as provided in § 181.45 below.

§ 181.44 Choice Period

A period of at least 30 days must be provided for exercising choice, to commence no earlier than March 1 and to end no later than April 30, preceding the school year for which choice is to be exercised. The Commisisoner may require an additional period or different dates for a particular school system. No preference in school assignment may be given on the basis of an early exercise of choice during the choice period.

§ 181.45 Failure To Exercise Choice

A failure to exercise a choice within the choice period does not excuse a student from exercising his choice, which may be done at any time before he commences school for the year with respect to which the choice applies. However, any such late choice must be subordinated to the choices of students who exercised choice during the choice period. If by a week after school opens there is any student who has not yet exercised his choice of school, he must be assigned to the school nearest his home where space is available. Standards for determining available space must be applied uniformly throughout the system.

§ 181.46 Letters to Parents, Notices, and Choice Forms

(a) *Mailings.* On the first day of the choice period, each school system must distribute, by first class mail, a letter, an explanatory notice, and a choice form, to the parent or other adult person acting as parent of each student who is then enrolled, except high school seniors expected to graduate, together with a return envelope addressed to the Superintendent. The texts for the letter, notice, and choice form to be used must be in a form prescribed by the Commissioner.

(b) *Extra Copies.* Extra copies of the letter, the notice, and the choice form must be freely available to parents, students, prospective students, and the general public, at each school in the system and at the office of the Superintendent.

(c) *Content of Choice Form.* Unless otherwise authorized or required by the Commissioner, each choice form, as prepared by the school system for distribution, (1) must set forth the name and location of, and the grades offered at, each school, and (2) may inquire of the person exercising the choice only the name, address, and age of the student, the school and grade currently or most recently attended by the student, the school chosen, the signature of one parent or other adult person serving as parent or, where appropriate under § 181.42 above, the signature of the student, and the identity of the person signing. If necessary to provide information required by §§ 181.18 and 181.19 above, or for other reports required by the Commissioner, the choice form may also ask the race, color, or national origin of the student. No statement of reasons for a particular choice, or any other information, or any witness or other authentication, may be required or requested. No other choice form, including any pupil placement law form may be used by the school system in connection with the choice of a school.

(d) *Return of Choice Form.* At the option of the person completing the choice form, it may be returned by mail or by hand to any school in the school system or to the office of the Superintendent.

(e) *Choices Not on Official Form.* Exercise of choice may also be made by the submission in like manner of any other writing which sufficiently identifies the student and indicates that he has made a choice of a school.

§ 181.47 Prospective Students

Each prospective student, including each student planning to enter the first grade or kindergarten, must be required to exercise a free choice of schools before enrollment. Each such student must be furnished a copy of the prescribed letter, notice, and choice form, by mail or in person, on the date the choice period opens or as soon thereafter as the school system learns that he plans to enroll. Each must be given an opportunity to exercise his choice during the choice period. A prospective student exercising his choice after the choice period must be given at least one week to do so.

§ 181.48 Choice May Not Be Changed

Once a choice has been submitted, it may not be changed for the school year to which it applies, whether during the choice period, after the choice period, or during that school year, except on request (1) in cases meeting the conditions set forth in § 181.50 below, (2) in case of a change of residence to a place where another school serving the student's grade level is closer than the school to which he is assigned under these provisions, and (3) in case of a compelling hardship. A student who cannot enter the school of his choice because the grade he is to enter is not offered at that school must be promptly notified as soon as this is known and must be given the same opportunity to choose another school as is provided a prospective student under § 181.47 above.

§ 181.49 Assignment According to Choice

No choice may be denied in assigning students to schools for any reason other than overcrowding. In cases where overcrowding would result at one or more schools from the choices made, preference

must be given on the basis of the proximity of schools to the homes of students, without regard to race, color, or national origin. No preference may be given to students for prior attendance at a school if such preference would deny other students their free choice of schools under the plan. In cases where this provision would result in unusual difficulty involving, for instance, students not being able to finish their senior year in a particular school, or students being unable to attend school with other members of the same family, or at a school having special courses required by a student, the relevant facts may be brought to the attention of the Commissioner for consideration of alternative procedures. Any student whose choice is denied under these provisions must be notified in writing promptly and given his choice of each school in the system serving his grade level where space is available. Standards for determining overcrowding and available space that are applied uniformly throughout the system must be used if any choice is to be denied. Each student and his parent, or other adult person acting as parent, must be notified in writing of the name and location of the school to which the student is assigned hereunder promptly upon completion of processing his first or any second choice. A school system may, at its option, give preference to any student whose choice is for a school at which students of his race are a minority.

