Hearing before the United States Commission on Civil Rights

HEARING HELD IN

CORPUS CHRISTI, TEXAS

AUGUST 17, 1976

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U.S. COMMISSION ON CIVIL RIGHTS

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

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

MEMBERS OF THE COMMISSION

Arthur S. Flemming, Chairman
Stephen Horn, Vice Chairman
Frankie M. Freeman
Manuel Ruiz, Jr.
Murray Saltzman
John A. Buggs, Staff Director

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UNITED STATES COMMISSION ON CIVIL RIGHTS

Tuesday, August 17, 1976

The U.S. Commission on Civil Rights met at 8:55 a.m. in the Exposition Hall, Corpus Christi, Texas, Arthur S. Flemming, Chairman, presiding.

PRESENT: Arthur S. Flemming, Chairman; Frankie M. Freeman, Commissioner; Manuel Ruiz, Jr., Commissioner; John A. Buggs, Staff Director; Lawrence Glick, Acting General Counsel; Ruthie Taylor, Assistant General Counsel; and Gloria Cabrera, Southwest Region attorney.

PROCEEDINGS

CHAIRMAN FLEMMING. It's before 9:00 a.m., but persons who are going to participate in the opening of the hearing are here and, in the interest of utilizing our time in the most effective manner, I think we'll get underway. First thing that I would like to do is to recognize our welcoming comments by the Most Reverend Patrick F. Flores, Chairperson of the Texas Advisory Committee. I know accompanying him is one of his associates on the Advisory Committee. And Mr. Flores, I suggest that after you make your remarks that you introduce your associate so that he also can make any remarks that he desires to make at this time.

We're very happy to recognize you. And in recognizing you, I want to express to you and your associate our deep appreciation for the service that you have been rendering. We want to commend particularly the hearings that were held here in the early part of May.

STATEMENT OF THE MOST REVEREND PATRICK F. FLORES, CHAIRPERSON, TEXAS ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS

REVEREND FLORES. Thank you very much. Chairman Flemming, Commissioner Freeman, and Commissioner Ruiz, on behalf of the 19 members of the Texas Advisory Committee to the Commission on Civil Rights, it is an honor for me and a pleasure to welcome you to

the State of Texas. Several prominent citizens of this State have been a part of the Commission. In the early days, the Vice Chairman of the Civil Rights Commission was Dr. Robert Story, who was then dean of the law school at Southern Methodist University and the former president of the American Bar Association. We're also very proud to have on our Committee Dr. Hector P. Garcia, former member of the Commission and a prominent national civil rights leader. Other Advisory Committee members from the Corpus Christi area are State Representative Carlos Truan, Dr. Nancy Bowen, professor of government, and Mr. Paul Montemayor with the United Steel Workers.

As Commissioner Freeman, I am sure, will remember, it was 8 years ago that the United States Commission on Civil Rights held a hearing in San Antonio. It is significant to note that a substantial part of that hearing dealt with the problems facing minority students in public schools in this State. Since that time the Texas Advisory Committee has continued to examine laws and policies that affect people in various ways. A great deal of our work has been in following up and disseminating the Commission's six reports on the education of Mexican Americans in the Southwest. We have been very involved in making recommendations to the Texas State Legislature in the area of school finance reform. This is a critical area that affects blacks, Mexican Americans, and the poor white children.

I would like to commend the Commissioners for undertaking this major effort in examining the styles of school desegregation throughout the country. We are especially pleased that you have decided to follow up the hearings held in Corpus Christi in May of this year.

There is absolutely nothing that is more important to us than an equal education for all children of this State. We're still a long way from reaching that goal, but the activity undertaken by the Texas Advisory Committee coupled with this Commission's hearings represent substantial progress towards that end.

Again, I'd like to welcome you to Texas. We all hope that your efforts will bear fruit, in particular for all the students of this State and of Corpus Christi. Welcome, Dr. Flemming.

CHAIRMAN FLEMMING. Thank you very, very much. We appreciate your words of welcome. We're delighted to be here in order to follow up on some of the activities of you and your associates.

You refer to Dr. Story as a former member of this Commission, and it was my privilege to serve with him as a member of the Hoover Commission on reorganization of the Executive branch of the Government. Like everyone else, I developed a very high regard [inaudible].

We'd be very happy at this time to listen to the chairman of the subcommittee on education who came to the hearings here in Corpus Christi in May. Milton, I'm delighted to have you with us and appreciate your being here today.

WELCOMING STATEMENT OF MILTON TOBIAN, MEMBER, TEXAS ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS

MR. TOBIAN. Thank you, Dr. Flemming. It is my pleasure as a member of the Texas Advisory Committee to welcome to Texas the three of you, our Commissioners, the Honorable Arthur Flemming, the Honorable Frankie Freeman, and the Honorable Manuel Ruiz.

As you know, one of the functions of the State Advisory Committee is to advise the Commission of any knowledge it has regarding the deprivation of voting rights and of any constitutional violations relating to the equal protection of the laws. They also have the responsibility to assist the Commission in those matters in which the Commission shall request assistance and to generally act as a factfinding for the U.S. Commission on Civil Rights.

In early May of this year, the Texas Advisory Committee conducted hearings in Corpus Christi on school desegregation as part of the Commission's national program. The purpose of that hearing was to gain a perspective on how the desegregation process in this community was able to benefit. We were aware that Corpus Christi has been dealing with this issue for more than 10 years, 8 of which have been spent in the long and costly litigative process. We were also aware of the extremely complex social, economic, and political factors involved. And taking all of these factors into consideration, we tried as best we could to obtain an objective and well-balanced overview of the issues.

Briefly, the primary objectives of our hearing were as follows: firstly, to influence in a positive manner a future course of the school desegregation in Corpus Christi. Secondly, to promote a more effective decisionmaking process within the school system that would be responsive to the needs of the total community. Thirdly, to assist in informing the community on the need for extensive and effective bilingual and bicultural programs. And fourthly, to promote a greater awareness of the unique problems affecting this community with respect to school desegregation.

It was in this context that the Advisory Committee examined the need for school desegregation in Corpus Christi. We first took testimony on the effects of a segregated system upon the Anglos, the Mexican Americans, and the blacks in the community. The historical sequence of events and the constitutional basis for desegregation was laid out and established with respect to the litigation process. The Advisory Committee carefully examined the events and conditions leading up to the filing of the *Cisneros* lawsuit. The plaintiffs, who were by definition intimately involved in the lawsuit, gave to us their personal reasons for finally entering the suit against the district, after having exhausted all other avenues of relief.

It was established that numerous opportunities for resolving the issue of desegregation were afforded but never positively received by the school district. The most praiseworthy element in Corpus Christi's desegregation situation was the involvement of community leadership

in ensuring peaceful implementation of the plan. The role here of the media was responsible and skilled. The role of local business, professional, and religious leaders was crucial and effective. Those leaders identified for us the key factors which have set Corpus Christi apart from other communities where implementation of desegregation has met active and sometimes violent resistance.

The Advisory Committee heard testimony from leaders of the Concerned Neighbors Organization, a group opposed to most measures necessary to desegregate. We did gain valuable insight into what they felt were the important ingredients that should be considered in a desegregation effort.

We examined the court-ordered computer plan; how it evolved, and its impact on the school district and the communities as a whole. The Advisory Committee made the determination that supposed arithmetic goals and a seemingly impartial selection process had perhaps been approached at the expense of some valid educational values.

In order to get a greater insight into the background of policy formations surrounding integration, and into those measures taken or not taken to prepare for and implement school desegregation, Superintendent Dana Williams was invited to testify. He, as chief administrator for the district, and only he had the information needed to fill out the record and compete the educational picture of the district. This testimony was not forthcoming. He refused to testify. We feel that his refusal was truly unfortunate and a disservice to the Committee and the entire Corpus Christi community. As a public official, he had the responsibility to share with us and of his knowledge and experience.

Also invited were members of the school board, and they provided some insight on how the school district responded to desegregation. They also provided their ideas and perceptions on such issues as board leadership, accountability, and the need to respond to the educational requirements of Mexican Americans, Anglo, and black children.

Finally, we discussed the need in Corpus Christi for effective bilingual and bicultural education and the philosophical and educational basis for it. The importance of the *Lau* decision, if it is ever implemented on the educational system in this community, was also looked into.

Dr. Jose Cardenas, executive director of the Intercultural Development Research Association of San Antonio, summed up the hearing by pointing out the importance of desegregation for all segments of the community. He also discussed the necessary elements needed to make a desegregation plan comprehensive and workable.

In studying the situation in Corpus Christi, the Advisory Committee became increasingly aware of the gulf that currently separates the larger community from school administration. It should be noted that many desegregation plans were submitted by the school district, private citizens, the courts, consultants, and Federal agencies before the so-called computer plan was first ordered into operation for the

1975–76 school year. At no time during this 8-year period of intense litigation and legal maneuvering did the school district take the initiative. The only plan put into effect during this period was a voluntary majority-to-minority plan, which was implemented during the '74–75 school year.

When this plan predictably failed to meet the court's standard for desegregation, the court mandated that the district must come up with a more effective plan. Ultimately the computer plan was put into operation, and even more recently, the court has ordered the district to desegregate junior high schools.

In closing, the Texas Advisory Committee is very pleased the Commission has decided to come to Corpus Christi to get a firsthand idea of what has transpired over the years in this community concerning school desegregation. We hope that the insights you gain today will not only help Corpus Christi but in a significant measure contribute to the realization of educational promise for children throughout the Nation.

I thank you very much.

CHAIRMAN FLEMMING. We thank you very, very much.

Both you and the Chairman have referred to the fact that the Commission is in the middle of a nationwide study relative to the status of desegregation. About 10 months ago now—as a result of our experience in connection with a public hearing in Boston—we decided that for a period, approximately a year, we would put major emphasis on the issue of desegregation. As a Commission, we feel that the desegregation of our public schools is the single most important issue confronting us in the field of civil rights at the present time. If we retreat or if we fail to move forward in this particular area, we will be undermining the foundation on which our whole civil rights movement rests.

As I've indicated, we had a full public hearing in Boston. We have held similar hearings in Denver, Colorado; Tampa, Florida; and Louisville, Kentucky. Prior to the hearings that I have just identified, our staff went into the communities and they interviewed around 4,000 to 4,500 persons. Then over a period of 3 to 5 days, we listened to testimony under oath from close to 500 witnesses. We decided that in addition to holding those public hearings, we would ask for State Advisory Committees to conduct hearings relative to situations in school disticts within their State.

As you have indicated, we did request the Texas Advisory Committee to conduct a hearing in Corpus Christi, and you have given us an excellent summary of what took place at that hearing. In addition, we've asked 25 other State Advisory Committees working with our regional staff to conduct case studies of what has happened in the area of desegregation in 25 other school districts. Then, in addition to that, using an instrument developed by our research department, we have sampled the public opinion in several hundred other school districts.

We have been in the process of evaluating this evidence and arriving at conclusions based on the evidence that has been presented to us. Next week, we will release a public report in which we will set forth a summary of the evidence that has been presented to us and in which we will set forth our own conclusions on the basis of evaluating the evidence.

Reading the report of the hearings conducted in Corpus Christi, we took note of the fact that as you expressed it, you found it impossible to fill out the record. In other words, you were unable to obtain testimony from the school administration. We decided, therefore, that in order to fill out and round out the record, that it was important for us to come to Corpus Christi and to utilize the authority that has been conferred on us by the Congress, in order to round out or fill out the record.

It so happened that I was serving as a member of President Eisenhower's Cabinet at the time that the Executive branch had under consideration a legislative proposal which led to, ultimately, the Civil Rights Act of 1957. In the Cabinet discussions, the question was raised as to whether or not it would be desirable to have a Civil Rights Commission. Some of the members of the Cabinet told the President that he could set up a commission by Executive order, but his response was, yes, I can set it up by Executive order but I could not confer on it the right to subpena witnesses and to put witnesses under oath. And said, I believe that it is important to have in the picture a commission which is in a position where it can get all of the facts on top of the table. Therefore, I think we ought to ask the Congress to create such a commission, and to confer on the commission the authority to subpena witnesses and put witnesses under oath. The experiences that the Commission has had since 1957 bear out the wisdom of the late President's view as far as this particular issue is concerned.

I am accompanied, as you have indicated, today by two of my colleagues. Commissioner Freeman is now the oldest member of the Commission in point of service. I always get that in very, very quickly. She was appointed by the late President Johnson and has served on the Commission ever since. The Commission—as some of you know, Commissioner Freeman is a very distinguished trial lawyer from St. Louis, Missouri, and certainly has been one of the active leaders in the whole civil rights movement down through the years.

I'm also accompanied by Commissioner Manuel Ruiz, who is a very distinguished international lawyer from the city of Los Angeles. He has now served on the Commission for a number of years and has been a tremendous help to the members of the Commission.

We're also accompanied by John Buggs, who is the Staff Director of the Commission.

