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Office of
DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (Education)
Department of Health, Education, and Welfare
March 28, 1972

TO: Kurzman
Marland
W. Hastings
Pottinger ✓
Holmes
Frohlicker
Timpane
Goldberg
Powers
Cross

Attached is a list of material requested and/or
offered for the record during the hearings
concerning the Equal Educational Opportunity Act
and the Student Transportation Moratorium Act.

Judy Pitney

Attachments



Material Requested - Senate Hearings - March 24, 1972

1. Information on distribution of children in schools of varying proportions poor - state-by-state breakdown on poverty schools.
(Javits, Mondale requested)
2. New evidence on the effectiveness of compensatory education, including dates of the studies. (Mondale requested)
3. Studies on the educational effects of desegregation and data on successful desegregation activities. (Mondale, Javits requested)
4. Information on the specific districts that might invoke the re-opening provision (with listing of number of children bused before and after the order.) (Mondale, Eagleton requested)
5. Busing trend data - increases resulting from court orders.
(Javits requested)
6. Evidence re: preferability of project grant approach to formula entitlement. (Pell requested)



Material Requested -- House Hearings -- March 28, 1972

1. Additional explanatory material on the "bonus" provisions of EEOA. (Secretary Richardson offered).
2. Data on the instances of excessive busing - increases in busing resulting from court orders. (Brademas requested)
3. Information on the correlation of minority and poverty children with regard to the distribution of Title I funds. (Quie requested)
4. Information/data used to derive the \$300 compensatory funding level. (Secretary Richardson requested)



Material Requested - House Hearings - March 28, 1972

1. USOE's implementation timetable for ESAA and draft program guidelines, as well as modifications anticipated if EEOA is passed. (Perkins requested)
2. "Simplified yardstick" re: welfare and census data used in determining ESEA, Title I eligibility (before end of session).
3. Report on measures to improve ESEA fund allocation process (Commissioner Marland announced ready next Thursday).
4. Memorandum outlining reasons why Part C, Title I, ESEA cannot be used as authority for (Secretary Richardson offered) the equal educational opportunity program).



POLICY ANALYSIS AT THE FEDERAL LEVEL:
ASPECTS OF THE SCHOOL DESEGREGATION ISSUE*

Prepared by

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for presentation to the

American Sociological Association

August 31, 1972

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*The author knows well that analysis can make its best contribution when leading policy makers encourage the open search for answers by their contribution of intellectual ability and commitment to positive change. In DHEW this has included Secretary Elliot L. Richardson; Assistant Secretary for Planning and Evaluation Laurence E. Lynn, Jr.; General Counsel Wilnot R. Hastings; J. Stanley Pottinger, Director, Office for Civil Rights; and Mr. Lewis Butler, former Assistant Secretary for Planning and Evaluation.

The author wishes to acknowledge the individuals whose collaboration has made policy analysis at DHEW an intellectually stimulating and productive experience. Dr. John W. Evans; Dr. Allen Ginsburg; Ms. Linda McCorkle; Mr. Michael O'Keefe; Dr. George Pugh (of the Lambda Corp); Mr. Michael Timpane; Mr. Robert York.

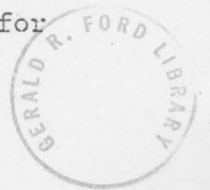


POLICY ANALYSIS AT THE FEDERAL LEVEL:
ASPECTS OF THE SCHOOL DESEGREGATION ISSUE

INTRODUCTION

In the last twenty years there has been an enormous expansion of the Federal Government's role in funding domestic social programs. Not only has the magnitude of Federal effort increased, but its purpose in many cases has been to solve problems which appear to require the resources and breadth possible only through a national effort. In addition, during the last ten years there has been a notable increase in the desire of all participants in the political process to carefully examine the effectiveness of Federal domestic programs. This call to accountability in combination with the positivist view that reason and good will can find solutions to all social problems has led to the creation of planning and evaluation staffs within most major Federal agencies. Members of these staffs are drawn mainly from experiences of professional training in the social sciences and are equipped with a basic commitment to use knowledge and objective inquiry in order to assess the results of past Federal programs and to provide a basis for the reasonable choice of new initiatives.

The world of policy analysis within a major Government agency provides a distinctive opportunity to make the knowledge and techniques of the social sciences relevant to changes in the world of action. At times policy analysis occurs only because of the specific initiatives of political leadership and strictly within the boundaries established for it. On many occasions, the evaluation of existing programs or planning for new ones leads analysts and policy makers alike into new and unexpected consequences. And at times the policy analysts find that their information and ideas can open the way for



consideration of new social initiatives at the highest levels of decision. ;

The following discussion is meant to illustrate the varied roles of policy analysis within the context of a specific issue during a limited period of time. My objective is to trace the intellectual history of four major issues brought into focus by the President's school desegregation initiative of March 1970. The policy planning which followed that initiative presented the Government with, among others, four analytical issues which have been examined on a number of occasions and with different degrees of empirical depth and success over the past two years. As indicated above, impact of policy analysis is often unpredictable: at times it may be immediately translated into national legislative recommendation, and at other times it is ignored or discarded only to be suddenly brought into consideration again as legislative and political events unfold. The questions asked of analysis by policy makers are always essentially instrumental in nature - they are concerned with weighing the relative effectiveness of limited resources in solving problems that have many different dimensions. The answers provided by analysis, except in the most rare cases, are almost always ambiguous and ultimately rest on the considered judgment of evidence. There appears to be a definite uncertainty principle in social analysis: the more precise and limited the analysis of a social issue, the more likely that the results are valid and the less applicable they will be to broad social purposes and diverse populations.

A Presidential Initiative and Four Analytical Issues: March 1970

- The quickened pace of school desegregation since 1968

In the period between the historic 1954 Supreme Court decision and the passage of the Civil Rights Act in 1964, there was almost no perceptible



progress in desegregation within those school districts which took official actions to separate the children by race. As of 1965, about 95% of black children in the South were in 100% black schools. There was slight progress between 1965 and 1968 as the Government began to make some effort at systematic enforcement of the laws.

The pace of school desegregation began to quicken in the Fall of 1969 and continued at an increasing tempo in the next three years. By the Fall of 1970, 96% of all former de jure segregated districts had eliminated their dual school systems. Table 1 presents an overview of desegregation progress since 1968.

A Presidential Initiative, March 1970

Among the controversies surrounding the first year of the Nixon Administration, school desegregation became one of the most heated. Because of widespread misunderstanding and misinterpretation of various administration statements and actions, the President issued a major policy statement in March 1971.¹ In that statement the President provided a comprehensive statement of his interpretation of the constitutional requirements of school desegregation. He began by saying that one of his specific objectives was to "reaffirm my personal belief that the 1954 decision of the Supreme Court in Brown v. Board of Education was right in both constitutional and human terms." The statement continued with a promise to provide 1.5 billion dollars for assisting school districts which were undertaking required desegregation and for encouraging voluntary programs directed towards reducing racial isolation. The assistance was also intended to aid all desegregating schools in achieving quality integrated education.