§ 181.50 Transfers for Special Needs

Each student must attend the school to which he is assigned under the foregoing provisions, except that any student who requires a course of study not offered at that school, or who is physically handicapped, may be permitted, upon his written application, to transfer to another school which is designed to fit, or offers courses for, his special needs.

§ 181.51 No Limitation of Choice; Transportation

No factor, such as a requirement for health or birth records, academic or physical examinations, the operation of the school transportation system, or any other factor except overcrowding, may limit or affect the assignment of students to schools on the basis of their choices. Where transportation is generally provided, buses must be routed to the maximum extent feasible so as to serve each student choosing any school in the system. In any event, every student choosing either the formerly white or the formerly Negro school (or other school established for students of a particular race, color, or national origin) nearest his residence must be transported to the school to which he is assigned under these provisions, whether or not it is his first choice, if that school is sufficiently distant from his home to make him eligible for transportation under generally applicable transportation rules.

§ 181.52 Officials Not To Influence Choice

No official, teacher, or employee of the school system may require or request any student or prospective student to submit a choice form during the choice period other than by the prescribed letter, notice, and choice form. After the choice period, the school system must make all reasonable efforts to obtain a completed choice form from any student who has not exercised a choice. However, at no time may any official, teacher, or employee of the school system, either directly or indirectly, seek to influence any parent, student, or any other person involved, in the exercise of a choice, or favor or penalize any person because of a choice made. Information concerning choices made by individual students or schools to which they are assigned may not be made public.

§ 181.53 Public Notice

On or shortly before the date the choice period opens, the school system must arrange for the conspicuous publication of a notice describing the desegregation plan in the newspaper most generally circulated in the community. The text of the notice must be in a form prescribed by the Commissioner. Publication as a legal notice is not sufficient. Copies of this notice must also be given at that time to all radio and television stations serving the community. Any other announcement published by the school system concerning enrollment, such as might be made in connection with scheduling pre-enrollment procedures for prospective first grade students, must (1) state clearly that under the desegregation plan a choice of school is required for each student whose choice has not yet been exercised, (2) describe and state where copies of the prescribed letter, notice and choice form may be freely obtained in person, or by letter or telephone request, and (3) state the period during which the choice may be exercised.

§ 181.54 Requirements for Effectiveness of Free Choice Plans

A free choice plan tends to place the burden of desegregation on Negro or other minority group students and their parents. Even when school authorities undertake good faith efforts to assure its fair operation, the very nature of a free choice plan and the effect of longstanding community attitudes often tend to preclude or inhibit the exercise of a truly free choice by or for minority group students.

For these reasons, the Commissioner will scrutinize with special care the operation of voluntary plans of desegregation in school systems which have adopted free choice plans.

In determining whether a free choice plan is operating fairly and effectively, so as to materially further the orderly achievement of desegregation, the Commissioner will take into account such factors as community support for the plan, the efforts of the school system to eliminate the identifiability of schools on the basis of race, color, or national origin by virtue of the composition of staff or other

factors, and the progress actually made in eliminating past discrimination and segregation.

The single most substantial indication as to whether a free choice plan is actually working to eliminate the dual school structure is the extent to which Negro or other minority group students have in fact transferred from segregated schools. Thus, when substantial desegregation actually occurs under a free choice plan, there is strong evidence that the plan is operating effectively and fairly, and is currently acceptable as a means of meeting legal requirements. Conversely, where a free choice plan results in little or no actual desegregation, or where, having already produced some degree of desegregation, it does not result in substantial progress, there is reason to believe that the plan is not operating effectively and may not be an appropriate or acceptable method of meeting constitutional and statutory requirements.

As a general matter, for the 1966–67 school year the Commissioner will, in the absence of other evidence to the contrary, assume that a free choice plan is a viable and effective means of completing initial stages of desegregation in school systems in which a substantial percentage of the students have in fact been transferred from segregated schools. Where a small degree of desegregation has been achieved and, on the basis of the free choice registration held in the spring of 1966, it appears that there will not be a substantial increase in desegregation for the 1966–67 school year, the Commissioner will review the working of the plan and will normally require school officials to take additional actions as a prerequisite to continued use of a free choice plan, even as an interim device.

In districts with a sizable percentage of Negro or other minority group students, the Commissioner will, in general, be guided by the following criteria in scheduling free choice plans for review:

(1) If a significant percentage of the students, such as 8 percent or 9 percent, transferred from segregated schools for the 1965–66 school year, total transfers on the order of at least twice that percentage would normally be expected.

