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[1976]

THE WHITE HOUSE
WASHINGTON

Sat., Sept. 18

JMC:

You wanted to speak with
Dick Cheney today re: attached.

cd



Chenev

CLEARANCE SHEET

DATE: 9/13

JMC ACTION

Required by: 9/16

STAFF RESPONSIBILITY A. Quern

SUBJECT: National Committee to Deal with Desegregation

RECEIVED FROM: Initiated by AQ

DATE RECEIVED: _____

STAFF COMMENTS: If you approve we will send this around to Senior Staff for their comments.

QUERN/MOORE RECOMMENDATION:

APPROVE

REVIEW & COMMENT

DISCUSS

CANNON ACTION:

DATE:

Material Has Been:

Signed and forwarded

Changed and signed

Returned per conversation

Noted



JIM CANNON

Comment:

6125

THE WHITE HOUSE

WASHINGTON

DECISION

September 13, 1976

MEMORANDUM FOR: THE PRESIDENT
FROM: JIM CANNON
SUBJECT: BUSING LEGISLATION

PURPOSE

The purpose of this memorandum is to present for your consideration the proposal that you establish the National Community and Education Committee by executive order to deal with school desegregation.

BACKGROUND

The last opportunity for Congressional action on the busing legislation you submitted has passed. Your legislation included the establishment of a National Community and Education Committee to assist communities in preparing for desegregation activities and in avoiding violence and disruption.

The bipartisan Committee would be composed of not fewer than fifty nor more than one hundred members. Ten of these members would be appointed by the President and would serve on the executive council of the Committee; the executive council would appoint the remainder of the Committee. All members of the Committee would be selected from a wide range of occupations and backgrounds, and would include individuals with experience in school desegregation activities.

Although it is not identical to the commission suggested by Secretary Mathews in his May, 1976, proposal, this Committee would perform similar functions and fill the same needs. As you may recall, this concept was well received by all the groups you met with on the busing issue.

PROPOSAL

The Committee proposal could be extracted from the legislation and established by Presidential executive order.

The advantages of proceeding by executive order are:

- A. You could demonstrate your willingness to take the lead in the area and your commitment to the need for the Committee; and
- B. Under an executive order, the program may be modified (or eventually terminated) to accommodate changing circumstances.

The disadvantages of an executive order are:

- A. This could instigate another round of criticism from those who opposed your bill; and
- B. It could be seen as an admission of failure of your proposed legislation.

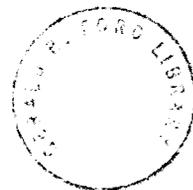
STAFF COMMENTS

RECOMMENDATION

I recommend creation of the National Community and Education Commission by executive order.

_____ APPROVE

_____ DISAPPROVE





THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

May 20, 1976

MEMORANDUM FOR THE HONORABLE JAMES M. CANNON

Jim:

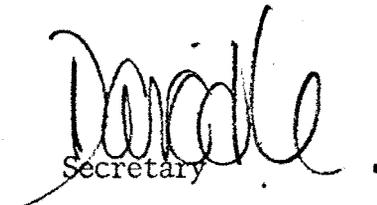
The attached memorandum to the President should be read with my earlier memorandum to him (March 29) on the same subject. The important considerations are not in the title of the Commission or the number of appointees but in the general considerations that led us to this recommendation.

Our basic proposal is still that (1) the President ought to address this issue as the leader of the nation with both moral and practical pronouncements, not just as head of the government, and (2) there ought to be an effort to increase the consensus/community building capacity in order to help cities keep out of courts. Our subsequent refinement is to recommend that the services provided be informally mediative but short of negotiation/arbitration.

The intent of the proposed Commission is to give the President a place of referral that could provide more practical relief than "studies" but would not become another "court."

If you can help keep these more basic issues before the President, I think he will have a better chance of seeing his options than if we get too involved too early in the mechanics.

Thank you.


Secretary

Attachment





THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

MAY 20 1976

MEMORANDUM FOR THE PRESIDENT

Pursuant to our conversation, I have prepared for your consideration a proposal to establish a National Community and Education Commission to assist communities in preparing for desegregation activities and in avoiding trauma, violence and disruption. At Tab A I have enclosed a brief discussion of the nature and functions of such a Commission and at Tab B a proposed draft Presidential Executive Order establishing the Commission. I would call to your attention the following two specific issues in terms of this approach.

Implementation Strategy - Executive Order or Legislation

Although the Commission could be established either through legislation or an Executive Order, the Executive Order approach appears preferable for the following reasons:

The chances of Congress considering legislation to implement this proposal in the near future are very slight.

You have the authority and precedent to create an action-type council or commission by Executive Order. As long as the Executive Order does not contradict or supersede any statutes, you may create councils, commissions, and committees to carry out any function from studying a problem to developing programs. You may also give such bodies review and regulatory authority and the power to mediate.

It is common practice for such commissions to receive appropriations from Congress without authorizing legislation. In most cases, the "parent" Department (in this case HEW) requests funds for the commission as a line item in its appropriation.

Although the Executive Order approach does not require Congressional action, it is imperative that consultations with minority members on the appropriate committees be initiated promptly if such a proposal is approved by the Administration. Unless handled carefully, the Democratic Congress could endanger the proposal by arguing that the



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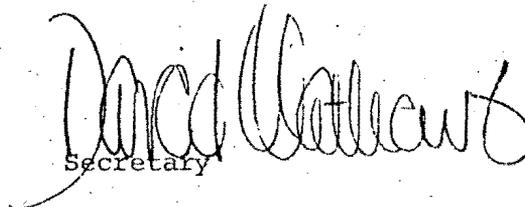
Although the Executive Order approach does not require Congressional action, it is imperative that consultations with minority members on the appropriate committees be initiated promptly if such a proposal is approved by the Administration. Unless handled carefully, the Democratic Congress could endanger the proposal by arguing that the

Administration is taking away Congress' authority to legislate. Even with an Executive Order, Congress' support and tacit approval is needed to enable the Commission to succeed in its complex mission.

Appropriations Strategy - Commission

To accomplish its mission effectively, the Commission would require a permanent staff of approximately 50 persons, as well as the ability to hire such consultants as it may need for specific projects. Support costs for such an enterprise would be around \$2 million annually. As noted above, HEW would request funds for the Commission as a line item in its appropriation. Although funds could be requested through an emergency supplemental or obtained through a reprogramming of present HEW funds, the preferred course of action is a budget amendment which would fund the Commission as of October 1.