¹School Desegregation: "A Free and Open Society," Policy Statement by Richard Nixon, President of the United States, March 24, 1970

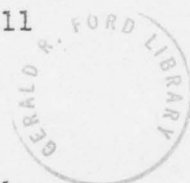
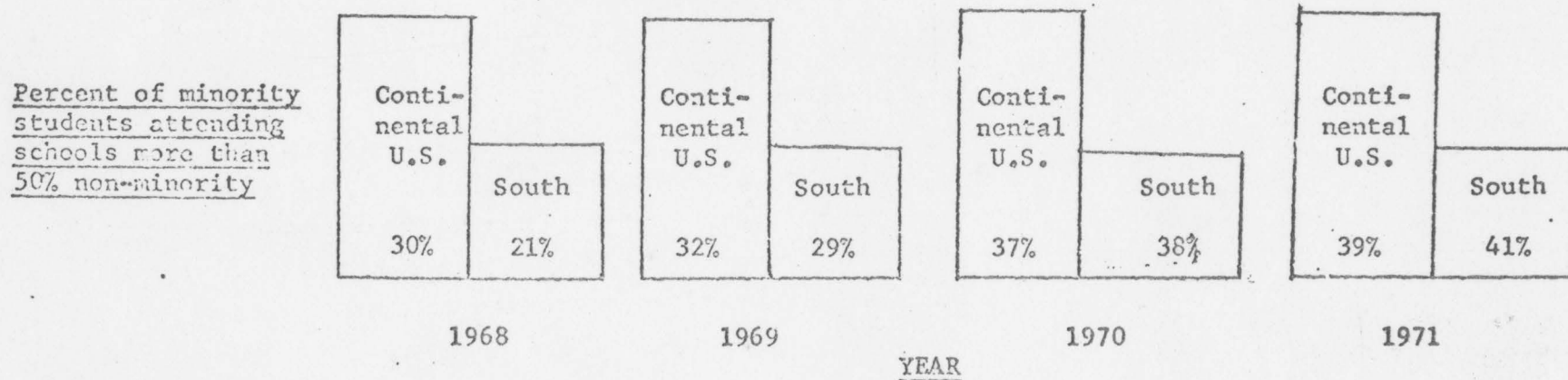


TABLE I

PROGRESS IN PUBLIC SCHOOL DESEGREGATION IN THE NATION AND THE SOUTH: ESTIMATES 1968 - 1971



Source: Office for Civil Rights Survey Data



The purposes of the President then became the basis for a policy planning effort led by the Secretary of Health, Education and Welfare in the period March through June 1970.

As happens so often in Government affairs, large social questions are dealt with in comparatively short periods of time. The Secretary of HEW assembled a small group of individuals for the purpose of drafting a specific bill which would implement the President's commitments. That program planning experience brought into focus a number of basic issues and questions.

- (A) What is the extent and pattern of current racial isolation in the nation's public schools?
- (B) What are the possibilities for reducing racial isolation given the social demography of the large cities?
- (C) What is the comparative educational effectiveness of desegregation v. compensatory education? As important subquestions: what do we know about the achievement effects of desegregation; what do we know about the achievement effects of compensatory education?
- (D) How has school desegregation actually worked where it has been tried? What social and educational problems arise and what solutions have worked?

These issues were all taken up to the extent possible with the existing information, and the analytical findings played a very important part in the decision-making process that shaped the Emergency School Aid Act which the President submitted to the Congress in late May 1970. Once it became apparent that the Congress would not act on this legislation despite the



expected large increase in the number of children in desegregating school districts in the Fall of 1970, a small fund was appropriated for assistance to court-ordered districts. This was the Emergency School Assistance Program known as ESAP I and authorized by the Congress in mid-August 1970 for \$100 million. Much of the analysis and planning of the previous spring was then focused on implementation of the small ESAP program, although the late funding and the emergency atmosphere diluted the program's leadership role. Policy issues raised by ESAP included two additional questions.

What was the extent of classroom segregation within schools and what remedies might be available? How might effective community participation in school district desegregation planning and implementation be structured?

Following the spring 1970 policy development period, the HEW planning staff decided that the basic questions required better answers than had been provided through the extensive and exhaustive yet still limited analysis that had been done so far. For that reason, specific analysis designs were formulated pertaining to each of these major issues and were then incorporated into the planning and evaluation cycle for execution through the contracting process. I shall take each of the four issues outlined above and discuss the questions raised, the results or nonresults of analysis, and the implications for policy in greater detail.

(A) Extent of racial isolation

Of all the basic issues posed, HEW had the best and most reliable information concerning the extent and pattern of racial isolation in the U.S. public



schools. Under mandate of the Civil Rights Act of 1964, the Office for Civil Rights in HEW had been collecting data on school-by-school minority enrollments from a sample of school districts enrolling 97% of all minority children. The 1970 data showed that there had been a great deal of progress in reducing the isolation of minority children in de jure school districts, mainly located in the South. Rough indicators of the change are the facts that in 1968 57% of all minority children in the eleven Southern states attended 100% segregated schools while in 1970 that number had declined to 12% and the percent of minority children in Southern schools more than 50% white increased from 21% in 1968 to 38% in 1970.

In spite of the progress, however, analysis of the HEW data made it evident that a serious problem of racial isolation existed throughout the nation: in fact, the incidence of isolation was greater in the North and West than in the South by 1970 (meaning a larger proportion of the students attended school in districts with severe racial isolation in the North and West regions). Furthermore, the size of school districts showed a clear and dramatic relationship to the degree of racial isolation. In the fall of 1970, school districts that enrolled more than 50,000 children accounted for about 41% of total national enrollment, yet only 6% of the students in these districts (9% of national enrollment) were in adequately desegregated schools. By comparison, of the children enrolled in districts of fewer than 10,000, 67% (19% of national enrollment) attended adequately desegregated schools.

These facts in combination with the demographic distribution of minority children pointed up the need for real progress in the voluntary reduction



of racial isolation in the schools. Of the 17,000 school districts in the country the 100 largest contained more than 50% of all minority children, while only 837 districts enroll 80 of all minority children. The HEW civil rights data clearly shows that progress in desegregation was occurring rapidly in the South but that isolation of minority children in the cities was severe and in many cases increasing. This raised the issue of desegregation in the cities and became a basis for attempting to assure that the ESAP program would seek to provide funds for minority children in those cities when demography and geography combined to limit the amount of desegregation that could actually occur. This analysis also prompted the decision to provide some portion of ESEA funds for educational programs in urban isolated schools.¹

(B) Reasonable and feasible opportunities for school desegregation in large cities

Until spring of 1970, most progress in desegregation had occurred in relatively small southern school districts. The HEW analysts found it very difficult to assess how much desegregation was feasible and reasonable in large urban school districts. Factors such as housing patterns, distribution of schools, transportation networks and minority enrollment proportions all combined to create an incredibly complicated problem of assessment. In a number of cities, court-ordered desegregation plans were requiring the reassignment of tens of thousands of children at costs running into the millions of dollars. There were important questions of social responsibility in the use of scarce educational resources which required objective consideration.

¹Subsequently, a separate bill to provide even more significant assistance and increased incentives for reducing racial and economic isolation was incorporated into the President's EEOA of 1972.



For that reason, HEW commissioned a contractor to develop a new methodology for determining the amount of desegregation that could be achieved using differing methods and magnitudes of pupil assignment. This analysis also compared the amount of desegregation possible both within the urban school districts alone and within the urban district in combination with the surrounding metropolitan area. In outline, the analysis design was as follows.

The study included 44 major cities and their surrounding urbanized areas. Using actual data from a variety of sources the following was done: children enrolled in public schools were located by age and race; all public schools were located and their capacities and current grades recorded; a relatively detailed and authoritative transportation network including both distance and travel times was obtained and transposed into computer readable form. It was then possible to choose specific cases and parameters and assign children to schools in such a way as to minimize transportation and costs while maximizing the extent of desegregation attained.

This analysis used 35 minutes transportation time each way as the maximum (though this time parameter could be increased or decreased) and provided results for the following cases (as indicated by X mark).