As I know you appreciate, this is a part-time Commission as far as service is concerned. All members of the Commission have other assignments. Therefore, we are very dependent on the quality of leader-

ship that we receive from our Staff Director, and we have come to rely very heavily on John Buggs. We have come to appreciate very, very much the quality of his leadership in this area. He is assisted by a staff of approximately 250, some of whom work out of our regional offices.

Then on my left is Lawrence Glick, who is the Acting General Counsel of the Commission. When I served as Secretary of Health, Education, and Welfare [HEW], Mr. Glick was a member of the legal staff of that particular department. He has now been with the Civil Rights Commission 14 years. Then he is being assisted today by one of his associates, Ruthie Taylor, who is on his left.

It is our practice in holding a public hearing to first of all make sure of the fact that all who are participating in the hearing and all who are observing the hearing are notified of our hearing rules and procedures. At this time, I'm going to ask that Commissioner Freeman, if she will, go over these hearing rules and procedures for us.

Before she does, now, I again say to both of you, thanks so much for the leadership you provided, for the advice that you are giving this Commission, and thanks so much for conducting in the way in which you did the hearing here in Corpus Christi. We will not be going into a great many things that we would normally go into when we come into a city for a hearing. We're not going to do it because you've done it and the record is available to us.

We're all had the opportunity of reading summaries of that record. As indicated, we are here now simply to round out the record and to get on record testimony which we agree with you is necessary if we are to have an indepth understanding of the situation that exists in Corpus Christi. Thank you so much. Commissioner Freeman.

COMMISSIONER FREEMAN. Thank you, Dr. Flemming.

At the outset I should emphasize that the observations I am about to make on the Commission's rules constitute nothing more than brief summaries of the significant provisions. The rules themselves should be consulted for fuller understanding. Staff members will be available to answer questions which arise during the course of the hearing.

In outlining the procedures which will govern the hearing, I think that it is important to explain briefly a special Commission procedure for testimony or evidence which may tend to defame, degrade, or incriminate any person. Section 102(E) of our statute provides and I quote:

> If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session with a reasonable number of additional witnesses requested by him before deciding to use such evidence or testimony.

When we use the term "executive session" we mean the session in which only the Commissioners are present, in contrast to a session such as this, in which the public is invited and present.

In providing for an executive or closed session for testimony which may tend to defame, degrade, or incriminate any person, Congress clearly intended to give the fullest protection to individuals by affording them an opportunity to show why any testimony which might be damaging to them should not be presented to the public.

Congress also wished to minimize damage to reputations as much as possible and to provide persons an opportunity to rebut unfounded charges before they were well publicized. Therefore, the Commission, when appropriate, convenes an executive session prior to the receipt of anticipated defamatory testimony.

Following the presentation of the testimony in executive session, and any statement of opposition to it, the Commissioners review the significance of the testimony and the merit of the opposition to it. In the event we find the testimony to be of insufficient credibility or the opposition to it to be of sufficient merit, we may refuse to hear certain witnesses even though those witnesses have been subpenaed to testify in public session.

An executive session is the only portion of any hearing which is not opened to the public. The hearing which begins now is open to all and the public is invited and urged to attend all of the open sessions.

All persons who are scheduled to appear who live or work in Texas or within 50 miles of the hearing site have been subpenaed by the Commission. All testimony at the public session will be under oath and will be transcribed verbatim by the official reporter.

Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of costs. In addition, within 60 days after the close of the hearing, a person may ask to correct errors in the transcript of the hearing of his or her testimony. Such requests will be granted only to make the transcript conform to testimony as presented at the hearing.

All witnesses are entitled to be accompanied and advised by counsel. After the witness has been questioned by the Commission, counsel may subject his or her client to reasonable examination within the scope of the questions asked by the Commission. He or she also may make objections on the record and argue briefly the basis for such objections.

Should any witness fail or refuse to follow any order made by the Chairman or the Commissioner presiding in his absence, his or her behavior will be considered disorderly and the matter will be referred to the U.S. Attorney for enforcement pursuant to the Commission's statutory powers.

If the Commission determines that any witness' testimony tends to defame, degrade, or incriminate any person, that person or his or her counsel may submit written questions which in the discretion of the

Commission may be put to the witness. Such person also has a right to request that witnesses be subpenaed on his or her behalf.

All witnesses have the right to submit statements prepared by themselves or others for inclusion in the record, provided they are submitted within the time required by the rules. Any person who has not been subpenaed may be permitted in the discretion of the Commission to submit a written statement at this public hearing. Such statement will be reviewed by members of the Commission and made a part of the record.

Witnesses at Commission hearings are protected by the provision of Title 18, U.S. Code, section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings. The Commission should immediately be informed of any allegations relating to possible intimidation of witnesses. Let me emphasize that we consider this a very serious matter, and we will do all in our power to protect witnesses who appear at the hearing.

Copies of the rules which govern this hearing may be secured from a member of the Commission's staff. Persons who have been subpenaed have already been given their copies.

Finally, I should point out that these rules were drafted with the intent of ensuring the Commission hearings be conducted in a fair and impartial manner. In many cases the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done that in the belief that useful facts can be developed best in an atmosphere of calm and objectivity. We hope that such an atmosphere will prevail at this hearing.

With respect to the conduct of persons in this hearing room, the Commission wants to make clear that all orders by the Chairman must be obeyed. Failure by any person to obey an order by Dr. Flemming, or the Commmissioner presiding in his absence, will result in the exclusion of the individual from this hearing room and criminal prosecution by the U.S. Attorney when required. The Federal marshals in and around this hearing have been thoroughly instructed by the Commission on hearing procedures and their orders are also to be obeyed.

This hearing, which began at 9:00 a.m., will be in public session and will continue without a recess until its conclusion at 2:30 p.m.

Thank you.

CHAIRMAN FLEMMING. Thank you very much, Commissioner Freeman.

I would like to recognize Mr. Glick, Acting General Counsel.

MR. GLICK. Mr. Chairman, two small items of business. I would like, with your permission, to introduce into the record as Exhibit No. 1, the notice published in the *Federal Register* in Washington on July 14, 1976, advising the public that this hearing would be held pursuant to our statute.

CHAIRMAN FLEMMING. Without objection it will be admitted.

MR. GLICK. Secondly, I would like Ms. Norma Valle to step forward please and be sworn.

[Ms. Valle was sworn.]

CHAIRMAN FLEMMING. Counsel will call the first witness.

MR. GLICK. Mr. Chairman, our first witness for today is Mr. Dana Williams, Superintendent of the Corpus Christi Independent School District.

Mr. Williams, would you step forward? Will you remain standing and be sworn?

[Mr. Williams was sworn.]

CHAIRMAN FLEMMING. Thank you very much, sir.

TESTIMONY OF DANA WILLIAMS, SUPERINTENDENT, CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT

MR. GLICK. Mr. Williams, are you accompanied by counsel this morning?

DR. WILLIAMS. I am accompanied by counsel.

MR. GLICK. May I ask counsel to identify himself for the record?

MR. GARY. My name is J.W. Gary. I am the attorney for the Corpus Christi Independent School District. With your permission, Mr. Chairman, we would like to also have seated with us, for the purpose of taking notes, Dr. Williams' secretary as far as—

CHAIRMAN FLEMMING. Okay.

MR. GLICK. I might point out, at your request, the Commission will be happy to furnish you with a copy of your testimony here this morning as soon as the transcript has been presented.

DR. WILLIAMS. Thank you very much. I really—I was not advised about the kind of questions I might be asked this morning. I thought if I had my notebook keeper here, she might be able to assist me in responding to any question.

MR. GLICK. Just for the record, please, Dr. Williams, will you identify yourself, your name, your title, and business address?

DR. WILLIAMS. Yes. My name is Dana Williams. I'm the Superintendent of Schools of the Corpus Christi Independent School District. My office is 801 Leopard Street.

MR. GLICK. How long have you been superintendent in Corpus Christi?

DR. WILLIAMS. I came to Corpus Christi in 1962. I completed 14 years of superintendent of schools here.

MR. GLICK. Thank you, sir. Have you a prepared statement that you may wish to present to the Commission?

DR. WILLIAMS. I do not, sir.

MR. GLICK. Thank you, sir. Mr. Williams, can you tell me the annual budget of the Corpus Christi Independent School District?

DR. WILLIAMS. Well, the total budget for the school district is approximately $52 million. General operating budget—it runs in excess of about $30 to $32, $35 million.

MR. GLICK. The balance is for facility improvements and things of that nature?

DR. WILLIAMS. Also all sorts of programs not involved in the regular operating budget, including Federal programs, transportation systems, the school food service, athletics, those—all types of operations not necessarily associated with the—with our major budget as we operate under Texas law.

MR. GLICK. I see. Mr. Williams, beginning in 1968 and with jurisdiction still maintained by Federal district court, there has been litigation underway for the purpose of desegregating the Corpus Christi public schools. During that period from 1968 until the present, has the administration, independently or by direction of the board, voluntarily undertaken any measures to achieve desegregation of public schools?

DR. WILLIAMS. Well, we've done what we thought we could do working with our court and trying to determine basically what the law of the land was. We've made it our business to try to pursue this case through all the legal avenues that were available to us in the country.

The case was, I guess, could be considered by many as being a landmark and when we found—when the decision was finally made by the court, then we've been working with the court for a reasonable solution to the remaining problem and that is the student assignment plan.

MR. GLICK. Student assignment plan. Did the school district prepare a plan for submission to the court?

DR. WILLIAMS. We have prepared many plans for the court, yes, sir.

MR. GLICK. Can you give me an idea of the main component of the plans that have been—

DR. WILLIAMS. The more recent that we prepared, more recent one, of course, is the—are you having trouble, Mr. Glick? Is that not working? Are you all hearing me? I'll get a little closer to the microphone. I noticed he's having trouble.

We more recently prepared a plan for the court which was the pairing plan for junior high schools. We submitted two in the spring to the court, and more recently one approved by the board. So, I would say that we sent up about three different plans to the court for desegregation of junior high schools during the last few months.

MR. GLICK. Did you submit any plans for desegregation of the elementary schools?

DR. WILLIAMS. Well, we—yes, we submitted many plans for the desegregation of elementary schools.

MR. GLICK. Were these plans accepted by the court?

DR. WILLIAMS. No, they were not.

MR. GLICK. Do you have any conclusions as to why they were not accepted by the court?

DR. WILLIAMS. Well, no, I really don't know, Mr. Glick, why the court did not accept the plans we submitted. I just don't have an answer.

MR. GLICK. I understand that there was, at one time, a plan that was labeled—I don't know how accurately—a freedom-of-choice plan in the independent school district?

DR. WILLIAMS. Yes.

MR. GLICK. Can you tell us what period of time that was?

DR. WILLIAMS. I would say, Mr. Glick, it was either in '73 or '74, and it was an agreed-upon plan that was submitted to the court by both the plaintiffs and the school district.

MR. GLICK. The freedom-of-choice plan was a stipulated plan by both parties?

DR. WILLIAMS. It was agreed upon by both parties, yes.

MR. GLICK. I see. You think that the acceptance of that plan would have resulted in full desegregation of the public schools?

DR. WILLIAMS. Well, we simply were attempting to follow the guidelines laid down by the Fifth Circuit which provided certain opportunities for the school district to make certain kinds of steps. One of the points made by the plaintiffs was that the students should have an opportunity to choose his own school. We made—we simply thought it, be appropriate without transportation time, and the year was late. We simply thought that there might be a significant difference made in the percentage of students attending schools, so we suggested that to the courts along with the plaintiffs and the court accepted it.

MR. GLICK. And the courts did not accept the plan?

DR. WILLIAMS. The court did accept it.

MR. GLICK. The court did accept the plan?

DR. WILLIAMS. Yes, sir. We operated under the freedom-of-choice plan for 1 year.

MR. GLICK. But subsequently the plaintiffs objected to the plan, is that why it was not continued?

DR. WILLIAMS. Well, at the end of '73–74—the end of '73–74 the court found that there had not been significant changes in the racial-ethnic composition of our schools and said we will not continue with the freedom-of-choice plan.

MR. GLICK. I see. And then subsequently a plan was prepared, and proposed, and accepted by the court, but it was not the school district's plan, as I understand: this was 1973?

DR. WILLIAMS. I don't believe I understand your question.

MR. GLICK. The plan that was finally accepted in 1973 was not the plan proposed by the administration?

DR. WILLIAMS. No. You are right, sir, it was not.

MR. GLICK. The plan that was accepted was the one that was labeled the computer plan?

DR. WILLIAMS. That's correct, sir.

MR. GLICK. And that plan is the one that's in effect for the Corpus Christi Independent School District?

DR. WILLIAMS. That's correct.

MR. GLICK. Mr. Williams, it's my understanding from the interview that you and I had some weeks ago, that you were one of the founders and, for a considerable period of time, director of Southwest Educational Development Laboratory [SEDL]?

