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ABSTRACT

School desegregation has once more become an explosive national issue. Whether or not Title IV of the 1964 Civil Rights Act can be a means for the establishment of equal educational opportunity in the nation's public schools remains academic; presently, it is simply an instrument of the Nixon Administration's evolving policy on desegregation. For almost five years after the passage of the Civil Rights Act of 1964, the Division of Equal Educational Opportunities (DEEO) worked in relative obscurity cooperating with school systems seeking help in the transition from segregation to equality. In the spring of 1969, the Federal courts began to call on DEEO experts to prepare desegregation plans for school districts under court orders. Since then, the technical assistance aspects of Title IV of the Civil Rights Act have been overshadowed or blocked by the lack of clear desegregation policies in the Administration, the Congress, and the Federal courts. Whether this is attributable to a retreat by the Nixon Administration from the goal of total desegregation or to a combination of circumstances more coincidental than deliberate, the net effect is that no clear Federal policy is discernible. (JM)

TITLE IV OF THE 1964 CIVIL RIGHTS ACT:

A PROGRAM IN SEARCH OF A POLICY

Special Report

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Race Relations Information Center is a private, nonprofit organization that gathers and distributes information about race relations in the United States. The Center is the successor to Southern Education Reporting Service, an agency established in 1954 to provide accurate, unbiased information on race-related developments in education in the Southern and border states.

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In the Civil Rights Act of 1964, Congress approached the issue of school desegregation in two different ways. Under Title IV, it set up a program to provide assistance in a variety of forms to school systems seeking federal help "in the preparation, adoption, and implementation of plans for the desegregation of public schools." Under Title VI, it outlawed discrimination in any program using federal funds. The enforcement of Title VI in the field of education fell to the U. S. Office of Education, which developed desegregation guidelines for school districts and made noncompliance punishable by a cutoff of federal funds.

Title IV was the carrot, the gentle persuader, the sugar pill; it was intended to be a contract between willing parties, an agreement whereby school districts willing to use federal funds and expertise to smooth the desegregation process could find such help available in the U. S. Office of Education, in certain state departments of education, or in a select few Southern universities. Title VI, on the other hand, was the stick, the tough enforcer, the strong medicine; it was essentially a coercive force, focusing on reluctant and recalcitrant school systems and bringing them involuntarily into compliance with the law.

During the last four and a half years of President Lyndon B. Johnson's administration, Title VI was the bogey man of segregationists, an object of scorn and defiance. It was often caught between court rulings and congressional intent, between the law and the will of the white majority, and even when President Johnson moved it from its base in the U. S. Office of Education to the loftier and more remote confines of the Department of Health, Education and Welfare (HEW) in 1967, controversy

never ceased to swirl arount Title VI.

In the 14 months since President Richard M. Nixon came to power, Title VI has faded fast. The guidelines under which it operated were substantially changed by HEW Secretary Robert Finch and Attorney General John Mitchell last July. The office which administers Title VI has continued to issue citations to school districts which have not desegregated, but the citations now are virtually meaningless: not a single district has had its funds terminated since early last summer, in part because of a federal court ruling in Florida requiring proof of discrimination in every program using federal funds within each district before the funds can be terminated. (Secretary Finch at first said the decision would be appealed, but it was not.) And on Feb. 17, the director of the Title VI program, Leon Panetta, resigned under pressure from the White House after less than a year on the job, and several members of his staff also quit to protest his departure. Before he left the office 10 days later, Panetta said there was a general lack of commitment to civil rights within the White House, and he singled out four top aides to Nixon--Bryce N. Harlow, H. R. Haldeman, John D. Erlichman and Harry C. Dent--as the men who had led the President to accept a more conservative position on school desegregation.

The Rise of Title IV

With the decline of Title VI has come a parallel rise in the visibility and importance of Title IV, which is administered in the U. S. Office of Education's Division of Equal Educational Opportunity (DEEO). The tasks which DEEO once concentrated upon (and which it still carries out)--in-service training of teachers, human relations workshops, desegregation

institutes--are vastly important and necessary functions, but they are also quiet and unspectacular activities in contrast to the bombast of defiance or the trauma of court action. Now, DEEO has been thrust into the spotlight because it has been drawn into the role of negotiating with school officials, drawing up desegregation plans and testifying about such plans in court, and these new functions place Title IV for the first time in the center of the 16-year-old school desegregation controversy.

Having become a principal instrument of the Nixon Administration's school desegregation policy, the DEEO represents something of a barometer of that shifting and unsettled policy. This report examines the changing fortunes of DEEO in the Nixon Administration.

From a relatively modest annual budget of $6.5 million, DEEO has expanded in six years to its present budget of $14 million, and $24 million has been requested for the next fiscal year. The funds provide for a professional staff of about 50 persons in Washington and in the regional offices of HEW, and for three different kinds of field programs: direct grants to school districts seeking help on desegregation matters, grants to state departments of education to assist school districts, and grants to universities for the establishment of desegregation assistance centers. Fifteen universities in 14 Southern states (Alabama has two) now operate such centers, and 25 state departments of education receive Title IV funds. During the 1969 fiscal year 79 local school districts also received grants from the program. In addition, Title IV funded 11 short-term desegregation institutes last year. And in its new role--that of drawing up desegregation plans under federal court orders--DEEO personnel have been involved with more than 300 school districts in the past year.

The charts which appear at the end of this report indicate where and how DEEO funds were apportioned in the 1969 fiscal year. No attempt has been made to assess the relative effectiveness of these distributions. For the most part, the funds have been used for the various kinds of technical assistance called for by the civil rights act. But the drafting of desegregation plans has been a major activity of Title IV in recent months, and it is that function which is assessed here.

Two months after the inauguration of President Nixon, a federal district court in South Carolina placed 21 school districts in the state under a blanket order to desegregate, and asked HEW to take part in the drafting of plans to that end. Until then, it had been legal experts in HEW's Office for Civil Rights (OCR), working under Title VI, who had shouldered the main responsibility for bringing school districts into compliance with the law; in the South Carolina cases, educational experts from the Title IV office of HEW (DEEO) were given a similar assignment, and they have had a hand in the preparation of desegregation plans for virtually all school districts placed under court order since then.