Cases

Results: Extent of desegregation possible in

	the urban school district	the urban district and the surrounding urbanized area
1. Minimum transportation assignment/all children near enough walk to schools	X	X

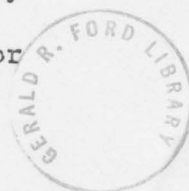


2. Minimum transportation assignment with an effort to desegregate	X	X
3. Desegregation with minimal additional transportation (above the case #1 level)	X	X
4. Desegregation with moderate additional transportation	X	X
5. Maximum feasible desegregation	X	X

Partial results of the analysis are as follows:

Type/ Definition	number of cities	Enrollment total (000)	minority (000)	Minority as % of all minority in US schools.
1. Major desegregation (more than 75% of maximum) possible with no additional busing	8	686	265	7.4
2. Major segregation possible with limited additional busing (5-10%)	12	1,080	333	11.6
3. Considerable desegregation possible (to 50% of maximum desegregation) with moderate additional busing (10-15%)	7	705	397	7.6
<u>Total</u>	<u>27</u>	<u>2,471</u>	<u>995</u>	<u>26.6</u>

This analysis has been used extensively in the spring of 1972 by HEW in presenting its view of reasonable criteria for school desegregation policy decisions. Furthermore, it will be used by HEW in order to: (1) plan for the effective allocation of desegregation assistance funds under the Emergency School Aid Act which became law in June, 1972; and (2) provide large school districts with a methodology through which they may effectively assess desegregation limitations and choose between alternatives.



C. Comparative Educational Effectiveness of Desegregation and Compensatory Education

Since Federal funds for education constitute only 7% of the nation's education budget, the basic strategy underlying Federal education policy of this administration has been to promote institutional reform and assure the greatest effectiveness in improving learning opportunities for poor minority children. This basic policy orientation has been at the heart of the efforts to reform the Federal compensatory education program both through comparability and through efforts to achieve greater results.

Large scale movement of children for desegregation in major areas could cost tens of millions of dollars for single cities. In Los Angeles, for example, the state court decision of January, 1970, required a desegregation plan that could have cost up to \$100 million per year, about 80% of which would be spent merely for the transportation of children. From a national perspective, our third question arises: at what point of cost and disruption are the educational benefits likely to be greater when funds are directly invested in educational services than when they are invested in movement of children? It should be understood that this becomes a question for HEW policy only for the case of the reduction of racial isolation beyond the extent required by law. Any answer to our question of course requires some evidence concerning the effectiveness of desegregation and compensatory education considered alone.

During the spring of 1970, HEW completed an objective, thorough assessment of the evidence on these subjects. In each case the ambiguity of the evidence required that reasoned, analytical judgments be made by the HEW policy analysis staff and submitted to the policy makers.



Investigation indicated that under some conditions both desegregation and compensatory education could promote improved educational performance for all children; yet, there were many conditions where both desegregation and compensatory education apparently failed to have any educational effects. The positive evidence was strong enough to support a policy which sought to promote both desegregation and compensatory education on grounds of educational outcomes, but too elusive to permit any clear-cut relative effectiveness calculations that would provide a basis for dividing scarce resources between the two approaches.¹ There was one point of some certainty, however: the Coleman Report² findings showed that the achievement of all pupils declines as schools become more than 50% poor in composition. In the cases where a large proportion of minority children were poor (many large cities and poor rural areas, for example)³, there seemed to be little probability that reduction of isolation would produce significant educational benefits unless poor minority children could attend schools more than 50% middle class in composition.



At the same time, preliminary data (1970) on the social demography of large city school districts showed that minority children constituted more than 50% of the enrollment in 19 of the country's largest districts enrolling 2.7 million minority children (or 27% of all minority children in the nation).⁴

¹My colleague, Mr. Michael Timpane, will describe some of the intriguing challenges in the evaluation of the Federal compensatory education program.

²James C. Coleman, et al., Equality of Educational Opportunity, Wash., D.C.: US Department of Health, Education, and Welfare, Office of Education, 1966

³In 1970, 38% of all black children were poor - the common interchangeable usage of poor and minority child is not factually appropriate on a national basis.

⁴See Table 3

TABLE 3

% Min. in Pub. Schools	50 Largest Cities			
	No.	Total enroll. (000)	Total min. enroll.	Min. enroll. as % US min.
80-100	2	224	206	2.2
60-80	11	3,038	1,969	21.0
50-60	6	741	391	4.2
less than 50%	31	3,273	1,149	12.2
Total	50	7,275	3,715	39.6



These demographic facts meant that very few of the minority children in these districts could be enrolled in majority middle class schools without further isolating the remaining minority children (i.e. moving children from 70% minority schools to 100% minority schools in order to increase the number of majority middle class schools).

This suggested three policy alternatives:

1. Ignore the educational prognosis because the social benefits of the reduction of isolation might still be considerable for all children in schools above the 50% minority group;
2. provide incentives for the voluntary reduction of isolation to the extent considered educationally productive and fund exemplary compensatory education programs to reach the minority children who cannot attend majority middle class schools;
3. consider the encouragement of metropolitan wide voluntary desegregation in cities where the minority school enrollment exceeds 50%.

The last seemed a good idea in general, but likely to benefit comparatively few children because of the distances involved and the need for many communities to cooperate in a controversial undertaking. More recent demographic analysis¹ indicates that there may be more opportunities of this kind than were assumed in 1970.²

¹Analysis has shown that, for the same 19 cities mentioned above, the minority proportion in schools could be reduced in all cases to below 50% if the entire metropolitan area were considered.

²The final Emergency School Aid Act passed in June, 1972 included a provision for metropolitan desegregation planning.

The internal debate between the first and second alternatives was intense and revolved mainly around the question of whether compensatory education could ever really be effective. HEW analysis suggested it could under specified conditions; others in the administration disagreed strongly. The result was a decision to include in the 1970 initiative exemplary funding for "demonstration compensatory education programs" in school districts enrolling more than 10,000 minority children or more than 50% minority.

The basic questions and recognition of their importance to future educational policy resulted in immediate efforts to broaden the base of empirical data relevant to both issues. Three very distinct steps were taken by HEW planning staffs to learn more about the effectiveness of compensatory education:

1. A large scale longitudinal study of the results of compensatory reading programs was designed and begun under external contract.
2. To provide more immediate results, a contract was awarded for the evaluation, reanalysis and synthesis of all current evaluations of Title I or compensatory education programs that used pre and post-test achievement data.
3. Efforts were made to improve the policy utility of the annual Office of Education evaluation of Title I programs - despite the expenditure of nearly \$2.5 a year, this evaluation had failed to provide significant usable insights concerning achievement because school districts regularly report usable achievement scores for only 7 to 8% of the children in the national sample.



These three efforts were all begun in 1970-71 and the results might have been very important in the spring of 1972 when the administration undertook a major effort to decide its basic approach to the achievement of equal educational opportunity. No results could have been expected from the longitudinal study until 1973; the efforts to improve the achievement aspects of the annual evaluation of Title I programs had not been successful; and, the results of the synthesis study were only moderately useful because a great deal of energy had been diverted into a very interesting but tangential managerial assessment of the Title I program and its Federal evaluations. Under those circumstances it became necessary for HEW to once again undertake an intensive first hand review of all the available evidence on the achievement results of compensatory education programs: Federal, state and local evaluations and the work of scholars.¹

In order to add to our knowledge concerning the educational effects of desegregation, several studies were undertaken by HEW in 1970-71:

1. a small contract for the analysis of the Berkeley, California longitudinal achievement data - before and during that district's voluntary desegregation program;
2. a retrospective longitudinal analysis of changes in racial isolation and achievement patterns by ethnic group;
3. design for a prospective longitudinal study of achievement and desegregation;



¹The results of this review were subsequently published by HEW, The Effectiveness of Compensatory Education, April 20, 1972 (available from the Office for Civil Rights, DHEW, Washington, D.C. 20201).

4. evaluation of educational outcome aspects of school desegregation¹ in the South during the 1970-71 school year.¹

By the spring of 1972, when further intensive policy analysis work was to be done, results were available from the first and fourth efforts, but missing and sorely missed was the retrospective longitudinal analysis.² The intention was to locate seven to ten large cities which had maintained achievement data by race and where there had been changes on a school by school basis in the patterns of racial isolation. This would have been an invaluable interim analysis because it would have supplemented the very useful and important Berkeley and Riverside, California, longitudinal evidence with findings more likely to be representative of the larger cities.