DR. WILLIAMS. Yes, I was one of the original founders of SEDL.

MR. GLICK. And that suggests to me that you, for a long time, had an interest in improving educational opportunities for poor children—minority-group children. I think that's a reasonable assumption from that association, I gather.

DR. WILLIAMS. I appreciate the assumption because that's true.

MR. GLICK. Yes. Now, I'd like to ask in your opinion whether the school desegregation that has taken place in Corpus Christi, or whatever plan, will provide improved educational opportunities for minority groups, and poor children, as well as for majority-group children?

DR. WILLIAMS. What was your question again, Mr. Glick?

MR. GLICK. Well, framing the question with a background of your interests in educational opportunity for minority-group children, I am asking whether you think that the desegregation of schools in the Corpus Christi Independent School District will result in improved educational opportunities for minority-group children?

DR. WILLIAMS. You set the background of SEDL and SEDL was an effort, on the part of the founders of the laboratory, to try to find a better way to teach Mexican Americans, black Americans, and French Americans in a two-State area. It had no design whatsoever upon the racial-ethnic mixing of students. Now, our efforts were in the field of material development and we made some rather large efforts, I think, with the Federal dollars and I guess spent $40, $50 million in that effort. The problem I faced on the board of SEDL, whether we were a loss or failure, but yet we made a tremendous effort to try to find some way to teach these young men and young women. As far as—so that has no relationship except to, I guess, to impress on you, I hope I did that, I've been in the business of education for a long period of time and I have been concerned, always have been, continue to be at this time, interested about the concern and welfare of young people.

We just simply had a lawsuit here in Corpus Christi which attempted to determine that this school system had discriminated against some of our ethnic groups, which was not true. It was not the proper lawsuit. The lawsuit was not favored by segments of our people. That percentage hasn't changed today. We don't see any of that real educational advantage, though there were other ways of getting at it. My mind somewhat changed, as it does over the years, about how to do this. We're attempting. It was our goal and still is to provide quality education for our youngsters. And I think if you have read the results across the country, you don't find that basically anything is happening as far as the research is concerned on improved academic opportunities for young people; and the scores are not changing; their attitude concerning their self-image is not being enhanced; and really, Mr. Glick, those

that have opposed the racial-ethnic balance as a way of—doesn't necessarily mean that they're in opposition to quality education. And I certainly may know. We have tried to do the best we could with it, got a good school program.

MR. GLICK. I understand. But I would just like to follow up, if I could, whether you think in your opinion as an educator, the results of the desegregation of Corpus Christi schools will contribute to improved opportunities for minority as well as—

DR. WILLIAMS. As far as sure educational improvements, the record anyplace doesn't show that the achievement has been enhanced and I don't think—we've not seen indications of it either.

MR. GLICK. Well, if you suggest that—

DR. WILLIAMS. It doesn't necessarily mean that we're for segregation. We love—we believe—we think we have a fairly well integrated community. We don't have a school in this district that doesn't have all races and ethnic groups involved in it. They're open to all of our students. We're basically a minority community now. We are really making what looks to me like a very futile effort trying to implement desegregation procedures in this school district. We think there may be other ways to do it. Maybe we continually can provide some sort of a better system for it.

MR. GLICK. Well, this was a desegregated school system, you suggested, before the court's order. Was that desegregation on the ratio of the 75–25 percentage that the court ordered in the elementary schools?

DR. WILLIAMS. What was your question again?

MR. GLICK. I ask you whether in the—what you state to be a desegregated school system before the court ordered in the *Cisneros* case—

DR. WILLIAMS. I did not meet a 75–25 order set down by the court.

MR. GLICK. Were there any schools that were predominately minorities?

DR. WILLIAMS. We had schools that were predominately minorities, we sure do.

MR. GLICK. Were there any schools that were predominately black?

DR. WILLIAMS. Not to the degree that they were predominately minority, but some were, yes. I think the record shows that. You have all that information, I think, in your files.

MR. GLICK. But that has been pretty well broken up by the court order in that there aren't minority schools?

DR. WILLIAMS. Mr. Glick, I don't argue that all what's happened doesn't change the racial-ethnic percentage; it has.

MR. GLICK. Returning again to educational opportunities, you suggest that the Southwest Regional Development—Educational Development Lab was a loss and failure. I think that is a matter of dispute. I think it has been very beneficial in fact, but if—that is, in providing equal educational opportunities through material use and teacher train-

ing, of that nature, and if desegregation is possibly not going to be the answer either, can you give us some idea, from your point of view as an educator, what will be?

DR. WILLIAMS. Let me go back and just discuss with you a little bit my comments about the failure. We had thought that through the development of material—we had the understanding of many educators across the country and we employed the best blends in the country. I was not one of those people who made the great decision. We employed Dr. Frank Chase, who in my judgment was one of the most outstanding educators of this nation, provided, he was a father of the laboratory system. He came to our laboratory. And our goal was to try to develop material to be used by common people that might in some way provide a better opportunity for these young people.

We really didn't have any—maybe they were—loss and failure is not appropriate. We didn't have any great breakthroughs. You can't go to the SEDL today and say, you know, give me a package of materials that they spent millions of dollars trying to develop and guarantee you that it will improve the education of young people, just doesn't do it. Gave us new tools we put in the hands of teachers that I think is important, and I wouldn't say that everything that hasn't been done is not proper. The main thrust is that we could do it—did not do it. So, in this let's get the record clear on SEDL.

I'm proud of SEDL. I was president of SEDL, president of the board, and gave a lot of time to it and we realized that we never had any money for research and development, especially development education. The fact that we were not greatly successful was—did not create a great concern on our part. Much of this money is wasted, when used to research doesn't prove to be fruitful.

After those remarks when you get back to your question, I'll try to respond.

MR. GLICK. My question is if that kind of effort, educational development effort, which may be unfunded, or poorly funded, doesn't seem to have much effect on improving educational opportunities for minority-group people, and we're concerned particularly with the Spanish-surnamed group, and desegregation isn't going to have that effect as you expressed the opinion, what could you see as the possible solution?

DR. WILLIAMS. Well, development is not stopped. It doesn't mean because SEDL is not successful, development has stopped. All sorts of opportunities are being provided for young people; new materials, better training, teachers, the opportunity for youngsters to be involved in different kinds of activities they've [not] been involved in before. I don't say that. I wouldn't say at all, Mr. Glick, that it's bad for a school of youngsters to be mixed up racially and ethnically. I'm just saying that the opposition comes from parents and your own Commission states, in its letter, that one of the reasons you are making these hearings is because of the vast opposition that's coming from the Con-

gress of the United States about forced busing and racial-ethnic mixing. There is a great concern on the part of this nation that people's rights be taken away from them locally, and there are those above that are imposing requirements on school districts and on people that are not fruitful.

That not anyone who is saying that I hear—I don't hear a drum anywhere saying—playing a bit of music that says, we shouldn't provide equal education to young people. We simply haven't found a way to do some of these things yet. I think we'll keep working at it.

If you contend that busing will get it done, then I presume we're going to have the opportunity to see whether or not it does. It's been going on many—in many districts across this nation for a long period of time without the effects that, I presume, you purport it will finally reach, but I'm not—I just don't know about it yet.

MR. GLICK. I just would like to switch to another topic for a minute. In 1972, a Supreme Court issue, in the case of *Eisenhower v. San Francisco, Lau*, found Title VI of the Civil Rights Act of 1964 required students in school districts who were educationally disadvantaged because of opinioned [phonetic] or public differences were required to have provided for them through any Federal funding that went into the district, some kind of remedial educational opportunities. And growing out of that, HEW established a task force which came up with findings specifying remedies available for elementary and postsecondary for eliminating past educational practices ruled unlawful under *Lau v. Nichols*, and these are commonly know as the law of desegregation.

I wonder if you care to express an opinion or would you please express an opinion, Mr. Williams, as to how those guidelines can be effectuated in the Corpus Christi Independent School District, and what you intend to do respecting the guidelines?

DR. WILLIAMS. I would like to—I'll make a brief comment. I think our position can be best expressed by Dr. Gene Bryant, who is our assistant superintendent for instruction, and I would like to, if you would, let him give you the position of the district only in more detail.

I will tell that this district has long been involved in bilingual education. We're no Johnny-come-lately to the process, since we started in 1956, or the summer, a program for the non-English-speaking youngsters. We've had preschool education programs all the way through. We were one of the first Head Start and Follow Through programs in the country. We've had experimental reading in Mexican American studies. We've been involved in all of the Federal programs that's come along, that's been made available to us, and there has been much participation as far as staff development is concerned. So, we're no Johnny-come-lately to this process. We really don't believe that—as we have studied *Lau* we really believe that the people who wrote the remedies have far overstepped themselves.

We think that the real purpose of bilingual education is to—transitory. We think that the main thrust at the present time

should be to remove any youngster from his mother tongue to English, in the main stream through the educational process. We think we have a good statewide program in our bilingual program mandated by the State board of education. We believe it does that job. We're trying to follow those guidelines.

We also believe that as a matter of good educational practice that options should be provided for parents who want their youngsters to have a language of any kind and if there's a segment of our population that wants Spanish, or French, or Russian, or what other language, that is an option, we ought to provide that for them.

As far as the schools are concerned at the present time, this district doesn't have enough money to follow either of the guidelines developed under *Lau*. We think that the Tenth Circuit's response to that is a good response and *Lau*, those guidelines are not legal and don't follow the Court's findings as far as *Lau* was concerned by the Supreme Court, and we plan to have some discussion with those people who want to enforce those remedies on this school district.

MR. GLICK. When you say have some discussion, you mean with the HEW?

DR. WILLIAMS. Whoever is the enforcing agent.

MR. GLICK. Has the district done a workup of the cost of implementing?

DR. WILLIAMS. Yes, sir, we have.

MR. GLICK. Can you give me some idea?

DR. WILLIAMS. About 3-1/2 million. We followed the *Lau* guidelines and in following them explicitly as they are stated in the guidelines.

MR. GLICK. Three million?

DR. WILLIAMS. About $3-1/2 million per year, yes, sir.

MR. GLICK. Additional funding for the operation?

DR. WILLIAMS. What we're doing—

MR. GLICK. Operational budget?

DR. WILLIAMS. That's correct.

MR. GLICK. At this point, Mr. Chairman, I'd like to introduce a study that was done by the Intercultural Development Research Association which operates out of San Antonio and, as I understand it, which has some comments on the costs and the costs implications of implementing *Lau* remedies in the Corpus Christi school district. This has not been thoroughly researched by staff, but I think it will be an interesting document for us to have in the record, if I may introduce this as Exhibit 2.

CHAIRMAN FLEMMING. Without objections, it will be entered in the record at this point.

DR. WILLIAMS. Would you mind; when was this study completed?

MR. GLICK. I think it's fairly recently. I forget the exact date.

DR. WILLIAMS. What does—would you mind telling us what the report shows is the cost in Corpus Christi?

MR. GLICK. It doesn't. As I read it, it doesn't show a total cost.

DR. WILLIAMS. What's the reason for it? What is the reason for entering it in the record?

MR. GLICK. Just so that we can examine it. I'm not saying that it doesn't prove anything useful at all, but it's something we can examine. It's been done and totaled in the last couple of months in 1976.

Can I ask you just one more question because I see I'm going to be running out of time? You indicated that the State Bilingual Education Act which is being implemented by the TEA [Texas Education Agency], we're going to go into that further later on—

DR. WILLIAMS. We asked the—your office, the Dallas office, to consider our plan as being the plan that responds to *Lau*, and that matter is under advisement at the present time.

MR. GLICK. It's under advisement?

DR. WILLIAMS. That's what I understand.

MR. GLICK. I wanted to ask whether you think that implementation in the Corpus Christi Independent School District of the Texas bilingual act under the guidelines prepared by TEA—

DR. WILLIAMS. Texas Education Agency.

MR. GLICK. Yes, Texas Education Agency, will meet the *Lau* guidelines, as you see the Supreme Court decision.

DR. WILLIAMS. As I see the Supreme Court decision, yes. As the guidelines, as I see the Supreme Court guidelines, no. But I think it deals and we plan to make every effort, Mr. Glick, to serve the educational needs of these young people. I just don't believe that we have the resources and the staff, and problems of the district are too monumental for us to simply turn out and start teaching every youngster bilingually. That's what Mr. Cardenas would have you do, that's what the guidelines would have you do if they are to be interpreted in their strictest sense.

MR. GLICK. Well, if the resources, money, the teachers, etc., were not a problem, if all those resources were available, would you think it would be useful in providing equal educational opportunities?

DR. WILLIAMS. I think it goes—

MR. GLICK. Following the guidelines?

DR. WILLIAMS. I think not. I think it goes beyond what we consider best educational needs of the boys and girls in this school district.

MR. GLICK. And as I understand it, you think the transitional education of some language other than English into English is the best—

DR. WILLIAMS. Supported by a vast portion of Mexican American people in this neighborhood and we also believe in the right for contingent studies as an option to parents and students.