I believe the approach suggested herein provides the most viable and effective strategy for the Administration to demonstrate it is truly concerned about the issue of the disruption of communities because of desegregation activities. I would recommend your approval of this approach and the issuance of such an Executive Order after appropriate consultation with the Congress.


Secretary

Enclosures

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Secretary

Enclosures



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ESTABLISHMENT OF THE NATIONAL COMMUNITY AND EDUCATION COMMISSION

A MAJOR INITIATIVE IN SCHOOL DESEGREGATION

Summary Description

In an effort to encourage and facilitate constructive, comprehensive planning for school desegregation at the local level, it is proposed that the National Community and Education Commission be established by Executive Order. The Commission would be a Presidentially-appointed, bipartisan group of distinguished citizens drawn from business and other professional circles. Its charge would be to assist local communities in carrying out desegregation planning activities designed to build lines of communication, avert disorder, and encourage constructive interracial classroom environments through the example of constructive interracial community environments.

Specific Function

The Commission's chief responsibility would be to advise local community leaders at the earliest stages of desegregation planning. Assistance would be initiated at the request of the affected community, and at that point a determination would be made by one or more Commission members as to what course of Commission activity offered the greatest promise of success within the particular community. In general, however, the orientation of the Commission would be toward working quietly with a broad spectrum of local leaders to identify problems before they develop and to devise solutions which could be carried out locally. While working within a community, the Commission would function primarily in a supportive and advisory role.

In the course of its consultations with the community and the school district, one of the Commission's chief functions would be to inform local leaders of additional sources of desegregation assistance (Federal, State, local and private) and encourage that these sources be investigated. Such sources include direct funding through the Emergency School Aid Act; technical assistance through OE's General Assistance Centers; OE's ten regional offices, and the Justice Department's Community Relations Service; formal mediation service through the Federal Mediation and Conciliation Service; and other forms of aid through the U.S. Commission on Civil Rights, State human relations agencies, and related private agencies.

Although the Commission's activities will overlap to some extent with those of the organizations mentioned above, the Commission should be

able to minimize unnecessary duplication through careful liaison with these other resources. It will be particularly important to work out non-duplicative roles with the Community Relations Service (CRS) since the function of CRS -- helping communities defuse tensions and conflicts arising from inequities or discrimination based on race, color, or national origin -- is notably similar to that of the proposed Commission. The CRS focuses less of its attention on pre-crisis intervention now than it did prior to FY 1974. Budget cuts that year effectively removed CRS from its earlier pre-crisis role, even though some individuals have held that the nature of the CRS function and expertise makes the agency particularly well suited to pre-crisis assistance. Thus, although CRS may not be currently active in some of the Commission's more important roles, its staff probably will have valuable insights and experiences to share with the Commission.

In keeping with its general functions already described, the Commission's role would not be to serve as a court-appointed intermediary between parties in a legal suit related to desegregation. Mediation would be a proper role for the Commission only in instances where it was conducted informally and with the voluntary participation of the major elements of the community. Similarly, the Commission would not be empowered to act for any State or Federal agency in an enforcement or compliance capacity. Moreover, it would not be expected to draw up desegregation-related student assignment plans at the request of a State or Federal agency.

Federal Incentives for Comprehensive Community Planning

The Commission is intended primarily to provide help to school districts which have not yet adopted or been issued a desegregation plan (although districts at other points in the desegregation process certainly would not be precluded from receiving assistance from the Commission). In order to provide support for districts which are conducting comprehensive, community-based planning for desegregation, it is proposed that a specified amount of funds in the Emergency School Aid Act (ESAA) discretionary account be set aside to support local planning activities, including those initiated with Commission involvement.

The ESAA discretionary account (Section 708 (a)) is the only part of the ESAA under which a school district without an eligible desegregation plan may receive funds. Therefore, it would be possible to stipulate by regulation that a community which showed proof of effort to conduct community-wide desegregation planning could receive funding to conduct such planning and other activities authorized under ESAA. The intention would be that this planning would involve all major sectors of the community, including business and housing representatives.

Structure

The Commission would be made up of nine members who would be appointed by the President for three-year terms of office. To provide continuity within the Commission, terms of office for individual members would be staggered at one-year intervals. The Commission chairman would be selected by the President, with the first chairman appointed for a full three-year term. Commission members would be expected to maintain their regular occupations but would be compensated at EL IV for the days they work on Commission activities. To ensure bipartisan representation, restrictions would be placed on the number of Commission members permitted from each political party. The Commission would have the authority to hire staff on an excepted service basis and to retain consultants as needed for specific projects.

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EXECUTIVE ORDER

NATIONAL COMMUNITY AND EDUCATION COMMISSION

Throughout the history of our Nation, the education of our children, especially at the elementary and secondary level, has been a community endeavor. The concept of public education began in the community and continuous support for public schools has been provided by the community. Although the States, and to some extent the Federal government, have been providing increasing financial assistance for education, it has become clear that the solution of many of the most pressing problems facing our schools lies within the community which supports those schools.

This fact has particular relevance to the problem of school desegregation. Over the past two decades, communities have been under pressure from the courts, the Department of Health, Education, and Welfare, and in some cases the States, to institute changes in the assignment of students to schools. Too often this has been accomplished without the involvement of the community or with its involvement only after confrontations have occurred and community positions have been established.



The problems that have arisen in the process of school integration have not been due to the inadequacy of law or the lack of appropriate resources. Rather, they can be attributed to the fact that the burden of initiating and enforcing school desegregation has been borne by the courts and the Federal government without the benefit of those forces from within the community that are uniquely able to bring about necessary change in an orderly and peaceful manner.

It is therefore the purpose of this executive order to provide a means to activate and energize effective local leadership in the desegregation process at an early stage in order to reduce the incidence and severity of the trauma that would otherwise accompany that process, and to provide a national resource that will be available to assist communities in anticipating and resolving difficulties encountered prior to and during desegregation.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America, it is hereby ordered as follows:

Section 1. Establishment of the Commission. (a) There is hereby established a National Community and Education Commission (hereinafter referred to as the "Commission"), the purpose of which shall be to consult with, provide technical assistance to, and informally mediate between, community groups and State and local governmental organizations (including educational agencies) in order to anticipate and resolve problems and conflicts relating to the desegregation of schools.