(2) If a smaller percentage of the students, such as 4 percent or 5 percent, transferred from segregated schools for the 1965–66 school year, a substantial increase in transfers would normally be expected, such as would bring the total to at least triple the percentage for the 1965–66 school year.

(3) If a lower percentage of students transferred for the 1965–66 school year, then the rate of increase in total transfers for the 1966–67 school year would normally be expected to be proportionately greater than under (2) above.

(4) If no students transferred from segregated schools under a free choice plan for the 1965–66 school year, then a very substantial start would normally be expected, to enable such a school system to catch up as quickly as possible with systems which started earlier. If a school system in these circumstances is unable to make such a start for the 1966–67 school year under a free choice plan, it will normally be required to adopt a different type of plan.

Where there is substantial deviation from these expectations, and the Commissioner concludes, on the basis of the choices actually made and other available evidence, that the plan is not operating fairly, or is not effective to meet constitutional and statutory requirements, he will require the school system to take additional steps to further desegregation.

Such additional steps may include, for example, reopening of the choice period, additional meetings with parents and civic groups, further arrangements with State or local officials to limit opportunities for intimidation, and other further community preparation. Where schools are still identifiable on the basis of staff composition as intended for students of a particular race, color, or national origin, such steps must in any such case include substantial further changes in staffing patterns to eliminate such identifiability.

If the Commissioner concludes that such steps would be ineffective, or if they fail to remedy the defects in the operation of any free choice plan, he may require the school system to adopt a different type of desegregation plan.

§ 181.55 Reports

(a) *Supporting Materials.* Each school sys- must submit to the Commissioner a copy of the letter, notice, and choice form, all as prepared by the school system for distribution, within three days after their first distribution, and must submit a clipping of all newspaper announcements published in accordance with § 181.53 above within three days after publication.

(b) *Data on Choices Not Being Honored.* In any case, including the case of conflicting choices under § 181.42 above, where a student chooses a school where he would be in a racial minority, and (1) he is to be assigned to a school where he would be in a racial majority, or (2) the school system proposes not to process his choice for any reason, the relevant facts must be reported promptly to the Commissioner.

(c) *Transfers for Special Needs.* Wherever a student is permitted, under §§ 181.48 or 181.50 above, to attend a school other than the school to which he is or would be assigned under the other applicable provisions hereof, and whenever a request for such attendance is denied, the school system must retain records showing (1) the school and grade applied for, (2) the school and grade to be transferred from, (3) the race, color, or national origin of the student, (4) the reason stated for the request, and (5) the reason the request is granted or denied. Whenever the total number of transfers permitted from any school exceeds two percent of the student enrollment at that school, the relevant facts must be reported promptly to the Commissioner.

[§§ 181.56 through 181.60 reserved]

Subpart E—*Miscellaneous Provisions*

§ 181.61 How To Submit Reports

Each report to the Commissioner required under this Statement of Policies must be sent by first class mail addressed to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202.

§ 181.62 Alternative Administrative Procedures

If an administrative procedure provided for under this Statement of Policies is not administratively feasible in a particular situation, the Commissioner may accept an alternative procedure if he determines that it will accomplish the same purpose.

§ 181.63 Revision of Statement of Policies

The Commissioner may modify this Statement of Policies as may be necessary to accomplish the purposes of Title VI.

§ 181.64 Copies of Documents for State Agencies

Each school system submitting any plan form or report to the Commissioner under this Statement of Policies must also submit a copy of such form or report to the appropriate State education agency.

§ 181.65 Choice Period Already Begun

In the event that any school system with a desegregation plan based on free choice has begun or completed its free choice period for the 1966–67 school year prior to the date of issue of this Statement of Policies, the school system must immediately report to the Commissioner its proposals for adapting its free choice procedures in such a way as to make them substantially conform to the provisions of this Statement of Policies.

§ 181.66 Definitions

As used in this part,

(a) The term "Commissioner" means the U.S. Commissioner of Education or any official acting under assignment or delegation from him to carry out any of his functions under this Statement of Policies.

(b) The term "discrimination" means discrimination on the ground of race, color, or national origin.

(c) The term "dual school structure" means a system of separate school facilities for students based on race, color, or national origin.

(d) The term "HEW Form 441" means the printed document provided for the use of certain school systems by the U.S. Department of Health, Education, and Welfare, entitled "Assurance of Compliance with the Department of Health, Education, and Welfare Regulation under Title VI of the Civil Rights Act of 1964."