It is not clear exactly why the decision was made to involve Title IV at that point, or whether the decision was made by the courts or by the Administration. Some observers say this decision and others which have followed it may reflect an effort by Democratic judges to toss the hot potato of school desegregation back into the hands of the Republican Administration; others suggest that the courts simply turned to DEEO as a neutral party to break the legal logjam building up behind extended disputes between school boards and plaintiffs. It is also

contended by some that HEW and Justice carefully steered the whole process away from OCR and into the hands of DEEO, while still others believe the involvement of Title IV in the drawing up of desegregation plans simply reflect a desire of the Administration and the courts to give educational experts a larger share of the responsibility. Whatever the case, the change coincided with the decline of Title VI, and was followed by a marked decrease in the number of desegregation suits initiated by the Justice Department.

The Administration's Approach to Desegregation

On July 3, HEW Secretary Finch and Attorney General Mitchell issued a joint statement which, in effect, delayed the southwide desegregation deadlines established earlier by the Johnson Administration. The statement also shifted primary responsibility for enforcement from HEW to Justice, and that had the effect of making Mitchell, instead of Finch, the Administration's top policy maker on school desegregation. (U.S. District Judge Robert W. Hemphill of South Carolina, commenting on the Mitchell-Finch statement in September, said it "does not have the weight of a court order. In fact, it has no weight at all. It is a debatable political statement which no court of reason will give credence to.")

The Civil Rights Act of 1964, under Title IV, made the commissioner of education responsible for assisting school districts with desegregation problems, and for three years the commissioner (who at that time was Harold HoweII) also was responsible for desegregation enforcement, as called for under Title VI. The enforcement office was shifted from the commissioner to the secretary of HEW in 1967. For all practical purposes, the Mitchell-Finch statement shifted the power again,

this time from HEW to Justice.

Previously, the Kennedy and Johnson administrations appeared to speak with one voice on their commitment to bring Southern school systems into compliance with the law and the rulings of the courts on school segregation. The attorneys general, the HEW secretaries, the commissioners of education and the OCR directors in those administrations consistently applied the weight of their offices to the elimination of segregation. Under President Nixon, a different attitude is apparent, as these items indicate:

* The secretary of HEW has asked the courts, on at least one occasion, to delay the implementation of desegregation plans.

* The Justice Department has not initiated a school desegregation suit since last October, when it took a Connecticut school district to court.

* The NAACP Legal Defense and Educational Fund, with which the Justice Department has frequently been allied in past prosecutions of school segregation cases, has asked on one occasion that the court switch the Justice Department from plaintiff to defendant because the government "for the first time has demonstrated that it no longer seeks to represent the rights of Negro children."

* Desegregation plans drawn up by Title IV personnel have on occasion been weakened, apparently as a result of political pressure applied to high officials in the Administration.

* The commissioner of education, once the federal government's top representative on matters of race and education, no longer has a direct role in determining government policy and practice in these matters. Rumors that the present commissioner, James E. Allen, will soon resign

are categorically denied by his office, but the rumors persist.

* An ad hoc committee made up of HEW and Justice Department officials has been reviewing all court-order plans drawn up by Title IV personnel since last summer, but the existence of the committee was not known publicly until Jan. 28, when James K. Batten of the Knight newspapers reported it.

* Vice President Spiro Agnew, whose pronouncements on race and education have given great encouragement to the cause of segregationists, has been made chairman of a cabinet-level committee which will undertake to mediate in the school desegregation controversy.

* After Panetta was fired from his OCR post, 125 of the 325 employees of the office sent a two-page letter of protest to President Nixon, expressing "profound dismay" over the dismissal of their boss.

* Unrest and dissatisfaction among attorneys in the Justice Department's Civil Rights Division flared into the open on one occasion, and a number of attorneys in the division have either quit, asked for transfers to other assignments, or been fired.

* The Administration has taken a variety of conflicting and ambiguous positions while both houses of Congress have passed amendments limiting the government's enforcement powers in school desegregation.

* All three of the men Nixon has nominated to the Supreme Court thus far have been identified as "strict constructionists," a term which has been generally interpreted as code for "soft on civil rights." (Ironically, subsequent rulings on school desegregation written by two of the men have not supported that interpretation.)

All of these developments, plus the softening of desegregation guidelines and the steady decline of Title VI, add up to an emerging

Administration policy on school desegregation that some civil rights organizations and even some Administration officials view with a concern that borders on despair.

Confusion In The Search For A New Policy

That a change in government policy is being brought about seems obvious from the facts; it is far less certain what form the new policy will take. That will depend in large measure upon many legal, educational and political judgments, some of which have not yet been made. For the present, the Nixon Administration seems caught in a thicket of inconsistencies; it is finding that a fundamental change in government policy of the magnitude it apparently contemplates can be neither quick nor easy nor certain, particularly when there is no agreement on the desired end result. The general state of confusion which now prevails is apparent in several ways:

* The Justice Department remains a party (if a reluctant one) to some Southern school desegregation suits which seek what amounts to racial balance. (The Norfolk, Va., case is one example.) At the same time, it has recently helped to establish a new Administration position which calls for perservation of neighborhood schools and rejects the use of cross-town busing to achieve full desegregation.

* There can be found in the South now almost every conceivable kind of racial arrangement in the schools, from total desegregation to total segregation, and some of that is a carry-over from previous administrations. Justice and HEW officials have approved such a wide array of desegregation plans--and rejected an equally diverse menagerie of others--that no consistent pattern can be said to exist.

* Outside the South, Justice has chosen a few cases to demonstrate an earnest desire to eliminate segregation, whatever its cause--even though its efforts to do that in the South have faded dramatically. In Pasadena, Calif., for example, Justice attorneys asserted that the school system's reliance on a strict neighborhood school policy and its companion policy against cross-town busing amounted to a form of de jure segregation in violation of the 14th Amendment to the U. S. Constitution.