(b) Composition of the Commission. The Commission shall be composed of nine members who shall be appointed by the President from among individuals who are nationally recognized and respected in business, education, government and other fields and whose experience, reputation, and qualities of leadership render them uniquely capable of carrying out the purposes of the Commission. No person who is otherwise employed by the United States shall be appointed to serve on the Commission. No more than five of the members of the Commission at any one time shall be members of the same political party.



(c) Terms of members. The term of office of each member of the Commission shall be three years, except that of the members first appointed to the Commission three shall be appointed for a term of one year and three shall be appointed for a term of two years. Any member appointed to fill an unexpired term on the Commission shall serve for the remainder of the term for which his predecessor was appointed.

(d) Chairman; quorum. The Chairman of the Commission shall be designated by the President. Five members of the Commission shall comprise a quorum.

(e) Compensation of members. Each member of the Commission shall be compensated in an amount equal to that paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5313 of title 5, United States Code, prorated on a daily basis for each day spent on the work of the Commission, including travel time. In addition, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government Service.

(f) Executive Director; staff. The Commission shall have an Executive Director, designated by the Chairman with the approval of a majority of the members of the Commission, who shall assist the Chairman and the Commission in the performance of their functions as they may direct. The Executive Director shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Commission is also authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of, such professional, technical, and clerical personnel, including consultants, as may be necessary to enable the Commission to carry out its functions. Such personnel, including the Executive Director, shall be compensated at rates not to exceed that specified at the time such service is performed for grade GS-18 in section 5332 of that title.

Sec. 2. Functions of the Commission. The functions of the Commission shall include, but shall not be limited to:

(1) Consulting with leaders in the community and local groups in determining means by which such leaders and groups can, through early involvement in the development of, and preparation for, school desegregation plans, contribute to the desegregation process in such a way as to avoid conflicts and the invocation of judicial procedures.

(2) Encouraging the formation of broadly based local community organizations to develop a program designed to encourage comprehensive community planning for the desegregation of schools.

(3) Providing advice and technical assistance to communities in preparing for and carrying out comprehensive plans to desegregate the schools, involving the broadest possible range of community interests and organizations;

(4) Consulting with the Community Relations Service of the Department of Justice (established under title X of the Civil Rights Act of 1964), the Office for Civil Rights in the Department of Health, Education, and Welfare, the National Institute of Education, the U.S. Office of Education,

General Assistance Centers (funded under title IV of the Civil Rights Act of 1964), the United States Civil Rights Commission, and State and local human relations agencies to determine how those organizations can contribute to the resolution of problems arising in the desegregation of schools within a community; and

(5) Providing informal mediation services among individuals, groups, and agencies within a community in order to resolve conflicts, reduce tensions, and develop acceptable means of desegregating schools without resort to administrative and judicial processes.

Sec. 3. Limitations on activities of the Commission.

It shall not be the function of the Commission--

- (1) to prepare desegregation plans;
- (2) to provide mediation services under the order of a court of the United States or of a State; or
- (3) to investigate or take any action with respect to allegations of violations of law.

Sec. 4. Cooperation by other departments and agencies.

(a) All executive departments and agencies of the United States are authorized to cooperate with the Commission and furnish to it such information, personnel and other

assistance as may be appropriate to assist the Commission in the performance of its functions and as may be authorized by law.

(b) In administering programs designed to assist local educational agencies and communities in planning for and carrying out the desegregation of schools, the Secretary of Health, Education, and Welfare and the heads of agencies within that Department shall administer such programs, to the extent permitted by law, in a manner that will further the activities of the Commission.

Sec. 5. Expenses of the Council. Expenses of the Commission shall be paid from such appropriations to the Department of Health, Education, and Welfare as may be available therefor.

Sec. 6. Confidentiality. The activities of the members and employees of the Commission in carrying out the purposes of this executive order may be conducted in confidence and without publicity, and the Commission shall, to the extent provided by law, hold confidential any information acquired in the regular performance of its duties if such information was provided to the Commission upon the understanding that it would be so held.





THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D. C. 20201

MAR 29 1975

MEMORANDUM FOR THE HONORABLE JAMES M. CANNON

Here is a report on the reaction of our best staff in the Department to the options in your memo on "Alternatives to Busing:"

1. Many successful superintendents have been successful because of a low profile. The recognition, while flattering, might well be counterproductive. Civil rights groups could have a field day with suits aimed at proving that the efforts of these individuals really were not good enough.

Furthermore, since many of the superintendents in such a group would have used busing, the President could be seen as endorsing busing by one group and then, for the same gesture, criticized for tokenism by the other side.

Of course, as the Commissioner of Education notes, there is some value to reinforcement for people doing a hard job well.

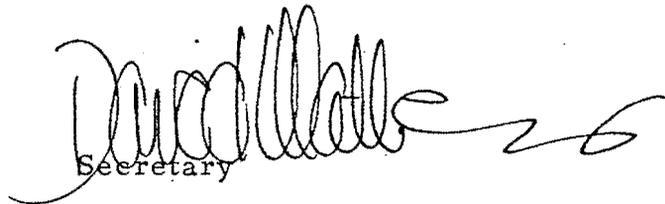
2. DHEW is already doing much of what is suggested in this option. However, since the federal government is seen as the problem, its role as a point of reference or place for assistance is, regrettably, limited-- regardless of how fine its services are.
3. The same comment just made applies here, too. More research can always be done, but as you will see from the attached status report, DHEW is already in the midst of a multitude of good studies. And the National Institute of Education predicts that these studies will show busing is "working" in eight out of ten situations.

There might be some more work done, however, in studies on using community institutions outside the schools to aid in desegregation.

Memorandum for the
Honorable James M. Cannon
Page Two

4. The staff advised great caution with this option. They made the point that to attack busing raises the question of alternatives and since there are not many good ones, the Administration would be left with its back to a wall.

Our working papers are available if they would be helpful.


Secretary

Attachments





MAR 29 1976

MEMORANDUM FOR THE PRESIDENT

The best advice I can bring together from across the country leads me to recommend a few basic precepts from which to make judgments on a whole host of complex issues and options on the matter of busing and desegregation.