Policy analysis in 1972, therefore, relied on the evidence used by HEW in 1970 supplemented by the Berkeley analysis, on various other small scale scholarly analyses of specific situations, and on the very useful ESAP I program evaluation. This program evaluation suggested favorable educational outcomes associated with the desegregation process.

¹This was a major part of the evaluation of the first year of the Emergency School Assistance Program (ESAP I) to be discussed later, pp 19-20.

²Not scheduled for completion until June, 1972, although if the study had been on schedule, preliminary results would have been available.

Policy relevant conclusions were similar to those reached in 1970 though with somewhat greater confidence in the educational effectiveness of both desegregation and compensatory education under appropriate conditions. That the two approaches to improving equality of educational opportunity could be effective, where complimentary, and should both be encouraged became the basis for the Equal Educational Opportunity Act of 1972 submitted to the Congress by the President in March, 1972.¹

¹President's Message to the Congress, the Equal Educational Opportunity Act of 1972, March 17, 1972

On March 16, 1972, President Nixon made a nationwide television appearance on the matter of school busing and equal educational opportunity. The following day the President submitted two separate messages to the Congress: The Equal Educational Opportunity Act of 1972 and the "Student Transportation Moratorium Act of 1972. Regrettably, the press discussion focused almost entirely on the busing proposals and the full content of the policy recommendations made to the Congress is very little known or understood. It should be understood that there was a vigorous and quite thorough internal debate concerning all facets of the two bills submitted by the President.



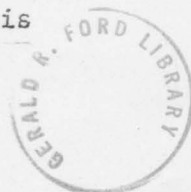
D. The Social and Educational Results of School Desegregation

As a result of the small scale interim Emergency School Assistance Program funded by Congress for the 1970-71 school year, a new opportunity to learn how to make desegregation work became available to HEW. The ESAP I program evaluation was very carefully designed by HEW to answer the fundamental questions raised by the early 1970 policy analysis. Just as importantly, the evaluation was intended to provide some empirical information concerning the comparative effectiveness of specific approaches to providing quality integrated education.¹

This program evaluation was the first large scale systematic study ever undertaken of the school desegregation process. It involved a stratified random sample of all the districts funded under ESAP I; the study included 252 districts in 14 southern states enrolling 51% of all the minority pupils in ESAP funded districts and 28% of all the minority pupils in those states. Using random sampling techniques in all phases, more than 9,000 project directors, principals, teachers and students of all ethnic groups were interviewed on a systematic and uniform basis by multi-racial study teams.

The context for this evaluation was one of actual large scale desegregation. A measure of the degree and speed of change is the fact that in the same set of 400 southern school districts which received Federal funds under ESAP in 1969, only 2% of the school enrollment was in districts with a significant degree of reduction in isolation, but by the Fall of 1971 this

¹Mr. Robert York was the project officer for this analysis.



had increased to 46% of enrollment. And conversely, the proportion of children in districts with nearly total segregation had declined from 98% in 1969 to 30% in the Fall of 1971.¹

For various reasons² it was not possible to obtain pupil achievement data for this evaluation. Therefore, very careful planning was done to create the basis for a set of reliable measures of changes in relationships among faculty, administrators and pupils of different ethnic groups, as well as measures of changes in behavior related to the academic achievement of pupils.

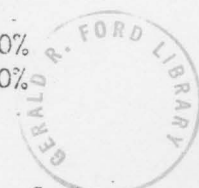
Perhaps the most significant finding of the evaluation was that the vast majority of the respondents found that the racial climate had changed for the better during the 1970-71 school year or had not changed at all.

Specific results are presented below in Table 4.

<u>Area of Possible Change</u>	Percent of teachers perceiving Situation as:			
	<u>Better</u>	<u>No change</u>	<u>Worse</u>	<u>Total</u>
1. The number of interracial friendships	63	36	1	100%
2. How well students of different races work together in class	51	47	2	100%
3. How well teachers of different races relate to each other	34	63	3	100%
4. The integration of student racial groupings on the campus and cafeteria	32	66	2	100%
5. The attendance of black students	19	75	6	100%

¹These proportions are based on analysis of Office for Civil Rights data for 1969 through 1971.


²Mainly, the late funding of the small program by the Congress in August 1970 prevented the evaluation planners from making the very detailed arrangements needed with school districts before any achievement data could be obtained.



A preliminary report on these findings was available in the summer of 1971. At that time, HEW was assessing the results of the small ESAP program as a basis for its planning for the implementation of the \$1 billion ESAA which it was felt would be passed by the Congress at any moment (one year after submission). The desegregation process evaluation was most useful in providing a perspective on the rather widespread success of school desegregation and in emphasizing the fact that well-administered Federal assistance might have some very positive results.

However, the effort of the planning staff to argue that the program effectiveness conclusions of the evaluations should in some way be reflected in the funding priorities went unheeded. The program manager contested the validity of the evaluation - it was a preliminary report - and did not use the results directly. The evaluation report was among the very important factors spurring the program manager and staff to attempt improvements in the provision of procedures used to assess the educational quality of desegregation assistance proposals submitted to HEW for funding.

By August of 1971 it became apparent that the ESAA would not be enacted by Congress in time for that school year; once again Congress appropriated \$75 million for a program of interim assistance (this became ESAP II). In its second year, HEW made considerable managerial improvements in this program. In addition the design for the evaluation of the second program not only incorporated many significant improvements in technique but also included the collection of achievement data. The basic focus of inquiry remained the same but the quality of information collected was better and, consequently, a more reliable evaluation was expected.



In June 1972, Congress passed the ESAA and the bill was signed into law by the President. The results of the second year's program evaluation, together with the hoped for results from other analytical efforts may now have an opportunity to affect the programmatic content of the large scale effort.

CONCLUSIONS

In conclusion, HEW's experiences with desegregation policy issues provide examples of the general process of policy analysis. There are two distinctive agendas for basic decision-making in the executive branch of Government. The annual budget cycle is the time when the policy analysis staffs have an opportunity to bring the results of program effectiveness evaluations to bear on basic decisions. Here the calendar of events is predictable and known, and policy analysts can time and focus their efforts with some expectation of consequence.

New directions in public policy, however, stem from many sources and many influences. There is a short, open period of time in the history of each specific policy issue when the political leadership has decided on new directions but has not yet determined the complete content of real programs. This is the context in which policy analysts within the Government can have a large constructive influence under several conditions. First, they must have real access to the forums of decision. In addition, the analysts must do their work within enormously tight time schedules and be able to sharply focus their methods and evidence on the key issues at hand and raise new issues in a precisely relevant manner. Thirdly, the policy analysts themselves must have a combination of personal attributes such as endurance, commitment, and tactful tenacity.



Once decisions have been taken, such as the submission by the President of a bill to Congress, policy analysts encounter a fourth type of opportunity for constructive participation in distilling the most critical issues out of the policy making process and structuring medium and long term studies to provide better answers.

If this is done there is a distinct possibility either in the legislative phase or in the administrative planning for actual implementation of a new program that there will be new and often unexpected opportunities to use the new information and analysis. A requirement for this of course is that there be an institutional capacity to apply the new knowledge to unfolding issues.



Cy to Gerry, Gregory, VDT, Hend., Dodds.

SENATOR JACKSON'S DRAFT BILL ON SCHOOL DESEGREGATION

In January Senator Jackson will introduce legislation to amend the Equal Educational Opportunities Act of 1974 and ESAA. Jackson's proposed bill would:

1. establish special three-judge courts for busing cases
2. require the court to determine the actual effects busing would have on the quality of education and demonstrate that other desegregation remedies would not be effective
3. limit busing orders to remedying specific instances of segregation. (i.e. only for de jure segregation)
4. extend ESAA, authorizing \$1 billion for the next two years, with a more flexible allocation formula

SUMMARY: "Equal Educational Opportunities Amendments of 1975"

Sec. 2 Congress finds that the involuntary transportation of students to schools other than those closest to their homes is an unwise and counterproductive method of attempting to ensure equal educational opportunity and equal protection of the laws to all students.