MR. GLICK. Thank you, Mr. Williams.

Mr. Chairman, I have no further questions.

CHAIRMAN FLEMMING. Mr. Williams, the Supreme Court, beginning with *Brown v. Board of Education*, has reached the conclusion that there are segregated schools with nonequal educational opportunities which are guaranteed under the 14th amendment of the Constitution.

We, as I indicated in my opening comment, have been engaged in an indepth study of what is going on in the area of desegregation. There isn't any doubt in our mind at all that in the communities that have accepted the decision of the Supreme Court or orders that have been issued by lower courts which have gone to work to implement the concept of desegregation, but that desegregation has improved the educational opportunity of minorities in those areas.

Following up on one line of questioning by Mr. Glick, you've now completed, as I understand it, 1 year of experience in implementing a court-ordered desegregation plan, namely, the computer plans; is that correct?

DR. WILLIAMS. Yes, sir. Yes, sir.

CHAIRMAN FLEMMING. During this year, what kind of support have you received from leaders in the community in implementing this court-ordered plan?

DR. WILLIAMS. Well, first of all, as you say, Dr. Flemming, that this is a marvelous and wonderful community. Our people here have had strong feelings about this opportunity to be heard in court and have this day in court. We all understand full well that the findings of the court are the law of the land until changed; and we all knew and we've all worked toward the fact that we would try to get the best of what the resolution of the problem would be by the board and by the community. When we received that order, there would be no question about it being implemented.

We have sought and the record speaks—Mr. Tobian gave all the credit to certain other leaders of the community for what's happened here, but I say to you, sir, the board of education, their superintendent and his staff, have been the leaders in this community's—in molding this community together and seeing to it that it responded in a peaceful, harmonious way in responding to the court order. We received outstanding support from this community; outstanding support from our professional staff. Our board of education, though not of one mind on any of these issues, have certainly said that this is the law of the land, this is what we'll do; and we've done everything we could to make these plans work. We plan to do that with the junior high assignment; we plan to do that with any assignment that comes our way. And maybe our position, even though criticized by many and severely criticized by your Commission, that has held this hearing here previously, maybe our position is—might have been one of the strong points in being able to get this community to do what it's done.

CHAIRMAN FLEMMING. What specific steps did you take or the board of education take in order to bring about an effective implementation of the court-ordered plan that you've been working under during the past school year?

DR. WILLIAMS. Well, we had community meetings all over with large groups of people in attendance. I appeared on television. I have my written statements that was given to the community on August 13,

1975, 8 days after the—our court order. I mean, it was given on the 8th, 5 days after the court order. It was on prime time on one of our fine television stations here. We had an opportunity to speak to the people. I do it twice monthly, a television program live on our public television station and respond to questions from the community. I am available to the press everyday and at anytime or night. We worked very closely with them. They've been extremely helpful to us.

We work with the Parent-Teachers Association. We have school community advisory committees in each one of our schools. We work with principals in preparation. We prepared teachers through a long workshop for years and years and we've used the resources of the Federal Government, the old Ted Tack group at the University of Texas. There's more recently a group called—I forget the first name—it was their committee for ethnic studies. We've used those, I've been a consultant for those people and worked in conflict management.

So, we worked with the ministers in the community. I have an integration desegregation advisory committee composed of all the people from all the leadership in the community.

CHAIRMAN FLEMMING. Could I interrupt? How often does that committee meet?

DR. WILLIAMS. I've had the committee in effect about 3 years, I think. It's mostly, conveniently being—bolted by the AFL–CIO [American Federation of Labor and Congress of Industrial Organizations] which was invited to participate, headed by Mr. Montemayor, who is a member of your Commission, as I understand it. They're one of the groups that failed to be a part of that, but we've had strong leadership from—

CHAIRMAN FLEMMING. Could I just pursue that? Does that committee meet in accordance with a regular schedule?

DR. WILLIAMS. That committee, no, it does not. It meets when we feel like we have business to attend to. When the superintendent of schools is in—needs to be in advisory commission before going before the board of education. It has Dr. Hector Garcia on it, who has been very helpful to us.

CHAIRMAN FLEMMING. Can the committee meet on its own initiative and put on the agenda items that it desires to discuss with you?

DR. WILLIAMS. It has not had that opportunity up to now. It's purely been advisory, but we've not had any problem in discussing anything that they want to discuss.

CHAIRMAN FLEMMING. Pardon me.

DR. WILLIAMS. It's not constituted as a court-appointed committee. It's a committee of my own.

CHAIRMAN FLEMMING. You now look back over one school year during which you've been operating under the court-ordered desegregation plan. You've indicated that you do meet with various groups from time to time?

DR. WILLIAMS. Yes, sir.

CHAIRMAN FLEMMING. As you have met with those groups, have you identified some positive gains in terms of opening up educational opportunities as a result of operating under the court-ordered plan?

DR. WILLIAMS. I really can't say that we have. I think basically we've dealt with the mechanics of court orders and proposals to be filed by the court order; responding to court orders.

CHAIRMAN FLEMMING. Have you in fact, you or your associates, identified during the course of the year some gains in terms of opening up educational opportunities resulting from your implementation of the court-ordered plan?

DR. WILLIAMS. I don't know that we've had any product, studies, Dr. Flemming, that give us the right to respond to that question either yes or no.

CHAIRMAN FLEMMING. In other words, you made no evaluation of the situation during the past year from that point of view?

DR. WILLIAMS. Well, of course, we have our—all our data in test scores and everything shows, as it does in most major cities, where there's a lot of movement, movement of poor people coming into the community, our scores continue to decline.

CHAIRMAN FLEMMING. Have you brought together any evidence bearing on the relationships that have developed between students from various cultures as a result of increased opportunities for attending school together?

DR. WILLIAMS. We don't have any studies which speak to that either way. We've has some—we've had a project that Dr. Bryant will discuss with you. He managed that in detail. He did some testing to that. We have some—I think we have some findings on that special project. That we did a lot of moving children around together and had them in certain kinds of activities with different races, ethnic groups. He'll be glad to respond to that. I don't have the exact data on it.

CHAIRMAN FLEMMING. What specific steps have been taken in the interest of implementing the new junior high plan?

DR. WILLIAMS. What have we done?

CHAIRMAN FLEMMING. Yes.

DR. WILLIAMS. We've done all the things that's necessary to—we think—to a peaceful and successful implementation of the court order. We've had meetings with our groups of people. We've worked with staff. We've advised with the community groups and we've had open lines from our telephone system. We've been on television. We've tried to do all the same kind of things that we did a year ago which put us in good stead, we think, with the community.

CHAIRMAN FLEMMING. Commissioner Freeman.

COMMISSIONER FREEMAN. Mr. Williams, you indicated that of the budget of $52 million that about $20 million is received by Corpus Christi from Federal programs. Will you identify—

DR. WILLIAMS. No, I didn't indicate that at all.

COMMISSIONER FREEMAN. $32 million, general operating?

DR. WILLIAMS. I said there was a general operating budget and there was, I would think—Mr. Pearce, could you give the exact dollars on it?

I said there was a general operating budget, then there was a total overall budget and in that, of course, includes interest, and sinking fund, payment of all our debts, the operation of our cafeteria system, the operation of our athletic programs, many other kinds of special programs that we have. I'm not prepared to give you—

COMMISSIONER FREEMAN. Do you have information about the number of dollars in Federal funds that are received by the Corpus Christi school district?

DR. WILLIAMS. Yes, we furnished that to your staff.

COMMISSIONER FREEMAN. Do you have—would you restate that?

DR. WILLIAMS. Let's see if I can find it. Well, it's a long two-page document; it isn't totaled up. Could I just provide you with a copy?

COMMISSIONER FREEMAN. Will you just tell me which Federal programs? Will you state for the record?

DR. WILLIAMS. Well, we have Title I ESEA [Elementary and Secondary Education Act] of one eight—$1,686,485.

COMMISSIONER FREEMAN. Title I?

DR. WILLIAMS. One million—$1,686,485. Follow Through was $267,000 plus, which $66,000 of that was nonfederal so about $200,000 for Follow Through. Title VII bilingual, $147,643. The Adult Learning Center was $176,686. We have an ESAA [Emergency School Aid Act] project of $282,450. We have several small grants through Title IV, section C that run from—you want these figures exactly?

COMMISSIONER FREEMAN. No, if you'd give me—if you have a total of Federal money that's—

DR. WILLIAMS. I'm sorry, my document doesn't show that. I'm prepared—maybe it does on the next sheet.

COMMISSIONER FREEMAN. You've given us about $2-1/2 million; would that be about right?

DR. WILLIAMS. Well, I presume that would be it. Some of my staff is saying $3 million to me.

COMMISSIONER FREEMAN. $3 million in Federal money?

DR. WILLIAMS. I think so.

COMMISSIONER FREEMAN. All right. You indicated earlier that Corpus Christi is a city of minorities?

DR. WILLIAMS. That's correct.

COMMISSIONER FREEMAN. Which minorities are here?

DR. WILLIAMS. Well, the population of our community, the black population is about 5.8 percent.

COMMISSIONER FREEMAN. 5.8 percent?

DR. WILLIAMS. Right.

COMMISSIONER FREEMAN. Black?

DR. WILLIAMS. And let me give it to you exactly since you seem to want exact figures. We last made—when we made our report that we

used for the base data for HEW and all the dealings with the court and everyone which was last October 15, we had 5.78 black students. We had 36.87 others or Anglos, and the others not included among the black and Spanish surnamed. Spanish surnamed, we had 57.35.

COMMISSIONER FREEMAN. 57.35?

DR. WILLIAMS. Yes, ma'am.

COMMISSIONER FREEMAN. And Anglo 36.87?

DR. WILLIAMS. 36.87.

COMMISSIONER FREEMAN. Now, Mr. Williams, will you give me the same breakdown with respect to employees? The superintendent is Anglo. Now, the top positions of the district, will you give us that breakdown as to race and ethnicity, starting with the board of education. Are there any black members of the board of education?

DR. WILLIAMS. No, the board of education is all Anglo.

COMMISSIONER FREEMAN. All Anglo?

DR. WILLIAMS. That's correct.

COMMISSIONER FREEMAN. Now, with respect to the top staff.

DR. WILLIAMS. The superintendent, three assistant superintendents are Anglo Americans. We have 10 directors, 7 are—we have 11 directors, 7 are Anglo and 4 are Mexican American.

COMMISSIONER FREEMAN. Any black?

DR. WILLIAMS. Seven and four.

COMMISSIONER FREEMAN. Zero black?

DR. WILLIAMS. The assistant directors, we have nine assistant directors. We have 12 assistant directors; 9 are Anglo, 2 are Mexican American, and 1 is black.

Next level of administrators on our staff would be called a coordinator and there are basically instructional programs but scattered in other parts of our program too. There are 11 of those—there are 15 of those; 9 are Anglo Americans, 5 are Mexican Americans, 1 is black. There are—the consultant staff is somewhat larger. There are 39—these are last year's reports. I don't know what the staff would be today, but 39 Anglo Americans, 11 Mexican Americans, and 3 Negro—3 blacks.

COMMISSIONER FREEMAN. These constitute persons who make the decisions relating to the operation of the Corpus Christi school district?

DR. WILLIAMS. That's correct. There are other people, of course, who—inspectors, supervisors, psychologist, others that are part of our staff—guidance, associates, these kind of people.

COMMISSIONER FREEMAN. So that is it true—it is true, is it not, that when you say, we think, and you use that term quite often, that it is consistent solely of the opinions of Anglos concerning whether the minorities are receiving equal educational opportunities?

DR. WILLIAMS. I don't think so. This top group of people—let me give you another breakdown, it might be of assistance to you. We have 152 people listed in our central office staff. A hundred and eight of those are Anglo American or 70.6 percent.

COMMISSIONER FREEMAN. 70.6?

DR. WILLIAMS. 70.6 percent.

COMMISSIONER FREEMAN. Anglo?

DR. WILLIAMS. Yes. Thirty-eight of those are Mexican-Americans, 24.8 percent, and 7 are Negro Americans, 4.6 percent.

COMMISSIONER FREEMAN. Would it be a fair statement then if, on the basis of the figures that you have indicated, a statement that perhaps the Corpus Christi school district is not carrying out fair employment practices?

DR. WILLIAMS. No, it would not be so. It would not be a true statement.

COMMISSIONER FREEMAN. On what basis do you make that statement?

DR. WILLIAMS. Because I know and I'm here and I know we're employing people and we've move from—we're moving to employ minority people as fast as we can, all things being equal. We've gone from 18.2 percent Mexican American to 70.71, and 25.1 in '75-76 of our teaching staff. So we've gone from 364 in the classroom of 522. Blacks have gone from 74 to 103.

COMMISSIONER FREEMAN. So you are decreasing the discrimination?