The best policy position would be one with three basic elements:

1. It is important that the President first reaffirm the national commitment to the basic moral principle that segregation is incompatible with any good vision of the future of this country and that no child should be denied the benefits of an equal education because of race. (Any position that does not begin at this point and clear the air on it will mire down. *or any other way*)
2. *must* Your position on busing can then be restated and expanded by the assertion that because of this moral imperative, we ~~cannot do other than~~ pursue, with all diligence, the issue of the best means. There is evidence that busing is not an effective means in some situations, and we cannot escape an obligation to find better approaches to the problem. It is important at this point, however, not to go on to try to prove that any of the alternatives we now have is a certain cure either. None is. And there are a great many cases where transportation by buses is working well according to the research reports we have.
3. The "truth" that nobody is saying is that the solution is *quality education* in taking an approach much broader than concentrating on busing or any of its alternatives. The first part of that solution is to turn the issue away from just a busing question. The busing debate is really not a constructive debate at all, and the issue must be "depoliticized" as much as possible. Perhaps this issue has met a stalemate in the political processes and must be lifted out of that atmosphere and placed in a nonpartisan, nonpolitical

forum for serious and far-reaching reassessment. The suggestion is that you push for real, useful-- not just rhetorical-- attention to the problem.

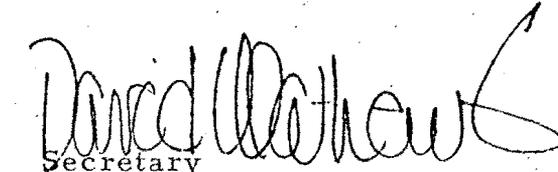
4. The other part of the solution is to focus on the problem as it really is, not as it seems to be. The issue is not what means are used to achieve desegregation but who controls that decision and how parental and community concerns are taken into consideration. To reframe the case and to focus on reuniting the community and parents with school control has great potential and is the way the cities have had some success with getting on with desegregation.
5. *man* The public feels that the federal government (whether by the courts or the legislative process) has not only failed to solve the problem but has made it worse. Therefore, any solution from any part of the federal government is likely to fail--even if it were the "right" solution. The only good option for the Executive Branch may be to act as a "helper" and a partner to aid communities in helping themselves.
6. Using the precedent of the government to create a national force that is not governmental (the National Academy of Sciences and the National Council on the Arts and Humanities are examples), perhaps we should consider working with local governments and community groups to create a body from the best of the local community, education and parental leadership, titled perhaps the National Community and Education Council. It could work as a mediating force and provide technical assistance to communities to deal with problems before they become crises. In fact, the evidence from successes in Atlanta and Dallas is that citizen alliances of the type the Council should foster were the decisive forces. As I noted earlier, "success" seems to turn most on how well a community goes about making decisions that come up before the question of busing or any other means. The Council could also help cities to get the whole community, not just the schools, involved in voluntary efforts to prevent unhealthy racial isolation and foster constructive human relations.

*Part -
Court
decision
~ me?*

The courts might find such a body a welcome referral point (that is, to get ideas but in no sense would it be proper for such a council to be an agent of the courts), and cities or community alliances might find it a source of good ideas and even endorsement.

Another alternative would be to use the occasion of getting the ESA legislation renewed to allow us to encourage many of the activities that the Council would foster without the fanfare of creating a new agency.

In sum, there do not seem to be any solutions that come from dealing with busing directly or even in searching for alternatives. The best chances for success seem to be in pioneering some new ground. Americans traditionally have solved problems not by changing the problem, but by changing their view of the problem. .


Secretary

ON-GOING DEPARTMENT STUDIES AND ACTIVITIES RELATED TO
DESEGREGATION

The Department has planned or on-going many analyses, evaluations, or research projects related to questions of quality education, urban education, and desegregation. The major ones are listed below:

Office of Education

The desegregation-related studies underway in OE are primarily directed toward the evaluation of OE's desegregation assistance programs and their effects on schools. One special study will look at a small number of districts that are successfully and peacefully desegregating in an attempt to discover the practices that contribute to successful desegregation.

- . The evaluation of the Emergency School Aid Act (ESAA) basic and pilot programs is a longitudinal study of the effectiveness of two of the largest components of ESAA in meeting the objectives of the legislation. Special attention is being given to the relative efficacy of alternative school programs in raising student achievement. The study is being conducted through a contract with the System Development Corporation. The report on the first year of the study has been issued with subsequent reports due in May 1976 and May 1977.
- . The evaluation of Title IV of the 1964 Civil Rights Act is assessing the effectiveness of this program in delivering training and technical assistance services to desegregating school districts. The study is being conducted by Rand Corporation, with the final report scheduled for release in June 1976.
- . The OE study of exemplary desegregated schools is examining evidence showing the degree to which various school practices and programs contributed to successful desegregation. The final report is due in June 1976 from the contractor -- Educational Testing Service.



National Institute of Education

NIE has a number of on-going studies relating to various aspects of school desegregation. In FY 1976 the total amount spent on desegregation research was \$682,000. The aim of these studies is to assist in making desegregated education settings exciting and humane places for children and is not to study the effects of desegregation on children. Some of the most policy relevant of these studies are:

- . Six ethnographic studies of the cultural milieu and environment of desegregated schools. These studies are being carried on in New York, Pittsburgh, Pontiac, Durham, San Francisco, and Memphis. They are due July 1978.
- . A study of status equalization and changing expectation in integrated classrooms. This will be due in 1978 or 1979.
- . A study of racial integration, public schools, and the analysis of white flight. Due October 1976.
- . A study entitled "Political Protest and School Desegregation: A Case Study of Boston". Due September 1976.
- . A study of social impact on school desegregation, dealing with how much school desegregation is possible before it becomes counterproductive. Completed January 1976.
- . A study of desegregation research and appraisal. This has resulted in a compendium that updates and evaluates the finding of recent research on integration and desegregation. Completed and at printers.

Assistant Secretary for Planning and Evaluation

The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is beginning an analysis of Federal School Desegregation Policy as it has evolved through judicial, legislative, and administrative action in the last twenty

years. The analysis consists of six related studies. The first of these is a legal study that describes the implementation of desegregation actions in the nation's schools. It will systematically describe features of the various desegregation plans implemented in response to Federal actions. It will be due a year from now. Three other studies will investigate the impact of Federal action and different desegregation plans on the racial and socio-economic characteristics of schools and communities, attitudes toward desegregation, and student educational attainment. These studies will be completed in eighteen months. A fifth study will investigate minority participation in Federally-funded education programs. This study is in the design phase and will be completed in eighteen months. A study of Federal policy alternatives will complete the analysis.^{1/} It is anticipated that all six studies will be completed in approximately eighteen months.