* Court rulings on desegregation questions also reflect more confusion than clarity. Surprising as it may seem, there remains a large area of unexplored ground in civil rights law as it pertains to education, even though litigation on the subject has been continuous now for 16 years. Among the areas of legal uncertainty are questions concerning racial balance, unitary school systems, neighborhood schools, cross-town busing and de facto segregation. Until the federal courts arrive at some judicial interpretation of these terms, school desegregation seems certain to remain a controversial issue before the courts.

* In spite of the persistence of these important legal questions, the federal courts have continued to rule against segregation and discrimination in education. Far from following the trend of the new Administration, the courts have been, if anything, more diligent in their application of earlier court rulings and more impatient with the continued efforts of segregationists to delay desegregation. Ironically, the various attempts of the Justice Department to diminish the Administration's involvement in the politically hazardous business of civil rights enforcement have often been negated by court rulings

forcing school districts to desegregate. The most visible such ruling came last fall when the Supreme Court gave some 30 Mississippi school districts a two-month deadline to achieve total desegregation. The unanimous decision, written by Chief Justice Warren Burger, Nixon's first appointee to the court, rejected the pleading of the Justice Department and HEW for more time to accomplish the job. Another noteworthy case was in the Fourth Circuit Court of Appeals, where Chief Judge Clement Haynesworth--the man the U. S. Senate spurned when Nixon nominated him to the Supreme Court--wrote an opinion which required an end to racially identifiable schools in Greenville, S. C., his home town. The Greenville system complied with the order.

* Because of such highly publicized cases as these, the Administration still finds itself under attack from presidential aspirant George Wallace, Georgia Gov. Lester Maddox and other segregationists, who consider the courts to be part of the Administration and therefore reflective of President Nixon's real feelings on civil rights. Many Democrats, liberals, blacks and other civil rights advocates, on the other hand, are equally convinced that the Administration is firmly allied with those forces, in and out of the South, who oppose the advance toward equality of Negroes and other minority groups.

* Where school desegregation has taken place in the South, it has more often than not occurred at the expense of Negroes; that is to say, it has usually been the black schools which have had their names changed or been closed, the black children who have been bused to white schools, and the black principals and teachers who have been transferred, demoted or fired. Desegregation, in other words, has often been one-sided, and resentment against plans requiring Negroes to make most of the sacrifices has generated some black resistance and some talk favoring the development

of "separate but equal" school districts divided more or less along race lines. The most prominent black advocate of this approach is Roy Innis, director of the Congress of Racial Equality (CORE). Innis has discussed the idea with at least four Southern governors, and all of them were "receptive" to it, according to a story by Peter Milius in the Washington Post. Representatives of CORE have been pushing the plan in Mobile, where controversy over school desegregation plans has been continuous for many months. An aide to Innis was heard to remark in Mobile recently that a high-ranking official in the Justice Department had suggested Mobile as a possible test city for Innis's "separate but equal" proposal. There have been at least three meetings between Innis or his representatives and high-ranking officials of the Justice Department in recent months. On at least one of those occasions, Attorney General Mitchell participated in the discussions.

* * *

It is against this background of confusion, contradiction and uncertainty that the activities of the Division of Equal Educational Opportunities can be brought into focus. As an instrument of the Nixon Administration's desegregation policy, Title IV reflects the unsettled and inconsistent nature of its political context, particularly insofar as the drafting of school desegregation plans is concerned. Conversations with most of the 15 directors of Title IV programs in university centers, with officials of DEEO at the regional and national level, and with a variety of interested parties both in and out of government indicate that politics, rather than law or educational concerns, is the dominant force in many of the operations of Title IV. (Some of them

add that this has been generally true of the federal government's policies on race since 1954.)

Beginning with the entrance of DEEO personnel into the desegregation plan-drafting business when the 21 South Carolina districts were put under a court order last March, some of the university Title IV centers have had to devote most of their attention to drawing plans. The mechanics of this process vary greatly from case to case, but in general they are as follows:

A federal district court orders a school system to produce a plan for total desegregation. The system is given a deadline for coming up with the plan, and the school board is ordered to get assistance from HEW in preparing the plan. Title IV officials then enter into discussions with officials of the school system. If agreement can be reached on a plan, it is cleared with the ad hoc review committee in Washington and then presented to the court. More often than not, agreement has not resulted from the discussions between the school board and the DEEO representatives. In these cases, each party usually presents its plan to the court, and the judge then bases his order on one or both of the plans.

That is how the procedure works in theory. In practice, it is often quite different. To begin with, the judge's order requiring HEW to assist in drawing the plan may end up in the hands of a Justice Department attorney, or a Title IV official in Washington, or in the nearest regional office of HEW, or in the state department of education's Title IV office, or in that state's university-based Title IV center; it might also be taken up by the school board with the local congressman or senator, or with Attorney General Mitchell, or with HEW Secretary Finch.

Occasionally, the order is ignored; there are cases now current in which school boards ordered to seek HEW help have simply refused to do so. Presumably, they can be held in contempt of court. The law governing Title IV specifies that help with desegregation problems can be given to school systems only upon their request; consequently, the initiative lies with the school board, and its decision on where to turn for assistance can set the political and educational tone of the negotiations.

After it is decided precisely who in Title IV will be given the job of working on a desegregation plan, more opportunity for political pressure arises. What form will the plan take? Will it require the elimination of racially identifiable schools? Will it require long-distance busing to achieve racial balance? Will it be based on the neighborhood school concept? Will it include freedom of choice, or pairing of schools, or consolidation? Will it call for implementation in stages, or require immediate change? Will it include teacher and administrator desegregation? Almost all of these features have been used, and there is no indication that the Justice Department or HEW (including DEEO) has had any consistent position on them. In recent weeks, however, Title IV representatives in the field have been told not to include cross-town busing in the plans they prepare--even though the Pasadena case cited earlier in this report seemed to take an opposite tack.