[this parallels the Byrd Amendment to 1976 HEW appropriations bill rather than Sec. 215(a) of EEOA 1974]

Sec. 3 The priority of remedies of the Equal Educational Opportunities Act of 1974 is amended to include the following as the second remedy:

The court's decision or order must contain the following elements:

1. explain the selection of a particular remedy and the reasons for the rejection of remedies given earlier priority (in Sec. 214) and describe the evidence upon which the selection was based.

[this is an effort to make the courts follow EEOA of 1974]



2. include specific findings of fact as to the effects upon the quality of education which the implementation of its order may reasonably be expected to have.
3. include findings of fact as to whether reasonably stable integration of schools of the LEA can be expected to result from that order and the court must state what prospective effects its order may reasonably be expected to have on the racial composition of the public school population of the school districts involved.

[this is an attempt to deal with the "white flight" problem]

Sec. 4. "Three Judge Court for Actions Brought with Respect to the Transportation of Students"

Adds the following new section to EEOA of 1974:

- a. If the District Judge determines that it is necessary to give serious consideration to ordering the involuntary transportation of students, the Chief Judge of the U.S. Court of Appeals must designate two other judges to serve on a panel to consider the case. No order requiring involuntary transportation of students shall be issued other than by this three-judge panel and only after the panel has made the specific findings of fact required by this Act.
- b. The supervision of any court order regarding the transportation of students in effect on or after the date of enactment of this Act shall be conducted by a panel of three judges. No court order can be revised or extended in scope or in time other than by such panel.

Sec. 5 Amends the following sections of ESAA:

1. The appropriations section (Sec. 704 (a)) is amended by:
 - a. adding \$1 billion authorized appropriation for the period beginning July 1, 1976 and ending September 30, 1978.
 - b. 5% of the appropriation will be reserved for the purposes of Sec. 706 (a) (1) [eligibility for assistance] without regard to the provisions of Section 705 [apportionment to States]

[This in essence establishes a new "discretionary" program without putting the funds in the Assistant Secretary's discretionary fund, (Sec. 708(b)(2))]

- c. 5% of the appropriation is set aside for purposes of Sec. 709 (Metropolitan projects)

[This restores the Metro program which was deleted from the appropriation bill in FY 1975]



- d. the remaining set asides stay the same.
- 2. Language preceding the Metro section (700) is amended to conform to the change in appropriation language for Metro.



NEWS RELEASE senator henry m. jackson

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FOR RELEASE: A.M.'s
Tuesday, December 30, 197

WASHINGTON, D.C. -- Senator Henry M. Jackson (D-Wash.) will introduce legislation in January designed to "end the school busing controversy and renew a national focus on the central concern--the education of our children."

Jackson's proposed bill would:

- Establish special three-judge courts for busing cases, denying individual judges the authority to order or extend school busing plans;
- Require the court to determine the actual effects busing would have on the quality of education in each school district and demonstrate that other desegregation remedies would not be effective; and
- Limit busing orders to remedying specific instances of segregation. Courts would not be permitted to extend busing orders to areas where the existence of segregation had not been shown.

His bill would also extend the Desegregation Assistance Program, authorizing \$1 billion for the next two years, with a more flexible allocation formula to allow the Office of Education to respond to particular needs.

Jackson's proposed legislation was included in a detailed position paper on "Educational Quality and School Desegregation" issued today explaining why he is opposed to forced busing.

Decrying what he termed the tendency to confuse ends and means, Jackson said busing has become a crusade for some politicians who attempt to make it the symbolic embodiment of the nation's civil rights struggle.

"Dealing in symbols and self-righteous accusations not only ignores the essential question," he said. "It is dangerous and inflammatory. If we seek only to win symbolic battles, we will lose the substantive victories."

What he termed "white flight" in many urban school districts is reducing the white student population out of all proportion to the white-black percentages in the total metropolitan area, denying children the inter-racial experience which is one of the central goals of school desegregation.

"We have moved in busing decrees from the effort to dismantle dual school systems--clearly compelled by the Constitution--to a totally different undertaking: a form of social engineering and rigid mathematical race-balancing which the Constitution does not contemplate," Jackson said.



Rejecting the view that forced busing provides the only avenue for school desegregation, Jackson reviewed successful results from open enrollment programs, "magnet schools" offering enriched curricula designed to attract students of all races, and "special focus" schools providing curricula devoted to aviation, automotive, or other trades, music, drama, art, or similar special areas of study.

Where such programs have been tried, he said, the difference between success and failure depends on how hard the government tries to make them succeed. All too often, parents and children have not been informed about voluntary integration programs; or have not been able to afford them.

Differences in wealth also make the busing burden fall inequitably, Jackson said. Wealthy parents can avoid compliance, while other parents cannot.

"I would give far more credence to the posturing of politicians who champion busing if they sent their own children to the public schools in the nation's capital. But they do not," he said.

Jackson's own children have attended the public schools in the District of Columbia. Citing his lifelong commitment to civil rights, he said that opposition to forced busing and support of civil rights are in no way inconsistent.

Based on the evidence so far available, Jackson said, busing in large cities has neither improved levels of academic achievement for minority children nor broken down artificial social and racial barriers caused by school segregation.

"If I am elected President," Jackson said, "I will end the years of neglect of racial progress which has characterized the Nixon and Ford Administrations. I will focus our attention and our actions on assuring that all students, black and white, are provided with an education which makes 'equal opportunity' a reality and not simply a dream."



SENATOR HENRY M. JACKSON

POSITION PAPER

ON

EDUCATIONAL QUALITY AND SCHOOL DESEGREGATION



Since the founding of our country, public education and personal liberty have been issues of greatest public concern. The first generation of Americans saw the future of their country as resting largely on the new nation's success in educating its people. The schools were seen then as crucial to our democracy, and they remain so today. It is incumbent upon us, as we celebrate the nation's Bicentennial, to rededicate ourselves to providing equal opportunity for educational advancement to all children--regardless of race, religion or economic circumstance. To do so is not only a political necessity. It is a moral imperative.

In recent years, the discussion of equality of educational opportunity has often confused ends and means. Forced busing to achieve racial integration of schools--a means--has obscured the goal of providing all children a fine education--a noble and essential end.

There is no other domestic issue which arouses such explosive reactions. There is anger, alienation, confusion, and above all, bewilderment: bewilderment that in the name of justice, the traditional concepts of community, family and parental responsibility for children are being abused; bewilderment that in the name of equality, special burdens are being imposed on the poor and those of modest income; bewilderment that in the name of greater freedom for all, enormous restrictions on freedom are being imposed.

Bad laws, wrote Edmund Burke, are the worst kind of tyranny. Today large numbers of Americans feel they are victims of bad law: that they have been reduced to instruments for use by social engineers, raw materials in social experiments conceived in ignorance and executed in desperation.

My purpose in this paper is to outline my thoughts on this subject in as definitive a manner as I can. In doing so, I recognize the explosiveness of the issue. And I also recognize that what I have to say will mollify neither the extreme proponents of busing nor its equally extreme opponents. But I trust that a reasoned analysis of the issue can help renew a focus on the central concern--the education of our children.

At the outset, it is necessary that I make my own position clear. I am opposed to forced busing. Yet, as my record demonstrates, I am an ardent and dedicated supporter of civil rights and a lifelong opponent of segregation. I have supported every piece of civil rights legislation to pass Congress since World War II--and my record begins not in the 1970's or 1980's, but in the 1940's and 1950's when the civil rights struggle was first coming to life.

Opposition to forced busing and strong support of the civil rights struggle are in no way inconsistent positions. In fact, as I will show in this paper, they are entirely consistent. It is because of my concern for equal educational opportunity for all children that my opposition to forced school busing has grown in recent years. And I speak not from some isolated position of theory, but from a record of personal involvement, for my own children have been bused to school in the public school system of the District of Columbia.