Assistant Secretary of Education

A small scale effort is underway in ASE's Policy Development office to project probable effects of present court cases, to develop new measures of district and regional racial isolation, and to review other policy variables of interest to the Education Division. This work is being conducted as part of a larger policy analysis contract with Stanford Research Institute.

^{1/} A later effort will review the impact of Federal desegregation policy on postsecondary education. Study components will build upon the analysis developed for elementary and secondary education.

A B I L L

To establish procedures and standards for the framing of relief in suits to desegregate the Nation's elementary and secondary public schools, to provide for assistance to voluntary desegregation efforts, to establish a National Community and Education Committee to provide assistance to encourage and facilitate constructive and comprehensive community involvement and planning in the desegregation of schools, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "School Desegregation Standards and Assistance Act of 1976."

Statement of Findings

The Congress finds that:

(a) Discrimination against students, because of their race, color, or national origin, in the operation of the Nation's public schools violates the Constitution and laws of the United States, denies such students equal educational opportunities, and is contrary to the Nation's highest principles and goals.

(b) The Constitution and the national interest mandate that the courts of the United States provide appropriate relief to prevent such unlawful discrimination and to remove



the continuing deprivations, including the separation of students, because of their race, color or national origin, within or among schools, that such discrimination has caused.

(c) Individuals may, in normal course, choose to reside in certain areas for many reasons and, as the courts have recognized, patterns of concentration, by race, color, or national origin, in the schools that reflect such voluntary, individual choices, rather than the results of unlawful discrimination, neither necessarily render such schools inferior in the quality of education they provide nor in themselves deprive any person of equal protection of the laws.

(d) The purpose of relief directed to the effects of unlawful discrimination in the operation of the schools is not to compel a uniform balance by race, color, or national origin that would not have existed in normal course from individual voluntary acts, but is, rather, to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct, and so to free society and our citizens from the conditions created by unlawful acts.

(e) Although it has been found necessary in some cases, in order to remedy the effects attributable to unlawful discrimination, to require the assignment and transportation of students to schools distant from their homes, and although

such a requirement may be appropriate, as a last resort, to eliminate the effects of unlawful acts that were intended to foster segregation in the schools, such a requirement can, if unduly extensive in scope and duration, impose serious burdens on the children affected and on the resources of school systems and impair the quality of education for all students that is essential to overcome past discrimination, to achieve true equality of opportunity and equal protection of the laws, and to maintain a free and open society.

(f) Because of its detrimental effects, judicially required student assignment and transportation should be employed only when necessary as an interim and transitional remedy, and not as a permanent, judicially mandated feature of any school system.

(g) In view of these conflicting values and consequences, Congress, being responsible for defining by law the jurisdiction of the inferior Federal courts and the remedies they may award in the exercise of the jurisdiction thus conferred and for enacting appropriate legislation to enforce the commands of the Fourteenth Amendment, may prescribe standards and procedures for accommodating the competing human interests involved.

(h) Throughout the history of our Nation, the education of our children, especially at the elementary and secondary

level, has been a community endeavor. The concept of public education began in the community and continuous support for public schools has been provided by the community.

(i) Although the States, and to some extent the Federal government, have been providing increased financial assistance for education, it has become clear that the solution to many of the most pressing problems facing our schools lies within the community which supports those schools.

(j) Too often required changes in the assignment of students to schools has been accomplished without the involvement of the community or with its involvement only after confrontations have occurred and community positions have been hardened.

(k) In other cases individuals from within the community have anticipated the problems associated with desegregation and have organized to face and resolve those problems. Rather than reacting negatively to the circumstances in which the community found itself, these individuals have found constructive means to contribute to improving strained community relations, to adjust to changing conditions, and in other ways to assure the continued successful operation of the public schools.

(l) These individuals, who have experienced the trials a community may face when the schools must be desegregated

and who have found ways to overcome those problems, are a unique national resource that can be of assistance to other communities that are now facing or have yet to face these trials.

Title I. Standards and Procedures in School Desegregation Suits

Sec. 101. Purpose: Application.

(a) The purpose of this Title is to prescribe standards and procedures to govern the award of injunctive and other equitable relief in school desegregation cases brought under Federal law, in order (1) to prevent the continuation or future commission of any acts of unlawful discrimination in public schools, and (2) to remedy the effects of past acts of such unlawful discrimination, including, by such means as are appropriate for the purpose, the present degree of concentration by race, color or national origin in the student population of the schools attributable to such acts.

(b) The provisions of this Title shall govern all proceedings for the award or modification of injunctive and other equitable relief, after the date of its enactment, seeking the desegregation of public schools under Federal law, but shall not govern proceedings seeking a reduction of such relief awarded prior to the date of its enactment except for proceedings brought under Section 107.

Sec. 102. Definitions.

For purposes of this Title:

(a) "local education agency" means a local board of public education or any other government agency or officer

of a political subdivision of a State responsible for, or exercising control over, the operations of one or more public elementary or secondary schools.

(b) "State education agency" means a State board of public education or any other State agency or officer responsible for, or exercising control over, the operations of one or more public elementary or secondary schools.

(c) "school system" means the schools and other institutions of public education within the jurisdiction of a local or State education agency.

(d) "desegregation" means the prohibition of unlawful discrimination and the elimination of the effects of such discrimination in the operation of the schools.

(e) "unlawful discrimination" means action by a local or State education agency or by any other governmental body, agency, or officer which, in violation of Federal law, discriminates against students on the basis of race, color or national origin in the operation of the schools.

(f) "State" means any of the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Panama Canal Zone.

(g) "transportation of students" means the assignment of students to public schools in such a manner as to require, directly or indirectly, the transportation of students, in

order to alter the distribution of students, by race, color, or national origin, among the schools, but does not include the assignment of any student to the school nearest or next nearest his or her residence and serving the grade he or she is attending, even if the local or State education agency provides transportation to enable the student to reach that school.

Sec. 103. Liability.