(e) The term "HEW Form 441–B" means the printed document provided for the use of certain school systems by the U.S. Department of Health, Education, and Welfare entitled "Assurance of Compliance with the Revised Statement of Policies for School Desegregation Plans Under Title VI of the Civil Rights Act of 1964."

(f) The term "HEW Regulation" means the Regulation issued pursuant to Title VI of the Civil Rights Act of 1964 by the U.S. Department of Health, Education, and Welfare (Part 80, of Title 45, Code of Federal Regulations).

(g) The term "parent" means an adult individual who exercises parental control over, or is otherwise acting as parent of, a student or prospective student.

(h) The term "school official" shall include, but is not limited to, any person who serves on the governing board of a school system, or attends meetings of such board in an official capacity, and all administrative and supervisory personnel of a school system.

(i) The term "school system" means, as the context may require, either (1) a legally constituted school authority (such as a local board of education) which has administrative control of one or more elementary or secondary schools, (2) the geographic area over which any such school authority has administrative control for school purposes, or (3) the schools and facilities over which any such school authority has administrative control.

(j) The term "Statement of Policies" means this Revised Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964.

(k) The term "Title VI" means Title VI of the Civil Rights Act of 1964 (PL 88–352, 42 USC 2000d to 2000d–4).

[§§ 181.67 to 181.70 reserved]

Subpart F—*Desegregation Plans Not Reaching All Grades for the 1966–67 School Year*

§ 181.71 Opportunity to Transfer in Grades Not Reached by Plan

In any school system in which, for the school year 1966–67, there are grades not yet reached by the desegregation plan, the school system must arrange for students to attend school on a desegregated basis in each of the special circumstances described in (a), (b), (c), and (d) below. This opportunity must be made available in such a way as to follow, to the maximum extent feasible, the desegregation procedures in grades generally reached by the plan, according to the type of plan in effect.

(a) *Transfer for a Course of Study.* A student must be permitted to transfer to a school in order to take a course of study for which he is qualified and which is not available in the school to which he would otherwise be assigned on the basis of his race, color, or national origin.

(b) *Transfer to Attend School With Relative.* A student must be permitted to transfer in order to attend the same school or attendance center as a brother, sister, or other relative living in his household, if such relative is attending a school as a result of a desegregation plan and if such school or attendance center offers the grade which the student would be entering.

(c) *Transfer for Students Required To Go Outside System.* A student must be permitted to transfer to any school within the system which offers the grade he is to enter if he would otherwise be required to attend school outside the system on the basis of his race, color, or national origin.

(d) *Transfer for Other Reasons.* A student must be permitted to transfer to a school other than the one to which he is assigned on the basis of his race, color, or national origin if he meets whatever requirements, other than race, color or national origin, the school system normally applies in permitting student transfers.

§ 181.72 Students New to the System

Each student who will be attending school in the system for the first time in the 1966-67 school year in any grade not yet generally reached by the desegregation plan must be assigned to school under the procedures for desegregation that are to be applied to that grade when it is generally reached by the desegregation plan.

§ 181.73 General Provisions Applicable

A student who has transferred to a school under § 181.71 above, or entered a school under § 181.72 above shall be entitled to the full benefits of § 181.14 above (relating to desegregation of services, facilities, activities and programs) and to any and all other rights, privileges, and benefits generally conferred on students who attend a school by virtue of the provisions of the desegregation plan.

§ 181.74 Notice

Each school system in which there will be one or more grades not fully reached by the desegregation plan in the 1966–67 school year must add a paragraph describing the applicable transfer provisions at the end of the notice distributed and published pursuant to § 181.34 above or §§ 181.46 and 181.53 above, as is appropriate for the type of plan adopted by the school system. The text of the paragraph must be in a form prescribed by the Commissioner. The school system must make such other changes to the notice as may be necessary to make clear which students will be affected by attendance zone assignments or free choice requirements.

In addition, for the letter to parents required in § 181.46, school systems with free choice plans which have not desegregated every grade must use a letter describing the plan and will enclose with the letter sent to parents of students in grades not desegregated a transfer application instead of a choice form. For the letter to parents required in § 181.34, school systems with geographic zone plans must send to each parent of students in grades not desegregated a letter describing the plan and a transfer application. The text for these letters and the transfer application must be in a form prescribed by the Commissioner.