Often, a school system will give unofficial support to a plan drawn by Title IV, but denounce the plan publicly in order to make it appear to the system's patrons that desegregation is being forced on them by federal officials. Reluctantly, DEEO officials have sometimes gone

along with this ploy.

After the Title IV plan is completed, the DEEO official responsible for it then takes it before the ad hoc committee in Washington, and once again, the opportunity for political intrusion presents itself. The five principal members of the committee have been Jerris Leonard, Attorney General Mitchell's top assistant in the area of civil rights; Robert Mardian, general counsel for HEW; Patrick Gray, one of HEW Secretary Finch's chief assistants; Jerry Brader, director of Title IV; and--until his resignation--Leon Panetta of OCR. Mardian recently was made executive director of the new Agnew task force on desegregation problems. The ad hoc committee's balance of power apparently has favored a philosophy of desegregation which is decidedly more conservative than that reflected in previous administrations.

Several things about the ad hoc committee are distrubing to supporters of school desegregation. One is the fact that its existence was not generally known from the time it was created last spring until the end of January. Even some of the university center directors of Title IV--those who have not been involved in drawing up desegregation plans--were unaware of the committee's existence until they were told of it by an inquiring reporter. Second, there is evidence that political pressure has influenced some of the committee's decisions; one case, involving Orange County, Fla., will be detailed later in this report. Third, the Justice Department, by way of its representation on the committee, has become influential in some decisions involving cases in which it was not a party; in other words, Justice has influenced desegregation plans even though it is not a party in the court suit. And finally, there is some concern that the powerful ad hoc committee has the effect of a national school board, setting desegregation policy that may or may

not coincide with the best available legal and educational judgment.

Whatever the validity of these concerns, it is apparent that the ad hoc committee, by its very nature, makes the federal government's desegregation activities susceptible to political, as well as legal and educational, considerations.

After the committee has approved a desegregation plan drawn up by Title IV representatives, the plan may be presented to the school board or to the court. If it is given to the school board, a further opportunity for political intrusion arises. When the plans do finally come before the court, the manner in which they are supported by Title IV or Justice Department representatives can also have a bearing on the judge's final ruling. And after he has ruled, the handling of appeals and the enforcement of his decision are matters in which the Justice Department retains considerable influence.

Political Intrusion in the Plan-Drafting Process

As illustration of some of the ways in which politics has intruded in the formulation of desegregation plans drawn up by Title IV personnel, these three cases are cited:

* After plans for the 21 South Carolina districts under court order were completed last spring, the director of Title IV's regional office in Atlanta, Ernest Bunch, testified in federal court in one of the cases that implementation of the plan--which he himself had helped to prepare--"would be chaotic" if carried out completely the following September. On the strength of his testimony and others like it, 18 of the 21 districts were given a year's delay in implementing total desegregation. The Southern Regional Council, in a December 1969

report entitled "The Federal Retreat in School Desegregation," said of the South Carolina cases: "When most of the local districts resisted the [Title IV] proposals, political pressures apparently succeeded in having the plans revised and the EEO staff overruled through intervention of top HEW and Justice officials."

* When a federal judge in Mississippi ordered some 30 districts to prepare desegregation plans with HEW help last summer, a task force of Title IV personnel did the job and presented the plans in court early in August. Nine days later, Secretary Finch wrote a letter to the court requesting a three-month delay in the hearing on the plans. Their immediate implementation, he wrote, would "produce chaos, confusion and a catastrophic educational setback to the children in the school districts." A hearing was granted on Finch's request for a delay. Three days before that hearing, Gregory Anrig, who was then director of the Title IV program in Washington, was called to a meeting with Finch and Jerris Leonard of the Justice Department. They asked Anrig to appear at the hearing with Leonard and testify that immediate implementation of the Title IV plans in the Mississippi districts would be a serious mistake. At the time, neither Commissioner of Education Allen--Anrig's immediate superior--nor OCR Director Panetta knew of the efforts of Finch and Leonard to solicit Anrig's testimony.

Anrig would not agree to give the testimony, and the meeting ended. The next day was a Saturday and all government offices were closed, but Anrig and seven other Title IV officials were called to Finch's office, and one by one they went in to meet with Finch and Leonard. Each of the officials was asked to go to Mississippi and testify with Leonard. All of them refused except two, and one of them--

Jesse Jordan, a staff member in the Title IV regional office in Atlanta--subsequently gave the testimony. Soon afterward, Jordan was promoted to the number two spot in the Title IV national office. He is now slated for a key staff position with the new Agnew task force.

Soon after the incident, Anrig and some of the other Title IV officials asked for transfers out of the division. Anrig is now Commissioner Allen's chief assistant. The judge in Mississippi granted the delay Finch wanted, but the case was appealed, and the Supreme Court subsequently ruled that no further delay should be permitted. It was in this case that Chief Justice Burger wrote his first civil rights opinion for the court.

* The third example of political manipulation in the drafting of desegregation plans by DEEO personnel concerns the ad hoc review committee's handling of a plan for Orange County, Fla. Title IV officials presented to the committee a plan that would have left no more majority-black schools in the system, which has an 82-18 ratio of whites to Negroes. Several members of the review committee raised objections to the plan, and it was sent back for further revision. The next day, the Orange County school board, with representatives of their local congressman and one of their senators in tow, called on members of the ad hoc committee and complained about the proposed plan. Soon afterward, Senator Edward J. Gurney (R., Fla.) announced that the Title IV plan had been withdrawn, and when the case came up for a hearing in court a few days later, the school board presented its own desegregation plan, saying it had the approval of HEW.

Other examples of political interference in the plan-drafting functions of DEEO have been cited in Georgia, Alabama and Louisiana.

