

did not... subject of the Education Committee last September... his office had acted legal and prudently

Rights Backer Supports Southern Complaints Against U.S. School Aides

He defended the guidelines... admitted that some abusive activities have administration... of the

U.S. School Aides

By Jack Nelson... ATLANTA, Dec. 15... series of assaults... agents attending school

School Desegregation Seen Ex

The pace of Southern desegregation under guidelines has been called... "shameful" in a stinging report by the respected Southern Baptist Council

Virginia School Units Face

for many for new... but would continue... for existing private... Only Southampton now... on this list

U.S. TO BARE SCHOOL RULES

New integration guidelines expected to match Court's... Washington, Dec. 15... Federal... are expected to announce... desegregation

Report of the U.S. Commission on Civil Rights July 1967

Next thing I knew... I was sitting... with my glasses... (Sheffield) was on... Sheriff Johnson said... in the Superior Court... office when he was... by Hall's secretary... didn't

Louisiana Accuses School

Charges Plot in... to Scuttle Integration... NEW ORLEANS, Oct. 25... A Federal District... berry, has

questionnaire... at the out... served notice he would participate... the "bureaucratic fundam... ship" and "organic interest... of How's office in... issuing and applying the guide... lines

Fists Drive Negroes to Quit School

Under the attacks... during a Congressional committee hearing... simply adds fuel to the fires of racism that are burning in too many parts of the country today... Ashmore told reporters... if he had used any... offensive to Mitchell it was... inadvertently... How remained un... under the attacks... his basic position that the li... lines were required by th... rights laws, that withhold... funds was legitimate... office made every... with \$1

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Hall, according to Johnson... left the courthouse after... and returned with a rifle... I went in there and talked... him after that and said... I'm not going to have any shoot... in the courthouse because so... innocent people might I... killed" the sheriff said... Johnson said Hall told h... "he wasn't going to let a... body come into his office... beat him up... "HAIN WARRANT... wanted a peace war... charging ass... age

Total Integration Concept Is De

RICHMOND (AP) - In re... cluding the an... Department of Health, Educa... tion and Welfare Secretary... John... The... is a concept of "total integrat... ion" that the... in 1964... "total rights... "Dwight D. Davis... Teachers' Association... Gardner... newspaper account of students... attributed to officials of... "speakers at an education... conference here Nov... "Termin... out"

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# Southern School Desegregation, 1966-67

A REPORT OF THE U.S. COMMISSION ON CIVIL RIGHTS

JULY 1967

## U. S. Commission on Civil Rights

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;
- Appraise Federal laws and policies with respect to equal protection of the laws;
- Serve as a national clearinghouse for information in respect to denials of equal protection of the laws; and
- Submit reports, findings, and recommendations to the President and the Congress.

### *Members of the Commission*

JOHN A. HANNAH, *Chairman*

EUGENE PATTERSON, *Vice Chairman*

FRANKIE M. FREEMAN

ERWIN N. GRISWOLD

REV. THEODORE M. HESBURGH, C.S.C.

ROBERT S. RANKIN

WILLIAM L. TAYLOR, *Staff Director*

# Letter of Transmittal

The U.S. Commission on Civil Rights  
Washington, D.C., July 1967

The President

The President of the Senate

The Speaker of the House of Representatives

Sirs:

The Commission on Civil Rights presents to you this report pursuant to Public Law 85-315, as amended.

This study presents and analyzes information relating to school desegregation in the Southern and border States during the 1966-67 school year. This information was obtained by the Commission primarily from field investigations and analyses of the Department of Health, Education, and Welfare's files and the Department's operations commencing in the summer of 1966 and ending in the spring of 1967. The Commission has found that the percentage of Negro children attending desegregated schools in the Southern States in 1966-67 increased substantially over the previous school year, and that this numerical progress has been accompanied in many communities by a spirit of acceptance and understanding that would have seemed impossible during the era of "massive resistance" only a few years ago. Nevertheless, more than four-fifths of the Negro children in the 11 Southern States and more than nine-tenths of the Negro children in the five Deep South States still attend all-Negro schools. Although a majority of Negro children in half of the border States attend desegregated schools, large numbers of Negro children in other border States continue to attend all-Negro or virtually all-Negro schools. In the Southern States very little desegregation of full-time teachers has taken place.