§ 181.75 Processing of Transfer Applications

Applications for transfer may be submitted on the transfer application form referred to in § 181.74 above or by any other writing. If any transfer application is incomplete, incorrect or unclear in any respect, the school system must make every reasonable effort to help the applicant perfect his application. Under plans based on geographic zones, and under plans based on free choice of schools, the provisions of § 181.42 as to whether a student or his parent may make a choice of school, shall also determine whether a student in a grade not yet generally reached by desegregation may execute a transfer application.

§ 181.76 Reports and Records

In each report to the Commissioner under §§ 181.18, 181.35, and 181.55 above, the school system must include all data, copies of materials distributed and other information generally required, relative to all students, regardless of whether or not their particular grades have been generally reached by the plan. Similarly the system must retain the records provided for under §§ 181.19, 181.35, and 181.55 above with respect to all students.

[§§ 181.77 through 181.80 reserved]

U.S. GOVERNMENT PRINTING OFFICE : 1966 O—210-060

TEXT FOR NOTICE TO BE PUBLISHED IN NEWSPAPERS, DISTRIBUTED WITH LETTERS TO PARENTS, AND OTHERWISE MADE FREELY AVAILABLE TO THE PUBLIC

(As required by § 181.34 of the Statement of Policies)

(School System Name and Office Address)

NOTICE OF SCHOOL DESEGREGATION PLAN UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

THIS NOTICE IS MADE AVAILABLE TO INFORM YOU ABOUT THE DESEGREGATION OF OUR SCHOOLS. KEEP A COPY OF THIS NOTICE. IT WILL ANSWER MANY QUESTIONS ABOUT SCHOOL DESEGREGATION.

1. *Desegregation Plan in Effect*

The _____ public school system is being desegregated under a plan adopted
(Name of school system)
in accordance with Title VI of the Civil Rights Act of 1964. The purpose of the desegregation plan is to eliminate from our school system the racial segregation of students and all other forms of discrimination based on race, color, or national origin. Your school board and the school staff will do everything they can to see to it that the rights of all students are protected and that our desegregation plan is carried out successfully.

2. *Non-Racial Attendance Zones*

Under the desegregation plan, the school each student will attend depends on where he lives. An attendance zone has been established for each school in the system. All students in the same grade who live in the same zone will be assigned to the same school, regardless of their race, color, or national origin and regardless of which school they attend now.

3. *Transfer to School in Another Zone*

A student may transfer from the school to which he is assigned only under the following conditions: [*State here the conditions, if any, under which transfer will be granted. They must be consistent with the transfer provisions stated in § 181.33 of the Statement of Policies.*] Transfers for any other reasons will not be permitted.

4. *Notification of Assignment*

On _____ the parent, or other adult person acting as parent, of each student
(Date)
enrolled in this system will be sent a letter telling him the name and location of the school to which the student will be assigned for the coming school year. The letter will also give information on any school bus service provided for the student's neighborhood. A copy of this notice will be enclosed with each letter. The same letter and notice will be sent out on the above date for all children the school system expects to enter the school system for the first time next year. This includes children entering first grade or kindergarten. [*Delete* "or kindergarten" *if not offered.*] If the school system learns of a new student after the above date, it will promptly send the student's parent such a letter and a copy of this notice.

5. *Maps Showing Attendance Zones*

Maps showing the boundary lines of the attendance zones of every school in the school system are freely available for inspection by the public at the Superintendent's office. Individual zone maps are available at each school.

6. *Revision of Attendance Zones Boundaries*

Any revision of attendance zone boundaries will be announced by a prominent notice in a local paper at least 30 days before the change is effective.

7. *All Other Aspects of Schools Desegregated*

All school-connected services, facilities, athletics, activities and programs are open to each student on a desegregated basis. A student assigned to a new school under the provisions of the desegregation plan will not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student. All transportation furnished by the school system will also operate on a desegregated basis. Faculties will be de-

segregated, and no staff member will lose his position because of race, color, or national origin. This includes any case where less staff is needed because schools are closed or enrollment is reduced.

8. *Attendance Across School System Lines*

No arrangement will be made or permission granted by this school system for any students living in the community it serves to attend school in another school system, where this would tend to limit desegregation, or where the opportunity is not available to all students without regard to race, color, or national origin. No arrangement will be made or permission granted, by this school system for any students living in another school system to attend public school in this system, where this would tend to limit desegregation, or where the opportunity is not available to all students without regard to race, color, or national origin.