Differences Among the Title IV Centers

The lack of any consistent pattern in the ways in which Title IV has been involved in the desegregation plans of school districts makes detailed evaluation difficult. Of the 15 university-based Title IV centers, about half have done no plan drawing at all. Some center directors have testified in court in behalf of defendant school districts, others have testified in behalf of plaintiffs, and still others have avoided testimony altogether. Some directors have testified only in states other than their own, while others have been willing to be witnesses in their home states. In one case--Norfolk, Va.--one Title IV director appeared for the defendant school board and another was called as a witness by the plaintiffs. The Justice Department has been a party to some of the suits, but by no means all of them. A few center directors, in their preliminary work before drawing plans, have routinely sought information and opinions from a variety of representative but unofficial groups in the local communities, both black and white; others have carefully avoided any contact with persons other than the school board and administration.

Some university centers leave the business of plan drawing to the Title IV representatives in the state department of education or to officials in the regional office of DEEO. A few centers have large and representative advisory committees; others do not. Four Southern states--Alabama, Arkansas, Louisiana and Virginia--have no Title IV offices in their state education departments. The staffs of at least three of the university centers are all white, and several others have only one or two black professional employees. Some centers are heavily staffed by graduate students who work part-time. Some centers have tried

to be an active force promoting desegregation, while others have carefully avoided any activity that might identify them with a pro-desegregation position.

Some of the university centers have operated with a great deal of freedom from their home institution; others have been closely controlled. On a few occasions, testimony of center directors in court has led to pressure on the universities, and in turn to administrative pressure on the directors.

From this mixed bag of procedures and people and programs has come an equally mixed bag of desegregation plans, ranging all the way from system-wide racial balance to the continuation of large numbers of uni-racial schools. Just as some plans have been weakened by the ad hoc review committee in Washington, others have been found by that committee or by regional officials of Title IV to be inadequate to meet even the most conservative interpretations of the law and the courts. Commented one university center director: "The policy of Title IV is that there is no policy, and in that respect we reflect the confused stance of the Nixon Administration and its position on racial issues in general. If you're looking for a conspiracy theory here, you won't find it. What you'll find is a lot of confused people doing a lot of very different things, without much direction from anyone. We haven't had a meeting of Title IV directors since Anrig left last summer. We're groping around in the dark."

Comments From the Title IV Center Directors

Almost without exception, the university center directors of Title IV who were interviewed for this report requested that they not be quoted

directly on part or all of their remarks. These conversations yielded a variety of attitudes and opinions.

One director said his orders were to work only with school officials, "because the law specifies that. As a matter of survival, though, we would do that even if we weren't required to. If we went to the blacks in this state, we'd be dead. The superintendents and school boards would not let us in the door." The director also said he and his staff are sometimes called out of the state by the Justice Department to testify in desegregation cases, "but we do everything in our power to keep from going into court here."

Talks with two members of that Title IV center's advisory committee and with a superintendent who has used the center's services indicated a general agreement that the center was doing, in the words of one of them, "a pretty good job." All of them emphasized the technical assistance aspects of the program.

An official of another center said he thought his state "would have been a lot worse off without Title IV. At least it has brought some people physically together to sit down at the same table. Some counties still haven't had integrated faculty meetings, but they will send black and white representatives to our institutes and workshops. That's a mighty little thing, I guess, but it's something." He added that the dean who is administratively responsible for the center "keeps very close tabs on what we do, even though we have no muscle, no latitude, and we're very vulnerable."

A university center director in a border state said he had been called on different occasions to testify by both school boards and plaintiffs in his state, and had been asked by Justice to give testimony in other

states. He asserted that no bureaucratic or political pressure had ever been brought to bear on his center. "My only criticism of Title IV," he said, "is that there is no communication. We don't know what anybody else is doing. All we know is what we read in the papers." He said he had never heard of the ad hoc review committee. His center, he stated, has helped a few school systems draw up desegregation plans, " but we've never drawn up a separate set of plans ourselves. That's the school board's responsibility."

A director in another state said his staff "hasn't drawn up any plans, hasn't been ordered to by the courts, and hasn't been called to testify. We've been fortunate so far. The state department of education's Title IV office has done a good bit of that. Their staff is larger than ours, and they can carry more of a punch than we can--they have the power in this state."

Another director said the closest his center had come to being involved in a desegregation plan "was when some people from the regional office and an out-of-state center came in here and used our facilities. We were their errand boys." He said the business of plan drawing "is just about over, because there aren't many districts that haven't been ordered to do it. I'll be glad when it's over so we can get back to the original purpose--giving technical assistance to schools having trouble coping with desegregation."

That feeling was also expressed by another director, who called the next three or four years "exceedingly crucial to public education." Plan drawing should be a thing of the past in another six months or so, he said. The director said he and his staff, working closely with the regional office, had drawn up more than two dozen desegregation plans, "and only once were

we able to reach an agreement with the school board on what should be offered to the court. These boards and superintendents often can't put into the plans what they know should be there, so we do it and take the rap for them. We haven't testified, though, and I think we're much more effective because we haven't." The ad hoc committee, he said, had made few changes in the plans submitted to it by his center. "Frankly, I think there would be more political finagling if there wasn't such a committee. This way, Justice and HEW have a chance to make the plans uniform; without the committee, all of the centers would be under terrific pressures, and some of us would surely be vulnerable to it."

A director in a university center in a state on the Eastern seaboard said he hadn't heard of the ad hoc committee and appeared very upset to learn of its existence. He also said he had not met Jerry Brader, who has been the director of Title IV since last September. (Center directors who report to the Dallas regional office of Title IV, where Brader formerly worked, all know him, and most of them speak highly of him. Most of the directors outside that region know little about him.)

