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ABSTRACT

This publication provides a State by State listing of court cases dealing with school desegregation. Each entry is listed alphabetically by State and includes a brief statement concerning the case and/or its status. (EB)

Supplement to

# SCHOOL DESEGREGATION: A REPORT OF STATE AND FEDERAL JUDICIAL AND ADMINISTRATIVE ACTIVITY

December 1978



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# FOREWORD

This publication supplements the compilation entitled School Desegregation: A Report of State and Federal Judicial and Administrative Activity, dated October 1977. It does not repeat material from that report but rather presents new information and indicates where there has been no change in the status of a case. Revisions have been made based upon published sources, such as United States Law Week, the Education Law Bulletin, Education Daily, and various newspapers, as well as upon information supplied by several State offices of Equal Educational Opportunity, the United States Department of Justice, the HEW Office for Civil Rights, the Citizens' Council for Ohio Schools, and the Center for National Policy Review of Catholic University Law School.

The Report and Supplement were prepared by Mary von Euler of the Desegregation Studies Team of NIE. She was assisted in the preparation of the Supplement by Nancy Reder, a third-year law student at Catholic University.

The Desegregation Studies Team invites corrections, additions, and suggestions throughout the year, so that updates can be issued as necessary.

Ronald D. Henderson, Team Leader
Desegregation Studies Team

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# ALABAMA

Lee v. Alexander City. August 16, 1976, action to stop interdistrict segregative transfers of students.

U.S. v. Anniston. No change.

Athens City. In 1975 the Justice Department was investigating discriminatory out-of-zone transfers.

Lee v. Auburn City; Lee County; Opelika City. The Justice Department seeks consolidation of three districts because of interdistrict segregative violations. The district court denied the U.S. motion.

Lee v. Autauga County Board of Education. 514 F. 2d 646 (5th Cir. 1975). The Justice Department is monitoring implementation of 1975 consent order.

Lee v. Baldwin County. The Justice Department continues to monitor. A March 6, 1978, order by Judge W. Brevard Hand permits a previously all-black school to reopen 50 percent black. The system is 23 percent black.

Brown v. Board of Education of Bessemer. No change.

Armstrong v. Birmingham Board of Education. The 1970 plan, modified July 26, 1976, pairs and clusters some elementary schools and provides a magnet at the high school level.

Franklin v. Barbour County Board of Education. A 1977 consent decree ended discrimination against black principals.

Harris v. Bullock County Board of Education. No change.

Lee v. Chambers County Board of Education, 533 F. 2d 132 (5th Cir. 1976). The Justice Department and the National Education Association (NEA) continue to monitor implementation of a desegregation plan.

U.S. v. Choctaw County Board of Education. Action in 1976 obtained implementation of the majority-to-minority transfers required by the court's 1969 order.

U.S. v. Conecuh County. The Justice Department continues to monitor.

Lee v. Coosa County Board of Education. August 19, 1975, U.S. District Judge Frank Johnson enjoined Coosa County and adjoining white suburban districts from segregative transfer practices. The Justice Department and NEA continue to monitor for compliance, including the cessation of discriminatory practices as to staff.

Harris v. Crenshaw County Board of Education. No change.

U.S. v. Dallas County. February 23, 1978, Judge W. Brevard Hand (S. D. Ala.) held the district had violated the 1970 desegregation order, was permitting segregative use of transportation, and had failed to desegregate faculty and to make known the permissibility of majority-to-minority transfers. The court ordered the district to remedy zone and transportation problems by March 1978 and the other violations by 1978-79.

Lee v. Decatur City Board of Education. The Justice Department considers the district still far from unitary. Of nine elementary schools, two are over 85 percent black; six are more than 90 percent white.

Lee v. Demopolis City School System. Secondary schools were desegregated in 1969. The U.S. Court of Appeals, August 8, 1977, found that nothing had changed since the end of statutory segregation. Districtwide segregation persists. The case was remanded to the district court with directions to order the pairing of the system's two elementary schools. 557 F. 2d 1053 (5th Cir. 1977), cert. denied January 9, 1978. Judge Hand of the district court so ordered, August 24, 1977. The Justice Department then objected to implementation by busing of entire classes intact. On November 21, 1977, the district court ordered nonracial class assignments by September 1978.

Lee v. Dothan. A new plan was approved for 1978-79.

Lee v. Escambia. July 14, 1975, a new plan was adopted by consent order.

Lee v. Eufaula City Board of Education. In 1977 discrimination was still being investigated as to faculty and interdistrict transfers. November 4, 1977, District Judge Varner (M. D. Ala.) enjoined student transfers from five majority-black districts into majority-white Eufaula, but not from the sixth district, which comprised 60 percent of the transfers that the Justice Department had objected to. On May 18, 1978, the Fifth Circuit Court of Appeals remanded the case to the district court to look at statistics school-by-school, not just for the district as a whole. A system to police transfers was required.

Boykins v. Fairfield Board of Education. No change.

Miller v. Board of Education of Gadsden (Etowah County). The Justice Department continues to monitor. August 12, 1977, District Judge Grooms denied plaintiffs' allegation of discriminatory suspensions and expulsions and denial of due process.

U.S. v. Hale County Board of Education. The Justice Department finds continued discrimination. September 9, 1975, the district court ordered immediate desegregation of the transportation system.

Hereford v. Board of Education of Huntsville (Madison County). No change.

Stout v. Jefferson County Board of Education. The Justice Department's appeal of the district court's refusal to desegregate a black school was denied in 1976.

Horton v. Lawrence County Board of Education, 320 F. Supp. 790 (N. D. Ala. 1970), 449 F. 2d 793 (5th Cir. 1971).

Lee v. Linden City. Judge Brevard Hand ruled July 13, 1978, that the school board violated the 1970 court order for assigning secondary students, and ordered pairing of two high schools and the filing with the court of the test used for selecting students for the college preparatory course. The court permitted a separate all-black Title I elementary school.

U.S. v. Lowndes County Board of Education. Consent decree July 8, 1973. Another July 16, 1976, to desegregate faculty. The district is 95 percent black.

Lee v. Macon County Board of Education. August 5, 1975, consent decree to desegregate faculty of Alabama trade schools and junior colleges. The Justice Department and NEA monitor as to discrimination against faculty.

Lee v. Marengo County, C. A. No. 5945-70H, S. D. Ala. Includes Linden City and 10 other districts that want to be declared unitary. August 7, 1978, the court ordered immediate implementation of a "freedom of choice" student assignment plan. The Justice Department is appealing. August 25, 1978, the Justice Department also challenged a change from district to at-large election of school board members.

Davis v. Board of School Commissioners of Mobile County. Latest published opinion, 525 F. 2d 865 (5th Cir. 1976). A consent decree for an education park with three high schools on one large site and some shared facilities, July 26, 1977. The court of appeals on June 2, 1978, affirmed a ruling of the district court that the election of Mobile County school commissioners unconstitutionally dilutes black votes. The court's ordering of five single-member districts was within its discretion. The Supreme Court has agreed to review the case. Williams v. Brown, 47 U.S. L. W. 3292 (Oct. 31, 1978).

Lee v. Monroe County Board of Education, C. A. No. 5945-70 (S. D. Ala.). After a hearing on April 19, 1978, the district court denied the NEA and Justice Department claim of systemwide discriminatory assignment and dismissals of black personnel, but one demoted black principal was reinstated with back pay, as an assistant principal.

Carr v. Montgomery County Board of Education. In 1976 the district court found discriminatory employment practices, as the NEA had alleged in its 1975 motion. July 18, 1977, Judge Frank M. Johnson overruled the plaintiffs' and Justice Department's objections to closing three all-black schools and constructing three new suburban schools to which the students will be bused.

Lee v. Pickens County Board of Education, 563 F. 2d 143 (5th Cir. 1978), led to the settlement of faculty discrimination issue.

Lee v. Piedmont City. December 16, 1977, Judge Hancock dissolved the detailed regulatory injunction and substituted a general injunction against operating a dual school system and from discriminating.

Lee v. Pike County Board of Education. March 17, 1977, District Judge Robert Varner rejected the NEA and Justice Department allegations of discrimination as to salaries of administrators.

Lee v. Russell County Board of Education. November 11, 1977, decision by the Fifth Circuit Court of Appeals as to faculty discrimination. The Justice Department was also trying to get one all-black school desegregated in 1976 and looking into interdistrict transfers that were discriminatory.

Lee v. St. Clair County Board of Education. July 18, 1975, District Judge Pointer ordered a plan to remedy discrimination as to faculty.

Lee v. Selma City. The Justice Department seeks a new plan, alleging the one in effect since 1970 leaves four previously black elementary schools virtually all black; four out of five other elementary schools are all white. This affects seventh and eighth grades, too.

Lee v. Troy Board of Education. No change.

Lee v. Tuscaloosa City Board of Education, 576 F. 2d 39 (5th Cir. 1978). The court of appeals reversed the district court's refusal to eliminate one-race schools, in order to create a unitary school system. The Justice Department considers a new plan essential. The district judge refused to approve a pairing plan which would have desegregated Tuscaloosa's two high schools, but granted a delay and ordered the school board to present alternative proposals for desegregating all grade levels.

Lee v. Washington County Board of Education. November 18, 1977, the NEA sought a hearing as to alleged discriminatory assignment and promotion of faculty.

U.S. v. Wilcox County Board of Education, (S. D. Ala.). March 5, 1976, the court approved a consent decree.

Craig v. Alabama State University, (C. A. No. 76-21-N, M. D. Ala.). Judge Frank Johnson held the university engaged in a pattern and practice of discrimination against whites as to staff hiring, promotion, and tenure.

## ALASKA

The Office for Civil Rights, Department of Health, Education, and Welfare (hereafter OCR/HEW) is seeking bilingual education for most of the districts in the State. The following districts were sent notices of intention to initiate formal enforcement proceedings and still have unresolved violations, although no applications for funds are being deferred. Dates are for latest action by OCR.

Alaska Department of Education (Juneau), Aug. 25, 1977.

Bering Straits Schools (Nome), Dec. 5, 1977.

Kuspuk Schools (Aniak), Dec. 5, 1977.

Yukon Koyukuk Schools (Nenana), Dec. 5, 1977.

## ARIZONA

Tucson. Fisher v. Lohr, filed by the National Association for the Advancement of Colored People (NAACP), C. A. No. 74-90, and Mendoza v. Tucson School District No. 1, filed by the Mexican American Legal Defense and Education Fund (MALDEF), C. A. No. 74-208, in United States District Court, Arizona. The Department of Justice intervened after referral from HEW. Plaintiffs alleged segregation of blacks, Mexican-Americans, and American Indians. In June 1978 U.S. District Judge Frey found segregative intent in assignments to 30 of the system's 96 schools, but only nine schools had vestiges remaining of the intentional segregation. The other schools would have been similarly racially balanced absent segregative intent, according to the judge. The

court ordered the formulation of a plan. On August 11, 1978, the court accepted a plan that closes three predominantly minority schools, restructures attendance areas, and requires transportation of about 850 students.

Winslow. HEW action no longer pending.

## ARKANSAS

Kelley v. Altheimer Public School District No. 22. No change.

U.S. v. Bradley, No. 20, C. A. No. T-70-C-21, W. D. Ark. In 1972 U.S. District Judge Oren Harris issued a show cause order to eliminate segregated seating on the school bus.

U.S. v. Bright Star School District No. 6. No change.

U.S. v. State of Arkansas (Conway County), C. A. No. LR 72-C-29C, E. D. Ark. Also U.S. v. East Side School District No. 5, a noncontiguous black district in Conway County. The court agreed with the Department of Justice's allegation of intentional formation and maintenance of separate segregated school districts. Thus far the Justice Department has not found plans submitted by the district to be satisfactory, but no hearing has been held on alternative plans.

Cato v. Parham (Dollarway). No change.

Kemp v. Beasley (El Dorado). No change.

Fordyce Public Schools. No change.

Foreman Public Schools. No change.

Rogers v. Paul (Fort Smith). No change.

Raney v. Board of Education of Gould. No change.

U.S. v. Cotton Plant (Holly Grove). A desegregation plan was ordered in 1970. The Justice Department took further action to secure implementation of the plan and for the continuation of transportation after implementation.

Hughes School District No. 27, HEW/OCR decision of noncompliance with Civil Rights Act, Title VI, issued by Reviewing Authority, July 30, 1976; review by Secretary requested, August 19, 1976 (Title I funds not deferred). HEW has not decided whether to cut off funds.

Yarbrough v. Hulbert-West Memphis School District No. 4. No change.