DR. WILLIAMS. If there has been discrimination, it's being decreased, but my point is we're increasing in employment of minority hiring. I would refer you to a study that your own people made that might be of assistance to you and if you'd go back, Ms. Freeman, and take a look at your "Directory of Public Elementary and Secondary Schools of Selected Districts," December '72, which seemed to be the latest document you have and one that you prepared on "Elementary Secondary Schools Civil Rights, Survey of Fall '73," you'll find that the minority people are simply not available to the public schools of the Nation in proportion to the students enrolled.

COMMISSIONER FREEMAN. We found there was a pattern of discrimination.

DR. WILLIAMS. I don't know what you found.

COMMISSIONER FREEMAN. It is correct that we found that it was not limited to a particular area.

DR. WILLIAMS. Simply showed there was not enough people to fill the jobs.

COMMISSIONER FREEMAN. We did not make such a finding. I would suggest that you reread it.

DR. WILLIAMS. We suggest that maybe you study your document again because that's the way we read it. I don't plan to argue that with you. You simply show, for instance, that if parity were to come to Texas schools we employ the same number of people in Texas—

COMMISSIONER FREEMAN. Will you describe the document that you are reading?

DR. WILLIAMS. The document that I read that we studied from was the U.S. Department of HEW, Office of Civil Rights, titled "Directory

of Public Elementary and Secondary Schools in Selected Districts," dated December 1972.

COMMISSIONER FREEMAN. Mr. Williams, I said this Commission did not make such a finding. That is HEW's document. This is the office of the U.S. Commission on Civil Rights, which has not made such a finding.

DR. WILLIAMS. I stand corrected. But this is the latest document that we know anything about coming from—

COMMISSIONER FREEMAN. From HEW.

DR. WILLIAMS. From your—

COMMISSIONER FREEMAN. Which is quite different from the Civil Rights Commission.

DR. WILLIAMS. From your kindred associate across the city.

COMMISSIONER FREEMAN. Actually one of the reasons that we asked the questions concerning the Federal programs is that this Commission exercises monitoring—

DR. WILLIAMS. Right.

COMMISSIONER FREEMAN. —over the Federal agencies and we would be critical of the extent to which HEW would fund any local district without assurances that the funds were administered equally.

DR. WILLIAMS. We've been investigated by HEW. I presume we're under constant surveillance for those people all the time. We think we've been able to satisfy them. We made satisfying progress in our employment practices. There doesn't seem to be—

COMMISSIONER FREEMAN. Of course, you comment on—

DR. WILLIAMS. Right.

COMMISSIONER FREEMAN. —the extent to which you may satisfy HEW?

DR. WILLIAMS. We don't consider it to be a problem at this time.

COMMISSIONER FREEMAN. Well, would you just give me, one final question. I would like to know, would you make your own assessment of whether the school system of Corpus Christi is affording equal educational opportunity to its citizens, to its students?

DR. WILLIAMS. Yes, I believe we are. We're doing everything in our power to provide opportunities for our young people.

COMMISSIONER FREEMAN. Equal educational opportunities?

DR. WILLIAMS. Equal educational opportunities for all of our young people. Yes, I think we are.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Commissioner Ruiz.

COMMISSIONER RUIZ. I noticed in your testimony that you state that you were proud of the involvement of the school district and made reference to the year 1956, that you are not a Johnny-come-lately into the picture, that you are involved in Head Start matters, etc. Apparently, something has gone wrong. Apparently from your figures, lots of money has been spent. Material resources, apparently, haven't been lacking from your point of view. In what year was the *Cisneros* case filed?

DR. WILLIAMS. 1968.

COMMISSIONER RUIZ. That was a long time after 1956, wasn't it?

DR. WILLIAMS. That's correct, sir.

COMMISSIONER RUIZ. And what were the complaints about from the Mexican American segments of the community after you had all of this involvment, all of this money pouring into these particular type programs, what were the complaints of the Mexican Americans?

DR. WILLIAMS. Are you asking me what was the basis—what the plaintiffs' used as their basis of complaint in the lawsuit?

COMMISSIONER RUIZ. Yes, I'm asking you what they were complaining about?

DR. WILLIAMS. It was one of those lawsuits that I presume that—wherein a lawyer files a suit for divorce they list all the reasons as commonly found in the records and annals of the court system.

COMMISSIONER RUIZ. And what were those reasons?

DR. WILLIAMS. They accused us—we were accused of, oh gee, Mr. Ruiz, the reasons, they said that we had discriminated in every way, that the teachers on one side of town were better qualified than they were on the other; that the textbooks were not the same; that the buildings were not the same.

COMMISSIONER RUIZ. Were the textbooks the same and the buildings the same?

DR. WILLIAMS. Yes, they were.

COMMISSIONER RUIZ. In the predominately Mexican communities?

DR. WILLIAMS. Yes, they were. The only finding of the court was that there was separation of the ethnic groups.

COMMISSIONER RUIZ. And the physical plants were the same and predominately Mexican—

DR. WILLIAMS. Physical plants were basically the same all over the school district, yes, sir.

COMMISSIONER RUIZ. And they were, nevertheless, complaining?

DR. WILLIAMS. We had a lawsuit filed against us, yes, sir.

COMMISSIONER RUIZ. And your personal opinion was the complaint didn't have any basis?

DR. WILLIAMS. Well, just to sit here and say, no complaint or basis for the lawsuit, I don't know that I could say that. There were people who sincerely felt—you see, there's room for more than one opinion on these issues.

COMMISSIONER RUIZ. My question is whether it was your opinion that there was no basis?

DR. WILLIAMS. I felt that there had been no—I felt that there had been no discrimination among Mexican Americans in the community, yes.

COMMISSIONER RUIZ. None whatsoever?

DR. WILLIAMS. None whatsoever.

COMMISSIONER RUIZ. Now, you mentioned that there was a lack of teachers for bilingual education, sir?

DR. WILLIAMS. I said that there was not enough Mexican American teachers in Texas and in the Nation to provide parity on a one-to-one—on the same ratio basis as there are other teachers.

COMMISSIONER RUIZ. In what university in Texas have most of your high school graduates gone to be certified as teachers?

DR. WILLIAMS. I would presume, and I don't have the records before me, but I would presume that the largest number of teachers coming to our district basically have come from Texas A & I University at Kingsville. We also recruit every university and college in the Nation—I mean, in the State.

COMMISSIONER RUIZ. Now, during the past 14 years while you have been superintendent of schools, how many Spanish-surnamed high school graduates have joined the Anglo high school graduates in getting teachers' credentials?

DR. WILLIAMS. I don't have that information, sir. I'd be glad to try to get it for you if you let your staff—

COMMISSIONER RUIZ. Could you give me an educated guess?

DR. WILLIAMS. No, sir.

COMMISSIONER RUIZ. Difference in percentage—let's take out of 40 or let's take out of 50, to make it simple, Anglos, how many Mexican Americans have been received in college courses to become credentialed teachers, just give me a guess. You are a superintendent.

DR. WILLIAMS. I'm not advised. I don't believe I care to guess. I don't know and I don't believe my guess would be worth anything to you, sir.

COMMISSIONER RUIZ. And you don't want to give me an educated guess?

MR. WILLIAM. No, sir, I do not.

COMMISSIONER RUIZ. Now, Mexican Americans and Mexicans have been around a long time in Texas and Spanish was spoken in Texas even before it became a part of our United States. Why is it difficult to find qualified bilingual teachers in 1976?

DR. WILLIAMS. Well, first of all, not just because of the schools themselves but because of many constraints, I guess, placed on our Spanish surnamed as well as our black teachers. They really haven't found their way through the colleges and universities and they've been, as you know, among the lower socioeconomic groups, and the low socioecnonmic groups have not found their way through the colleges and universities in this nation, and as a result we just don't have that number. I think it's gaining and I think it will gain, and we look forward to the time that it will, but it hasn't. They haven't been produced up to this time, sir.

COMMISSIONER RUIZ. Are you bilingual, sir?

DR. WILLIAMS. No, sir, I am not.

COMMISSIONER RUIZ. Would you suspect that appropriate action to opening the teachers' program to bilingual, Spanish-speaking teachers hasn't taken place here in Texas?

DR. WILLIAMS. I don't believe I understand your question, Mr. Ruiz.

COMMISSIONER RUIZ. Well, I'll repeat it. From what has developed so far in our colloquy, would you suspect that something is remiss in the teaching program in the State of Texas to develop bilingual teachers?

DR. WILLIAMS. Well, probably so, but let me just make one other comment that I think might be helpful to the committee to consider your thrust in the bilingual education. What we believe, Mr. Chairman, and members of the committee, that there are, needs to be some basic research to determine whether or not the whole matter of bilingualism is appropriate and to what degree. It needs to be removed from the political arena. It's a political football in this country at the present time. And even your own people that we've talked to that have attempted to enforce *Lau*, admit that they don't have—the data isn't in that bilingualism is entitled to the thrust that we're giving it. We're trying to do everything we can with it, but we believe there needs to some basic research to take it out of the political arena and put it in the educational arena where it belongs, if it's beneficial.

CHAIRMAN FLEMMING. You say "even your own people." What—whom do you—what people are you referring to?

DR. WILLIAMS. Let me correct that, Mr. Chairman, and say I'm sorry—and Ms. Freeman—I'm referring to the people in HEW who is responsible for the guidelines for *Lau*.

CHAIRMAN FLEMMING. I would just like to make—underline what Commissioner Freeman said. One of the responsibilities of this Commission is to carry on an oversight function as far as all of the departments and agencies of the Federal Government are concerned that are involved in the implementation of civil rights law. And if you have the opportunity sometime in looking at some of our reports dealing, particularly, in this area of desegregation, you'll note that from time to time we take sharp issue with the positions taken by the Department of Health, Education, and Welfare, and take sharp issue with their failure to move forward vigorously enough to implement for today's children some of these laws that have been put on the books and some of the decisions that have been made by the court.

I just wanted to clarify the relationship between us and the Department of Health, Education, and Welfare.

DR. WILLIAMS. Thank you.

COMMISSIONER RUIZ. Now, if you're talking about "you and your people" in the sense that I am a Mexican American, I am from California and there have been many successful bilingual programs that are going on now in California. Are you aware of this?

DR. WILLIAMS. Members of our staff have tried to take a look at what's going on nationwide.

COMMISSIONER RUIZ. Pardon?

DR. WILLIAMS. Members of our staff are more familiar with what's going on nationwide than I am. They advise me from time to time about programs across the country. I'm not familiar with the—I couldn't describe for you the California bilingual program.

COMMISSIONER RUIZ. Now, apparently in your schools here there's been a lack of some type of affirmative action with respect to this matter that we're speaking. Do you know what affirmative action is?

DR. WILLIAMS. Yes, I think I do, sir.

COMMISSIONER RUIZ. Will you kindly give me your definition of what affirmative action is?

DR. WILLIAMS. Affirmative action is a statement to do a certain thing, would be affirmation of effort.

COMMISSIONER RUIZ. To do certain things of, an affirmation of effort, is that your—

DR. WILLIAMS. I say an affirmative action program would be a statement that you plan to do a certain type thing, whatever it might be.

COMMISSIONER RUIZ. Is that your definition, sir?

DR. WILLIAMS. That's what I gave you, sir, yes, sir.

COMMISSIONER RUIZ. Does that definition include making up for past mistakes, making up for—

DR. WILLIAMS. Well, all those efforts speak to that kind of thing, yes, sir.

COMMISSIONER RUIZ. Would that be included in your definition of affirmative action, or is your definition of affirmative action just making a plan?

DR. WILLIAMS. Well, I don't know what you are trying to get me to say.

COMMISSIONER RUIZ. I'm not trying to get you to say anything because there are definitions of affirmative action. I want to know how your definition fits into other definitions.

DR. WILLIAMS. Most affirmative action plans that I've seen talk about what is to be made up, and it's an effort to make up for and the description of the efforts to reach a certain destination.

COMMISSIONER RUIZ. Make up an effort?

DR. WILLIAMS. It's an effort to reach a certain destination, yes, sir.

COMMISSIONER RUIZ. What are you trying to make up in this effort, sir, on affirmative action? What are you trying to tell me there? I don't understand, it.

DR. WILLIAMS. Well, I don't know what you are trying to get me to say. I really don't know. I don't know what you are seeking, Mr. Ruiz. I'm not trying to be unkind with you. I really don't know that it—

COMMISSIONER RUIZ. Do you know what affirmative action in employment means?

DR. WILLIAMS. Yes, sir, I do.

COMMISSIONER RUIZ. All right. Let's have that definition, sir.

DR. WILLIAMS. We've never in order to try—maybe we can clear up the picture. We've never been told by the court or by any governmental authority that we had to reach any sort of a goal within our employment practices. We've had what we think is—

COMMISSIONER RUIZ. Do you have an affirmative action plan here?

DR. WILLIAMS. Our affirmative action plan, if an affirmative action plan means a quota we're going to reach year by year, the answer is no.