Another center director said there had been numerous instances where direct grants of Title IV funds to local school districts "have been used to forestall desegregation. As in other federal programs, the people who learn how to negotiate the system, the sharp proposal writers, are the ones who get the grants--and they may not necessarily be the ones who can or will do the best job of desegregating." He asserted that the plan-drafting role Title IV now finds itself in "has put the entire program in jeopardy. We're supposed to be giving assistance to school systems, but as soon as we appear on a witness stand as their adversary, we've

lost any chance we might have had to influence them. We've gone from helping the guys who are trying to pushing the ones who aren't. And on the other side of the coin, the plaintiffs and the civil rights outfits we have tried to work with now see us dealing only with school officials, and they interpret this new role as siding with the law breakers--and sometimes they're right. Title IV had never had a clear mission. It's always been under-financed, it's been reorganized constantly, in a way it's been a joke. It has been oversupplied with hacks in the regional offices, and in some of the centers, too--well-meaning people, for the most part, but not up to date on educational and social matters. Title IV lends itself to the kind of operation President Nixon apparently wants: disorganized, unclear, contradictory."

The director of one university center lamented the fact that so much DEEO effort in recent months has been spent in the development of desegregation plans. "The end of dual schools is not the end of prejudice," he said. "Just getting black and white kids together doesn't end the problems--in fact, it often marks the real beginning of problems. That is where Title IV should be working, where it is supposed to be. But while it costs relatively little to desegregate a school system, it costs a great deal to make one work properly after it has desegregated, and I'm afraid Congress and the Administration are looking the other way when we tell them that."

Another center director, noting the Justice Department's general withdrawal from active prosecution of segregated districts, said flatly: "The decisions in these cases now are basically political. We've been told to ease off, to honor the neighborhood school principle. Busing is

a no-no. If I were asked to go into a county and draw up a desegregation plan now, I wouldn't know what to do. Our latest instructions from Washington are to call a meeting of representatives from all districts in the state which are under court orders to produce desegregation. Then somebody from the Agnew task force is going to come down to talk with them. It's going to be damned interesting to see what they have to say."

The Agnew group, which includes Mitchell, Finch and five other cabinet-level officials, apparently will assume some of the responsibilities now held by Title IV. In announcing the formation of the task force Feb. 16, President Nixon said its purpose would be to "respond affirmatively to requests for drafting and submitting to the court desegregation plans designed to comply with the law."

If this means the Title IV officials will be relieved of that task, the comments of the university center directors who have been engaged in plan-drafting so intensively for the past year clearly indicate that they will welcome the relief, whether or not they approve of having the job assumed by Vice President Agnew and his task force.

Outside Assessments of Title IV

Interviews were conducted for this report with about a dozen people who have a special interest in the operations of Title IV but no direct involvement in it. These included attorneys for the Legal Defense and Educational Fund and the Lawyers Constitutional Defense Committee, officials of the U.S. Commission on Civil Rights and the HEW Office for Civil Rights, representatives of the American Friends Service Committee and the Southern Regional Council, university administrators and state department of education officials both in and out of the South. Among their comments were these:

* One attorney filed a formal protest with the director of Title IV, charging that the university center in his state had deliberately concealed from him its involvement in a case in which he was the attorney of record for the plaintiffs. He also charged that the Title IV center had recommended a desegregation plan that ignored the most recent decisions of the courts. "I know that respect for the judicial process is not great in the South today," the lawyer wrote, "but one does not expect an organization funded by the government to aid in the desegregation process, to flaunt the authority of the courts in this manner. I do not know whether the Center's actions in this case result from a sincere belief that the recent decisions are wrong and should be ignored or from the inability of the Center's employees to withstand the persuasions of a school board which they know only represents one segment of the community."

* Several attorneys have complained that Title IV personnel refuse to cooperate with attorneys for the plaintiffs, or with the black communities of the districts. "They are usually like part of the school board's team, their counsel," said one. "We've come to expect little cooperation from them." Another attorney added: "It's amazing how there has developed a sort of pattern to Title IV's involvement. At first, they come on strong, with maps and charts and a lot of experts. Then the politicians and the board get a look at the plans, and there's a lot of discussion, and then Title IV people make modifications, and finally there's the alternative plan."

* The Title IV offices in the state departments of education, with a handful of exceptions, are generally dismissed as "hand-holding operations," or worse. A state official in Illinois said the Title IV office there "is not

offering any kind of positive program to school districts having desegregation problems. South Holland, the first Northern district to be sued by the Justice Department, got a $45,000 direct grant from Title IV last year, with the help and approval of the state department office, but the money was poorly used. Title IV in Illinois is trying to maintain the status quo until it is forced to do otherwise, and then to do as little as possible. There has been constant criticism of the program from many school systems." Such charges frequently have been made against state department programs in some Southern states. On the other hand, a few of these offices are credited with providing the leadership for desegregation in their states.

* One federal official who has followed the operations of Title IV closely is critical of the program's technical assistance efforts. "They're running adjuncts to schools of education," he says, "with desegregation issues of secondary or incidental importance. It should be the other way around. They've got their priorities misplaced. They're supposed to be concentrating on desegregation problems, but they're emphasizing team teaching and nongraded instruction instead." Others have suggested that the technical assistance functions of Title IV should be incorporated into other federal programs, such as some of those under the Elementary and Secondary Education Ace and the Education Professions Development Act.

* Frequent criticism is made of the direct grants made by Title IV to local school districts, but one superintendent, a former HEW official, complained of a grant that <u>wasn't</u> made. He was disturbed because "we were encouraged by officials in both the regional and the national offices to apply, and we got help from the state university center in preparing the application, but then we were told we didn't

meet the guidelines. We were as close to the guidelines as you could get, but we didn't get the grant. I guess that's politics for you."

Not all of the criticism of the Title IV program comes from integrationists. Gov. Claude Kirk of Florida, who has threatened to cut off state funds to school systems complying with federal court orders to achieve racial balance by cross-town busing, now includes the Title IV center at the University of Miami in his scathing condemnations of the federal government and the courts. Like the Nixon Administration as a whole, the Title IV division appears to be squeezed tightly between those who insist that federal law and court rulings be obeyed and those who seek further avoidance of such compliance.

Gregory Anrig, who was director of the Title IV program before he asked to be transferred last summer, still maintains contact with the program from his position as executive assistant to Commissioner of Education Allen. Jerry Brader, Anrig's replacement, reportedly was Anrig's first choice for the job, and the two men are frequently in touch. Anrig will not discuss the circumstances which led to his request for a transfer from the EEO, but if he is disturbed about developments in the program since he left, he gives no indication of it in conversation.