The Commission's study shows that there is still much to be accomplished to secure the constitutional rights of Negro students. Our recommendations suggest this may be done, for example, by strengthening the present requirements which the Department of

Health, Education, and Welfare has promulgated under Title VI and by improving the procedures by which compliance is monitored.

We urge your consideration of the facts presented and the recommendations for corrective action.

Respectfully yours,

JOHN A. HANNAH, *Chairman*

EUGENE PATTERSON, *Vice Chairman*

FRANKIE M. FREEMAN

ERWIN N. GRISWOLD

REV. THEODORE M. HESBURGH, C.S.C.

ROBERT S. RANKIN

WILLIAM L. TAYLOR, *Staff Director*

## Acknowledgments

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\* No longer with the Commission.

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# I. INTRODUCTION

On February 20, 1967, the Commission issued *Racial Isolation in the Public Schools*, a report on the extent and effect of racial segregation in school systems in all parts of the country. The study, which focused on metropolitan areas, was concerned principally with school segregation arising from sources other than compulsion by law. The present study is concerned with the progress of school desegregation in the Southern and border States. In these States prior to 1954, school segregation was required, or expressly permitted, by law. Such States were required by the decisions of the Supreme Court in *Brown v. Board of Education*<sup>1</sup> to disestablish their dual school systems.

A decade of litigation produced only token compliance with the *Brown* decision. Upon the enactment of Title VI of the Civil Rights Act of 1964,<sup>2</sup> the major Federal role in Southern school desegregation shifted from the Federal courts to the Department of Health, Education, and Welfare. Title VI prohibited racial discrimination against beneficiaries of Federal financial assistance. Each Federal agency giving financial assistance—including aid to education—was required to effectuate this policy by issuing regulations.<sup>3</sup> Failure to comply with such regulations was made punishable by termination of the assistance after a hearing.<sup>4</sup>

The sanction of withdrawal of Federal assistance has acquired increasing significance with the rapid rise in such assistance under recently expanded Federal aid to education programs. Principally as a result of the enactment of the Elementary and Secondary Education Act of 1965 (ESEA)<sup>5</sup>, Federal financial assistance under

<sup>1</sup> 347 U.S. 483 (1954); 349 U.S. 294 (1955).

<sup>2</sup> 78 Stat. 252 (1964), 42 U.S.C. 2000d-2000d-4 (1964).

<sup>3</sup> 78 Stat. 252 (1964), 42 U.S.C. 2000d-1 (1964).

<sup>4</sup> *Ibid.*

<sup>5</sup> 79 Stat. 27 (1965), 20 U.S.C. 241a-241l, 331a-332b, 821-827, 841-848, 861-870, 881-885 (1966). See especially 20 U.S.C. 241a-241l (Title I of ESEA).

such programs now is so significant a portion of school budgets that it cannot be disregarded.<sup>6</sup>

<sup>6</sup> During Fiscal Year 1966, the Office of Education paid the following sums to the Southern and border States (Fiscal 1967 estimates are shown in parentheses): Alabama, \$67,901,437 (\$72,100,512); Arkansas, \$39,919,451 (\$41,815,650); Delaware, \$7,013,806 (\$8,990,271); Florida, \$79,039,752 (\$87,256,626); Georgia, \$78,118,953 (\$86,043,212); Kentucky, \$60,652,756 (\$63,608,175); Louisiana, \$55,084,973 (\$65,003,131); Maryland, \$52,226,351 (\$63,306,042); Mississippi, \$44,549,671 (\$49,737,223); Missouri, \$60,468,040 (\$68,267,745); North Carolina, \$96,881,225 (\$101,891,291); Oklahoma, \$49,053,909 (\$52,443,487); South Carolina, \$48,270,266 (\$52,355,639); Tennessee, \$65,545,862 (\$70,471,297); Texas, \$165,823,687 (\$180,469,462); Virginia, \$74,686,510 (\$85,466,660); and West Virginia, \$31,544,984 (\$33,042,500). Figures obtained from U.S. Office of Education, Budget Branch, Office of Administration (Dept. HEW), April 1967. Of the 63 school districts visited by Commission staff, 46 were able to provide the Commission with figures showing the percentage of their total funds attributable to Federal sources. Of this number, 17 received 20% or more of their funds from Federal sources. Federal funds comprised 30% or more of the budgets of several districts, e.g., Calvert School District (Robertson, Texas) (36.5%); Green Co. (Alabama) (37%); Idabel Public Schools (McCurtain Co., Oklahoma) (30%).