Clark v. Board of Education of Little Rock School District. No change.

Marion School District No. 3, HEW/OCR decision of noncompliance with Civil Rights Act, Title VI, issued by Reviewing Authority, January 19, 1976. Remanded May 5, 1977. HEW has not decided whether to cut off funds.

Smith v. Board of Education of Morrilton School District No. 32. No change.

Graves v. Board of Education of North Little Rock School District, 302 F. Supp. 136 (E. D. Ark. 1969), 328 F. Supp. 1197 (E. D. Ark. 1971), modified 449 F. 2d 560 (8th Cir. 1971). Also Davis v. Board of Education of North Little Rock School District, 362 F. Supp. 730 (E. D. Ark. 1973). A 1977 decision found that an undue burden had been placed on blacks to provide their own transportation. The district was required to provide transportation and to set up procedures to open up recruitment of blacks to higher staff positions. Relief was denied as to allegations of discriminatory discipline and class assignments.

Willingham v. Pine Bluff School District No. 3. No change.

Haney v. County Board of Education of Sevier County. No change.

Sparkman Public Schools, HEW/OCR decision of noncompliance with Civil Rights Act, Title VI, issued by Reviewing Authority, October 7, 1976. Review by Secretary requested, October 22, 1976. HEW has not decided whether to cut off funds.

U.S. v. Watson Chapel No. 24. A plan ordered by HEW was ordered to be implemented by the district court in 1970, affirmed by the court of appeals in 1971. The Supreme Court denied certiorari in 1972.

## CALIFORNIA

Bakersfield City Elementary. HEW/OCR action pending since 1968, hearing conducted April 13, 1977. Exceptions filed with the HEW Reviewing Authority in February and March 1978.

ChulaVista adopted a limited magnet school program.

Tinsley v. Riles. A suit in California State court seeks interdistrict desegregation of East Palo Alto and Ravenswood City school districts.

Fresno Unified School District. OCR/HEW action pending since 1968. Notice of intention to initiate formal enforcement proceedings was given in 1975, and in 1977 ESAA funds were denied because faculty was segregated. However, antibusing amendments preclude further desegregation.

Crawford v. Board of Education of Los Angeles. This case is in State court, 17 Cal. 3d 280 (1976), the California Supreme Court affirmed the trial court's finding that Los Angeles schools must be desegregated. In November 1977 the city was denied ESAA funds because half the district's limited-English-speaking children were not being adequately served. In February 1978 Superior Court Judge Paul Egly allowed a plan to be implemented over a 2-year period, without approving the plan. It provides for strictly voluntary programs for grades kindergarten through three and nine through twelve and for some mandatory reassignment when magnet schools do not desegregate adequately for grades four through eight. Changes in the plan are likely as a result of recommendations from experts appointed by the court.

Soria v. Oxnard School District Board of Trustees. No change.

Spangler v. Pasadena City School Board. Following the Supreme Court's remand, 427 U.S. 424 (1976), District Court Judge Real in April 1978 denied the school board's request to end the court's jurisdiction. He said the board's proposed modifications of the desegregation plan were not a good faith effort to develop a long-range plan. He therefore directed the parties to submit nominations for a citizens' committee which the court would appoint to develop a new plan. The court of appeals has allowed the school board to go ahead with its own plan to alter its grade structure.

Brice v. Landis (Pittsburg). No change.

Riverside. A plan was implemented in 1966.

NAACP v. San Bernardino Unified School District, 119 Cal. Rept. 784 (1975), vacated, 71 Cal. 3d 311 (1976). A very limited magnet program was accepted.

Carlin v. Board of Education of San Diego. As of the summer of 1978, Superior Court Judge Louis M. Welch had not set standards for a satisfactory plan. A limited magnet school plan was implemented in 1977-78 and extended slightly in 1978-79.

Johnson v. San Francisco Unified School District was a suit to desegregate elementary schools. On June 30, 1978, the NAACP filed a new suit to desegregate high schools as well, to include State defendants, and to enjoin budget cuts, charging that busing and construction programs were discriminatory. U.S. District Judge Stanley A. Weigel vacated the 1971 desegregation order. In Lau v. Nichols, 483 F. 2d 791 (9th Cir. 1973), 414 U.S. 563 (1974), the Supreme Court held that the Civil Rights Act of 1964 does not permit a district to effectively exclude children who do not speak English from the educational process. The Court did not say how a district should meet the needs of those students. Lau v. Hopp, Judge Lloyd Burke entered a consent decree on October 22, 1976, providing for bilingual maintenance programs for non-English-speaking and limited-English-speaking students, where the group has substantial numbers (currently Chinese, Spanish, Filipino). The others will at least get English as a Second Language instruction.

Hernandez v. Board of Education of Stockton Unified School District. The American Civil Liberties Union and California Rural Legal Assistance filed this case in California State court in 1970. The trial, before Judge John F. Keane, was in 1974. The decision, handed down in 1975, left development of the plan to the school board, without specific standards and requirements. The Board said each school will have a minority composition ±15 percent of the district's minority distribution. In September 1975 senior high schools were desegregated; junior highs in 1976; and elementary schools in 1977, using pairing of schools and two-way busing. Neighborhood schools were retained for kindergarten and integrated neighborhoods.

## COLORADO

Keyes v. School District No. 1, Denver. No change.

## CONNECTICUT

Implementing a 1969 law, the State Department of Education on September 28, 1977, proposed statewide desegregation. The State board approved regulations in June 1978, which still must be approved by the General Assembly and Attorney General. Action was expected in nine cities listed below. In 1970 segregated schools were defined as schools that deviated more than 25 percent above or below the district's percentage of minority students.

Bridgeport. The State has been encouraging the adoption of a satisfactory plan, threatening to cut off State funds. 78 percent of the students in the school system are minority. Federal litigation pending.

Hartford. Schools are 60 percent or more minority. Federal litigation is pending.

Meriden.

New Britain.

New Haven.

New London.

Norwalk.

Stamford.

Waterbury. U.S. v. Board of Education of Waterbury, Civil No. 13,456. Consent judgment for a three-phase plan, June 1973. A plan affecting three schools submitted by the PTA as amicus curiae was approved by the district court and affirmed by the court of appeals, __F. 2d__ (2d Cir. August 31, 1977). The Board was required to desegregate a predominantly Hispanic school in 1977-78.

## DELAWARE

Evans v. Buchanan, 379 F. Supp. 1218 (D. Del. 1974), modified, 393 F. Supp. 428 (D. Del. 1975), affirmed, 423 U.S. 963 (1975), 416 F. Supp. 328 (D. Del. 1976), a case begun in 1957 to enforce desegregation throughout Delaware, now carrying out a plan to desegregate Wilmington city and New Castle County schools on a metropolitan basis. The plan was ordered by the district court on January 9, 1978 447 F. Supp. 982 (D. Del. 1978). While the court of appeals affirmed the plan on July 24, 1978 (and implementation began in the fall, though hindered by a teacher strike), the appeals court said Judge Schwartz should have paid greater deference to the State legislature's solution to disparities in the local tax rates of the districts that had been consolidated. The court was ordered to reconsider its May 5, 1978, ruling in favor of the tax rate set by the New Castle County Planning Board of Education. Meanwhile, the lower rate imposed by the legislature should be in effect. The court of

appeals said that court-ordered desegregation expenses took first priority, and the onus for any cuts in service that might be necessary should rest, not on the courts, but on the legislature, which was fully aware of those costs. 582 F. 2d 750 (3d Cir. en banc 1978).

## FLORIDA

Alachua County (Gainesville). No Change.

U.S. v. Baker County, St. John's County, Seminole County. Not an active case at this time.

Bay County. No change.

Brevard County (Cocoa). No change.

Broward County (Fort Lauderdale). No change in Broward v. Board of Public Instruction of Broward County. Broward County v. HEW, C. A. No. 730528 Civ. NCR, S. D. Fla. is a case to secure the return of Emergency School Assistance Program funds. HEW found the district ineligible due to the district's having transferred property to private segregated schools and due to faculty segregation. On August 9, 1974, the U.S. District Court reversed HEW's administrative decision.

Dade County (Miami). No change.

Duval County (Jacksonville). No change.

Escambia County. No change.

U.S. v. Gadsden County school district, also Gulf County, Jackson, Jefferson, Lafayette, and Wakulla. In the latter five districts, the Department of Justice in 1976 obtained a general injunction from the district court, replacing the detailed desegregation plans. The districts are enjoined from operating discriminatory school systems. On January 20, 1975, Robert Love and Michele Boles intervened in the Gadsden case, challenging the district's discriminatory hiring and ability grouping practices that perpetuate segregation. On June 2, 1976, the district court ruled that ability grouping was discriminatory, and ordered assignment of children on bases other than race or ability.

Hernando County (Brooksville). No change.

Hillsborough County (Tampa). No change.

Blalock v. Board of Public Instruction of Lee County, C. A. No. 64-168-Civ.-T, M. D. Fla. In the most recent action, the court approved of alteration of attendance zones for 1975-76, without objection from the Justice Department.

Madison County. No change.

Manatee County. No change.

Marion County Schools (Ocala). C. A. No. 78-22-Civ.-OC (M. D. Fla.) HEW found that the Eagleton-Biden Amendment precluded an effective remedy. The case was therefore turned over to the Department of Justice, which filed suit May 23, 1978. At issue is the failure of the district to desegregate two virtually all-black elementary schools in the city of Ocala. The district is 70 percent white. A hearing was set for July 12, 1978, before Senior Judge Charles R. Scott.

Orange County (Orlando). No change.

Palm Beach County (W. Palm Beach). No change.

Pasco County. November 7, 1973, the Department of Justice entered into a consent decree in which the court declared the district unitary and closed the case, referring it to HEW for monitoring.

Pinellas County (St. Petersburg). No change.

Mills v. Board of Public Instruction of Polk County. August 8, 1977, Judge Hodges ordered implementation of a plan to desegregate three predominantly black schools in 1977-78 by means of clustering. One cluster excluded grades one and two. The exclusion of grades one and two was reversed. 575 F. 2d 1146 (5th Cir. 1978).

U.S. v. St. Johns County (St. Augustine) School Board. By a consent decree of August 3, 1971, a plan was approved to desegregate the last remaining all-black school, requiring semiannual reports to the court.

U.S. v. Board of Public Instruction of St. Lucie County. The Justice Department is seeking to prevent alleged segregative use of portable classrooms, and seeks to have white children sent to an underutilized elementary school that is 43 percent minority, as recommended by the Bi-Racial Advisory Committee.

U.S. v. Seminole County. 553 F. 2d 992 (5th Cir. 1977). The court of appeals reversed the denial of plaintiffs' motion to modify the 1970 consent decree. Sixteen out of 38 schools are racially identifiable, 11 of these having opened after the decree. The district court has now ordered a new plan into effect for September 1978.

## GEORGIA

U.S. v. State of Georgia. Justice Department case to desegregate the entire State's schools (79 districts).

Rauls and Hammon v. Baker County Board of Education, a case alleging discrimination against black teachers in the desegregation process. After the Fifth Circuit reversed the district court on June 29, 1971, the teachers were reinstated with back pay.

Wright v. Baker County Board of Education. The court on May 23, 1975, ordered the district to rescind the sale of a public school building to a private all-white academy.

Baldwin County. Inactive.

Ben Hill County. Inactive.

Brooks County. March 14, 1978, Chief Judge J. Robert Elliott declared the district to be unitary.

Bullock County. Inactive since 1972.

Clarke County. Desegregation ordered in 1969. OCR/HEW is now investigating hiring and student assignment practices and treatment of limited-English-speaking students. McDaniel v. Barresi, the Supreme Court reversed a Georgia Supreme Court decision that had reversed a trial court's upholding of a voluntary racial balance plan 402 U.S. 39 (1971).

U.S. v. Board of Education of Clayton County. October 8, 1976, the Justice Department urged the court to retain jurisdiction because of alleged discriminatory employment practices and disciplinary policies, and the disproportionate placement of minority children in EMR classes.

U.S. v. Board of Education of Clinch County. Chief Judge J. Robert Elliott approved a consent agreement to reinstate a black principal with back pay.

Coffee County. Inactive.

U.S. v. Board of Education of Crisp County. February 2, 1976, the court approved a consent agreement eliminating sex segregation.

U.S. v. Board of Education of Decatur County. In July 1977 the Justice Department challenged the closing of an all-black elementary school in violation of a 1973 court order pairing the school with a white school. Each was to house two to four grades so that the entire burden of transportation would not be placed on black children.

Dodge County. Inactive.