Anrig discounts criticism of the ad hoc review committee. "I don't think the review procedures have changed anything," he says. "They've been a positive influence on the quality of desegregation plans. I inaugurated the review procedure myself, when the press of large numbers of court orders made previous review procedures inadequate. I don't see much difference in the possibility of political intrusion now, compared to that possibility before. The Title IV director is

still in charge, and Title VI is still involved in the review process, and so is Justice. So, too, is the commissioner of education, through the Title IV director, who reports to him. Personally, I think the review committee is working well. The plans being approved are the ones I'd approve if it were my choice to make."

Opinions in the offices of Title VI tend to contradict Anrig's. The views of one high-ranking Title VI staff member appear to be typical:

"The ad hoc committee is making political decisions, not educational or legal ones. Not everything they do is necessary antithetical to desegregation, but they've made enough concessions to political pressure to let every school system in the South know they can be had. And the plans being drawn by Title IV people are more conservative, anyway, than the plans we used to draw. As for our involvement now, all I can say is that until last summer, Title VI routinely reviewed all of the plans drawn up by Title IV. Now we don't. Panetta or his representative have been in on the review committee's deliberations, but they're outnumbered there--and now Panetta is gone. Our people in the field have nothing more to do with the plans drawn up by Title IV."

The Inconsistencies of Policy

Brader, the new Title IV director, formerly was in charge of the DEEO program in the Dallas regional office of HEW. Before joining USOE three years ago, he spent 15 years as a school teacher and administrator in east Texas. Since becoming the national director of Title IV, he had had the unenviable task of heading a program in which actual control is divided among several government officials, administering a policy that lacks clarity and consistency. Not only has politics complicated the job, but the courts have not spoken in unison on what is required

of school systems which are still segregated, and neither has the Administration.

On the first of March, HEW Secretary Finch said in a television interview that "a very confused set of decisions . . . that go to both ends of the spectrum with regard to the question of busing, for example" have been issued by the federal courts and that the Administration "is confused by what the courts have said." He added, " I feel very strongly that these decisions are moving in the wrong direction." Finch did not say that the Justice Department, by calling for busing in places like Pasadena and opposing it in most Southern Cases, has added to the confusion, and so, too, has Title IV through the variety of desegregation plans its representatives have proposed.

In spite of all the inconsistencies, there is some basis for agreeing that Title IV, through its several forms of technical assistance to desegregating school districts, has at least provided some opportunities for people to work for a better understanding of one another, across race lines. Last fiscal year, more than 40,000 teachers and administrators in 1,465 school districts participated in the various institutes, workshops and training programs sponsored through Title IV, and that--on paper, at least--seems a fair return on the $9.2 million investment.

But the newer and more controversial role of Title IV--that of drawing up desegregation plans, seeking accommodations with the school districts those plans affect, and testifying in court in support of the plans--has caught the Title IV staff at the national, regional, university center and state department of education levels in a political crossfire. By and large, the technical assistance activities of DEEO, when they have functioned as contracts between willing parties, have

enjoyed a considerable measure of success. But the more coercive role of drawing plans under court orders, and even some of the technical assistance activities, have often been more political than educational.

"What is comes down to is a matter of will," says Brader. Where there is not a fundamental willingness to comply with the law, we can't do much." In recent months, examples of a changing interpretation of the law and a changing attitude about that "fundamental willingness" to comply with it have been evident in many quarters--in Southern school districts, in Northern and Western cities, in state and local governments, in the Nixon Administration, and in the federal courts.

* * *

Summary

For almost five years after the passage of the Civil Rights Act of 1964, the Division of Equal Educational Opportunities worked in relative obscurity with school systems seeking help in the transition from segregation to equality. In the spring of 1969, the federal courts began to call on DEEO experts to prepare desegregation plans for school districts under court orders. Since then, the technical assistance aspects of the Title IV program have been overshadowed--and in some cases stymied--by the political atmosphere surrounding the desegregation issue and by the ambivalence of the Nixon Administration in its policies on race and education.

In recent months, the actions of the Justice Department, the Department of Health, Education and Welfare, the White House, the Congress and the federal courts have been marked by confusion and contradiction on the issue of school desegregation. Whether the confusion is attributed

to a retreat by the Nixon Administration from the goal of total desegregation, as some critics charge, or to a combination of circumstances more coincidental than deliberate, the net effect is that no clear federal policy is discernible.

In short, school desegregation has become an explosive national issue once again, and the fallout from it is pervasive. Nowhere is this more evident that in the DEEO. It has become an academic question whether Title IV of the 1964 Civil Rights Act can be a resourceful instrument for the firm establishment of equal educational opportunity in the nation's public schools; right now, it is simply an instrument of the Nixon Administration's evolving policy on school desegregation. How effective Title IV may eventually be in giving assistance to desegregating school districts apparently will depend on what the Administration's policy turns out to be. For the present, Title IV is a reflection of the Administration itself, a measure of where the federal government is at this stage of the school desegregation issue. One director of a Title IV university center provided this summation:

"School districts which really want help with desegregation issues can find it in some of the centers. But the ones which are still trying to evade the issue, the ones which have no real desire to eliminate racial discrimination, aren't going to be affected by Title IV very much, and some of them are actually using Title IV as a means of evading desegregation, as one more way of stalling for more time. Title IV can't deal with that attitude; it can't move farther than the Administration is willing to move. It <u>is</u> the Administration--nothing more, nothing less--and that means it is confused and uncertain and preoccupied with the political consequences of its every move. Until the

Administration gets itself together on this whole question of race, it's useless to expect any more of Title IV than it is doing now."