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## 2. SCOPE OF REPORT

In February 1966, the Commission published its first report on the effectiveness of Title VI in achieving public school desegregation in the Southern and border States.<sup>7</sup> That survey demonstrated that in 1965, although significant progress had been made under Title VI in obtaining the agreement of school districts to desegregate their schools, the number of Negro children actually attending schools with white children in the Deep South still was very low. The Commission found after staff visits to a cross-section of school districts that the slow pace of integration in Southern and border States was attributable in large measure to the fact that most school districts in the South had adopted so-called "free choice plans" as the principal method of desegregation. Under such plans, students who formerly were assigned to schools on the basis of race were given an opportunity each school year to choose the school they wanted to attend on a nonracial basis, subject to limitations imposed by overcrowded facilities.

Freedom of choice plans accepted by the Office of Education of the Department of Health, Education, and Welfare had failed to disestablish the dual school systems in Southern and border States, the Commission determined. This failure was attributable to the fact that such plans did not eliminate the racial identity of the schools and placed the burden of change upon Negro parents and pupils who often were reluctant to assert their rights for fear of harassment and intimidation by hostile white persons. The Commission found that, in some areas of the South, there had been physical violence and economic reprisal against Negro students and parents of Negro students who had elected under such plans to attend formerly all-white schools. The Commission also found that during 1965, the Office of Education did not have adequate procedures for evaluating plans and assurances and lacked adequate staff and procedures

<sup>7</sup> U.S. Commission on Civil Rights, *Survey of School Desegregation in the Southern and Border States 1965-66* (Feb. 1966).

for detecting violations of Title VI. The Commission determined that efforts to monitor compliance largely were limited to investigation of complaints filed; that commencement of enforcement proceedings had been virtually limited to cases where school districts had defied the law openly by failing to file any assurance or plan, and that no enforcement proceeding had been instituted against a district for violation of an accepted plan or assurance.

This report is designed to supplement the Commission's 1966 survey. The purpose of this report is to assess what recent progress has been made in school desegregation under Title VI, what current problems remain unsolved, and what corrective steps should be taken now. This study concentrates, therefore, upon the school desegregation standards promulgated by the Office of Education for the implementation of Title VI subsequent to the Commission's 1966 report, and on the effectiveness of the Office of Education's recent enforcement efforts. This report is based upon field investigations, a review of the Office of Education files, interviews with Office of Education and Department of Justice officials, and other persons active in the school desegregation field, and the examination of available literature including judicial opinions and transcripts of Congressional hearings dealing with the efforts of the Office of Education to implement Title VI.

### 3. THE STATISTICAL STORY 1966-67

In the first 10 years after the Supreme Court's decisions in the school segregation cases,<sup>8</sup> the number of Negro pupils attending school with white students in the 17 Southern and border States which previously had required or authorized school segregation increased at an average rate of about 1 percent a year, according to statistics compiled by correspondents for the Southern Education Reporting Service.<sup>9</sup> By the end of the 1964-65 school year, 10.9 percent of the Negro students in this region were in biracial classrooms—an increase of 1.7 percentage points over the 1963-64 figure (9.2 percent), which in turn represented an increase of 1.2 percent over 1962-63. In 1965-66, however—the first school year in which Title VI became effective—the percentage of Negro students attending biracial schools in the Southern and border State region increased to 15.9 percent.<sup>10</sup>

There was a marked contrast between progress in the South and in the border region. Up through the 1962-63 school year, less than 1 percent of the Negro students in the 11 Southern States of the old Confederacy attended school with white students. The 1 percent mark was passed in 1963-64 and almost doubled in 1964-65, to 2.25 percent. For the 1965-66 school year, the percentage more than doubled, according to the Southern Education Reporting Service, reaching 6.01 percent.<sup>11</sup>

In contrast, the six border States and the District of Columbia desegregated at a faster rate than the Southern States. By 1961-62,

<sup>8</sup> *Brown v. Board of Education* 347 U.S. 483 (1954); 349 U.S. 294 (1955).