A local or State education agency shall be held subject

(a) to relief under Section 104 of this Title if the court finds that such local or State education agency has engaged or is engaging in an act or acts of unlawful discrimination; and

(b) to relief under Section 105 of this Title if the court finds that an act or acts of unlawful discrimination have caused a greater present degree of concentration, by race, color, or national origin, in the student population of any school within the jurisdiction of the local or State education agency than would have existed in normal course had no such act occurred; provided:

(i) that no order under Section 105 of this Title shall be based in whole or in part on an act or acts by a local, State or Federal agency or officer other than



the local or State education agency with jurisdiction over such schools unless the court further finds, on the basis of evidence other than the effects of such acts alone, that the act or acts were committed for the specific purpose of maintaining, increasing, or controlling the degree of concentration, by race, color, or national origin, in the student population of the schools; and

(ii) that nothing in this Title shall be construed as establishing a basis for relief against a local or State education agency not available under existing law.

Sec. 104. Relief - Orders prohibiting unlawful acts and eliminating effects generally.

In all cases in which, pursuant to Section 103(a) of this Title, the court finds that a local or State education agency has engaged or is engaging in an act or acts of unlawful discrimination, the court may enter an order enjoining the continuation or future commission of any such act or acts and providing any other relief against such local or State education agency as may be necessary and appropriate to prevent such act or acts from occurring or to eliminate the effects of such act or acts; provided, that any remedy directed to eliminating the effects of such act or acts on the present degree of concentration, by race, color or

national origin, in the student population of any school shall be ordered in conformity with Section 105 of this Title.

Sec. 105. Relief - Orders eliminating the present effects of unlawful acts on concentrations of students.

(a) In all cases in which, pursuant to Section 103(b) of this Title the court finds that an act or acts of unlawful discrimination have caused a greater present degree of concentration, by race, color or national origin, than would otherwise have existed in normal course in the student population of any schools within the jurisdiction of a local or State education agency, the court may order against such agency any appropriate relief to remedy the effects reasonably attributable to such acts; accordingly such relief shall be no more extensive than that reasonably necessary to adjust the composition by race, color or national origin of the particular schools so affected or, if that is not feasible, the overall pattern of student concentration by race, color or national origin in the school system so affected substantially to what it would have been in normal course, as determined pursuant to this Section, had no such act or acts occurred.

(b) Before entering an order under this Section the court shall conduct a hearing and, on the basis of such hearing, shall make specific findings concerning the degree

to which the concentration, by race, color or national origin, in the student population of particular schools affected by unlawful acts of discrimination presently varies from what it would have been in normal course had no such acts occurred. If such findings as to particular schools are not feasible, or if for some other reason relief cannot feasibly be fashioned to apply only to the particular schools that were affected, the court shall make specific findings concerning the degree to which the overall pattern of student concentration, by race, color or national origin, in the school system affected by such acts of unlawful discrimination presently varies from what it would have been in normal course had no such acts occurred.

(c) In any hearing conducted pursuant to subsection (b) of this Section the local or State education agency shall have the burden of going forward, by the introduction of evidence concerning the degree to which the concentration, by race, color or national origin, in the student population of particular schools, or the overall pattern of student concentration by race, color, or national origin in the school system, is reasonably attributable to factors other than the act or acts of unlawful discrimination found pursuant to Section 103(b) of this Title. If such evidence is introduced, the findings required by subsection (b) of this



Section shall be based on conclusions and reasonable inferences from all of the evidence before the court, and shall not be based on a presumption, drawn from the finding of liability made pursuant to Section 103(b) of this Title or otherwise, that the concentration, by race, color or national origin, in the student population of any particular school or the overall pattern of concentration in the school system as a whole is the result of acts of unlawful discrimination.

(d) If any order entered under this Section against a local or State education agency is based, in whole or in part, on an act or acts of unlawful discrimination by a local, State or Federal agency or officer other than the local or State education agency, the court shall state separately in its findings the extent to which the effects found and the relief ordered pursuant to the requirements of this Section are based on such act or acts.

(e) In all orders entered under this Section the court may, without regard to the other requirements of this Section, (1) approve any plan of desegregation, otherwise lawful, that a local or State education agency voluntarily adopts, and (2) direct a local or State education agency to institute a program of voluntary transfers of students from schools in which students of their race, color, or national origin are

in the majority to schools in which students of their race, color or national origin are in the minority.

Sec. 106. Voluntary action; local control.

All orders entered under Section 105 of this Title shall rely, to the greatest extent practicable and consistent with effective relief, on the voluntary action of school officials, teachers and students, and the court shall not remove from a local or State education agency its power and responsibility to control the operations of the schools except to the minimum extent necessary to prevent unlawful discrimination by such agency or to eliminate the present effects of acts of unlawful discrimination.

Sec. 107. Review of orders.

(a) In all cases in which a court-imposed requirement for transportation of students has remained in effect for a period of three years from the date of entry of the order containing such requirement or, in the case of all final orders entered prior to enactment of this Title, from the effective date of this Title, the court shall, on motion of any party, terminate the requirement unless:

(i) the court finds that the local or State education agency has failed to comply with the requirement and other provisions of the court's order

substantially and in good faith throughout the three preceding years, in which case the court may extend the requirement until there have been three consecutive years of such compliance; or

(ii) the court finds, at the expiration of such period and of any extension under (i) above, that the other provisions of its order and other remedies are not adequate to correct the effects of unlawful discrimination, determined in accordance with Section 105 of this Title, and that the requirement remains necessary for that purpose, in which case the court may continue the requirement in effect, with or without modification, until the local or State education agency has complied with the requirement substantially and in good faith for two consecutive additional years; and thereafter, in extraordinary circumstances resulting from failure or delay of other remedial efforts or involving unusually severe residual effects of unlawful acts, the court may continue the requirement in effect, as a transitional means of last resort, to such extent and for such limited periods as the court finds essential to allow other remedies to become effective.

(b) If a court-imposed requirement for transportation of students has terminated and thereafter the court finds --

(i) that the local or State education agency, subsequent to the termination, has failed to comply substantially and in good faith with other provisions of the court's order; or

(ii) that an act or acts of unlawful discrimination, as defined in Section 103(b), have occurred since the termination and have caused a greater present degree of concentration, by race, color, or national origin, than would otherwise have existed in normal course;

the court may, if no other remedy is sufficient, require transportation of students to such extent and for such limited period as may be necessary to remedy the effects found, pursuant to Section 105 of this Title, to be reasonably attributable to such failure or to such act or acts, and any such requirement shall be reviewed and subject to termination as provided in subsection (a) of this Section.