COMMISSIONER RUIZ. You have an affirmative action plan with respect to goals?

DR. WILLIAMS. As far as we're concerned our goal is to try to employ—all things being equal—we employ minority people.

COMMISSIONER RUIZ. I'm still not making myself clear. Do you have an affirmative action plan?

DR. WILLIAMS. Not as such filed with any governmental group.

COMMISSIONER RUIZ. You have no written affirmative action plan in this community with relation to employment?

DR. WILLIAMS. We do not, sir.

COMMISSIONER RUIZ. Now, out of $3 million—

DR. WILLIAMS. It's really never been a problem to us because we think we've made good progress. We're doing everything we can to bring minority people onto our staff. Really, it has not been an issue in our community, with us.

COMMISSIONER RUIZ. Well, I'm an attorney and if I've been in court for 6 years litigating things, I think we have problems, sir. And when you say don't have problems and you've been constantly in court for the last more than half a decade, I think there exists problems.

DR. WILLIAMS. We're not in court over this issue.

COMMISSIONER RUIZ. Of affirmative action?

DR. WILLIAMS. No, sir.

COMMISSIONER RUIZ. With respect to desegregation?

DR. WILLIAMS. Well, ours is a desegregation issue, constitutional issue. This is not been a problem for us as I understand it.

COMMISSIONER RUIZ. Out of this $3 million that you mentioned in Federal monies, I noticed that you referred to $147,647 for bilingual programs; is that correct?

DR. WILLIAMS. I said we had a Title VII bilingual program of $147—$147,643 and as my notes say here, it's designated for the program of kindergarten, first and second grade.

COMMISSIONER RUIZ. And what percentage, I'm not good at mathematics, is $147,643 with respect to $3 million?

DR. WILLIAMS. Well, I think it would be, Mr. Ruiz—I'm not going to be able to help you with that.

COMMISSIONER RUIZ. Would it be around 3 or 4 or 5 percent?

DR. WILLIAMS. I'm not going to be able to help you describe the effort we're making in bilingual education, but Dr. Gene Bryant, our assistant superintendent for instruction is prepared to do this. I was told by Mr. Glick it would not be necessary for me to know all the details of these particular programs. I could ask my staff to be prepared to respond to them, so with that in mind I didn't. Not knowing what you might ask, I don't have the information in dollars we're spending on bilingual education.

Mr. Chairman, I can't be helpful, I'm sorry.

CHAIRMAN FLEMMING. We can pick that up with the next panel.

COMMISSIONER RUIZ. All right. I'll just ask the question then. Which of the three assistant superintendents that you have has the principal role of reporting to you upon questions of development pertaining to bilingual education?

DR. WILLIAMS. Dr. Gene Bryant. He's here and prepared to testify.

COMMISSIONER RUIZ. And is Dr. Bryant in charge of developing plans for students of limited English?

DR. WILLIAMS. Yes, he is.

COMMISSIONER RUIZ. Bryant? B-r-y-a-n-t?

DR. WILLIAMS. Bryant, B-r-y-a-n-t.

COMMISSIONER RUIZ. Thank you very much.

CHAIRMAN FLEMMING. I'd like to follow up on just a couple of questions. Do I understand that you have never been required by any Federal department to develop an affirmative action plan in the area of employment?

DR. WILLIAMS. Well, I know—I'm not for sure that I know the details of this. Of course, we sign all these oaths and agreements that are necessary for Federal funding and if that is an affirmative action plan, the answer is yes, which is one of those nondiscriminatory statements that we sign. As far as our being required to file with the court, Mr. Chairman, the answer to that—to answer your question, the answer is no.

CHAIRMAN FLEMMING. I recognize that you haven't been required to file a plan with the court, but have you had any contact with the Equal Employment Opportunity Commission [EEOC]?

DR. WILLIAMS. Yes.

CHAIRMAN FLEMMING. And has that Commission requested an affirmative action plan in the area of employment?

DR. WILLIAMS. We're working with the EEOC, yes. I would presume maybe we have with them. Since you refer to these people, we do work with EEOC and are under their constant observation, I would presume.

CHAIRMAN FLEMMING. Well, could you describe or later could one of your associates describe the affirmative action plan that has been developed as a result of your consultations with the EEOC?

DR. WILLIAMS. I will ask Dr. Dwyane Bliss, who is our assistant superintendent for administration who deals with this particular segment of the government, and he could probably be more helpful to you than I.

CHAIRMAN FLEMMING. Now, if I could go back to one response to Commissioner Freeman. She asked you whether you felt that you were providing, as a school system, equal educational opportunities at the present time. Now, a year ago, the court in effect found that you were not and directed you to put a plan into effect, so-called computer plan, in order to move in the direction of achieving that goal. Is that a correct statement?

DR. WILLIAMS. That's correct, sir.

CHAIRMAN FLEMMING. Now, going back to one of my earlier questions, do you have plans—have you developed plans for evaluating the first year under the court order from the standpoint of whether or not it has yielded increased opportunities for minorities because of their having had the benefit of better facilities, better equipment, better instruction, and better opportunities to learn how to live in a pluralistic society? Do you have any plans for taking a look at all of those issues, compiling factual evidence on it, and then arriving at some conclusions?

DR. WILLIAMS. First of all, your question assumed that they had better equipment, better teaching, better materials, which is not so.

CHAIRMAN FLEMMING. I said, are you making plans to find out whether that in fact—

DR. WILLIAMS. Oh, yes.

CHAIRMAN FLEMMING. —was the situation during the past year?

DR. WILLIAMS. I can assure you that there was no difference in the materials and teachers. We'll make an effort to find out whether or not there has been educational advancement on the part of our students as a result of the court order. Yes, we will do that, sir.

CHAIRMAN FLEMMING. And including whether or not the court order has opened up better opportunities for both minorities and Anglos to learn how to live together in a pluralistic society. Is that one of the issues to which you will address yourself?

DR. WILLIAMS. I'm sure we will, yes, sir.

CHAIRMAN FLEMMING. Fine. John?

MR. BUGGS. Just one question. Dr. Williams, when you were on the board of directors of the Southwest Educational Development Laboratory, I wonder, did you exercise any concern or make any plans to correct what you have indicated exist in Texas with regard to the number of minority-group teachers? In other words, you've indicated that they don't exist and without, on my part, stipulating to that was any effort made by you to correct that situation by providing special incentives for such teachers—for such persons to go to school in Texas or elsewhere?

DR. WILLIAMS. Our tasks did not include that. Ours was a program development task; [it] is very strictly designed and paid for by the government, as you know, and our task was in the area of material development, program development, not on staff.

MR. BUGGS. But are teachers equally as important as materials?

DR. WILLIAMS. Your question was whether or not we did that as a part of SEDL.

MR. BUGGS. That's right.

DR. WILLIAMS. My answer is no.

MR. BUGGS. Fine. I suspected as much.

DR. WILLIAMS. We have staff, I might say in response to Mr. Buggs, as a part of our development program of SEDL. We certainly did hold many a staff development opportunities for teachers to—along with the

materials. As far as our—as far as one of our thrust to get minority teachers—whether they be French Americans, or black Americans, or Spanish Americans—into college, that was not part of our thrust. It was otherwise.

CHAIRMAN FLEMMING. Thank you very much. We appreciate your being with us.

DR. WILLIAMS. Yes, sir.

CHAIRMAN FLEMMING. We appreciate the information that has been given us. Thank you.

MR. GLICK. Gentlemen, will you please rise so the Chairman can swear you in?

[Messrs. Bliss, Bryant, and Pearce were sworn.]

MR. GLICK. Mr. Chairman, I would request that Assistant General Counsel Ruthie Taylor question this panel of witnesses.

TESTIMONY OF DWYANE BLISS, ASSISTANT SUPERINTENDENT FOR ADMINISTRATION, CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT, GENE BRYANT, ASSISTANT SUPERINTENDENT FOR INSTRUCTION, CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT, AND J.M. PEARCE, ASSISTANT SUPERINTENDENT FOR BUSINESS AFFAIRS, CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT

MS. TAYLOR. Would you all state your name, address, occupation, and position for the record, please?

DR. BLISS. Assistant superintendent for administration, at 801 Leopard Street, Corpus Christi Independent School District.

DR. BRYANT. Assistant superintendent for instruction, 801 Leopard Street, Corpus Christi Independent School District.

DR. PEARCE. I am J. M. Pearce, assistant superintendent for business affairs, Corpus Christi Independent School District, 801 Leopard Street.

MS. TAYLOR. Dr. Bliss, I would like to direct the first question to you. Could you tell us what efforts have been made and what efforts will be made to prepare school personnel for a desegregated learning situation?

DR. BLISS. We have, since we received the order last year, been in the constant state of staff development with our teachers, principals, community members, and we feel like desegregation is really a community problem and not just a school problem. And as it relates to the students themselves, we feel that it is important for parents and community to know exactly, first of all, what the plan is. So we've taken every step as much as possible, notifying individually the students who are to be affected and their families. We have held rather extensive workshop sessions and orientation sessions with our administrative field staff, that is, the principals and assistant principals.

We have, I think, a rather unique staff development problem called an ETP, Equivalent Time Program, which allows teachers to be in-

volved after school and earn comp time credit for that, and have availed a number of opportunities in the area of student awareness, reality therapy, and the various other kinds of techniques that are currently on the scene to make teachers as culturally aware as possible of members of all the ethnic groups within our community.

Ms. TAYLOR. All right. Dr. Bliss, you heard the superintendent of schools indicate that the school district had no affirmative action plan. That is, as far as he knew, the courts had not found that there was this—these discrepancies. Is it a fact that the Equal Employment Opportunity Commission has filed charges against the school district regarding this matter?

DR. BLISS. No, they have not filed charges to the effect that we don't have an affirmative action plan.

Ms. TAYLOR. Have they filed charges against you alleging that there are disparities in the staff regarding minorities?

DR. BLISS. There have been individual cases filed against us, not initiated by EEOC, but initiated by individuals, either within the community or persons who have made application for jobs.

Ms. TAYLOR. And EEOC is at this point involved after those individual charges have been filed; am I correct?

DR. BLISS. Yes, they have made investigations.

Ms. TAYLOR. Have they issued any findings?

DR. BLISS. Yes. And in one case did submit for the district, in a conciliatory manner, an affirmative action plan as it related to that specific case. It was denied on the part of the school district.

Ms. TAYLOR. Was denied on the part of the school district?

DR. BLISS. That is correct.

Ms. TAYLOR. So you have done nothing further on that point?

DR. BLISS. On the point of that affirmative action plan for that particular position?

Ms. TAYLOR. Yes.

DR. BLISS. We have done nothing; that is correct.

Ms. TAYLOR. What about a general affirmative action plan?

DR. BLISS. We do not have a general affirmative action plan.

Ms. TAYLOR. Is there any intention on your part to develop such a plan?

DR. BLISS. No.

Ms. TAYLOR. Why is there not?

DR. BLISS. I think our attitude is like that which was expressed by the superintendent of schools. We do not feel like we have been derelict in—discriminating against employees. On the particular case that was filed against the school district in which they submitted an EEOC draft and an affirmative action plan, the allegation was that we discriminated against a Mexican American in a particular position. The truth of the matter was we hired a Mexican American in that particular position, so it was difficult for us to concede that we had been discriminatory in that that position was indeed filled by a Mexican American. It was a director-level position.

MS. TAYLOR. Dr. Bryant, have any curriculum or teaching method changes been made in this district as a result of the desegregation of last year—desegregation plan?

DR. BRYANT. As Dr. Bliss has already indicated, there's been quite a lot of staff development preparation for teachers, for administrators, central administrators and field administrators. The curriculum had to be redesigned in bilingual education programs because the court case scattered the children, as identified by the State bilingual education program, all over the city. So, it took some three of my staff members about a month's work to trace down—by looking at the printouts of the list of students for each of our schools in the district—to trace down where those bilingual students were sent to. And then we tried to provide a program for them, having to deploy teachers then after school had begun to meet their particular needs.

We also wrote ESEA proposals that funded certain programs to assist in this integration effort. Some of the programs that I will refer you to were our teaching center located at the Carver annex of Rose Shaw School, which was designed to provide staff development under ESEA funds for our teaching staff to assist them in the areas of reading, mathematics, and bilingual education as well as humanistic kinds of development that would go along with integrative efforts.

MS. TAYLOR. Very good. Could you describe for us, please, the ability-grouping system used in the elementary grades?

DR. BRYANT. Yes, I could. Our ability-grouping system is one that we term cooperative teaching. It is a blend of nongradedness with team teaching. We have had this particular system in effect since 1965 in the Corpus Christi Independent School District. It is one that simply takes every group of students, first of all it pairs teams of teachers and we have nongraded the schools so we do not refer to them as grade 1, 2, 3, 4. We refer to module; primary modules as replacing grades 1 and 2; intermediate modules as replacing grades 3 and 4; and advanced modules as replacing grades 5 and 6; simply because we do not think children fit grade designations, and we think the research has adequately proven that over the years.