9. *Violations To Be Reported*

It is a violation of our desegregation plan for any school official or teacher to influence, threaten or coerce any person in connection with the exercise of any rights under this plan. It is also a violation of Federal regulations for any person to intimidate, threaten, coerce, retaliate or discriminate against any individual for the purpose of interfering with the desegregation of our school system. Any person having any knowledge of any violation of these prohibitions should report the facts immediately by mail or phone to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202 (telephone 202–962–0333). The name of any person reporting any violation will not be disclosed without his consent. Any other violation of the desegregation plan or other discrimination based on race, color, or national origin in the school system is also a violation of Federal requirements and should likewise be reported. Anyone with a complaint to report should first bring it to the attention of local school officials, unless he feels it would not be helpful to do so. If local officials do not correct the violation promptly, any person familiar with the facts of the violation should report them immediately to the U.S. Office of Education at the above address or phone number.

U.S. GOVERNMENT PRINTING OFFICE : 1966 O—210-097

TEXT FOR NOTICE TO BE PUBLISHED IN NEWSPAPERS, DISTRIBUTED WITH LETTERS TO PARENTS, AND OTHERWISE MADE FREELY AVAILABLE TO THE PUBLIC

(Required by § 181.46 and 181.53 of the Statement of Policies)

(School System Name and Office Address)

NOTICE OF SCHOOL DESEGREGATION PLAN UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

THIS NOTICE IS MADE AVAILABLE TO INFORM YOU ABOUT THE DESEGREGATION OF OUR SCHOOLS. KEEP A COPY OF THIS NOTICE. IT WILL ANSWER MANY QUESTIONS ABOUT SCHOOL DESEGREGATION

1. *Desegration Plan in Effect*

The _____ public school system is being desegregated under a plan adopted in accordance with Title VI of the Civil Rights Act of 1964. The purpose of the desegregation plan is to eliminate from our school system the racial segregation of students and all other forms of discrimination based on race, color, or national origin.

(Name of school system)

2. *Thirty-Day Spring Choice Period*

Each student or his parent, or other adult person acting as parent, is required to choose the school the student will attend next school year. The choice period will begin on _____ and close _____, 1966.

3. *Explanatory Letters and School Choice Forms*

On the first day of the choice period, an explanatory letter and this notice will be sent by first-class mail to the parent, or other adult person acting as parent, of each student then in the schools who is expected to attend school the following school year. A school choice form will be sent with each letter, together with a return envelope addressed to the Superintendent. Additional copies of the letter, this notice and the choice form are freely available to the public at any school and at the Superintendent's office.

4. *Returning the Choice Forms*

Parents and students, at their option, may return the completed choice forms by hand to any school or by mail to the Superintendent's office, at any time during the 30-day choice period. No preference will be given for choosing early during the choice period. A choice is required for each student. No assignment to a school can be made unless a choice is made first.

5. *Choice Form Information*

The school choice form lists the names, locations and grades offered for each school. The reasons for any choice made are not to be stated. The form asks for the name, address and age of the student, the school and grade currently or last attended, the school chosen for the following year, the appropriate signature, and whether the form has been signed by the student or his parent. [*If choice form asks for the student's race, color, or national origin, insert the following sentences*: "The race, color, or national origin of the student is requested for purposes of recordkeeping required by the U.S. Office of Education. The information will not be used in any way to discriminate against the student."] Any letter or other written communication which identifies the student and the school he wishes to attend will be deemed just as valid as if submitted on the choice form supplied by the school system. The names of students and the schools they choose or are assigned to under the plan will not be made public by school officials.

6. *Course and Program Information*

To guide students and parents in making a choice of school, listed below, by schools, are the courses and programs which are not given at every school in this school system.

> [*Here list, by schools, each course and program, such as special education, foreign languages, vocational education, science, commercial courses, and college preparatory courses offered at a particular school which is not offered at the same grade level at every other school in the system. It must include courses and programs offered in grades not yet generally reached by the desegregation plan.*]

7. *Signing the Choice Form*

A choice form may be signed by a parent or other adult person acting as parent. A student who has reached the age of 15 at the time of choice, or will next enter the ninth or any higher grade, may sign his own choice form. The student's choice shall be controlling unless a different choice is exercised by his parent before the end of the period during which the student exercises his choice.

8. *Processing of Choices*

No choice will be denied for any reason other than overcrowding. In cases where granting all choices for any school would cause overcrowding, the students choosing the school who live closest to it will be assigned to that school. Whenever a choice is to be denied, overcrowding will be determined by a uniform standard applicable to all schools in the system.