Early County. The Justice Department issued a letter January 31, 1978, protesting the 1969-70 sale of a school to a segregated private academy.

Emanuel County. Inactive.

Evans County (Claxton). The case was referred to the Justice Department by HEW and a plan agreed to in 1971. HEW still considers the case pending, since 1967.

Atlanta metropolitan case. Armour v. Nix. Now Armour v. McDaniel. Trial opened November 15, 1977. No decision.

Glascock County. Inactive.

Griffin-Spaulding County. No longer subject to HEW action.

Johnson County. Inactive.

Lamar County. Plan implemented 1974-75.

Laurens County (Dublin). May 19, 1978, consent decree to eliminate classroom segregation in elementary schools and in junior high school nonelective courses by the beginning of 1978-79 school year. HEW considers the case still pending, since 1969.

Liberty County (Hinesville). No change.

Lincoln County. Inactive.

Long County. Inactive.

Lowndes County. Inactive.

Madison County. OCR/HEW action under Title VI dropped because antibusing amendments preclude an effective remedy.

Miller County. Inactive since 1971.

Morgan County. April 2, 1973, Judge Wilbur Owens (M. D. Ga.) ordered the return of school property illegally transferred to a segregated academy.

Newton County. November 21, 1972, a plan was ordered for the fall of 1973. This was the last of 79 Georgia districts to abandon "freedom-of-choice" plans.

Acree v. Richmond County (Augusta).

Stell v. Savannah-Chatham Board of Education. July 20, 1976, the plan was modified. Neither the plaintiffs nor the Justice Department objected.

Screven County. May 29, 1975, a consent order consolidated the district's two one-race elementary schools.

Talbot County (Talbotton). No change.

Turner v. Goolsby (Taliaferro) County. Inactive.

U.S. v. Taylor County. C. A. 2791 (M. D. Ga.). May 1, 1978, the Justice Department sent a proposed consent decree to the district to eliminate sex separate student assignments.

Telfair County. Inactive.

Thomas County. March 14, 1978, Chief Judge J. Robert Elliott declared Thomas County to be unitary.

Tift County (Tifton). Exceptions filed with HEW Reviewing Authority, May 5, 1972.

Twiggs County. March 16, 1978, Judge Wilbur D. Owens, Jr., declared the system to be unitary.

U.S. v. Valdosta City Board of Education. A plan was adopted in 1971. The Justice Department is seeking further relief because three all-black elementary schools are attended by 83 percent of the school district's black elementary school children. District Judge J. Robert Elliott on June 9, 1976, held that the system carried out the 1971 decree. He agreed with the school district that the one-race schools were the result of changing housing patterns. The court of appeals reversed, 576 F. 2d 37 (5th Cir. 1978), saying the system had never become unitary. The Supreme Court declined to review. 47 U.S. L. W. 3383 (December 5, 1978). HEW enforcement action has been pending before its Reviewing Authority since 1969.

Graves v. Walton County. No change known.

Hilson v. Ouzts (Washington County). No change known.

Webster County. Inactive.

Wheeler County. No change.

U.S. v. Wilkes County. Challenged at-large election of school board members.

Wilkinson County. December 17, 1974, the court approved a consent order for the return of property from an all-white academy to the school district. When the district wanted to sell the property, the Justice Department had to prevent excessive claims for reimbursement of the academy for cost of improvements. Settled April 8, 1976. March 16, 1978, Judge Wilbur D. Owens, Jr. declared the system to be unitary.

## ILLINOIS

Vigorous State efforts have been made to desegregate under the Armstrong Act of 1973, which was ruled unconstitutional by a Kane County Circuit Court on January 13, 1978; the decision is being appealed. Under plans referred to below as being approved under Chapter 122, Section 6.1 of the Illinois Revised Statutes of 1975 full compliance as to student assignments has been waived.

Alton #11. Plan approved by the State.

Argo-Summit #104. State enforcement. Probationary recognition extended July 1978.

Aurora East #131. Probationary recognition expired July 7, 1978. Litigation challenging State enforcement.

Aurora West #129. Plan approved under Section 6.1, without a time limit.

Batavia #101. Plan approved by State.

Bellwood #88. Plan approved by State.

Blue Island #130. Plan approved by State.

Cahokia #187. Plan approved by State, 1977.

Centralia #135. Plan approved under Section 6.1, extended July 1978 for another year.

Champaign #4. Plan approved by State, 1977.

Chicago. The State approved a plan under Section 6.1 until September 1978. 570 of the system's 512,000 children were voluntarily transferred in September 1977 from overcrowded schools. While an appeal is still pending before HEW's Reviewing Authority, a negotiated settlement was reached between OCR and the Chicago school system on October 12, 1977, for faculty ratios 10 percent above or below 54 percent white, 46 percent minority. Out of the total faculty of 26,000, an additional 2,700 teachers were to be transferred. An extensive bilingual program was ordered that will eventually involve 86,000 children speaking 40 languages. Kolz v. Board of Education of the City of Chicago is a suit by 36 teachers who were to be transferred and by the American Federation of Teachers to block faculty desegregation. The district court denied a temporary restraining order, and this decision was affirmed by the Seventh Circuit on June 1, 1978. The court said transfers, unlike dismissals, did not threaten a "property interest." On November 8, 1978, U.S. District Judge John Powers Crowley said faculty desegregation could not exempt teachers aged 55 and over.

Chicago Heights #170. State probationary recognition until June 27, 1977. Litigation challenging State enforcement.

Crete Monee #2016. Plan approved by the State, June 6, 1977.

Decatur #61. Plan approved by State.

East Moline #37. Plan approved by State.

East St. Louis #189. Plan approved under Section 6.1. U.S. v. School District #189, Civil No. 68-134, E. D. Ill. filed Sept. 6, 1968.

Elgin #46. Plan approved by the State.

Freeport #145. Plan approved by State.

Galesburg #205. Notified of nonconformance with State guidelines. Plan was due July 26, 1977, with 180-day extension.

Harvey #152. Plan approved under Section 6.1 until September 1977.

Joliet #86. Agreement with OCR reached May 4, 1978. Antibusing amendments precluded a more effective remedy. A plan approved by the State under Section 6.1 until September 1977 for Joliet #86, and with no time limit for Joliet #204. Black parents have criticized the one-way busing aspect of the plan.

U.S. v. School District #12 of Madison County. Civil No. 4422, S. D. Ill. The Justice Department in 1974 still considered the case open because of de jure segregation of students.

Mascoutah #19. Plan approved by the State, May 4, 1977.

Maywood #89. Still subject to enforcement action by OCR, but antibusing amendments preclude an effective remedy. The State has also taken enforcement action but has allowed more time for the development of a plan, with an extension granted July 1978.

Moline #40. State enforcement has been challenged by litigation.

Mount Vernon #80. Plan approved by the State.

North Chicago. Plan approved by the State under Section 6.1 without a time limit.

Oak Park #97. Plan approved by the State.

Peoria #150. Federal litigation pending. Plan approved by the State under Section 6.1 until April 1978.

Posen#143 1/2. The State granted an extension to August 19, 1977, to work with consultants to develop a plan.

Proviso #209. Amendments to a plan submitted June 29, 1977.

River Trails #26. A plan was approved under Section 6.1 without a time limit.

Rockford #205. The State approved a plan under Section 6.1 until March 1978. Litigation is pending challenging State enforcement.

Rock Island #41. A plan was due December 25, 1976. Litigation is pending challenging State enforcement.

U.S. v. School District #189, St. Clair County (East St. Louis), Civil No. 68-134, E. D. Ill. A detailed court order in 1969 required faculty and staff desegregation and periodic reports to the court on faculty hiring and assignment, which were not filed from 1970 until a consent order in July 1976.

U.S. v. School District #151 of Cook County (South Holland-Phoenix). Sept. 7, 1972, Judge Julius Hoffman granted the school board's proposed modifications of the student assignment plan, to which the Department of Justice did not object, although the plaintiff-intervenors did. For a history of desegregation in this district, see Research Review of Equal Education, vol. 1, no. 4 (fall 1977).

McPherson v. School District #186. (Springfield). No change.

Sterling #5. Plan approved under Section 6.1 until September 1977.

Urbana #116. Plan approved under Section 6.1 until September 1977.

Waukegan #60. Plan approved by the State.

West Chicago #33. Plan approved under Section 6.1, with no time limit.

Zion #6. Plan approved by the State.

## INDIANA

Evansville-Vanderburgh. No change.

Fort Wayne. High schools are desegregated, under a plan agreed upon with OCR. The issue of elementary schools is still open. Three black elementary schools were closed, and the children from those neighborhoods were bused out.

Hammond. NAACP suit pending in Federal court. School board officials have proposed a plan (reported in Los Angeles Times and Washington Post November 11, 1978) to give a student who voluntarily transfers for purposes of integration a $500 credit toward higher education for each year he transfers.

U.S. v. Board of School Commissioners of the City of Indianapolis. 429 U.S. 1068 (1977), the Supreme Court vacated and remanded the 1976 decision of the court of appeals. It has already been established that the State and school board were guilty of de jure segregation of schools within Indianapolis. On remand the court of appeals said a city-county remedy was justified if the district court found the Indiana General Assembly had a discriminatory purpose in enacting Uni-Gov and leaving schools out of the metropolitan consolidation, or if the State intentionally and significantly contributed to segregative housing practices that had cross-district effects. 573 F. 2d 400 (7th Cir. 1978). District Judge S. Hugh Dillin again ordered a city-suburban remedy, with one-way busing of black children out from the city. He again found the segregation to have been intentional. 456 F. Supp. 183 (S. D. Ind. 1978). The school board's plan for fall 1978 provides options for elementary school without much desegregation and reassignment for high schools, beginning with 9th grade only, using magnet schools within racial limits. In November 1978, Judge Dillin held more hearings on alternative plans. The plaintiffs seek further hearings on the scope and effect of the violations, in order to justify an equitable countywide plan.

U.S. v. Indiana University (Fort Wayne). N. D. Ind. C. A. No. F-138, Civil Rights Act, Title VII action by the Department of Justice to remedy effects of employment discrimination. Trial began December 28, 1977. Decision awaited.

U.S. v. Indiana State University (Terre Haute). Civil Rights Act, Title VII action by the Department of Justice to remedy effects of employment discrimination, filed December 14, 1976.

## IOWA

Burlington. Desegregating under order of Iowa Department of Public Instruction.

Cedar Rapids. Desegregating under State administrative action. All schools have fewer than 24.5 percent minority students.

Des Moines. OCR began action in 1975, and now considers the district in compliance. A plan was implemented in the fall of 1977 for elementary schools, involving merging 14 attendance areas into 7 and closing one school,

with 1,300 students to be transported as a result. Another 1,100 students are involved in voluntary transfers. Williams v. Board of Directors of the Des Moines Independent Community School District was filed in State court by parents opposed to the plan agreed to by the district and OCR. It was removed to Federal court. Civ. Action No. 77-178-1, S. D. Iowa. Chief Judge Stuart ruled in favor of the school district July 14, 1978, and dismissed the suit.

Waterloo. A plan was adopted in 1973.

## KANSAS

U.S. v. Unified School District No. 500 of Kansas City. Civil No. KC-3738, filed May 18, 1973. U.S. v. Unified School District No. 1, Kansas City, a case originally brought to desegregate staff of Kansas City schools, was amended to include students. Trial began December 8, 1975. February 14, 1977, the district was found liable because 5 schools remained segregated that had been segregated under the dual system. June 8, 1977, a remedy was ordered. October 5, 1977, judgment was entered approving the school board's plan to close one of two virtually all-black junior high schools in 1977-78. Voluntary transfers were permitted among three black and six white elementary schools. One high school was ordered to be a magnet school by 1978-79. The board had argued unsuccessfully that housing policies caused the segregation, so U.S. Department of Housing and Urban Development and the Kansas City Housing Authority ought to be defendants. The Department of Justice said school board policies exacerbated residential segregation.

Topeka. Part of the original Brown v. Board of Education suit. Johnson v. Whittier, C. A. No. T-5438, was filed in 1973 to force HEW to enforce Title VI of the Civil Rights Act and for damages. Shawnee County Topeka Unified School District No. 501 v. HEW challenges HEW's right to hold an administrative hearing enforcing Title VI.

Wichita desegregated by agreement with HEW in 1971. Brown v. Wichita Unified School District, No. 259, C. A. No. W-4680, suit to block the HEW-approved plan. Linker v. Unified School District #259. June 27, 1977, U.S. District Court Judge Brown ruled for HEW and the school board.