<sup>9</sup> Leeson, *Faster Pace, Scarcer Records*, Southern Education Report 28-32 (Jan.-Feb. 1966).

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.* The Office of Education, based on a sampling of 590 districts through a telephone survey conducted in cooperation with State departments of education, estimated the figure at 7.5 percent. Civil rights organizations, relying upon a variety of sources, including field workers, advanced estimates lower than 6 percent. See U.S. Commission on Civil Rights, *Survey of School Desegregation in the Southern and Border States 1965-66* at 27-28. (Feb. 1966).

more than half of the Negro students in the border region were attending biracial schools. The annual rate of change in this region was about 3 percent a year. By 1964-65, the border area had 58.3 percent of its Negro enrollment in school with white students. By 1965-66, the figure was 68.9 percent—an increase of more than 10 percentage points over the previous year.<sup>12</sup>

In the 1966-67 school year, the trend continued to be favorable.<sup>13</sup> Using the Office of Education estimates, the overall comparative percentage breakdown for 1965-66 and 1966-67 is as follows:<sup>14</sup>

	<i>Percentage of Negro Students in Schools Which Are Not all-Negro</i>	
	1965	1966
17 Southern and border States	15.1	24.4
11 Southern States	7.5	16.9
6 Border States	65.6	67.8

In four of the five Deep South States (Mississippi, Louisiana, South Carolina and Georgia) the percentages rose substantially, as the following chart shows:

	<i>Percentage of Negro Students in Schools Which Are Not all-Negro</i>	
State	1965	1966
Mississippi	0.4	3.2
Louisiana	0.6	3.5
South Carolina	1.5	6.0
Georgia	2.4	9.9

In two States, however,—Alabama and Missouri—both the number and percentage of Negro children attending schools which are not

<sup>12</sup> Leeson, *supra*.

<sup>13</sup> Beginning with the year in which the first Negro child entered a formerly all-white school, in each year until 1965-66, the number of Negroes attending such schools in the Southern and border States grew more slowly than the growth in Negro enrollment. In 1965-66, the number of Negro students in such schools increased by 118,173, and the total Negro enrollment rose by only 70,923. For the 1966-67 school year, an additional 305,665 Negroes attended public schools which were not all-Negro, while Negro enrollment rose by only 74,790. *School Desegregation in the Southern and Border States, Feb. 1967*, Compiled by the Southern Education Reporting Service.

<sup>14</sup> U.S. Office of Education, National Center for Educational Statistics, Dec. 6, 1966. The 1965 percentages were based on a sample survey. The 1966 percentages are based on projections from data collected in the Fall of 1966 from approximately 80 percent of the 5,000 school districts in the Southern and border States. Office of Education explanation accompanying figures. For a complete statistical breakdown, see Appendix I.

all-Negro *declined* during the 1966-67 school year. In the Fall of 1965 (according to Office of Education estimates) there were 15,300 such Negro children in Alabama, or 5.3 percent of all Negro pupils.<sup>15</sup> The corresponding figures for Fall 1966 were 12,900, or 4.7 percent. In Missouri, such Negro children declined from 85,500 or 74.4 percent in Fall 1965, to 83,460, or 64.2 percent in Fall 1966. The Office of Education State-by-State estimated breakdown follows:<sup>16</sup>

State	Number of Negro Pupils in Schools which are not 100% Negro		Negro Pupils in Schools which are not 100% Negro as a percentage of all Negro Pupils	
	Fall 1965	Fall 1966	Fall 1965	Fall 1966
<b>GRAND TOTAL . . .</b>	<b>503,600</b>	<b>829,760</b>	<b>15.1</b>	<b>24.4</b>
<b>Southern States, Total . . .</b>	<b>216,600</b>	<b>489,900</b>	<b>7.5</b>	<b>16.9</b>
Alabama . . . . .	15,300	12,900	5.3	4.7
Arkansas . . . . .	6,100	19,550	6.3	16.6
Florida . . . . .	23,800	58,150	8.4	20.8
Georgia . . . . .	7,600	34,050	2.4	9.9
Louisiana . . . . .	1,600	9,350	0.6	3.5
Mississippi . . . . .	1,000	8,500	0.4	3.2
North Carolina . . . . .	24,500	54,750	6.5	15.6
South Carolina . . . . .	3,500	14,750	1.5	6.0
Tennessee . . . . .	25,300	58,850	14.0	31.7
Texas . . . . .	81,700	160,050	21.7	47.3
Virginia . . . . .	26,300	59,000	14.1	24.8
<b>Border States, Total . . .</b>	<b>287,000</b>	<b>339,860</b>	<b>65.6</b>	<b>67.8</b>
Delaware . . . . .	15,900	24,100	77.9	100.0
Kentucky . . . . .	50,900	38,220	81.4	88.5
Maryland . . . . .	96,400	140,550	55.7	64.0
Missouri . . . . .	85,500	83,460	74.4	64.2
Oklahoma . . . . .	24,800	34,310	51.0	55.7
West Virginia . . . . .	13,500	19,220	75.8	84.3