9. *Notice of Assignment, Second Choice*

All students and their parents will be promptly notified in writing of their school assignments. Should any student be denied his choice because of overcrowding he will be promptly notified and given a choice among all other schools in the system where space is available.

10. *Students Moving Into the Community*

A choice of school for any student who will be new to the school system may be made during the spring 30-day choice period or at any other time before he enrolls in school. An explanatory letter, this notice and the school choice form will be given out for each new student as soon as the school system knows about the student. At least seven days will be allowed for the return of the choice form when a choice is made after the spring 30-day choice period. A choice must be made for each student. No assignment to any school can be made unless a choice is made first.

11. *Students Entering First Grade*

The parent, or other adult person acting as parent, of every child entering the first grade, or kindergarten [*delete* "or kindergarten" *if not offered*], is required to choose the school his child will attend. Choices will be made under the same free choice process used for students new to the school system in other grades, as provided in paragraph 10.

12. *Priority of Late Choices*

No choice made after the end of the spring 30-day choice period may be denied for any reason other than overcrowding. In the event of overcrowding, choices made during the 30-day choice period will have first priority. Overcrowding will be determined by the standard provided for in paragraph 8. Any parent or student whose first choice is denied because of overcrowding will be given a second choice in the manner provided for in paragraph 9.

13. *Tests, Health Records and Other Entrance Requirements*

Any academic tests or other procedures used in assigning students to schools, grades, classrooms, sections, courses of study, or for any other purpose, will be applied uniformly to all students without regard to race, color or national origin. No choice of school will be denied because of failure at the time of choice to provide any health record, birth certificate, or other document. The student will be tentatively assigned in accordance with the plan and the choice made, and given ample time to obtain any required document. Curriculum, credit, and promotion procedures will not be applied in such a way as to hamper freedom of choice of any student.

14. *Choices Once Made Cannot be Altered*

Once a choice has been submitted, it may not be changed, even though the choice period has not ended. The choice is binding for the entire school year to which it applies, except in the case of (1) compelling hardship, (2) change of residence to a place where another school is closer, (3) the availability of a school designed to fit the special needs of a physically handicapped student, (4) the availability at another school of a course of study required by the student, which is not available at the school chosen.

15. *All Other Aspects of Schools Desegregated*

All school-connected services, facilities, athletics, activities and programs are open to all on a desegregated basis. A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student. All transportation furnished by the school system will also operate on a desegregated basis. Faculties will be desegregated, and no staff member will lose his position because of race, color or national origin. This includes any case where less staff is needed because schools are closed or enrollment is reduced.

16. *Attendance Across School System Lines*

No arrangement will be made, or permission granted, by this school system for any students living in the community it serves to attend school in another school system, where this would tend to limit

desegregation, or where the opportunity is not available to all students without regard to race, color or national origin. No arrangement will be made, or permission granted, by this school system for any students living in another school system to attend school in this system, where this would tend to limit desegregation, or where the opportunity is not available to all students without regard to race, color or national origin.

17. *Violations To Be Reported*

It is a violation of our desegregation plan for any school official or teacher to influence or coerce any person in the making of a choice or to threaten any person with penalties or promise favors for any choice made. It is also a violation of Federal regulations for any person to intimidate, threaten, coerce, retaliate or discriminate against any individual for the purpose of interfering with the free making of a choice of school. Any person having any knowledge of any violation of these prohibitions should report the facts immediately by mail or phone to the Equal Educational Opportunities Program, U.S. Office of Education, Washington, D.C., 20202 (telephone 202–962–0333). The name of any person reporting any violation will not be disclosed without his consent. Any other violation of the desegregation plan or other discrimination based on race, color, or national origin in the school system is also a violation of Federal requirements, and should likewise be reported. Anyone with a complaint to report should first bring it to the attention of local school officials, unless he feels it would not be helpful to do so. If local officials do not correct the violation promptly, any person familiar with the facts of the violation should report them immediately to the U.S. Office of Education at the above address or phone number.

U. S. GOVERNMENT PRINTING OFFICE : 1966 O—210-096

TEXT FOR ANNUAL LETTER TO PARENTS

FOR USE DURING 30-DAY SPRING CHOICE PERIOD

(Required by §181.46 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

Dear Parent: (Date sent)

Our community has adopted a school desegregation plan. We will no longer have separate schools for children of different races. The desegregation plan has been accepted by the U.S. Office of Education under the Civil Rights Act of 1964.

The plan requires *every* student or his parent to choose the school the student will attend in the coming school year. It does not matter which school the student is attending this year, and it does not matter whether that school was formerly a white or a Negro school. You and your child may select any school you wish.