## KENTUCKY

Louisville-Jefferson County. Since last report, the court of appeals has ruled twice. First the Sixth Circuit approved the remedial order for desegregating 28 additional schools. 560 F. 2d 755 (6th Cir. 1977). More recently the appeals court reversed Judge Gordon's exclusion of first graders until there is countywide kindergarten. The court of appeals said that this ruling left the date of desegregation indeterminate and was therefore unacceptable, since no definite plans exist for countywide kindergarten and the Constitution requires a plan to work now.

## LOUISIANA

Charles v. Ascension Parish School Board. No change.

U.S. v. Avoyelles Parish School Board. No change.

U.S. v. Bienville Parish School Board. No change.

Jenkins v. City of Bogalusa School Board (Washington Parish). No change.

Lemon v. Bossier Parish School Board. The district court declined to order a new plan to desegregate one all-black high school. This decision was reversed on the ground that continuation of a pre-Brown virtually all-black school is unacceptable, where reasonable alternatives exist. Action was required by fall 1978. 566 F. 2d 985 (5th Cir. 1978).

Jones v. Caddo Parish School Board. The Department of Justice does not consider the 1973-74 plan for Shreveport to be final. It left 34 entirely or predominantly one-race schools. On December 30, 1977, District Court Judge Scott declared the parish school system unitary. The Justice Department is challenging this ruling, arguing that the student assignment projections in the 1973 consent decree have never been met and that there are still many one-race schools. The Justice Department is also challenging the school board's request to be relieved of the requirement in the 1973 order to hire black educators at all levels so as to achieve a 50-50 black-white ratio.

U.S. v. Caldwell Parish School Board. This was the last district in Louisiana to accept a plan by order of HEW or the Justice Department. Plan accepted June 9, 1971, requiring a 70-30 black-white ratio in all elementary schools, one junior high school, and one senior high school.

Banks v. Claiborne Parish. The district court judge ruled the school board violated the 1970 desegregation decree by operating segregated bus routes and racially identifiable classrooms. November 16, 1977.

Smith v. Concordia Parish School Board. 393 F. Supp. 1101 (W. D. La. 1975) required compliance with Singleton requirement of objective nonracial, nondiscriminatory criteria for faculty dismissals and demotions in connection with desegregation. (The Justice Department had argued that the criteria apply to all demotions, not merely those related to desegregation.)

U.S. v. De Soto Parish School Board. The district court on July 15, 1977, rejected the Justice Department's motion to consolidate this case with Williams v. Sabine parish (see below). The Justice Department then argued that the board had violated the 1970 desegregation order against interdistrict transfers by sending records of De Soto Parish students to Sabine Parish, and also argues that the board is illegally constructing school facilities that would perpetuate segregated high schools. The court of appeals reversed the district court's limited remedy, which left many racially identifiable schools, 574 F. 2d 804 (5th Cir. 1978). The Supreme Court refused to review. 47 U.S. L. W. 3366 (Nov. 28, 1978).

Davis v. East Baton Rouge Parish School Board. Suit brought originally in 1956. On a motion for further relief, the district court declared the school district to be unitary, despite 22 one-race schools, and relinquished jurisdiction. However, the court of appeals vacated and remanded, stating that the district

court must demonstrate that there are no alternatives that would eliminate the one-race schools. 570 F. 2d 1260 (5th Cir. 1978). In January 1979 the Supreme Court declined to review the case. The Justice Department is also seeking to reverse a decision that barred it from suing the parish on grounds that its use of a multimember district system to elect school board members violated the 14th and 15th Amendments and the Voting Rights Act.

U.S. v. East Carroll Parish School Board. Oct. 30, 1972, a consent decree modified an earlier desegregation plan. Another case held that, absent special circumstances, courts must impose single-member districts in cases involving discriminatory reapportionment. East Carroll School Board v. Marshall, 424 U.S. 636 (1976).

Graham v. Evangeline Parish School Board, a case filed August 1969 to prevent aid to the segregated Evangeline Academy. May 19, 1975, the court ordered the school board to prepare an accounting showing all aid given since its inception in 1969.

U.S. v. Franklin Parish School Board. C. A. No. 15632, W. D. La. August 20, 1970, the district court held Act One of the La. Legislature, First Extraordinary Session of 1970, unconstitutional, since in effect it made "freedom of choice" the only means of student assignment. The Fifth Circuit affirmed June 16, 1971. On October 15, 1974, the court approved the closing of a school as long as it was not made available as a private segregated school.

U.S. v. Grant Parish School Board. A consent decree of September 5, 1973 modified the previous plan.

Williams v. Iberville Parish.

U.S. v. Jackson Parish School Board, W. D. La. A new plan was approved in 1975.

Dandridge v. Jefferson Parish School Board. No change.

Trahan v. Lafayette Parish School Board. A plan was implemented 1971-72. Hearings were held on a new plan June 9, 1978, and a new plan was ordered to go into effect for the 1978-79 school year.

Hill v. Lafourche Parish School Board. No change.

Conley v. Lake Charles School Board (Calcasius Parish). No change.

U.S. v. La Salle Parish School Board. No change.

U.S. v. Lincoln Parish School Board. On October 31, 1977, the district court denied the Justice Department's motion to add additional parties defendant and to modify the existing desegregation order. The school board participates in the operation of two lab schools, one at Grambling College and one at Louisiana Polytechnic Institute, neither of which is desegregated. Regular public schools are desegregated by the original court order, which did not affect the lab schools.

Dunn v. Livingston Parish School Board. On June 16, 1971, the district court granted a motion to reopen a formerly all-black school as an integrated junior high school.

Andrews v. Monroe City School Board. The Justice Department has intervened as a party in a suit by white residents to have the court adopt a plan that was previously rejected by the school board. Justice notes that 2,300 students who reside in Monroe attend school in Ouachita Parish and proposes that their school officials be included in further negotiations. (Nearly all the interdistrict transfers are segregative in nature.) Monroe City School Board filed a motion to consolidate this case with Taylor v. Ouachita Parish School Board.

U.S. v. Morehouse Parish School Board. No change.

Bush v. Orleans Parish School Board.

Alexander v. U.S. A suit filed August 21, 1978, seeking to enjoin a Natchitoches Parish School Board decision which bars students residing in Red River Parish from enrolling in a school in Natchitoches Parish. A preliminary injunction was issued August 23, 1978.

U.S. v. Plaquemines Parish School Board. No change. In Perez v. Broussard the district court said the Plaquemines School Board could not change from district to at-large elections. 416 F. Supp. 584 (E. D. La. 1976). The court of appeals affirmed, 572 F. 2d 1113 (5th Cir. 1978), and the Supreme Court declined to review. 47 U.S. L. W. 3381, December 5, 1978.

Boyd v. Pointe Coupee Parish School Board. The Department of Justice continues to monitor for compliance with Swann.

Valley v. Rapides Parish School Board. 505 F. 2d 633 (5th Cir. 1974). On October 31, 1977, the district court ordered a modification of the desegregation plan that had been in effect since 1971. The court extended to all schools in the parish the requirement that the school system appoint a black assistant principal in each school with a black enrollment reaching 20-40 percent, and a white assistant principal in each school with a white enrollment reaching 20-40 percent. Hines v. Rapides Parish School Board, 479 F. 2d 762 (5th Cir. 1973) laid out criteria for intervention in a school desegregation case.

U.S. v. Red River Parish School Board. March 13, 1978, the Justice Department asked the district court to require the school board to develop and implement a plan to desegregate two one-race schools; to reassign faculty in accordance with the 1970 plan; and to stop aiding the attendance of Red River students in other districts where the effect would be to reduce desegregation.

U.S. v. Richland Parish School Board. November 30, 1972, the district court ordered two black football coaches reinstated to the positions they had held prior to desegregation.

Williams v. Sabine Parish School Board. In 1977 the school board was ordered by the court to comply with a 1969 consent decree concerning attendance of out-of-district students in public schools in Sabine Parish.

Hall v. St. Helena Parish. No change.

Banks v. St. James Parish School Board. June 25, 1974, the district court approved a coeducational school organization plan for 1974-75 that left one junior high school 86 percent black.

Thomas v. St. Martin Parish School Board. December 20, 1974, the district court found the school system had achieved unitary status for a 3-year period. The school system was permanently enjoined from practicing any form of discrimination and the case was put on an inactive basis.

Boudreaux v. St Mary Parish School Board. No change.

Smith v. St. Tammany Parish School Board. No change.

Moore v. Tangipahoa Parish School Board. No change.

Celestain v. Vermilion Parish. 364 F. Supp. 618 (W. D. La. 1972).

Moses v. Washington Parish School Board. No change.

U.S. v. West Carroll Parish School Board. A consent order August 4, 1976, consolidated two schools because of declining enrollments.

Brumfield v. Dodd, a case challenging Louisiana's practice of providing textbooks, transportation, and other assistance to racially discriminatory private schools. In 1975 the court enjoined the State from providing transportation, books, or supplies to racially segregated private schools. The Justice Department continues to challenge the right of some schools that continue to receive aid.

U.S. v. Louisiana, a suit under Title VI of the Civil Rights Act, to disestablish Louisiana's dual system of public higher education.

## MARYLAND

U.S. v. Anne Arundel County Board of Education. The district complied with court orders of May 19, 1975, and April 20, 1976, to provide HEW with access to data necessary to investigate alleged discrimination, especially as to discipline. HEW then found disproportionate numbers of expulsions and suspensions of minority students. March 2, 1977, the case was dismissed at the request of the Justice Department. As to student assignments, OCR is no longer attempting to enforce Title VI, despite finding a violation, because antibusing amendments preclude an effective remedy.

Baltimore City. A decision by the Fourth Circuit Court of Appeals en banc, 562 F. 2d 914 (4th Cir. 1977), held that OCR need not negotiate school by school, program by program before initiating enforcement proceedings; but this decision was withdrawn because of Judge Craven's death before the decision was handed down 571 F. 2d 1273 (4th Cir. 1978). As a result, the old decision of the district court, 411 F. Supp. 542 (D. Md. 1976) was affirmed by an equally divided court. The Supreme Court declined to review, 47 U.S. Law

Week 3215 (October 3, 1978). Thus, the courts have blocked OCR enforcement of desegregation at both elementary-secondary and higher education levels in Maryland. OCR does not consider an administrative remedy possible in any event, because of antibusing amendments, but still considers the case open.

U.S. v. Baltimore County, filed April 23, 1973, was settled January 22, 1974. The settlement involved an affirmative action plan to desegregate faculty in Baltimore County schools.

U.S. v. University of Maryland at Baltimore. A Civil Rights Act, Title VII action was filed by the Justice Department to remedy the effects of employment discrimination, October 21, 1975. Judgment by District Judge James R. Miller, Jr., for the University, September 12, 1977.

Morton v. Charles County Board of Education. No change.

Frederick County. OCR has dismissed its Title VI case because antibusing amendments preclude an effective administrative remedy.

Vaughns v. Board of Education of Prince George's County. No change.

Mandel v. HEW. The Fourth Circuit Court ruled February 16, 1978, that the Federal Government cannot cut off funds to higher education in Maryland, reversing a decision of August 9, 1977, requiring Maryland to submit a new desegregation plan. This left standing a district court decision of March 1976, 411 F. Supp. 542 (D. Md. 1976), ordering HEW to develop nationwide rules for enforcing desegregation of higher education. July 5, 1977, HEW issued criteria for developing desegregation plans.

## MASSACHUSETTS

Desegregation was ordered under the Massachusetts Racial Imbalance Law, c. 641, St. 1965, M. G. L., c. 15, Sec. 11, ruled constitutional by the Commonwealth Supreme Court, School Committee of Boston v. Board of Education, 352 Mass. 693, 227 N. E. 2d 729 (1967). The law was amended by St. 1974, c. 636, to provide financial incentives rather than sanctions. The current program involves aid for magnet schools. November 7, 1978, voters passed an amendment to the State constitution prohibiting assignment to schools on the basis of race. The effect is not clear, although it certainly will not affect court-ordered plans.

Boston. Efforts to desegregate Boston's schools began under the impetus of the Massachusetts Board of Education and were followed by efforts of HEW and the Federal courts in Morgan v. Hennigan. At present, one-fourth of approximately 70,000 students in the Boston system attend 25 magnet schools, which were established in 1975. March 21, 1978, Judge Garrity ordered the school committee to proceed with its plans to strengthen the Department of Implementation. July 18, 1978, Robert Wood, who had been chairman of the Citywide Coordinating Committee, was appointed superintendent of schools, a sign that the school committee was intending to cooperate with the court. In August Judge Garrity ended receivership for South Boston High School.