Throughout my years in public life, I have sought to honor my belief that the purpose of government is to find workable solutions to problems, and not to deal merely in symbols. Unfortunately, busing has developed into something of a symbolic crusade. Dissatisfaction with the pace of progress has caused some politicians to adopt busing



as the symbolic embodiment of the nation's two hundred year struggle for racial justice. In symbolic terms, then, someone who is for busing is praised as a supporter of civil rights and the Constitution; someone opposed is attacked as a racist and a subverter of the Constitution. This dealing in symbols and self-righteous accusations not only ignores the essential question, it is dangerous and inflammatory. If we seek only to win symbolic battles, we will lose the substantive victories.

We must face up to reality and ask ourselves the fundamental question: does forced busing work to the benefit of our society? More specifically, we can break our question down into three basic elements:

- Has forced busing succeeded in reducing school segregation?
- Has it resulted in an increased level of academic achievement for minority children?
- Has it helped break down artificial social and racial barriers?

It is my view, based on the evidence that is so far available, that, in most cases, busing has failed in all these particulars. Rather than leading us toward a more harmonious society, it has in fact served to widen the gap between groups. Its positive results are scattered; its negative results large and growing.

HISTORICAL PERSPECTIVE

I wholeheartedly supported, and I believe the vast majority of Americans wholeheartedly supported, the Supreme Court's 1954 school desegregation decision. The essential thrust of that decision was to abrogate the 19th Century doctrine of "separate but equal" educational institutions for black and white children. Not only was that doctrine inherently discriminatory, the Court ruled, but its practical effect was to deny black schoolchildren educational opportunity equal to that afforded white children.

The black child, of course, had no choice in the matter. His parents were prohibited under the law from sending him to a better school if that school happened to be a white school. He was often bused to a poor school miles away from his home when a superior school, segregated to admit whites only, was the nearest school. Thus, the system had the effect of denying black children equal opportunities for advancement by means of education. And without equal educational opportunities, there can be no equality.

Certainly, in mandating an end to school segregation, the justices of the Supreme Court sought to achieve more than solely the striking down of the segregation laws. Important as it was to eliminate those state laws which prohibited black and white children from learning side-by-side, the Warren Court obviously was concerned with providing black children with a greater opportunity for educational advancement. Moreover, it undoubtedly was concerned with moving the entire nation in the direction of eliminating segregation so that the dangers inherent in a divided nation could be eliminated. An end to segregation was the goal of the Supreme Court, the goal required by our Constitution. Assuredly, the Justices did not contemplate pro forma desegregation measures which in practice result in more segregation rather than less. It is my contention that forced school busing has had that practical effect. It has become an unwitting tool for creating segregation, not for eliminating segregation.

I attempted to articulate my opposition to busing in my campaign for the Presidency in 1972. My principal argument was that busing would not work, that it would neither improve the educational opportunities



afforded black children nor serve the cause of reuniting the American people. In my view at that time, busing would further exacerbate racial tensions rather than eliminate them. Subsequent events, I believe, have substantiated those conclusions. But what was unforeseeable then was the drastic extent to which busing would be counter-productive. Rather than helping us move toward a harmonious society, it has created new divisions. It is helping to destroy the public educational systems in our large cities and thus is becoming a major factor in the threatened decline of those cities.

BUSING AND DESEGREGATION

A careless reading of the statistics could justify the conclusion that a great deal of progress has been made towards school desegregation in all parts of the country since the Civil Rights Act of 1964. But the statistics are misleading.

For instance, an analysis by Professor James Coleman of the University of Chicago, the man recognized as the nation's pre-eminent authority on the subject, concludes that segregation within school districts dropped by almost half between 1968 and 1972.

But while Professor Coleman's statistics show that segregation within individual school districts dropped by almost half, his statistics also show that segregation between school districts actually increased.

Creating a greater balance of the races in the schools within a district hardly promotes the cause of desegregation if virtually all the white children either leave the district or are enrolled in private schools.

We who live in the District of Columbia can scarcely be proud of our "integrated" school system--a system in which only 3.5 percent of the students are white. Do we gain anything from racial balancing within a district if the public school population there is so greatly imbalanced?

A central philosophy behind the desire for racial integration in our schools is that if children of different races are placed together in a reasonable balance, they will learn to adjust to one another and learn to live together better in later life. It is this exposure of white and black youngsters to one another, and not the implementation of some arbitrary mathematical formula, which is a central objective of the integration process. But this will not occur in urban school districts where "white flight" to the suburbs is reducing a city's white school population out of all proportion to the white-black percentages in the total metropolitan area.

Any initial increase in school contact between the races that is produced by busing is often cancelled by a subsequent decline in the proportion of white children in the district. Forced busing has created a greater "balance" in Boston's schools--that is, there is more equal distribution of blacks and whites in the Boston schools now than there was when busing was ordered two years ago--but close to 20,000 white students have left the Boston public school system in those two years. In Atlanta, more than sixty percent of the white students left the school system after busing was ordered. In Memphis, thirty-five percent of the white students left in a single year.

This is the heart of the problem and explains why busing is so often counter-productive. Does it serve the cause of desegregation if we end up with cities that are all black and suburbs that are all white? Surely, it does not.



It is important to put what is happening in the right perspective. While there is far more integration in the schools today than ten years ago, much of this progress has been made in small cities and towns, most notably in the South, where children are sent to a consolidated school which is everyone's "neighborhood" school. The crisis which confronts us today is in our large cities, with their ever-increasing percentage of black population and decreasing percentage of whites. The schools themselves are not the only victims. The cities are literally crumbling, with their tax bases diminishing, crime increasing, jobs disappearing and business investment vanishing. Court-ordered busing only hastens and aggravates those tragic trends.

We have moved, in busing decrees, from the effort to dismantle dual school systems--clearly compelled by the Constitution--to a totally different undertaking, a form of social engineering and rigid mathematical race-balancing which the Constitution does not contemplate. Some courts seem to have decided that if there exists today any "racial imbalance" in the population of individual schools, busing will be required to remedy this supposed defect.

This is a strange theory in a pluralistic, multi-racial society such as ours. It is inevitable in a multi-racial and multi-ethnic society that people of different races and groups will settle in clusters rather than randomly. This clustering is not simply the result of discrimination, but of economic circumstance, culture and history. The concentrations of children of a given ethnic or racial background in schools of a given neighborhood because of this clustering are by no stretch of legal imagination a violation of the Constitution. In fact, mathematical race balancing is social engineering antithetical to traditional American views. As Dr. Nathan Glazer has written, this kind of social engineering "makes impossible one kind of organization that a democratic society may wish to choose for its schools: the kind of organization in which the schools are the expression of a geographically defined community of small scale and regulated in accordance with the democratically expressed views of that community."

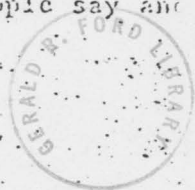
Often it is a neighborhood school that lies at the very heart of a neighborhood. And often, for community and family alike, it is the ability to influence the life of that school which is the sole, or a rare, opportunity for influence over an increasingly remote and insensitive government.

It is perfectly understandable why opposition to busing is growing in the large cities. Parents wonder why their children must be bused to faraway schools, negating the beneficial social effect of the neighborhood school and the sense of community, and expending school budgets on busing instead of on education. The resistance to busing is a reflection of legitimate parental concern, not incipient racism.

The opposition to forced busing among blacks as well as whites reflects similar concerns: black parents wonder why their children must be bused long distances to attend a school that is mostly white and controlled by whites when it has been shown that this will not in any way benefit the children's academic achievement.