Sec. 108. Effect of subsequent shifts in population.

Whenever any order governed by Section 105 of this Title has been entered, and thereafter residential shifts in population occur which result in changes in student distribution, by race, color or national origin, in any school affected by such order, the court shall not require modification of student assignment plans then in effect in

order to reflect such changes, unless the court finds, pursuant to Section 105 that such changes result from an act or acts of unlawful discrimination.

Sec. 109. Intervention.

(a) The court shall notify the Attorney General of any proceeding to which the United States is not a party in which the relief sought includes that covered by Section 105 of this Title, and shall in addition advise the Attorney General whenever it believes that an order or an extension of an order requiring transportation of students may be necessary.

(b) The Attorney General may, in his discretion, intervene as a party in such proceeding on behalf of the United States, or appear in such proceeding for such special purpose as he may deem necessary and appropriate to facilitate enforcement of this Title, including the submission of recommendations (1) for the appointment of a mediator to assist the court, the parties, and the affected community, and (2) for the formation of a committee of community leaders to develop, for the court's consideration in framing any order under Section 105 of this Title, a five-year desegregation plan, including such elements as relocation of schools, with specific dates and goals, which would enable required

transportation of students to be avoided or minimized during such five-year period and to be terminated at the end thereof.

Sec. 110. If any provision of this Title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this Title and the application of such provision to any other person or circumstances shall not be affected thereby.

Title II. National Community and Education Committee

Sec. 201. Purpose.

It is the purpose of this Title to create a nonpartisan national committee composed of citizens from various occupations and backgrounds, particularly individuals who have had experience in school desegregation activities from within a community, in order to provide assistance to communities that are engaged in or preparing to engage in the desegregation of their schools. With such assistance, it is expected that effective local leadership can be developed at an early stage of the desegregation process in order to facilitate that process, to assure that the educational advantages of desegregated education are fully realized, and to reduce or avoid public misunderstanding and disorder. The Committee will be a resource available to assist communities in anticipating and resolving difficulties encountered prior to and during desegregation. It is the intent of Congress that the Committee be composed of individuals who have demonstrated their concern for avoiding conflict and disruption in their communities during the desegregation of schools and who, without regard for their personal opinion with respect to such desegregation, have been involved in efforts within their communities to adjust to changing circumstances while

ensuring the continued successful operation of the public schools.

Sec. 202. Establishment of the Committee.

(a) Establishment. There is established in the Executive Branch of the Federal government a National Community and Education Committee (hereinafter referred to as the "Committee.").

(b) Members. The Committee shall be composed of not fewer than fifty nor more than one hundred members, ten of whom shall be appointed by the President and shall comprise the executive council of the Committee, and the remainder of whom shall be appointed by the executive council. All the members of the Committee shall be selected from among individuals of various occupations and backgrounds, including individuals previously involved within a community in activities related to the desegregation of schools. Members of the Committee shall be selected on the basis of their knowledge and experience in community matters, their ability to provide constructive assistance in preparing a community for the desegregation of its schools, and their ability to contribute in other ways to carrying out the functions of the Committee. Selection of members of the Committee shall be on a nonpartisan basis, and no more than one half of the members of the Committee at any one time shall be members of the same political party.

(c) Chairman and Vice Chairman. The President shall designate one of the members of the executive council as Chairman of the Committee and one member as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office, and shall carry out such other duties as the Chairman or the executive council may direct. The terms of office of the Chairman and the Vice Chairman shall not exceed three years.

(d) Executive Council. The executive council of the Committee shall (1) establish general operating policies for the Committee, (2) approve all grants made pursuant to Section 204 of this Title, (3) appoint, for terms of from one to three years, not fewer than forty nor more than ninety individuals to be members of the Committee, and (4) carry out such other duties as the Chairman may direct. The term of office of members of the executive council shall be three years, except that of the members first appointed to the executive council (other than the Chairman and Vice Chairman) three shall serve for a term of one year, three for a term of two years, and two for a term of three years.

(e) Compensation of members. Each member of the Committee shall be compensated in an amount not to exceed that paid at level IV of the Federal Executive Salary

5313 of Title 5, United States
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mittee; staff. The functions
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the Committee. The Chairman
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; and

e the Committee to carry out



Such personnel shall be compensated at rates not to exceed that specified at the time such service is performed for grade GS-18 in Section 5332 of Title 5, United States Code. The full-time staff of the Committee shall not exceed thirty individuals at any time.

Sec. 203. Functions of the Committee.

The functions of the Committee shall include, but shall not be limited to --

(1) consulting with leaders in the community and local groups in determining means by which such leaders and groups can, through early involvement in the development of, and preparation for, school desegregation plans, contribute to the desegregation process in such a way as to avoid conflicts and recourse to judicial procedures.

(2) encouraging the formation of broadly based local community organizations to develop programs designed to encourage comprehensive community planning for the desegregation of schools;

(3) providing advice and technical assistance to communities in preparing for and carrying out comprehensive plans to desegregate the schools;

(4) consulting with the Community Relations Service of the Department of Justice (established under Title X of the Civil Rights Act of 1964), the Office for Civil Rights

in the Department of Health, Education, and Welfare, the National Institute of Education, Office of Education, General Assistance Centers (funded under Title IV of the Civil Rights Act of 1964), the Civil Rights Commission, and State and local human relations agencies to determine how those organizations can contribute to the resolution of problems arising in the desegregation of schools within a community; and

(5) providing informal conciliation services for individuals, groups, and agencies within a community in order to resolve conflicts, reduce tensions, and develop acceptable means of desegregating schools without resort to administrative and judicial processes.

Sec. 204. Community grants.

(a) The Chairman of the Committee is authorized, upon receipt of an application in such form as he may prescribe and upon the approval of the executive council of the Committee, to make grants to private nonprofit community organizations in order to assist them in the initial stages of carrying out activities designed to accomplish the purposes of this Title.

(b) Grants made pursuant to this Section shall be in such amounts, not to exceed \$30,000, as the executive council of the Committee deems necessary to assist in the establishment

and early development of eligible community organizations. No organization may receive a grant under this Section for more than one year of operation.

(c) In determining whether to approve a grant to a community organization under this Title, the executive council of the Committee shall require an applicant to demonstrate that the organization has reasonable promise of making substantial progress toward achieving the purposes of this Title. Such demonstration shall include a showing of adequate financial or other support from the community.