Cambridge. Notified of noncompliance with State guidelines, 1976, and now being assisted by the State Department of Education in developing a plan.

Fall River. State enforcement action.

Lawrence. State enforcement action.

Lynn. Notified of noncompliance with State guidelines 1977, and now being assisted by the State Department of Education in developing a plan.

Parris v. School Committee of Medford, Mass., 305 F. Supp. 356 (D. Mass. 1969), an action by black parents arising out of racial imbalance in an elementary school. At the time the case was heard by the court, the city had begun to work out an administrative solution to the imbalance, proposals for correction had been discussed by the School Committee, and a specific plan had been presented to the School Committee. The court held that, under these circumstances, the court should not interfere at that time. If the School Committee and the City Superintendent of Schools did not act swiftly, court action would be appropriate and mandatory.

Springfield. In addition to action in Federal court, State administrative enforcement led to implementation of a plan in 1974, after challenges in State court, School Committee of Springfield v. Board of Education, 72 Mass. Adv. Sh. 1543, 287 N. E. 2d 438 (1972).

## MICHIGAN

The State Department of Education issued regulations in June 1977 establishing desegregation standards. Twenty-eight districts not in litigation or under court order operate racially identifiable schools. They are given to the end of 1978 to comply with the regulations. Districts that do not comply may eventually be sued by the Michigan Civil Rights Commission.

Berry v. School District of the City of Benton Harbor, 442 F. Supp. 1280 (W. D. Mich. 1977), a ruling that there were violations by Benton Harbor school officials. On July 25, 1978, U.S. District Court Judge Noel Fox ruled that there were also violations by two suburban districts, Coloma and Eau Claire, and by the county school district, State board of education, Attorney General, and Governor in transferring part of the Benton Harbor district to the suburban districts. The district court asked for a metropolitan remedy and appointed a panel of three experts to review the parties' plans and to draft their own remedy if necessary.

Detroit. Milliken v. Bradley, 418 U.S. 717 (1974) (Milliken I); 433 U.S. 267 (1977) (Milliken II). No change.

Ferndale. The Justice Department is trying to enforce desegregation in Ferndale after HEW cut off funds. C. A. Nos. 76-70871 and 75-70958, E. D. Mich. At first the Justice Department argued that HEW's finding of fact as to violations of Title VI were binding on the court, but the court ruled in favor of the district on that issue. The trial ended August 3, 1978.

Flint Community Schools. Decision by Administrative Law Judge Oct. 31, 1977, now being appealed to HEW Reviewing Authority. Partial deferral of funds. OCR believes an effective remedy is precluded by antibusing amendments.

Higgins v. Grand Rapids Board of Education, 508 F. 2d 779 (6th Cir. 1974) upheld the district court's finding in favor of the local school board.

Kalamazoo. No change.

NAACP v. Lansing Board of Education. Secondary schools were desegregated in 1966. Intentional segregation was found in the Board's rescission in 1973 of a plan voluntarily adopted by the school board to fulfill its constitutional and State statutory duties, to desegregate elementary schools in 1972, and in other segregative acts, such as gerrymandering boundaries, special transfer policies, use of mobile classrooms, school site selection, and staff assignment, all with foreseeable segregative effect. Affirmed 559 F. 2d 1042 (6th Cir. 1977), Cert. denied, ___U.S.___, 46 U.S. L. W. 3390 (December 13, 1977). The court of appeals affirmed a district court order for the preparation of a districtwide desegregation plan. 581 F. 2d 115 (6th Cir. 1978). The decision is being appealed to the Supreme Court.

Pontiac. No change.

River Rouge. No change.

Saginaw. Decision of the Administrative Law Judge was appealed to the HEW Reviewing Authority on October 5, 1977, but action is no longer pending. OCR believes an effective remedy is precluded by antibusing amendments. The State has also found noncompliance: 33 schools are racially identifiable.

## MINNESOTA

Booker v. Minneapolis Special School District No. 1. The case was originated by the Committee for Integrated Education and the Minneapolis branch of the NAACP. On May 22, 1978, U.S. District Judge Earl Larson issued a new order 451 F. Supp. 659 (D. Minn. 1978), and on May 31st the school board adopted a new plan but voted 4-3 to seek a stay of execution of the district court order pending appeal, despite the opposition of the superintendent and the advice of the board's primary attorney that success was unlikely. Currently 12,000 students are being bused for desegregation. 2,500 to 3,000 would be added under the new "controlled enrollment" plan, which bars enrollment of new minority families in schools with minority enrollment near or over new guidelines of a maximum of 39 percent of any one minority or 46 percent of all minorities. The school system now is 17 percent black, 5 percent Native American, and 3 percent other minorities. Judge Larson's ruling was affirmed by the court of appeals, 585 F. 2d 347 (8th Cir. 1978), and that ruling is being appealed to the Supreme Court.

## MISSISSIPPI

Aberdeen. No change.

Alcorn County (Corinth). No action pending before OCR/HEW.

U.S. v. Amite County School District. The 1969 court order, 423 F. 2d 1264 (5th Cir. 1969), approved the school board's proposed sex-segregated plan. In 1976 the Department of Justice asked the court of appeals to overturn the plan on grounds that it was no longer legal under provisions of the Equal Educational

Opportunity Act of 1974, which prohibits denial of equal educational opportunity on the bases of race, sex, or national origin. The court of appeals so ruled on September 27, 1977. On October 18, 1977, the district court ordered the end of sex-segregated education by the end of the month.

Ryan v. Attala County School District. A consent decree of August 7, 1970, opened a school previously closed when the desegregation plan took effect.

Baird v. Benton Company. No change.

U.S. v. Carroll County Board of Education. 427 F. 2d 141 (5th Cir. 1970). On remand, the district court on June 17, 1971, ordered the school district to assign students to classes on an alphabetical basis to avoid segregation by classroom. The district was enjoined from providing transportation or transportation equipment to private schools.

Henry v. Clarksdale Municipal Separate School District. No change.

Brown v. Coffeeville Consolidated School District. A decision of February 2, 1971, ordered some remedial hiring practices and reinstatement of students who had boycotted school. Later decisions: 365 F. Supp. 990 (N. D. Miss. 1973), 513 F. 2d 244 (5th Cir. 1975).

U.S. v. Columbus Municipal Separate School District and Lowndes County. A pairing plan was affirmed by the court of appeals, 558 F. 2d 228 (5th Cir. 1977), cert. denied January 9, 1978.

U.S. v. Covington County. No change.

Killingsworth v. Enterprise Consolidated School District, 423 F. 2d 1264 (5th Cir. 1969). The school district was trying to annex a portion of the East Jasper school district. The annexation would have removed a substantial portion of the white students from the East Jasper schools.

Lee v. U.S. and Evans (Forrest County Hattiesburg). In subsequent action the court refused to modify the grade plan adopted in 1970, which, according to the court, successfully desegregated the schools.

U.S. v. Franklin County School District, 423 F. 2d 1264 (5th Cir. 1969).

Greene County (Leakesville) School District. No change.

U.S. v. Greenwood Municipal Separate School District 460 F. 2d 1205 (5th Cir. 1972). The Department of Justice filed a motion to prevent the school district from accepting students from Leflore County School District (see below).

Gulfport is a district in which OCR/HEW dropped enforcement action under Title VI of the Civil Rights Act because an effective remedy was precluded by antibusing amendments.

Norwood v. Harrison, 340 F. Supp. 1003 (N. D. Miss. 1972), 413 U.S. 455 (1973), 382 D. Supp. 921 (N. D. Miss. 1974). The Supreme Court overturned a three-judge district court ruling which had upheld the provision of free textbooks to

students attending private schools pursuant to a Mississippi statute which allowed for such assistance without any determination whether the participating private schools had racially discriminatory policies. The Court held that the provision of the textbooks would constitute State-supported discrimination if the aid were given to a segregationist academy.

U.S. v. Hinds County, (Clinton Municipal Separate) School District. In the latest decisions, 560 F. 2d 1188 (5th Cir. 1977), the court of appeals reversed the lower court's denial of an injunction ordering the remerger of Clinton Municipal and Hinds County schools. The merger was required unless it is proven to the district court that the separation of Clinton does not interfere with desegregation. The court also dealt with sex segregation issues under the Equal Educational Opportunity Act. (See Amite, above.)

Holmes County. No change.

Thurman v. Humphreys. In 1975 a consent decree eliminated tracking for classroom assignments.

U.S. v. Indianola, 410 F. 2d 626 (5th Cir. 1969). The Department of Justice has charged the school system with violating the 1970 desegregation order with respect to assignment of faculty and other staff members.

Singleton v. Jackson Municipal Separate School District. J anuary 17, 1978, the Fifth Circuit Court of Appeals rescinded its previous policy of processing appeals in accordance with the time schedule set out in Part III of Singleton.

Jones County. OCR has dropped enforcement action because it considers the only effective remedy to be prohibited by antibusing amendments.

Kemper County. No change.

U.S. v. State of Mississippi (Laurel Municipal Separate School District). The court of appeals ordered a plan to desegregate seven elementary schools by the fall of 1978. 567 F. 2d 1276 (5th Cir. 1978). April 27, 1978, the district court ordered the implementation of a plan which was a compromise between plans submitted by the opposing parties. The plan creates three schools with grades 1 to 3, and two with grades 4 to 6. One black and one white elementary school were to be closed.

Lee County (Tupelo). No change.

U.S. v. Leflore County School District. August 15, 1978, the Justice Department asked the court to require the school district to implement a plan to eliminate the last remaining vestiges of the dual school system and to enjoin the district from facilitating transfers to the adjacent Greenwood Municipal Separate School District.

Lincoln County. No change.

Lumberton Line. No change.

U.S. v. Marion County School District. In November 1977 the district court ruled against a group of citizens seeking to intervene in this case for the purpose of reestablishing a high school in a predominantly white part of the county. The court said the request was untimely, was a political dispute, and would adversely affect the county's desegregation plan.

U.S. v. McComb. A September 2, 1971, consent order modified the student assignment plan by pairing all schools in the system.

Barnhardt v. Meridian Separate School District, 423 F. 2d 1264 (5th Cir. 1969). No change.

U.S. v. Montgomery County School District. No change.

U.S. v. Natchez Special Municipal Separate School District. No change.

U.S. v. Neshoba County School District. No change.

U.S. v. Nettleton Line Consolidated School District. No change.

U.S. v. North Pike Consolidated School District. No change.

U.S. v. North Tippah. No change.

U.S. v. Noxubee County School District. No change.

U.S. v. Philadelphia Municipal Separate School District. No change.

U.S. v. Pontotoc County School District. No change.

Richton Municipal Separate School District. No change.

U.S. v. Scott County. A consent order will desegregate the North Scott School for fall 1978.

Blackwell v. Sharkey-Issaquena County School District. No change.

U.S. v. South Pike Consolidated School District. No change.

U.S. v. State of Mississippi. No change except as noted for some districts.

U.S. v. Sunflower County. No change.

McNeal v. Tate County School District, 508 F. 2d 1017 (5th Cir. 1975) held that ability grouping is all right, as long as it has no discriminatory effects. If there are discriminatory effects, the burden shifts to the school district to show that the assignment is not based on the present results of past segregation or that the school will remedy such results through the grouping process.

U.S. v. Tunica County School District. The Fifth Circuit affirmed a lower court ruling that it was illegal to pay a lump sum to white teachers who resigned rather than accept reassignment.

Tupelo Public Schools. No change.

Warren County School System (Vicksburg). No change.

U.S. v. Mississippi (Webster County). The school board voluntarily adopted non-racial objective criteria for employing, dismissing, transferring, and demoting faculty and other staff.

Bell v. West Point School District. No change.

U.S. v. Mississippi (West Tallahatchie). July 6, 1978, a consent decree modified a 1970 desegregation plan by closing one school and merging two zones.

Harris v. Yazoo County. A court-ordered desegregation plan was modified by closing two schools.

Wade v. MCES. A higher education case that began as an allegation of racial discrimination in the operation of the Mississippi Cooperative Extension Service. It then grew into a suit to challenge the dual system of higher education in Mississippi. See Ayers v. Waller.

Ayers v. Waller. This suit began to end discrimination at 2- and 4-year colleges in Mississippi. The issues were then severed into two separate actions for junior and senior colleges. As of November 1977, there was a consent decree with 4 of the 16 junior colleges.

## MISSOURI

U.S. v. Missouri, The Ferguson-Florissant School District, formed by consolidation of the former Berkeley, Kinloch, and Ferguson districts in St. Louis County, began implementing its desegregation plan in September 1977. The court anticipates relinquishing jurisdiction by June 30, 1980.