THE BURDEN OF BUSING

Busing does not affect everyone equally. The truth is that the rich and powerful are able to avoid the consequences. The courts exercise jurisdiction over the public schools in a district, but they obviously do not control the private schools. The well-to-do, of course take advantage of this. Nowhere is the gulf between what people say and



what they do greater than in the District of Columbia. I would give far more credence to the posturing of politicians who champion busing if they sent their own children to the public schools in the nation's capital. But they do not.

Even if busing were not an issue, it is demonstrably true that one of the root causes of the decline in the quality of public education has been the growing tendency of the so-called elite of particular communities to send their children to expensive private schools rather than to join in the battle to improve public education. If the rich and influential in Washington were to enroll their children in the public schools, you can be sure they would pay far greater attention to the plight of the public schools than they do today.

The burden of complying with busing orders falls on all but the affluent. One group in the society (those who can afford it) avoids busing for purposes of racial integration by either moving to the suburbs or sending their children to private schools. The other group (those who cannot afford it) is victimized by busing.

Those who are caught by the busing net are the people most important to us if we are to preserve the vitality of our cities and the value system which is essential to the preservation of our society. If we destroy the various ethnic neighborhoods in our cities, including black neighborhoods, we destroy not only a rich tradition in American life, but an anchor for stability in an increasingly unstable society.

BUSING AND EDUCATIONAL ACHIEVEMENT

A major hope of school desegregation was that the substantial gap in achievement between black and white children would be reduced by desegregation. The landmark study by Dr. Coleman in 1966, Equality of Educational Opportunity, gave promise of such a result, although the schools on which this theory was based were schools which had been integrated "naturally" -- that is, through normal processes of residential change, rather than through formal public policies forcing desegregation, which had only begun at the time the data for Professor Coleman's report was being gathered.

While it is too early to pronounce a final verdict, it can be seen that progress so far in closing the gap has been disappointing. In most cases, it has been minimal or non-existent. Dr. Nancy St. John, author of School Desegregation: Outcomes for Children, analyzed more than one hundred studies bearing on this subject and concluded sadly that the results in school district after school district are less than encouraging. A massive, five-year study done in Riverside, California, concluded flatly: "Minority students did not gain in achievement as a consequence of desegregation."

I do not suggest that we turn away from our commitment to desegregation and to equal educational opportunity. On the contrary, I suggest that we review the evidence about busing and face facts: in city after city, busing has not resulted in improvement in educational achievement levels for black children. It has, on the other hand, embittered race relations, increased social tensions and divided communities and families.

The solution lies not in forcing a racial balance in deteriorating schools, but in improving the schools and in providing fully for voluntary integration.

It is untrue that forced busing provides the only avenue for desegregating the schools. There are effective methods of desegregation which can be made to work on a national scale and which enrich, rather than ignore or reduce, the quality of education in the schools.



In many cities, open enrollment programs have had considerable success. Under such programs, students are permitted to transfer to any school in which their racial group is in a minority. In order to make such programs successful, the school district must be willing to pay transportation costs and to provide information and advice to parents and students. Under such circumstances, cities as varied as Chapel Hill, Little Rock, Rochester, Buffalo, Las Vegas and Portland, Oregon, achieved participation of up to a third or more of all black students in a voluntary program.

"Magnet schools" offer another alternative to forced busing. School districts all over America have experimented successfully with such programs, in which a school's curriculum is specially enriched in order to attract students of all races. The result is better education.

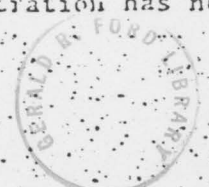
Similar results may be obtained with "alternative" or "special focus" schools. These offer curricula devoted to special programs such as aviation, automotive, or other trades, physical science, music, drama, art, or in fact any particular specialty. These offer the student and his family a choice of varying educational patterns, and serve also to provide an effective environment for non-segregated education.

In fact, in case after case, the difference between failure and success in voluntary programs depends on how hard the government works to make them succeed. All too often, parents and children have not been informed about voluntary integration programs, or have not been able to afford them. Or, the programs have been successful but ridiculously small in scope.

The Education Acts of 1972 and 1974 sought to define methods for implementing an effective desegregation program without resorting to the extreme remedy of involuntary busing. The Congress provided an authorization of \$1,000,000,000 for school districts to implement such desegregation programs as open enrollment, magnet schools and school relocation. Unfortunately, the Nixon and Ford Administrations have sent budget requests to the Congress seeking appropriations for only a fraction of the total authorization available. In Fiscal Year 1975, the total appropriation for the Desegregation Assistance Program was only \$241,000,000. Even this much funding was opposed by the Administration and adopted by the Congress only against the will of the President. For Fiscal Year 1976, President Ford reduced his request for appropriations down to \$75,000,000. Again, for Fiscal Year 1976, the Congress has, once more over the objections of the President, appropriated another \$241,000,000.

That the Administration's Desegregation Assistance Program is inadequate is clearly illustrated by the following example: the amount allocated to the entire State of Massachusetts is \$1,040,000. Massachusetts cannot begin to undertake an effective comprehensive desegregation program utilizing powerful techniques such as the siting and construction of new schools or the establishment of magnet schools with such a small amount. This year, the entire \$1,040,000 was allocated to Boston -- leaving cities such as Springfield, which is desperate to obtain funding for its desegregation program, totally excluded. At a time when it costs approximately \$5,000,000 to construct a single school, an allocation of \$1,040,000 for the entire State of Massachusetts is a cruel joke. Unfortunately, this situation is repeated in state after state.

The task is clear: the federal government must offer much more assistance to local school districts in developing and financing their voluntary desegregation programs. Authority to do so now exists under the Elementary and Secondary Education Act. The Administration has not used that authority.



Moreover, general federal aid to education must be significantly increased. I believe we should increase the federal share of school budgets from the present seven percent to thirty-three percent.

It is time to move away from reliance on local property taxes for the support of our schools. This system unjustly burdens property owners, and it results in inadequate school budgets in districts where property values are low.

There is no escaping the need to provide the schools with adequate resources if we expect them to do their job. As their tasks increase, so must their resources. If Day Care is to be provided so that women who wish to work may do so; if job counselling is to be provided so that our youth unemployment rate can be reduced; if the basic skills, the "3Rs", are once again to be mastered by all students, then our schools will need resources which we are not giving them today.

Raising the educational achievement of disadvantaged children from non-white families is not a mysterious process, dependent somehow on seating them near children from wealthy white families. In Chicago, in New York, and in many other cities, programs based on small classes, concentration on basic skills, and involvement of parents in school activities, have succeeded in raising academic performance. What these programs require are more resources than are, at present, usually available. The solution is not mysterious: it is to provide these additional resources and make every public school in America an effective institution. In this context, it is senseless to expend scarce school funds on forced busing, rather than on education.

Today, our public schools are often ineffective -- and they are getting worse. The chief danger in championing busing as the solution to our educational and racial problems is that it obscures the real need--improving education. Do we really serve the cause of integration if we perpetuate an education system whereby black children are not being educated, and because of this lack of education, end up as adults living in segregated ghettos? Anything which distracts us from the real objective--equal educational opportunities for everyone--negates the good deriving from the Supreme Court's 1954 decision.

CONCLUSIONS

The issue of school busing has revealed a disturbing imbalance in our institutions of government. The Congress and the Executive have failed to meet their responsibilities. As a result, the Judiciary has exercised administrative and legislative functions, in clear violation of John Adams' wise counsel that "the judicial power ought to be distinct from both the Legislative and the Executive, and independent upon both, so it may be a check upon both."

It is time for Congress -- the only truly representative body in our federal scheme -- to face up to its responsibilities in the matter of school busing.

It is time for Congress to act.

The public schools must be given the resources they need to achieve equality of educational opportunity and the assistance they need to achieve desegregation.

The courts must be required to face all the evidence related to busing, to deliberate carefully on this controversial and complex issue, and to limit their activities to eliminating school segregation rather than engaging in social engineering.