Now, once that is done, the students are organized heterogeneously into a classroom; meaning that there are some enriched students capable of doing enriched work, some that are capable of moving along at a medium pace, might be average, some that are rather slower moving in comparison, are placed in the original classrooms together. Now, the teaching then is divided into teaching units, each of which last some 2 to 3 weeks in length on the average. Some are longer than that. Some might be shorter. Each child is in a heterogeneous group when the unit is first presented so as to enable him to have an equal chance with every other child in that class, to show the same kind of performance. At some midpoint in the teaching of that unit, the students are tested, or by teacher opinion they are then divided into groups more suitable to their needs as indicated by their performance

in the unit itself. So that at that midpoint, three subgroups are then formed. One for the enriched student who has exceeded the objectives that the teachers had in a written form in a unit, when they prepared the unit for teaching. The second group would be those that are about on target. The third group would be those that need remedial help, and teachers then are assigned by the modular chairperson to teach those particular groups for the remainder of the unit, according to their needs.

At the termination of that unit, the whole process is repeated, introduction of the new unit to a heterogeneous group, regrouping evaluation, teaching in the subgroups of enriched, standard, and basic, and then reintroduction of a new unit. That is the grouping plan at the elementary level.

Ms. TAYLOR. Very good. Could you please describe for us the bilingual program in this district?

Dr. BRYANT. Well, I'd have to describe several bilingual programs were I to do so. And as Dr. Williams already said, in 1956, recognizing the needs of some Mexican American students who came to school with inadequate English skills, we initiated in the district at that particular time a preschool non-English-speaking program which has since been adopted across the State by the Texas Education Agency.

We've had preschool readiness programs and Head Start in 1965. In 1967, we were 1 of 33, or some number, not more than 35, in school districts across the Nation that were granted a Follow Through grant. In 1968, we developed a program using Title III funds of ESEA called Experiment in Reading for Mexican American Students. It was based on the development by our staff working with various textbook publishers of special reading materials in bilingual education and was funded, and was thought to be quite successful, and has received publicity nationwide and internationally.

In 1969, we utilized the Education Professions Development Act in collaboration with the Region II Education Service Center, located here in Corpus Christi, to use funds to train teachers who were going to be teaching bilingual education to our students. That lasted for 1 year, was a 1-year grant only.

In 1970, we were one of the first school districts in the Nation to enter into the Title VII ESEA program. I personally negotiated that grant in Denver, Colorado; and we, again, as a component of that particular program included teacher training, multicultural studies, and the like.

In 1974, the Texas Legislature passed Senate Bill 121 which mandated a State program of bilingual education for the public schools in the State of Texas.

Following that—

Ms. TAYLOR. Did you say 1967 then?

Dr. BRYANT. 1974 for the State bilingual education program.

Following the requirements of that plan, our board of education adopted a board policy specifying how the children would be identified for the plan, notified, and that kind of thing. We continued to offer that State-supported bilingual State education plan as well as Follow Through and Title VII. The State plan was to be phased in. At first it did not include kindergarten, but we voluntarily included kindergarten in the plan before it was required by the State. Later the plan was extended to include kindergarten and third grade. This year the third graders enter for the first time into our bilingual education program.

Ms. TAYLOR. It has been stated that your bilingual program, at least one of them, is accepted as a model over the country. I would like to know at this point if the bilingual programs involved are at all of your elementary schools in the district?

DR. BRYANT. Last year we had our State program or Follow Through or Title VII in 30 of the 38 schools in the district.

Ms. TAYLOR. And why is it not—

DR. BRYANT. Elementary schools.

Ms. TAYLOR. Why is it not in all the schools in the district; all the 38?

DR. BRYANT. Because the need was not shown through the testing procedures that we utilized, which were approved by the Texas Education Agency.

Ms. TAYLOR. Why does the bilingual training stop at grade three? I guess, beginning this year, you said it would go through grade three. Why is that the case?

DR. BRYANT. The formal State program will not fund you for more than 3 years. You have the option to continue the program if warranted. Our philosophy is, already expressed by Dr. Williams, is that we utilize the transitional bilingual approach. We place the child into bilingual education. We give him the degree of instruction in Spanish or whatever his native tongue happens to be that he requires until such time as he's able to make the transition into English, and as rapidly as we can, place him into English. We do so so that we can begin to give him the skills that he will need.

Ms. TAYLOR. I want to ask you about older children, junior and senior high school students who definitely need language skills above that grade. How are these people, these children identified and do you have any special programs to provide for these students?

DR. BRYANT. Yes. These students are identified both by teachers and by counselors. Any of these students who have a special language problem are picked up by those folks as well as a central office staff of consultants which are in the school's regular visitation schedule. Anytime a teacher receives a child in attendance in her classroom who cannot speak the language of instruction, that teacher, of course, is in trouble and immediately calls upon one of our subject-area consultants for assistance. We have had an informal policy in effect for many years whereby—because we do receive some Mexican nationals this close to

the border—whereby upon receipt of such students, the teacher immediately pairs this student or uses the buddy system, I guess is the best way to express it, with a student who can speak his language and English. The teacher also—the principal also assigns a teacher as an advisor to that student who can speak his language—places that student with his teacher as much as possible. It's been our experience that these students generally become functional in 6 to 8 months after arriving here utilizing that particular plan.

A case in point was the initiation of a program for Vietnamese refugees in our district, at this time last year. We were notified that there was some 23. Before receipt of any Federal funds or promises of Federal funds, this district took the initiative to provide a Vietnamese-speaking person as a liaison person, counselor type. She was not certified; it was not possible to obtain such a person to work with these students and their parents. We developed guides. We assigned a consultant to work with these people. This year all of them are making such fine progress that we did not need the program further. After very careful study of the efforts that were made last year—

MS. TAYLOR. Dr. Bliss, would you tell us please or describe for us the types of student transfers available in the district and how they affected desegregation?

DR. BLISS. Yes. We have five different broad policy kind of transfers available to students in the district. The first of which, of course, that was initially ordered by the court, is the majority-to-minority transfer policy. And very simply it is that if a student is in a school in which his ethnic percentage exceeds either 60 percent if he's minority or 40 percent if he's majority—perhaps we should say it at this point for the record that minority in our particular school district means combined Mexican American and black American or Negro Americans. Others or so-called Anglos constitute the majority, which in our district is the minority. Okay. Back to the policy itself.

If a student exceeds his particular percentage districtwide and that percentage was set back in 1973 of 60–40, then he may opt to transfer to a school into which the percentage is less than either the 60 or 40 depending on whether he is the majority or minority. And if he lives more than 2 miles from the school to which he opts to transfer, he is eligible to receive free transportation. So that's the majority-to-minority transfer policy.

We have for a number of years administered a board policy at the elementary level called the hardship transfer policy, which speaks to primarily the working mother in our community and says that a student is eligible for transfer from one school to another if there are identified child-care problems or transportation problems on a part of the family.

The third kind of transfer policy we have is a course-offering transfer which says that a student may transfer from one school to another if a course is not taught or offered in the school that he

presently is assigned to, but is offered in another school, that he or she has the option to transfer to that school.

A fourth kind of transfer we have is called administrative transfer. And board policy specifically says, and this is designed primarily for secondary students, that a student may be administratively transfered for disciplinary reasons or for extreme hardship reasons, and the administration is left with some freedom and discretion as to the interpretation. It has primarily been used to shift students around in the district where they are involved in certain environmental disciplinary problems, such as a number of years ago when we were experiencing drug trafficking. Some of the schools [used it] to get a student out of his or her environment into another school. It is designed to assist the student and the family.

Those are the primary—

MS. TAYLOR. Have they had any effect upon the—have they prevented, I guess I should say, achieving the 75–25 ratio of the schools that were ordered in the court order?

DR. BLISS. Well, obviously the majority-to-minority does not have negative effects. It can have only positive effects so we can exclude that one.

MS. TAYLOR. Right.

DR. BLISS. There was some concern on the part of the court last year, and I think we should say that before we implemented the so-called computer plan at the elementary level that it was discussed with the court whether or not we could continue to grant hardship transfers, and the court did say that we should and could continue to grant hardship transfers. There were in some schools a negative effect achieved as a result of the administration and continuing to grant under the same guidelines, hardship transfers, that had been granted prior to the receipt of the order in July of 1975. So, the court spoke to that in the order that we received of July '76, and it was refined even further by saying that we could continue to grant hardship transfers at the elementary level so long as it did not have more than a 1 percent negative effect on the prescribed ratios, and we are now administrating the policy with those court-ordered guidelines.

MS. TAYLOR. Have you encountered any problems with regard to discipline or classroom control as a result?

DR. BLISS. I'm sorry, I have extreme difficulty hearing you.

MS. TAYLOR. Sorry. All right. Have you encountered any problems with regard to discipline or classroom control as a result of desegregation?

DR. BLISS. Not really because again we're talking about elementary kids.

MS. TAYLOR. Yes.

DR. BLISS. My experience has been that—this is not the first school district I've worked in which we were involved in desegregation. The student discipline problems as a result of desegregation don't normally

occur at the elementary level anyway, so I would say that we've really not experienced any significant discipline problems as a result of the court order.

MS. TAYLOR. Do you expect any problems as older students become involved?

DR. BLISS. That's a tough question to answer. I think it's no deep-dark secret that probably schools throughout the Nation are experiencing more discipline problems these days at the junior high school level than they are perhaps at any other level. In the vertical process of education, we anticipate we will have discipline problems at the junior high schools this year. We had discipline problems last year. I would anticipate we'll have next year.

Whether or not they will be as a direct result of the court order that we received, I think that would be purely speculative on my part. I think I know this, having served as a junior high school principal in a suburban school district in Ft. Worth in which only four of the students that were assigned to my school were not eligible bus students. I think I do know that you can take almost any kind of disciplinary problems such as fighting and smoking and boy-girl hanky-panky, and you put it on the bus and it's compounded.

But let me also say this, certainly we have anticipated these kinds of problems and we feel like we have a system—an administrative system that's capable of dealing with those sorts of things, and even more so than that, capable of preventing many of them from occurring.

MS. TAYLOR. Mr. Pearce, how did you prepare for court-ordered busing for the '75–76 school year?

DR. PEARCE. I'm sorry, Ms. Taylor, I'm having difficulty hearing you also.

MS. TAYLOR. How did you prepare for the court-ordered busing for 1975–76 school year?

DR. PEARCE. Let me answer that question, but before I do, Dr. Flemming, I would like to take this opportunity if I might to clear up a point in Dr. Williams' testimony; he asked me to do this.

In reporting the general operating fund budget, Dr. Williams reported approximately $32 million, and that was a figure for the previous year. Last year's general operating fund budget was $38,449,000.

So, if I might—

CHAIRMAN FLEMMING. We're very happy to receive that information. What was the total budget?

DR. PEARCE. The total budget, he gave the right figure, it was $52 million.

CHAIRMAN FLEMMING. Okay.

DR. PEARCE. More exactly, $51,926,000.

Now to answer your question, Ms. Taylor. When we received the court order last year that required movement of students across the district, I immediately sat down and studied to determine the number

of buses we would need to implement the program and requested through the Texas Education Agency that the State board of control take emergency bids on purchase of school buses and ask that an early delivery date be a factor in awarding bids. And then began to employ drivers and train drivers for the buses. These buses were not to be available at the beginning of the school year. They were not to be available until about around the first of October, and we worked with the city of Corpus Christi, their department of transportation, and through a private contractor and contracted for buses to transport the children during the first month of the school year.

MS. TAYLOR. One last question. Could you tell us how much State money has been or will be reimbursed to the Corpus Christi Independent School District for the busing of students during the 1975–76 school year?

DR. PEARCE. Yes, ma'am. During the 1975–76 school year, this district spent $1,439,120 for the purchase and operation of school buses. We were reimbursed $183,106.

MS. TAYLOR. Thank you.

CHAIRMAN FLEMMING. Thank you very much.

I'd like to return for a moment to the question of your relationships with the Equal Employment Opportunity Commission. Over a period, let's say of the last 4 years, how many cases have you been involved in with the Equal Employment Opportunity Commission; that is, you, meaning the school district?

DR. BLISS. I've only been in the school district 3 years, so I can only speak for 3 years, Mr. Flemming.

CHAIRMAN FLEMMING. I'll take 3 years.

DR. BLISS. I believe there have been three cases filed in those 3 years.

CHAIRMAN FLEMMING. Could you briefly summarize the outcome of each one of those cases?

DR. BLISS. One of the cases really was only an investigative case. The EEOC came onto the scene and investigated and decided not to pursue it. The second case was the one that I referred to awhile ago, in which they in effect said the school district was guilty and offered, in a form of conciliatory agreement, an affirmative action plan on the part of the school district which spoke not only to that particular issue, but some other issues. The third case has not been resolved.

CHAIRMAN FLEMMING. Let's go back to the second case. They found for the plaintiff in this particular case?