U.S. v. Hazelwood School District. December 23, 1977, the district court ordered the implementation of a settlement to eliminate discrimination in hiring practices.

U.S. vs. Jennings School District (St. Louis County). Suit alleging discriminatory hiring practices, remanded by the Eighth Circuit for reconsideration in light of the Supreme Court's decision in Hazelwood. A settlement agreement was reached May 5, 1978, to remain in effect until May 1981.

School District of Kansas City, Mo. v. HEW. March 31, 1977, the district appealed the administrative law judge's decision to the HEW Reviewing Authority. In February 1978 an agreement was reached between HEW and the school district.

School District of Kansas City, Mo., et al. v. State of Missouri et al., a suit against 5 Kansas districts (Shawnee Mission, Olathe, and Blue Valley in Johnson County; Turner and Kansas City, Kan., in Wyandotte County), 11 Missouri districts (Belton; Blue Springs; Center; Grandview; Hickman Mills; Lee's Summit; Liberty; Independence; North Kansas City; Park Hill; Raytown), the States of Missouri and Kansas, and the U.S. Departments of Health, Education, and Welfare; Transportation; and Housing and Urban Development, seeking a metropolitan remedy. October 6, 1978, U.S. District Judge Russell G. Clark ruled that HEW, DOT, and HUD can be sued under these

circumstances, but the school district cannot be the plaintiff, since it is potentially so implicated in the violation. Missouri school children can continue to be plaintiffs, but they cannot sue the State of Kansas and the districts in Kansas. These and other issues are being appealed, but the Eighth Circuit has refused to hear the appeal at this juncture in the litigation. That decision is being appealed. If the Kansas City, Mo. school district becomes a defendant, rather than a plaintiff, it may be easier to bring the State of Kansas into the case as a defendant.

U.S. v. Ladue School District. A case charging discrimination in hiring of faculty and other staff. January 13, 1978, the Justice Department objected that the district had not achieved its hiring goals.

Graham v. Ritenauer Consolidated School District. A suit was filed May 17, 1974, claiming the district discriminated in planning to close an all-black school.

Liddell v. Board of Education of St. Louis. The 1975 consent decree is being challenged. October 1977 the trial began on charges of unlawful segregation. Pending a final decision, the judge on April 12, 1978, ordered the school district to continue with the magnet school program, required staff changes and a five-school pilot project to decentralize decisionmaking provided for in the consent decree.

Springfield. OCR accepted a plan because limitations on transportation prevent an effective remedy.

## NEBRASKA

U.S. v. School District of Omaha. The district was ordered to desegregate because of intentional segregation through discriminatory faculty assignments, school site selection, transfer policies, feeder patterns, and the deterioration of one black school. 418 F. Supp. 22 (D. Neb. 1976). Affirmed by the court of appeals en banc, Omaha II, 541 F. 2d 708 (8th Cir. 1976). The Supreme Court vacated and remanded for reconsideration of the intent issue. 433 U.S. 607 (1977). The court of appeals then ruled that the desegregation of the Omaha schools had been intentional, under the standard laid down by the Supreme Court, and sent the case back to the district court for a factual determination of the incremental segregative effect of the violations and the designing of an appropriate remedy 565 F. 2d 127 (8th Cir. 1977). Meanwhile the plan that was put into effect in 1976 continues to be implemented, while hearings are held on a possible new plan.

## NEVADA

Las Vegas. No change.

## NEW JERSEY

The Office of Equal Educational Opportunity of the New Jersey Department of Education continues to implement a statewide desegregation program that requires districts that are desegregating to include in their plans curricular revisions and staff training to meet the needs of a diverse student body,

including children whose dominant language is not English. The State also requires strategies for involving the community and for monitoring the desegregation program.

Eatontown is implementing a desegregation plan for the first time.

Elizabeth is implementing the second phase of a plan.

Piscataway will probably adopt a plan in September 1979. In December 1978 the New Jersey Supreme Court rejected the district's efforts to challenge the authority of the Commissioner of Education to order desegregation.

Union City is implementing a desegregation plan for the first time.

## NEW YORK

Buffalo. The court of appeals affirmed the finding that the school district had violated children's constitutional rights, but reversed the finding that the State of New York was also liable. 573 F. 2d 134 (2d Cir. 1978). The Supreme Court declined to review. 47 U.S. Law Week 3215 (October 3, 1978), March v. Arthur. The district is still operating a voluntary magnet plan. The U.S. District Court has not yet promulgated a desegregation plan.

Greenburgh. No change.

Hempstead. No change.

Manhasset. No change.

Mount Vernon. The HEW Reviewing Authority issued a new decision June 5, 1978.

New Rochelle. No change.

New York. HEW began a limited investigation in 1972 and a fuller one in 1974. A 1975 suit brought by the NAACP Legal Defense and Educational Fund, Brown v. Weinberger, Civil Action No. 75-1068 (D. C.) led to a court order setting a deadline for New York to reply to charges of violating Title VI. OCR rejected the city's plan. In July of 1977 HEW found violations for limited English-speaking, hiring and assignment of minority teachers, and unequal educational opportunity. A plan as to faculty was adopted September 1977 requiring the hiring of minority teachers by 1978 so percentages are within the range of the qualified pool of minority and women, without regard to rank order lists. A 1976 study by Bernard Gifford shows 15 percent of the teachers were of minorities, from a pool that was 22 to 23 percent. Women were 23 percent of supervisors, 60 percent of the total. Minority teachers were to be assigned where there were fewer than 10 percent minority; majority teachers where there were more than 20 percent minority teachers. A suit, Caulfield v. Board of Education of the City of New York and HEW, challenges the agreement on hiring and assignment of faculty. The court voided the agreement and remanded the matter to HEW on the grounds that "HEW regulations must provide for some form of public participation in such crucial decision-making." Hart v. Community School District #21, Brooklyn, found intentional segregation in the form of gerrymandered boundaries, juggled feeder patterns, and segregative in-school tracking. Extensive intentional

housing segregation was noted, although housing authorities were dismissed as defendants in the case, 383 F. Supp. 699 (E. D. N. Y. 1974), opinion; 383 F. Supp. 796, order; affirmed, although sweeping housing remedies were discarded, 512 F. 2d 37 1975 (2d Cir. 1975). Queens--NAACP suit against city and State Boards, challenging 99 percent minority composition of Andrew Jackson High School in Queens. The suit challenges the sanctity of the boundary between Queens and Nassau counties. In May 1978, Judge John F. Dooling, Jr., ordered the Board of Education to desegregate the school, which has one white student out of 2,530. Staten Island--OCR is investigating charges by teachers that the Board has permitted five academic high schools to become racially imbalanced. Curtis High School is almost 40 percent minority; the four others are overwhelmingly white.

Rockville Centre. State court litigation. Desegregation postponed to September 1978.

## NORTH CAROLINA

Smith v. North Carolina State Board of Education. The only change had to do with Raleigh. In 1971 a neighborhood attendance plan was found unconstitutional. In 1973 plaintiffs sought additional relief, alleging classroom segregation. In May 1974 HEW terminated Emergency School Aid Act eligibility for the same reason. The Department of Justice moved to join this case with Perry v. Wake County Board of Education after the City of Raleigh and Wake County merged their school systems. The Wake suite also alleged classroom segregation.

U.S. v. State of North Carolina, a 1973 suit alleging discrimination in hiring blacks, Indians, and Orientals in public schools. A district court first ruled that using a minimum cutoff score on the National Teachers Examination as a precondition for certification violated the 14th Amendment. 400 F. Supp. 343 (E. D. N. C. 1975). However, the court later withdrew and vacated that decision (425 F. Supp. 789, E. D. N. C. 1977) and ruled that the issue had to be reconsidered in light of Washington v. Davis.

Asheville. No change.

Anson County. No change.

Bertie County. No change.

Bladen County. No change.

Burlington City. No change.

Charlotte-Mecklenburg. No change.

Wheeler v. Durham. The NAACP Legal Defense and Educational Fund did not appeal the court's denial of merger of city and county in 1972, after the Fourth Circuit Court of Appeals had denied an interdistrict remedy in Richmond, Va. The county system includes part of the city that is not part of the city Administrative School Unit, known as "City Out," which has lower taxes than the city district. "City Out" includes predominantly black low-cost public housing, but the court said the plaintiffs should have brought appropriate housing agencies into the case as defendants if the issue of

segregative placement of public housing were to be addressed. Meanwhile as previously reported, the court approved the county plan, but noted that the number of children in the city of Durham system still in predominantly one-race schools since the inception of "desegregation" means that the city is not yet a unitary system, though the county is. 521 F. 2d 1136 (4th Cir. 1975).

Greensboro. No change.

U.S. vs. Halifax County Board of Education. 314 F. Supp. 65 (E. D. N. C. 1970) More recently the Department of Justice has sought supplemental relief to deal with faculty assignments, dismissals, and demotions; school construction and site selection; transportation; and transfers out of the district.

U.S. v. Northampton County Board of Education. The Justice Department sought additional relief as to faculty assignments, dismissals, and demotions; school construction and site selection; transportation; and transfers out of the district.

Robeson County Schools (Lumberton). No change.

U.S. v. Scotland Neck. No change.

Nesbit v. Statesville City Board of Education, 418 F. 2d 1040 (4th Cir. 1969).

Vance County (Henderson). No change. OCR believes an effective remedy is precluded by antibusing amendments.

Warren County. No change.

Winston-Salem. No change.

## NORTH DAKOTA

Berger v. Califano. Suit was dismissed which sought to enjoin a desegregation plan that paired an Indian school with one in a town several miles away.

## OHIO

Bell v. Akron Board of Education (C 78-20A). Suit was filed January 13, 1978, by the American Civil Liberties Union and the Akron chapter of the NAACP against the Board, Superintendent, Mayor, Metropolitan Housing Authority, President of Ohio Real Estate Commission and Secretary of the Department of Housing and Urban Development. OCR is reviewing compliance, following a citizen complaint, but there has not been a finding of noncompliance.

Bronson v. Board of Education of Cincinnati. Trial is set for August 6, 1979, while a limited magnet school program is in effect.

Cleveland. Reed v. Rhodes. Staff was desegregated in September 1977. In July 1977 the court of appeals sent the liability decision back to Chief Judge Battisti for reconsideration in light of the Supreme Court decisions in the Dayton and Milwaukee causes. 559 F. 2d 1220 (6th Cir. 1977). On February 6, 1978, a new liability decision was issued 455 F. Supp. 546 (N. D.

Ohio 1978), and a plan was approved that includes nine educational components 455 F. Supp. 569 (N. D. Ohio 1978). On August 25, 1978, Judge Battisti delayed implementation of desegregation because of the unpreparedness of the school district. Subsequently, the plan limited to junior high schools that was to have been implemented in February 1979 was stayed pending the Supreme Court's decisions in the Dayton and Columbus cases. In June 1978 the 6th Circuit vacated Judge Battisti's April order restructuring school administration, saying he could not do that without giving notice and holding a hearing. 581 F. 2d 5706 (6th Cir. 1978). Charles Leftwich resigned as deputy superintendent in charge of the Department of Desegregation Implementation after the school board fired and lowered the salaries of members of his staff. Dr. Margaret Fleming has replaced him. The judge has held the Board and Superintendent in contempt of court and indicated he will fine the district if reports are not adequate and timely. The monitoring body, the Office on School Monitoring and Community Relations has issued reports to the judge that are highly critical of the school system's actions toward implementation.

Penick v. Columbus Board of Education, 429 F. Supp. 229 (S. D. Ohio 1977), found the local and State boards of education liable for discrimination. In July 1977 the district court laid down guidelines for the desegregation plan and ruled that elementary schools would desegregate in January 1978, secondary in September 1978. The board submitted a new plan, which was approved by the district court in October 1977. The plan would probably require transportation of 40,000 of the system's 92,000 children, with schools varying from 21 to 41 percent minority. It used such desegregation tools as pairing, clustering, and redrawing boundaries. It has not been decided how much the State would have to pay. In July the court of appeals upheld the finding that the school board had violated the Constitution, but raised questions for the district court to answer relative to liability of the State. In August, Supreme Court Justice Rehnquist ordered a stay of implementation of the plan. On January 8, 1979, the Supreme Court agreed to review the case. 47 U.S.L.W. 3451 (January 9, 1979).