A choice of school is required for each student. A student cannot be enrolled at any school next school year unless a choice of schools is made. This spring there will be a 30-day choice period, beginning ----------, 1966, and ending ----------, 1966.

A choice form listing the available schools and grades is enclosed. This form must be filled out and returned. You may mail it in the enclosed envelope, or deliver it by hand to any school or to the address above any time during the 30-day choice period. No one may require you to file your choice form before the end of the choice period. No preference will be given for choosing early during the choice period.

No principal, teacher or other school official is permitted to influence anyone in making a choice. No one is permitted to favor or penalize any student or other person because of a choice made. Once a choice is made, it cannot be changed except for serious hardship.

Also enclosed is an explanatory notice giving full details about the desegregation plan. It tells you how to exercise your rights under the plan, and tells you how teachers, school buses, sports and other activities are being desegregated.

Your School Board and the school staff will do everything we can to see to it that the rights of all students are protected and that our desegregation plan is carried out successfully.

Sincerely yours,

Superintendent.

U.S. GOVERNMENT PRINTING OFFICE : 1966 O—210-098

TEXT FOR LETTER TO PARENTS

FOR USE AFTER 30-DAY SPRING CHOICE PERIOD

(Required by § 181.46 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

(Date sent)

Dear Parent:

Our community has adopted a school desegregation plan. We will no longer have separate schools for children of different races. The desegregation plan has been accepted by the U.S. Office of Education under the Civil Rights Act of 1964.

The plan requires *every* student or his parent to choose the school the student will attend in the coming school year. It does not matter which school the student might have attended before, and it does not matter whether that school was formerly a white or a Negro school. You and your child may select any school you wish.

A choice of school is required for each student. A student cannot be enrolled at any school next school year unless a choice of schools is made. A choice form listing the available schools and grades is enclosed. This form must be filled out and returned. You may mail it in the enclosed envelope, or deliver it by hand to any school or to the address above any time before _____.* No one may require you to file your choice form before that date.
Date

No principal, teacher or other school official is permitted to influence anyone in making a choice. No one is permitted to favor or penalize any student or other person because of a choice made. Once a choice is made, it cannot be changed except for serious hardship.

Also enclosed is an explanatory notice giving full details about the desegregation plan. It tells you how to exercise your rights under the plan, and tells you how teachers, school buses, sports and other activities are being desegregated.

Your school board and the school staff will do everything we can to see to it that the rights of all students are protected and that our desegregation plan is carried out successfully.

Sincerely yours,

Superintendent.

* Insert in text a date at least seven days after the letter is sent to parent.

U.S. GOVERNMENT PRINTING OFFICE : 1966 O—210-099

TEXT FOR CHOICE OF SCHOOL FORM

(Required by § 181.46 of the Statement of Policies)

(IF SEPARATE SCHOOLS HAVE BEEN MAINTAINED FOR OTHER THAN NEGRO AND WHITE STUDENTS, TEXT IS TO BE ADJUSTED ACCORDINGLY)

(School System Name and Office Address)

(Date sent)

CHOICE OF SCHOOL FORM

This form is provided for you to choose the school your child will attend for the coming school year. It does not matter which school the child has been attending, and it does not matter whether the school you choose was formerly a white or a Negro school. No student can be enrolled without making a choice of school. This form must either be brought to any school or mailed to the Superintendent's office at the address above by _____. If the student is 15 years old by the date of choice, or will be entering the ninth or a higher grade, either the student or his parent may make the choice.

1. Name of Child _____
   Last First Middle
2. Age _____
3. School and grade currently or last attended _____. Grade _____
4. School Chosen (Mark X beside school chosen)

	Name of School	*Grades*	*Location*
	[Here list by name, grades offered, and location each school available. For example:]		
☐	George Washington High School	8–12	Adams St., Jefferson
☐	James Madison Elementary School	1– 7	Monroe St., Jackson

This form is signed by (mark proper box):

Parent ☐

Other adult person acting as parent ☐

Student ☐

Signature _____

Address _____

Date _____

This block is to be filled in by the Superintendent's office, not by person signing.
Is student assigned to school chosen? ☐ Yes ☐ No

If not, explain: _____

U.S. GOVERNMENT PRINTING OFFICE : 1966 O—210-100

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief and Appendix has been served by official United States mail in accordance with the rules of this Court to each of the attorneys for the appellees as follows:

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Dated: April 25, 1966.

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