(d) The executive council of the Committee shall not make a grant to two or more organizations within a community unless it determines that the activities of such organizations are sufficiently coordinated to ensure that their activities are not duplicative or inconsistent.

Sec. 205. Limitations on activities of the Committee.

It shall not be the function of the Committee --

- (1) to prepare desegregation plans;
- (2) to provide mediation services under the order of a court of the United States or of a State;
- (3) to investigate or take any action with respect to allegations of violation of law; or



(4) to participate in any capacity, or to assist any party, in administrative or judicial proceedings under Federal or State law seeking desegregation of schools.

Sec. 206. Cooperation by other departments and agencies.

(a) All executive departments and agencies of the United States are directed to cooperate with the Committee and furnish to it such information, personnel and other assistance as may be appropriate to assist the Committee in the performance of its functions and as may be authorized by law.

(b) In administering programs designed to assist local educational agencies and communities in planning for and carrying out the desegregation of schools, the Attorney General, the Secretary of Health, Education, and Welfare, and the heads of the agencies within that Department shall administer such programs, to the extent permitted by law, in a manner that will further the activities of the Committee.

Sec. 207. Confidentiality.

The activities of the members and employees of the Committee in carrying out the purposes of this Act may be conducted in confidence; and the Committee shall not disclose or be compelled to disclose, pursuant to judicial process or otherwise, any information acquired in the regular performance

of its duties if such information was provided to the Committee upon an assurance by a member or employee of the Committee that it would be so held.

Sec. 208. Authorization of appropriations.

(a) There are authorized to be appropriated \$2,000,000 for salaries and expenses of the Committee for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years.

(b) For the purpose of making grants under Section 204, there are authorized to be appropriated to the Committee \$2,000,000 for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years.

Sec. 209. Federal Community Assistance Coordinating Council.

(a) There is created in the Federal government a Federal Community Assistance Coordinating Council (hereinafter the "Council") which shall be composed of a representative or representatives of each of the following departments or agencies:

- (1) the Community Services Administration;
- (2) the Department of Health, Education, and Welfare;
- (3) the Department of Housing and Urban Development;
- (4) the Department of the Interior;
- (5) the Department of Justice; and
- (6) the Department of Labor.

The President may designate such other departments or agencies to be represented on the Council as he deems appropriate to carry out the functions of the Council.

The representative or representatives of each such department or agency shall be appointed by the head of the department or agency from among individuals employed by that department or agency who are familiar with, and experienced in the operation of, the programs and activities of that department or agency which are available to provide assistance for community relations projects, educational programs, and other community-based efforts which would help to reduce or eliminate the misunderstanding and disorder that could be associated with school desegregation. The head of each such department or agency shall appoint sufficient representatives to the Council to ensure that an individual with a working knowledge of each such program or activity in that department or agency is on the Council.

(b) It shall be the function of the Council to meet or consult with representatives of communities who are seeking Federal support for community relations projects, educational programs, and other community-based efforts to facilitate desegregation, in order to assist such communities in (1) designing projects or activities that demonstrate promise of assisting in those efforts, (2) determining which



Federal programs are available for such activities, and (3) completing the necessary applications and other prerequisites for appropriate Federal assistance.

(c) To the extent consistent with the law authorizing any such Federal assistance program, each department or agency listed in subsection (a) of this Section shall administer such program in a manner which will support the activities of the Council. Each such department or agency shall from time to time provide to the Council such additional personnel or other assistance as may be necessary to carry out the functions of the Council.

(d) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Council under this Section \$250,000 for the fiscal year ending September 30, 1977 and for each of the two succeeding fiscal years.



June 24, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

THE SCHOOL DESEGREGATION STANDARDS
AND ASSISTANCE ACT OF 1976

The President today is sending legislation to Congress to improve the Nation's ability to deal with elementary and secondary public school desegregation.

BACKGROUND

The proposed legislation is the result of an eight-month review of school desegregation. In November, 1975, President Ford directed Attorney General Levi and Secretary Mathews to consider ways to minimize court-ordered busing. The President also stressed the need to assist local school districts in achieving desegregation before court action commenced.

Recently, President Ford has held a series of meetings with outside sources to discuss the recommendation resulting from the review. These meetings have included school board representatives, academic and educational experts, community leaders who have dealt with desegregation on the local level, civil rights leaders, members of Congress, and Cabinet officers.

DESCRIPTION OF THE LEGISLATION

The School Desegregation Standards and Assistance Act of 1976, in order to maintain progress toward the orderly elimination of illegal segregation in our public schools, and to preserve or, where appropriate, restore community control of schools, would:

1. Require that a court in a desegregation case determine the extent to which acts of unlawful discrimination have caused a greater degree of racial concentration in a school or school system than would have existed in the absence of such acts;
2. Require that busing and other remedies in school desegregation cases be limited to eliminating the degree of student racial concentration caused by proven unlawful acts of discrimination,
3. Require that the utilization of court-ordered busing as a remedy be limited to a specific period of time consistent with the legislation's intent that it be an interim and transitional remedy. In general, this period of time will be no longer than five years where there has been compliance with the court order.

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4. Establish a National Community and Education Committee which will assist, encourage, and facilitate community involvement in the school desegregation process. This Committee will be composed of citizens from a wide range of occupations and backgrounds, with particular emphasis on individuals who have had personal experience in school desegregation activities. Committee members will assist on request communities which are, or will be, engaged in the desegregation of their schools by sharing ideas and recommendations for anticipating and resolving conflicts.

In addition to providing advice and technical assistance, the Committee will be authorized to provide grants to community groups for the development of constructive local participation that will facilitate the desegregation process. The Committee will be composed of not less than 50 nor more than 100 members. Ten of those, appointed by the President for fixed terms, will serve as an Executive Committee and will appoint the balance of the Committee.

PURPOSE OF THE LEGISLATION: LIMITS TO BUSING

The President indicated that where Federal court actions are initiated to deal with public school desegregation, busing as a remedy ought to be the last resort and ought to be limited in scope to correcting the effects of previous violations.

He proposes that Congress join with him in establishing guidelines for the lower Federal Courts in the desegregation of public schools.

The President also indicated his belief that each community should choose the alternative of voluntarily desegregating its public schools.

He proposes the establishment of a committee composed of citizens who have community experience in school desegregation activities and who are willing to assist other communities voluntarily desegregate their schools.

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