Brinkman v. Gilligan and Dayton Board of Education. After the Supreme Court vacated the court of appeals' 1976 decision, 433 U.S. 406 (1977), the case went back for more findings of fact by the district court, although the plan remains in effect. On December 15, 1977, Judge Rubin ruled that there was no need for a systemwide plan and that children could be sent to neighborhood schools. However, after a January 16, 1978, stay of that order, the court of appeals reversed Judge Rubin's decision on July 27, 1978. The Supreme Court agreed to review the case. 47 U.S.L.W. 3451 (January 9, 1979).

U.S. v. Board of Education of the Euclid Public School District resulted in a consent decree January 20, 1975, to alleviate alleged discrimination in hiring practices.

U.S. v. Board of Education of the Garfield Heights School District was a suit as to discrimination in hiring practices. The case was dismissed on the grounds that the Department of Justice could not bring an independent suit under the Civil Rights Act Section 707 absent a referral from the Equal Employment Opportunity Commission. The Justice Department appealed in February 1977.

Green Hills-Forest Park. A voluntary plan was adopted May 15, 1978, and is being strengthened.

Hillsboro. No change.

Lima. February 10, 1978, the Administrative Law Judge found that Lima had violated Title VI of the Civil Rights Act. March 9, 1978, an appeal was filed with the HEW Reviewing Authority. Faculty desegregation was implemented in the fall of 1976. The Office for Civil Rights believes an effective administrative remedy for student segregation is precluded by antibusing amendments.

Lorain. The school board adopted a desegregation plan to go into effect 1979-80 that will close schools, shift boundaries, create bilingual centers in three schools, and develop a vocational center.

Mt. Healthy is desegregating voluntarily and has been dropped as a defendant in the Cincinnati suit.

Princeton. August 29, 1977, the Administrative Law Judge ruled that imbalanced assignments of teachers were not due to discrimination. The decision was appealed to the HEW Reviewing Authority October 14, 1977.

Shaker Heights. Desegregated voluntarily.

Springfield City Public Schools. A plan acceptable to HEW was implemented in fall 1977, providing for school closings, new attendance lines, and expanded high school student transfers. OCR believes an effective plan is precluded by antibusing amendments, however.

Toledo. While OCR action began in 1968 as to maintaining racially identifiable Spencer Sharples Schools, a noncontiguous, largely black district that was added to Toledo in 1968, a review by OCR in 1976 led to findings only as to faculty and administrative staff. A new plan was accepted by HEW June 9, 1978, to integrate teaching and administrative staff in the fall of 1978.

Alexander v. Youngstown Board of Education. 454 F. Supp. 985 (N. D. Ohio 1978). U.S. District Judge Roy Contie ruled that the school board did not operate an intentionally segregated school system. He ordered an end to discriminatory assignment of staff, however. A plan was implemented in September 1978.

## OKLAHOMA

Ardmore City Schools. No change.

Oklahoma City. No change.

U.S. v. Board of Education of ISD #1, Tulsa County (City of Tulsa). In June 1976 the Department of Justice sought to add as defendants in the case officials of an all-white school district adjoining Tulsa. The district annexed a portion of the Tulsa district that was substantially white, leaving five black elementary schools nearby within Tulsa.

## OREGON

Portland. Receipt of Emergency School Aid Act funds was threatened for 1977-78 because of alleged discriminatory suspension practices. An agreement was reached between the Office for Civil Rights and the school district.

## PENNSYLVANIA

The Department of Education and Human Relations Commission (PHRC) continue to cooperate in efforts to desegregate schools in the Commonwealth of Pennsylvania, under State legislation passed in 1961. Following are the only additions and corrections.

Erie School District. At the request of both the District and the Commission, the Orders of Commonwealth Court have been amended to require the completion of desegregation by fall 1979 by a plan to be submitted to the Commission by March 10, 1979.

PHRC v. School District of Philadelphia. The Supreme Court of Pennsylvania ruled that an involuntary backup plan is not required, but otherwise affirmed the ruling of the Commonwealth Court. (Docket #572, January Term 1977). In April 1978, Philadelphia adopted a 3-year plan to begin September 1978. Implementation was delayed until February 1979. Faculty transfers were made in the fall of 1978. The court said the district did not have to redraw attendance lines nor provide assurances that it would monitor transfers and admissions to guarantee racial balance, even though the goal was set for no school to be more than three-fourths of any one race. The Commission can review the plan in February 1980 to determine its effectiveness.

PHRC v. School District of Pittsburgh. As previously reported, the Commonwealth Court ordered the district to desegregate, and the district appealed to the Pennsylvania Supreme Court, which affirmed that portion of the order of the lower court that the district must submit a plan to the Commission that will desegregate the Pittsburgh schools. Meanwhile a few integrated middle schools have been opened and some magnet schools opened in 1978, but there is no systemwide desegregation. Other litigation: Rankin v. School District of Pittsburgh, 381 A. 2d 195 (Pa. Cmwlth. Ct. 1977). An independent suit has also been filed in Common Pleas Court to enforce desegregation in Pittsburgh. In separate action, the Common Pleas Court of Allegheny County issued an order closing the segregated Baxter Middle Grade School. The order gave parents limited authority to select new schools for their children. School selection was limited by the distance to be traveled by the student and by the impact that the selection would have in desegregating receiving schools. (Common Pleas Docket #GD75-19178.)

Southeast Delco (Delaware County). On June 28, 1978, PHRC initiated a complaint charging the merged school district with violating the Pennsylvania Human Relations Act. Negotiations for a satisfactory desegregation plan are continuing.

## RHODE ISLAND

Providence's plan was implemented in 1967.

# SOUTH CAROLINA

Abbeville County. No change.

Allendale County. No change.

Anderson County. No change.

Anson City. A suit was initiated alleging unfair discipline practices, which led to the adoption of a new disciplinary code.

Bamberg County. No change.

Barnwell County. No change.

Calhoun County. No change.

Charleston. No change.

Chester County. No change.

U.S. v. Chesterfield County. October 12, 1977, the district court entered an order for reinstatement of teachers found to have been discriminatorily dismissed.

Clarendon County. No change.

Colleton County (Waterboro). No change.

Darlington County. No change.

Dorchester County. No change.

U.S. v. Fairfield County, July 1, 1977, a consent order was agreed to modifying the previous court-ordered plan.

Florence County. Districts 1 and 3. No change.

U.S. v. Georgetown County School District. August 3, 1978, the desegregation plan was modified.

Whittenberg v. Greenville County School District. This district, enrolling 54,000 students, results from the consolidation in 1951 of 82 separate districts. The Federal court ordered the implementation of a desegregation plan in 1970 that set student and faculty ratios at 80-20 white-black (now 76-24). 298 F. Supp. 784 (D. S. C. 1969), 424 F. 2d 195 (4th Cir. 1970). In 1976, the plan was modified so ratios are set for first, sixth, and ninth grades, the beginning of elementary, middle, and high schools, in order for children to remain in the same school and to promote stability. The plan was agreeable to both parties.

Laurens County School District No. 56 (Clinton). Decision by the HEW Reviewing Authority March 10, 1978, was appealed to the Secretary June 8, 1978.

Lexington County. No change.

Oconee County (Walhalla). No change.

Orangeburg County Districts 5 and 7. No change.

Richland (Columbia). No change.

Saluda County. No change.

Sumter School District No. 17. No change.

U.S. v. South Carolina, a suit to enjoin use of cutoff scores on the National Teachers Examination as a prerequisite for teacher certification. A decision in April 1977 held that defendants had shown that the exam was "rationally related to the teacher training programs in the State," and thus the requirement was permissible under the 14th Amendment and Title VII of the Civil Rights Act. This case was brought against the NTE as an alleged barrier to equal employment opportunity. The decision does not influence the separate issue of the use of the NTE where it is in effect a barrier to dismantling a dual school system. 11 FEP Cases 1196, U.S. District Court, S. C. The three-judge court decision was summarily affirmed by the Supreme Court January 16, 1978, indicating the Supreme Court agrees with the lower court's decision, but not necessarily with its reasoning.

## TENNESSEE

Mapp v. Board of Education of Chattanooga, 525 F. 2d 169 (6th Cir. 1975), cert. denied, 96 S. Ct. 3199 (1976), 527 F. 2d 1388 (6th Cir. 1976).

Covington City Schools. No change.

Crockett County. No change.

Dyer County (Dyersburg). No action pending.

McFerren v. Fayette County Board of Education, 455 F. 2d 199 (6th Cir. 1972). In 1976 a consent decree revised student assignments and construction priorities.

U.S. v. Franklin Special School District. No change.

U.S. v. Gibson County. No change.

U.S. v. Hardeman County Board of Education. No change.

U .S. v. Haywood County and Brownsville City Board of Education. No change.

U.S. v. Humboldt City Board of Education. No change.

Monroe v. Board of Commissioners of the City of Jackson and Madison County Board of Education. No change.

Goss v. Board of Education of the City of Knoxville, 444 F. 2d 632 (6th Cir. 1971), 482 F. 2d 1044 (6th Cir. en banc 1973), cert. denied 414 U.S. 1171 (1974), permits retention of several racially-identifiable schools.

Lauderdale County Schools (Ripley). No change.

Northcross v. Board of Education of Memphis City Schools, 341 F. Supp. 583 (W. D. Tenn. 1972), aff'd 489 F. 2d 15 (6th Cir. 1973), cert. denied 416 U.S. 962 (1974). 23,000 elementary school pupils and 15,000 secondary school pupils are bused, none more than 45 minutes, most for less than 30 minutes each way. Two high schools and four junior high schools remain entirely black.

Kelley v. Metro Board of Nashville (including Davidson County). No change.

Robinson v. Shelby County Board of Education. No change.

Fayne v. Board of Education of Tipton County, C. A. No. C-65-274. June 30, 1978, a consent decree modified the 1970 desegregation plan.

Geier v. Dunn. Suit to desegregate higher education. In 1977 District Court Judge Frank Gray, Jr., ordered the merger of University of Tennessee-Nashville and Tennessee State University, which is on appeal to the Sixth Circuit. Meanwhile, on July 12, 1978, the NAACP Legal Defense Fund filed a motion to have the desegregation order modified, in light of data in a Desegregation Progress Report of February 1978 and the criteria developed by HEW specifying ingredients of acceptable plans.

## TEXAS

Sampson v. Aldine Independent School District. On July 29, 1977, the district court found that the district had failed to abolish its de jure racially dual school system, and ordered a desegregation plan for 1977-78. A consent decree was ordered September 7, 1977, establishing a magnet high school beginning 1978-79 and rezoning junior high school and elementary school students, to take effect November 14, 1977. Another consent decree was entered June 1, 1978.

Atlanta Independent School District. No change.

U.S. v. Texas Education Agency (Austin). In Austin II, 532 F. 2d 380 (5th Cir. 1976), the court of appeals reversed the district court's finding of no discrimination against Mexican-Americans. The Supreme Court vacated the 5th Circuit's decision, 429 U.S. 990 (1977), and without an opinion remanded the case to the court of appeals for reconsideration in light of Washington v. Davis. In Austin III, the court of appeals again held that the evidence showed the discriminatory impact on Mexican-Americans was intentional, reaffirming its reversal of the district court. 564 F. 2d 162 (5th Cir. 1977). The district must now prove to the district court that segregation is unrelated to school practices.

Beaumont Independent School District. The plan implemented in 1975 involves the transportation of 2,700 students for purposes of desegregation.

Big Spring Independent School District. OCR referred the case to the Department of Justice.

Brazosport Independent School District (Clute). Deferral of applications for new activities lifted by OCR/HEW September 1, 1978, as enforcement action proceeds.

Thomas v. Bryan Independent School District. Consent decree July 23, 1971.

Cleburne Independent School District. Decision of Reviewing Authority appealed to the Secretary of HEW June 28, 1977.

Cisneros v. Corpus Christi Independent School District. September 14, 1977 the Fifth Circuit Court of Appeals affirmed the denial of intervention by parent groups opposed to desegregation. May 31, 1978, a consent order was entered as to additional school construction.

Corsicana Independent School District. No change.

Tasby v. Estes (Dallas). In the course of protracted litigation begun in 1955, the court of appeals in 1975 rejected a plan approved by the district court in 1971 for part-time "desegregation" through use of television, and ordered the preparation of a new plan. This plan, implemented in September 1976, involved some redistricting and considerable busing at the 4-8 grade levels, and little desegregation of early elementary grades. Six districtwide magnet high schools were established, and two more were scheduled for 1978-79. The NAACP challenged the adequacy of the plan, and the court of appeals remanded to district court Judge William M. Taylor, Jr., for a new plan due to the inadequacy of the plan under which 40 percent of black students still attended one-race schools. About 66 out of 176 schools remained virtually one-race. The court of appeals said the district judge should consider all the possible remedial tools enumerated in Swann, such as pairing and clustering of schools, and make specific findings that justify any remaining one-race schools. The district must provide transportation for majority-to-transfers. May 24, 1978, the Dallas school board voted to appeal and to disapprove an interdistrict remedy.