TITLE IV DESEGREGATION CONSULTING CENTERS AT COLLEGES AND UNIVERSITIES

Location of Center	Director of Center	Fiscal Year 1969 Budget
University of South Alabama, Mobile, Ala.	David Bjork	$223,962
Auburn University, Auburn, Ala.	Stafford Clark	192,627
Ouachita Baptist University, Arkadelphia, Ark.	A. B. Weatherington	247,305
University of Delaware, Newark, Del.	Ralph Duke	137,618
University of Miami, Coral Gables, Fla.	Gordon Foster	375,325
University of Georgia, Athens, Ga.	Morrill M. Hall	296,386
Western Kentucky University,[1] Bowling Green, Ky.	Norman Deeb	23,912
Tulane University, New Orleans, La.	Glenn Hontz	225,295
University of Southern Mississippi,[2] Hattiesburg, Miss.	John McPhail	209,633
University of New Mexico, Albuquerque, N. M.	John Aragon	190,000
St. Augustine's College, Raleigh, N.C.	William A. Gaines	247,239
University of Oklahoma, Norman, Okla.	Joe Garrison	323,224
University of South Carolina, Columbia, S. C.	Larry Winecoff	239,096
University of Tennessee, Knoxville, Tenn.	Frederick P. Venditti	200,087
University of Texas, Austin, Tex.	Robert Reynolds	349,999
University of Virginia, Charlottesville, Va.	James H. Bash	138,128

[1] Western Kentucky University center was phased out in February, 1970.

[2] University of Southern Mississippi center is being phased out; a new center was opened at Mississippi State University in Starkville in December, 1969, under the direction of Homer Coskrey, dean of the university's general extension division.

TITLE IV STATE DEPARTMENT OF EDUCATION TECHNICAL ASSISTANCE UNITS

State	Director	FY 1969 Budget
California	Ples Griffin	$141,475
Colorado	Earl W. Phillips	opened FY 1970
Florida	Dan Cunningham	98,823
Georgia	John Mize	45,639
Illinois	Robert Lyons	83,270
Indiana	Louise Ridley	65,184
Iowa	Jesse L. High	opened FY 1970
Kentucky	W. C. Shattles	67,995
Maryland	Paul Tonetti	58,917
Massachusetts	Theodore Parker	91,670
Michigan	Marvin Tableman	94,338
Minnesota	Archie Holmes	78,967
Mississippi	John O. Ethridge	26,105
New Jersey	Nida Thomas	82,997
New York	Wilbur R. Nordos	89,538
North Carolina	Robert Strother	94,890
Ohio	Robert Greer	86,630
Oklahoma	Charles W. Sandman	44,263
Oregon	Jerry Fuller	65,672
Rhode Island	Louis F. Simonini	30,960
South Carolina	Joe Durham	71,285
Tennessee	Robert Sharp	46,250
Texas	Gilbert Conoley	43,933
Washington	Warren H. Burton	60,729
Wisconsin	William W. Colby	opened FY 1970

TITLE IV DIRECT GRANTS TO INDIVIDUAL SCHOOL SYSTEMS

School System	FY 1969 Grant
Tuscumbia, Ala.	$73,118
Tuscaloosa, Ala.	49,449
Andalusia, Ala.	22,532
Mesa, Ariz.	40,000
Conway, Ark.	31,000
Magnolia, Ark., Dist. 14	42,400
Lake Village, Ark.	39,781
Little Rock, Ark.	20,152
Great Cities Consortium, San Francisco, Calif.	88,330
Richmond, Calif. (2 grants)	79,566
Berkeley, Calif.	80,069
San Mateo, Calif.	59,649
Pittsburg, Calif.	56,004
Redlands, Calif.	51,376
Los Angeles County, Calif.	23,000
Washington, D.C.	152,065
St. Lucie County, Fla.	30,557
Brevard County, Fla.	13,845
Rockdale County, Ga.	71,660
Twiggs County, Ga.	24,898
Stephens County, Ga.	43,040
Carbondale, Ill.	17,610
South Holland, Ill. Dist. 1	44,959
Peoria, Ill.	16,490
Gary, Ind.	53,331
Terrebonne Parish, La.	27,998
Lafourche Parish, La.	28,500
Charles County, Md.	46,638
Kent County, Md.	29,499
Anne Arundel County, Md.	30,475
Baltimore, Md.	60,000
Grand Rapids, Mich.	69,231
McComb, Miss.	53,866
Charleston, Mo.	59,910
Neptune, N. J.	9,325
Las Vegas, N. M.	41,286
Silver City, N. M.	39,660
Los Lunas, N. M.	46,900
Bernallio, N. M.	49,800
Clark County, Nev.	62,931
Alamance County, N.C.	24,397
Wake County, N.C.	60,736
Orange County, N.C.	21,825
Burke County, N. C.	37,006
Chapel Hill, N.C. (2 grants)	89,812
Chatham County, N.C.	5,737
Moore County, N.C.	34,900
Jones County, N.C.	23,986
Asheville, N.C.	14,487
Dayton, Ohio	$70,000
Oklahoma City, Okla.	90,000
Fox, Okla.	33,504
Enid, Okla.	31,763
Muskogee, Okla. Dist. 20	28,000
Bristol, Pa.	30,538
Providence, R.I.	44,113
Kershaw County, S.C.	6,100
Union County, S.C.	47,465
Chattanooga, Tenn.	65,860
Shelby County, Tenn.	64,500
Houston, Tex.	82,950
Hutchins, Tex.	47,626
Corsicanna, Tex.	126,400
Groveton, Tex.	44,900
Charlottesville, Va.	20,795
Fluvanna County, Va.	22,389
Nansemond County, Va.	28,440
Hampton, Va.	32,658
Lexington, Va.	7,764
Williamsburg, Va.	14,400
Lynchburg, Va.	29,259
New Kent County, Va.	17,525
Amelia County, Va.	16,625
Pittsylvania County, Va.	49,730
Portsmouth, Va.	47,586
Chesapeake, Va.	37,283
Norfolk, Va.	45,000
Seattle, Wash. Dist. 1	22,191
Tacoma, Wash. Dist 10	59,090