I will introduce legislation, in the new session of Congress, designed to meet these goals. This legislation contains seven elements:

1. Before any busing order is issued, the court would be required to determine the actual effect busing would have on the quality of education within the school district.
2. The court would further be required to show why other school desegregation remedies would not be effective--such as voluntary transfers, rezoning of schools, or magnet schools.
3. The court would also be required to determine whether the proposed busing order would lead to re-segregation.
4. Single judges would be forbidden from issuing a busing order. In the future, busing could be ordered only by a specially convened three-judge court.
5. Busing orders already in effect would be subject to review by a three-judge court.
6. Any busing orders issued by a court would be limited to remedying specific instances of segregation.
7. The Desegregation Assistance Program would be extended, with an authorization of \$1,000,000,000 for the next two years, and with a more flexible allocation formula to allow the Office of Education to respond to particular needs in whatever state or city they arise.

This legislation will stand the test of constitutionality and will go a long way toward reducing tensions in our school systems.

Again, I would like to reiterate my view that workable solutions are what are important, not posturing on this or that side of an issue.

If I am elected President, I will end the years of neglect of racial progress which has characterized the Nixon and Ford Administrations. I will focus our attention, and our actions, on assuring that all students, black and white, are provided with an education which makes "equal opportunity" a reality and not simply a dream.



IN THE SENATE OF THE UNITED STATES

Mr. JACKSON

introduced the following bill; which was read twice and referred to the Committee on

A BILL

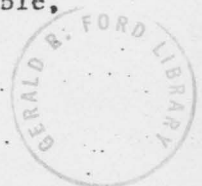
To amend the Equal Educational Opportunities Act of 1974 with respect to the transportation of students, and for other purposes.

(Insert title of bill here)

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 "Equal Educational Opportunities Amendments of 1975".

Sec. 2. The Congress finds that, in many instances, the involuntary transportation of students to schools other than those closest to their homes has proved to be an ineffective and counterproductive remedy for vindicating rights guaranteed by either the fourteenth amendment to the Constitution or the Civil Rights Act of 1964. Contrary to the intentions of those who advocated them, such transfers have resulted in disruption of the educational process, ineffective utilization of scarce human and financial resources, and emerging patterns of resegregation of public school populations caused by withdrawal from the public schools of large numbers of students. Such transportation is found by Congress to be, except in special and limited circumstances, an undesirable,

explained



unwise and counterproductive method of attempting to ensure equal educational opportunity and equal protection of the laws to all students.

Sec. 3. Section 214 of the Equal Educational Opportunities Act of 1974 is amended by--

(1) inserting "(a)" immediately after the section designation;

(2) redesignating clauses (a), (b), (c), (d), (e), (f), and (g) as clauses (1), (2), (3), (4), (5), (6), and (7), respectively; and

(3) adding at the end thereof the following new subsection:

(b) (1) Each such court to which this section applies shall include, as part of its order or decision, and after hearing relevant evidence, specific findings of fact, explaining in that order or decision the selection of a particular remedy and the reasons for the rejection of remedies given earlier priority in this section, and describing the evidence upon which such selection is based.

(2) Such court shall include, as part of its order or decision, and after hearing relevant evidence, specific findings of fact as to the effects upon the quality of education which the implementation of its order or decision may reasonably be expected to have, in view of available human and financial resources.

(3) Such court shall include, as part of its order or decision, and after hearing relevant evidence, specific findings of fact as to whether reasonably stable integration of the schools of the local educational agency involved can be expected to result from that order or decision, and shall include in such findings of fact a review of existing and predicted future patterns and trends



in the racial composition of the public school population of the school districts of the relevant local educational agency. Such court shall state what prospective effects its order or decision may reasonably be expected to have on such racial composition.

(4) Such court shall determine the extent to which the present racial composition of the public schools is attributable to violations of statutory or constitutional rights resulting in the assignment of students to public schools on the basis of race. Such court shall not order the involuntary transportation of students except to the extent that present patterns of assignment of students to public schools result from such violations and that the patterns thus resulting may be remedied in no other way.

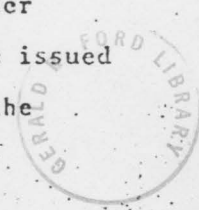
Sec. 4. Part 4 of the Equal Educational Opportunities Act of 1974 is amended by adding at the end thereof the following new section:

THREE JUDGE COURT FOR ACTIONS BROUGHT WITH RESPECT TO
THE TRANSPORTATION OF STUDENTS

Sec. 220. (a) Whenever--

(1) a civil action is brought in which the relief sought involves or may involve the transportation of students, and

(2) the District Judge determines, on consideration of necessary remedies, that it is necessary to give serious consideration to ordering the involuntary transportation of students, he shall immediately notify the Chief Judge of the United States Court of Appeals for the Circuit in which the District is located. The Chief Judge shall designate two other judges, who may be judges of any District within such Circuit, or judges of the United States Court of Appeals for such Circuit, who shall serve as members of the court and shall, after such hearing as may be necessary and on the record previously taken, determine the action de novo. No order requiring the involuntary transportation of students shall be issued other than by such panel and only after such panel has made the



specific findings of fact required by subsection 3(b) of this Act. Any appealable order or decision by such three judge court shall be appealable to the United States Court of Appeals for the Circuit in which such District is located. It shall be the duty of the Chief Judge of the Circuit to assign the case for hearing at the earliest practicable time and to cause the case to be in every way expedited.

(b) The supervision of any court order regarding the transportation of students in effect on or after the date of enactment of the Equal Educational Opportunities Amendments of 1975 shall be conducted by a panel of three judges, who shall be designated by the Chief Judge of the United States Court of Appeals for the Circuit in which the action is brought, and who may be judges of any district within such Circuit or judges of the United States Court of Appeals for such Circuit. The provisions of this subsection shall apply to all such orders or decisions regardless of the date on which such orders or decisions were originally issued. No such order or decision shall be revised or extended in scope or in time other than by such panel. Orders and decisions issued by such panel in conjunction with the supervision of orders involving the involuntary transportation of students shall be issued only after it has made specific findings of fact required by subsection 3(b) of this Act. Any appealable order or decision by such three judge court shall be appealable to the United States Court of Appeals for the Circuit in which such District is located. It shall be the duty of the Chief Judge of the Circuit to assign the case for hearing at the earliest practicable time and to cause the case to be in every way expedited.



EMERGENCY SCHOOL AID

Sec. 5. The second sentence of section 704(a) of the Emergency School Aid Act is amended by striking out the word "and" after "1973," and by inserting before the period at the end thereof a comma and the following: "and \$1,000,000,000 for the period beginning July 1, 1976, and ending September 30, 1978."

Sec. 6.(a) Section 704(b) of the Emergency School Aid Act is amended to read as follows:

"(b)(1) From the sums appropriated pursuant to subsection (a) for any fiscal year or for any fiscal period, beginning after June 30, 1976, the Assistant Secretary shall reserve an amount equal to 5 per centum thereof for the purposes of section 706

(a)(1) without regard to the provisions of section 705.

"(2) From the sums appropriated pursuant to subsection (a) for any fiscal year or for any fiscal period, beginning after June 30, 1976, the Assistant Secretary shall reserve an amount equal to 5 per centum thereof for the purposes of section 709,

"(3) From the sums appropriated pursuant to subsection (a) for any fiscal year or for any fiscal period, the Assistant Secretary shall reserve an amount equal to 13 per centum thereof for the purposes of sections 708 (a) and (c), 711, and 713, of which--

"(A) not less than an amount equal to 4 per centum of such sums shall be for the purposes of section 708(c); and

"(B) not less than amount equal to 3 per centum of such sums shall be for the purposes of section 711."

(b) The matter preceding paragraph (1) of section 709 (a) of such Act is amended to read as follows: "Sums reserved pursuant to section 704(b)(2) shall be available for the following purposes:".