U.S. v. Texas Education Agency (Dangerfield). The State was required to take affirmative action to eliminate all vestiges of a dual school system. An order included eliminating nine all-black school districts and set guidelines for student transfers, boundary changes, transportation, faculty and student assignments, compensatory education, and extracurricular activities.

Dawson Independent School District. No change.

Alvarado v. El Paso. No change.

Flax v. Potts (Fort Worth). No change.

U.S. v. Texas Education Agency (Galena Park) authorized the transfer of students from Houston Independent School District to Galena Park ISD.

Galveston Independent School District. June 16, 1975, consent order in which HEW agreed not to proceed with Title VI enforcement until a further court order. Deferral of applications for new activities was lifted. March 27, 1976, the district court ordered HEW to give Galveston ESAA funds. Other litigation, Smiley v. Vollent, sought to determine if Galveston had removed the last vestiges of the dual school system. The remedial order approved a magnet school desegregation plan after one school was determined to be a remaining vestige of the dual system.

Gilmer Independent School District. No change.

Grapeland Independent School District. No change.

U.S. v. State of Texas (Highland Park), a case involved the transfer of Anglo students from the Dallas Independent School District to the Highland Park ISD.

Ross v. Eckels, action to desegregate the Houston schools. In Ross v. Houston ISD and Westheimer ISD, on December 19, 1977, the district court permanently enjoined Westheimer from splitting off from the Houston ISD on the grounds that the cession would materially impede efforts of the Houston ISD to eliminate all vestiges of the previously existing dual school system and that the formation of the Westheimer school district was motivated by a discriminatory purpose. The court of appeals in November 1978 affirmed that a district cannot be split off if so doing impedes dismantling a dual school system. It would be harmful if it removed 10.5 percent of the total white enrollment and caused loss in the tax base, as in this case. However, the appeals court said the district court should not have permanently enjoined separating Westheimer ISD. WISD can have a status as an independent district so long as it is not implemented until such time as it would not impede desegregation. 583 F. 2d 712 (5th Cir. 1978). Meanwhile OCR/HEW found Houston ineligible for ESAA funds for failing to provide equal educational opportunities to about 17,000 children of limited English-speaking ability.

Huntsville Independent School District. No change.

U.S. v. Texas Education Agency (Jefferson ISD). A court-ordered rescission of school board action that transferred a public school building to a private school.

Klein Independent School District (Spring). No change.

U.S. v. Texas Education Agency (La Vega Independent School District). July 28, 1971, the district court ordered alteration of the boundary between La Vega and Waco ISD's to equalize the minority student enrollments in the two districts. May 10, 1972, the Fifth Circuit reversed and remanded a district court decision denying relief to teachers dismissed as a result of the student transfers.

Lovelady Independent School District. No change.

U.S. v. Texas Education Agency (Lubbock Independent School District). After the Justice Department sought additional relief in 1977 because 50 of 52 schools in the district were racially identifiable, the district court in January 1978 ordered desegregation of nine schools and denied the request for systemwide desegregation. The court did not rule on the school system's request to construct new elementary schools. In April 1978 a plan was adopted for the nine schools. C. A. No. CA 5-806 (N. D. Texas).

Marlin Independent School District. OCR/HEW action no longer pending. The Secretary used consultants to decide whether to cut off funds. In March 1978 there was a decision not to defer funds.

Marshall Independent School District. OCR believes an effective remedy is precluded by antibusing amendments, and has turned the case over to the Department of Justice.

U.S. v. Texas Education Agency (Melvin County Line ISD). The school superintendent alleged that adjacent school districts were accepting white transfer students from Melvin County Line.

U.S. v. Midland Independent School District. No change.

Navasota Independent School District. No change.

Zamora v. New Braunfels Independent School District. No change.

Northside Independent School District. No change.

Raymondville Independent School District has appealed the finding of noncompliance with Title VI to the HEW Reviewing Authority, June 23, 1977. Applications for funds are not being deferred, however.

Richardson Independent School District. An all-black school was desegregated by a magnet school plan. The OCR/HEW case is still open, after the finding of noncompliance with Title VI in 1966.

Royal Independent School District (Brookshire). No change.

U.S. v. Texas Education Agency (San Felipe Del Rio). Two school districts were consolidated. The desegregation plan provided comprehensive remedies for limited-English-speaking students. 342 F. Supp. 24 (E. D. Tex. 1971), aff'd 466 F. 2d 518 (5th Cir. 1972).

U.S. v. Sonora Independent School District. No change.

U.S. v. South Park Independent School District. After the district court's desegregation order in 1970, the court retained jurisdiction until the system was unitary. In 1976, the district court declared the system to be unitary and denied the Department of Justice's motion for further relief to desegregate 11 virtually one-race schools. The court of appeals reversed, 566 F. 2d 1221 (5th Cir. 1978), saying (1) the district court must follow the Supreme Court's decisions, such as Swann, handed down since the 1970 district court ruling; (2) the district court's findings were not detailed enough to determine if the Court's standards were met; (3) the school system must prove that schools that are one-race are not segregated as a result of past or present discrimination; (4) where virtually all-black schools have black principals, the school district must show it is not the result of discriminatory assignments. The Supreme Court declined to review the case. 47 U.S. L. W. 3383 (Dec. 5, 1978).

U.S. v. Texas Education Agency (Sulphur Springs). A consent order authorized the reopening as a fully desegregated school of a formerly all-black school that had been closed in 1970.

Harkless v. Sweeny Independent School District. In November 1977 the Supreme Court declined to review a lower court ruling that the district intentionally discriminated by race in firing of 17 out of 24 black teachers in 1966.

U.S. v. Tatum Independent School District. No change.

U.S. v. Texas Education Agency (Temple ISD). The school board sought to change school boundaries. The action was challenged by the Department of Justice on grounds that it would not relieve overcrowding and because the tri-ethnic desegregation committee opposed the change.

Texarkana Independent School District. No change.

Trinidad Independent School District. No change.

Trinity Independent School District. No change.

U.S. v. Texas Education Agency (Tyler Independent School District). January 20, 1978, the Department of Justice filed a motion for enforcement and more specific guidelines with regard to the 1971 order requiring special education programs for non- and limited-English-speaking students in the State.

Morales v. Shannon (Uvalde). No change.

Victoria Independent School District. Following a decision by the OCR/HEW Reviewing Authority on January 4, 1978, the district appealed to the Secretary on January 24th.

Arvizu v. Waco Independent School District. No change.

U.S. v. State of Texas (Wilmer-Hutchins). The Wilmer-Hutchins ISD, a predominantly minority school system, on July 24, 1973, was denied standing to intervene in the Texas desegregation suit. Wilmer-Hutchins had alleged that actions on the part of local, State, and Federal housing officials had the effect of making the school district's student population virtually all minority. In 1975, the Fifth Circuit Court of Appeals affirmed a lower court decision which blocked the deannexation of the cities of Wilmer and Hutchins from the school district on grounds that the split would have left the district all minority.

Winona Independent School District. No change.

## VIRGINIA

Alexandria. Secondary schools were desegregated in 1971, elementary schools in 1973 by pairing. In 1978 the local NAACP chapter brought suit, alleging discriminatory closing of schools in black neighborhoods.

Hart v. County School Board of Arlington County, 329 F. Supp. 953 (E. D. Va. 1971).

Walker v. County School Board of Brunswick County. No change.

Medley v. School Board of the City of Danville. No change.

Wright v. Council of the City of Emporia. No change.

U.S. v. Franklin City. No change.

Brown v. County School Board of Giles County. No change.

Wright v. County School Board of Greensville County. No change.

Betts v. County School Board of Halifax County. No change.

Young v. County School Board of Henry County. The school district has been operating under a court-ordered desegregation plan for at least 5 years and has been held to be unitary. The case can be reopened should it appear that further proceedings are necessary.

Turner v. Littleton-Lake Gaston School District, 442 F. 2d 588 (4th Cir. 1971). More recently the school board argued that the creation of the Littleton-Lake Gaston school district was not racially motivated, but the consequence of an alleged decision by Warren County to close schools in the Littleton area.

Corbin v. County School Board of Loudoun County, 283 F. Supp. 60 (E. D. Va. 1967). On August 27, 1976, the district court closed the case, permanently enjoining the school district from discrimination on the basis of race in the operation of schools and services and the employment of personnel.

U.S. v. Nansemond County School Board. No change.

Green v. County School Board of New Kent County. No change.

Thompson v. School Board of the City of Newport News. No change.

Brewer v. School Board of the City of Norfolk. No change.

U.S. v. Northampton County School Board. C. A. No. 49-70 N, E. D. Va. A consent order of August 10, 1971, approved a desegregation plan.

School Board of the City of Portsmouth v. HEW. The school board sought to prevent HEW from pursuing its compliance proceeding against the city with regard to its alleged discriminatory placement of children in classes for the educable mentally retarded.

Bell v. School Board of Powhatan County. No change.

Davis v. County School Board of Prince Edward County. No change.

Bradley v. School Board of the City of Richmond. The school district has been declared to be unitary. In September 1978 a revised plan was adopted that entails reduced busing. Families choose schools for grades kindergarten through 5. First choice is given to newcomers and winners of a lottery. The system was tried experimentally in four schools in 1976-77.

Marsh v. County School Board of Roanoke County. No change.

U.S. v. School Board of Southampton. No change.

U.S. v. School Board of the City of Suffolk, C. A. No. 472-71N, E. D. Va., a consent decree was entered May 24, 1978, enjoining the school board from using the National Teachers Examination for hiring purposes without proper validation. A claim regarding teacher dismissals was also settled.

Petteway v. County School Board of Surry County. No change.

U.S. v. School Board of Sussex County. The district has been declared unitary. The case can be reopened should further proceedings appear necessary.

Virginia Beach. No change.

## WASHINGTON

Seattle. In December 1977 the school board adopted a plan for mandatory assignments so that no school will have more than 54 percent minority enrollment. Of the system's 55,000 students, 17 percent are black, 15 percent Asian, and 2 percent Chicano and Native American. HEW joined the school district in successfully defending the plan against a challenge by the Citizens for Voluntary Integration Committee, Roe v. Board of Directors of Seattle School District #1. A referendum was passed in November 1978 to block implementation of Seattle's plan, and this is being challenged on constitutional grounds. Another action, Dawson v. Troxel, 561 P. 2d 694 (Ct. App. Wash. Div. #1, 1977), related to special transfers.

## WISCONSIN

Brennan v. Armstrong, ___U.S.___ 97 S. Cit. 2905 (1977). On remand sub nom. Armstrong v. O'Connell, Civil Action No. 65-C-173 (E. D. Wis. June 1, 1978). Implementation of Phase III of the plan, mandatory assignments, has been postponed. Meanwhile, the district court again found that segregation had come about intentionally. The system has 157 schools and 102,000 students, of whom 44,000 are black, 4,500 Hispanic, and 1,900 Native American. There are 5,800 teachers, of whom 15 percent are black. 40,000 students are bused, only 23,000 for purposes of desegregation. Of these, 18,000 are black.

Racine. No change.

# GLOSSARY

amicus curiae. Literally means "friend of the court." A person or group (not a party to a case) who wishes to inform the court of its position on the issues presented may submit briefs as amicus curiae.

certiorari or cert. denied. When a party seeks a review of a court of appeals decision by the Supreme Court, it applies for a writ of certiorari. A citation to the Supreme Court's refusal to review a case is indicated by the notation "cert. denied."

en banc. Sometimes after the usual three-judge panel of a court of appeals hands down a decision, the entire court of appeals of the circuit will review the decision. The full court's decision is en banc.

intervenor. A court may permit a person or group to be represented in court where, in the judge's opinion, its interests are threatened by the case and are not fairly represented by the plaintiffs and defendants.

Office for Civil Rights (OCR), enforcing Title VI of the Civil Rights Act. OCR, on its own initiative or after a citizen's complaint, investigates possible violations. If OCR considers there to be a violation, it sends a letter of findings to the district, constituting notice of intention to initiate formal enforcement proceedings. A hearing is then held before an administrative law judge, whose decision may be appealed to a reviewing authority within the Department of HEW. That decision may be appealed to the Secretary of HEW, whose final decision must be filed with the U.S. Congress. Only 30 days thereafter may the Department cut off funds to the district.

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