<sup>15</sup> A sharp discrepancy appears between this figure and the estimate by the Southern Education Reporting Service in December of 1965 of the percentage of Negro students in Alabama attending school with white students (43 percent). Southern Education Reporting Service, *Statistical Summary*, Dec. 1965.

<sup>16</sup> U.S. Office of Education, National Center for Educational Statistics, Dec. 6, 1966. In its 1966-67 *Statistical Summary*, the Southern Education Reporting Service (SERS) reports Office of Education figures for "estimated total desegregated Negroes" as of Feb. 1967, based on IBM print-outs made available to SERS by the National Center

Although the rate of desegregation has accelerated, more than 2.5 million Negro pupils still attend all-Negro schools in the Southern and border States. This is a greater number than the 2.2 million Negro pupils who attended all-Negro schools in these States at the time of the first *Brown* decision, and constitutes more than 75 percent of all Negro pupils in such States. In the 11 Southern States 83.1 percent of the Negro pupils attend all-Negro schools. In each of the Deep South States the percentage is higher than 90 percent; *i.e.*, Georgia 90.1 percent; South Carolina, 94.0 percent; Alabama, 95.3 percent; Louisiana, 96.5 percent, and Mississippi, 96.8 percent.<sup>17</sup>

Progress has been greater in the border States, which now have 161,540 students in all-Negro schools compared to 308,701 in the 1953-54 school year. Thus, in Delaware, there are no Negro children in this category;<sup>18</sup> in Kentucky, 11.5 percent; in West Virginia, 15.7 percent. In several border States, on the other hand, more than a third of the Negro students attend all-Negro schools—in Missouri, 35.8 percent; in Maryland, 36 percent; and in Oklahoma, 44.3 percent.<sup>19</sup>

Judging the extent of “desegregation” by the number and percent of Negro pupils who are not in all-Negro schools can be misleading, since the placement of a single white, Indian, or Chinese child in an otherwise all-Negro school has the effect of transferring large numbers of Negro children to the statistical category of those attending schools which are not all-Negro. For this reason, in reporting its current figures, the Office of Education has included, and regards as most significant, figures showing the percentage of Negro children attending schools which are more than 95 percent Negro or less

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for Educational Statistics. Except for Louisiana (21,600), Maryland (126,800), and Missouri (101,100) the changes were not substantial. The Feb. figures have not officially been published by the Department of Health, Education, and Welfare and the accuracy of these print-outs has been questioned by officials within the Department. Staff interview with Robert Brown, formerly Program Manager, Equal Educational Opportunities Program (and at the time of the interview, Acting Director for Management with the Office for Civil Rights of the Department of Health, Education, and Welfare), June 30, 1967, and John Hodgdon, then Acting Director, Planning Division, Equal Educational Opportunities Program, June 30, 1967.

<sup>17</sup> *Ibid.*

<sup>18</sup> Although there are no all-Negro schools in Delaware, there are schools which are nearly all-Negro. For example, in April 1967, one high school in Sussex County, Delaware had 264 Negro students and only 15 white students, all of whom were in a special class for the trainable mentally retarded. Wilmington had one school with three white students and 333 Negro students, another with three white students and 533 Negro students and four schools in which white students numbered 20 or less and Negro students ranged from 200 to almost 800. Staff interview with Douglas M. Macmillan, Educational Program Specialist, Equal Educational Opportunities Program (hereafter EEOP), April 17, 1967.

<sup>19</sup> U.S. Office of Education, National Center for Educational Statistics, Dec. 6, 1966.