DR. BLISS. That is correct.

CHAIRMAN FLEMMING. And based on that finding, they in effect recommended or suggested that they would be willing to close out the case if the school district developed an affirmative action plan?

DR. BLISS. If the school district adopted their affirmative action plan.

CHAIRMAN FLEMMING. Okay. Did you have any discussions with them relative to the contents of their proposed plan?

DR. BLISS. Yes, sir, we did.

CHAIRMAN FLEMMING. Did you indicate a willingness to adopt an affirmative action plan, but one that would be possibly different from the one that they proposed?

DR. BLISS. No, we did not because it was our belief that we were not guilty of the allegation that was brought against the school district. As I said before, Mr. Flemming, the indication was that we had been discriminatory for not hiring a Mexican American applicant when we had hired a Mexican American for the position that he sought. And we suggested to the EEOC, at that time, that if they wished to pursue it, then they needed to do so through the courts.

CHAIRMAN FLEMMING. Has the EEOC taken any action to pursue it through the courts? Have they given you any notification of their next move, if any?

DR. BLISS. I was just discussing with our attorney, we have so many suits against us, we can't remember. I do not believe they have.

CHAIRMAN FLEMMING. When the decision was made not to talk with them about an affirmative action plan, was that a decision of the board of education?

DR. BLISS. The board of education was aware and apprised of the situation. As far as there being an item on the agenda for action on the part of the agenda, the answer is no. It was an administratively handled matter.

CHAIRMAN FLEMMING. Independent of any EEOC proceeding, have you or the superintendent the board given consideration to the possibility of developing a formal affirmative action plan?

DR. BLISS. Again, seriously we have not. And let me see if I can't qualify it so it doesn't sound like we're quite so negative.

I think the literal interpretation of affirmative action is some sort of positive movement away from something that's negative. And it has not been our belief in this school district that we have been pursuing a practice of employment that is negative and, therefore, to say that we're really willing now to set down and establish a quota system though a plan is beyond the scope of our imagination, because, first, because we do not feel we've been discriminatory. We think our history over the past few years, first, shows that positive progress has been made and, secondly, depending on what sort of ultimate goal one would choose, I think the realities of the situation in Texas and in this part of the country dictate, at this point in time, you can't get to there from here. And one of the studies that one of our own staff members conducted show that if we were to have next year the number of Mexican American teachers, and we're almost there as far as Negro American teachers ratio to the students that we have, but again let's concentrate on Mexican American teachers; if we were to employ, assuming we had vacancies, enough teachers to be proportionate to the students we have, we would have to employ every single Mexican American graduate in the State of Texas next year and we just can't do it.

CHAIRMAN FLEMMING. Any affirmative action plan, of course, must be related to the supply of qualified personnel, and in the development of any affirmative action plan that is always one of the criteria that is kept in mind. I assume from what you have said and really from what the superintendent has said that you are not satisfied with the status quo as far as the employment of minorities, particularly Spanish-heritage persons, are concerned?

DR. BLISS. Your question?

CHAIRMAN FLEMMING. You question the number of persons who may be available for employment, but am I correct in my assumption that although you have made progress, you are not satisfied with the present picture?

DR. BLISS. Well, if the nature of your question is that should we be striving toward a better percentage of Mexican Americans, then I must answer to your question, yes. We're not completely satisfied because that is an almost intangible goal, and we feel like we are getting our fair share, through recruitment practices that we employ, of those that are being produced by the major teacher colleges and universities throughout the State and, incidentally, outside the State. We go outside the State to recruit, primarily in New Mexico.

CHAIRMAN FLEMMING. In other words, you are working towards some kind of a standard of performance in this area?

DR. BLISS. Yes. It may be very difficult to get a handle on it. I think, yes, we have some specific sorts of or at least some general sort of ideas in mind of the administrative staff about what we ought to be trying to do.

CHAIRMAN FLEMMING. Will the percentage of minority teachers and staff for the coming school year be greater than for the last?

DR. BLISS. Yes, it will be.

CHAIRMAN FLEMMING. Do you have any feel as to—

DR. BLISS. We only employ—you have to keep in mind that the attrition rate of teachers is declining considerably and also we have a declining enrollment, so reduction in force is one of those things that's upon us as well. We've tried to handle that through normal attrition, but we have tried to replace the teachers who left the school district and the vacancies that were created as a result of any number of reasons with as many qualified competent minority candidates as was feasibly possible.

CHAIRMAN FLEMMING. Tried to do—do you think you succeeded to the extent that the average will go up for the present school year—

DR. BLISS. Yes.

CHAIRMAN FLEMMING. —as compared to the last school year?

DR. BLISS. I don't have any figures, but as a matter of fact, we're not through employing because we don't know exactly what our enrollment is going to be.

CHAIRMAN FLEMMING. If I understand you correctly, as you look forward to the following school year, you plan to try to recruit additional teachers and staff?

DR. BLISS. Yes.

CHAIRMAN FLEMMING. From the minority—

DR. BLISS. Yes. Well, it's a continuous process.

CHAIRMAN FLEMMING. But you haven't given yourself any specific goals as of the present time?

DR. BLISS. No, except to say the maximum.

CHAIRMAN FLEMMING. Coming now to the past year's experience under the court-ordered desegregation, have you in your position identified developments related to the desegregation plan which you believe have contributed to the goal of equal educational opportunities within the system?

DR. BRYANT. Mr. Flemming, having worked in this school district for some 25 years and having an intimate knowledge of the elementary schools which were affected, I was of the opinion, prior to the integration plan, that there was equal educational opportunities, as I understand it. Of course, you know, there's great debate over exactly what the term means, but I have known throughout the years that we have basic lists of equipment that are installed in every school in this district, there was some—there were older school facilities than others, but the teachers were employed with the same qualifications. I myself was a principal in a ghetto school, so to speak, with 60 some odd percent black students for 8 years. At no time did I ever feel that while I was principal of that school, which incidentally had the first black teachers in Corpus Christi in it and on its faculty, at no time would I have tolerated, nor did I ever feel that there was anything unequal about the kinds of equipment or teachers or education that our school was receiving or giving to students under my care.

My knowledge of professionals with whom I dealt, both teachers and other administrators, reinforced that point of view. So, I cannot, in the space of time of 1 year, say that I've seen any startling kinds of happenings that would lead me toward that conclusion.

CHAIRMAN FLEMMING. Well, striking the word "startling," have you identified any developments that you feel will improve the situation as far as equal educational opportunities are concerned if they are—if they continue to be carried out in accordance with the court order? See, I have to start with the finding of the court that, in fact, that equal educational opportunities did not exist; that is why the court issued its order, and that's why the computer plan has been put into operation.

I certainly value your judgment in light of your long connection with the system. I'm just wondering whether as you've watched this during the year, as you've had the experiences that I know you've had during the year, whether you've identified some developments which you then feel if they are continued will help to improve the situation as far as equal educational opportunities are concerned?

DR. BRYANT. I really cannot say yes to that, Mr. Flemming. I simply have no objective data on which to base it. I also know that there were

many negative aspects that would contribute toward some possible problems in that area. Again, though, I realize we've only had 1 year experience.

CHAIRMAN FLEMMING. Yes. Yes. Let me come to that because I was going to ask you that also. Let me just express a little bit more on the other aspect of it.

As a result of the court-ordered desegregation, did some children in the system have the opportunity of having educational experiences with persons from other cultures, opportunities which they would not have had if it had not been for the court-ordered plan?

DR. BRYANT. I would say that some students within the district had opportunities for social experiences that they probably would not have had in normal situations through the year, the mixture that resulted from the court plan.

CHAIRMAN FLEMMING. Do you regard that as being on the asset side of the ledger?

DR. BRYANT. I think the way our professional staff has worked to make it an asset would cause me to think so in that way. Again, that is not the whole story, but in that narrow aspect I would have to say, yes, the exposure that has resulted, the interaction that has resulted has no harmful effect and in some cases been good for social interaction.

CHAIRMAN FLEMMING. Let me say that we have taken a good deal of testimony in other communities which points to the same conclusion. Personally, I've always felt that that was a part of the total educational experience of a student, child, or young person attending school.

Now, you did indicate to me that you have identified developments related to the desegregation plan which, you believe, tend to stand in the way of achieving the goal of equal educational opportunity. I would appreciate your identifying those developments.

DR. BRYANT. The traveling associated with sending young students across town in school buses, the feeling of unease by parents who placed those students on buses, that send them 12 miles across town and know that if they are ill, they may be there all day. Working parents who have these kinds of hardships, I don't believe, contributes in a positive way towards education, because I think that education is in a partnership through the home and I think for it to work at maximum effectiveness both parties have to feel good about what is happening. And I would have to say to you that in a great many instances many of our parents have not felt good about what is happening because there have been cases resulting from our computer plan in which one child, of one race or ethnic group, was isolated in a particular classroom of a school and suffered because of that isolation. In spite of all of our efforts to try to alleviate that problem, it still persisted. So, these are the negative aspects to which I referred a moment ago.

CHAIRMAN FLEMMING. You accept, however, the fact that the Supreme Court found that segregated schools are in conflict with the Constitution; therefore, we have to move in the direction of desegregated schools.

You've identified some problems that have arisen, as to work, during this first year under a court-ordered desegregation plan. Have you, on the assumption that there's going to continue to be court-ordered desegregation, developed programs designed to deal in a positive way with the issues that you have identified?

DR. BRYANT. Yes, sir. The ESEA program to which I referred earlier has that as its major goal and purpose. Certain other locally sponsored inservice training programs also have these as goals.

Our consultant staff has been educated to assist in every way, been assigned to principals during the first week of the school year last year, and this year, to assist in helping students to become acclimatized in the new school where they find themselves. So, we're doing everything we know how to minimize the problems that I have referred to.

CHAIRMAN FLEMMING. Thank you very much. Commissioner Ruiz.

COMMISSIONER RUIZ. I believe you have accepted the fact that minority faculty hiring is undersized compared to the district ratio composition?

DR. BLISS. Yes.

COMMISSIONER RUIZ. I understand that there are about 18,000 students that have a home language of Spanish and not English. How many of these students whose primary language comprehension is not English are given bilingual instruction?

DR. BLISS. Would you like for Dr. Bryant to answer that question? Since he's our—

COMMISSIONER RUIZ. Either one of you, Mr. Bryant or Dr. Bliss, can answer that question.

DR. BRYANT. Eighteen thousand students were identified as having a primary home language other than English. There were some 20 different language categories in the city when we did our survey as of last November the first. At that particular time, we reported to HEW that we were serving 1,745 students in bilingual education programs. In the first two categories of the HEW report, which were those who speak only the native language, and category number two, those who speak mostly the native language, there were some 3,967 students, and I would prefer to say that of that 3,967 students we were serving 1,745 at that particular time in our State Follow Through and Title VII bilingual effort.

COMMISSIONER RUIZ. Now, Mr. Bryant, Mr. Williams wasn't sure what the words affirmative action meant. You were here when I tried to get a definition from Mr. Williams and apparently Mr. Williams first-hand wasn't acquainted with what it meant on the subject matter at hand. Have you as Mr. Williams' delegated specialists ever discussed the term affirmative action with Mr. Williams?

DR. BRYANT. I can't say that I've discussed the term affirmative action with Dr. Williams. I have discussed it in a general way, not in a specific way.

CHAIRMAN FLEMMING. The term—

COMMISSIONER RUIZ. The words affirmative action in conversations between you and Mr. Williams haven't come up then for discussion only?

DR. BRYANT. Only in a general way because they come in almost all Federal documents that we receive nowadays, Title IX, the whole bit.

COMMISSIONER RUIZ. In this general way apparently there has been a lack of understanding between you and your superiors on this element of equal opportunity and this may be one of the difficulties that we've been having in Corpus Christi. Now, I listened to your testimony very carefully and your testimony indicates an excellent grasp of the logistics involved in a successful bilingual program. Apparently from what I hear here, you are being shorthanded when it comes to teachers, is that correct?

DR. BRYANT. That is correct. We [do not] have enough teachers to fulfill the requirements of the State-mandated bilingual education program as well as Follow Through and Title VII.

COMMISSIONER RUIZ. Now, who specifically is in charge of getting Mexican Americans into teaching positions?

DR. BRYANT. I would say that our personnel office which is under Dr. Bliss.

COMMISSIONER RUIZ. Now, apparently Texas colleges aren't producing Mexican American credentialed teachers. What special efforts have you made to go to other States, let us say, California, to acquire them?

DR. BRYANT. I'll have to defer that question to Dr. Bliss.

COMMISSIONER RUIZ. To Dr. whom?

DR. BRYANT. To Dr. Bliss who is assistant superintendent for administration.

DR. BLISS. Let me see if I, without passing the buck, can correct something just a little bit. Our director of personnel is specifically in charge of the recruitment of the teachers and his department—that department is within the division of administration and the director of personnel is Mr. Edward Galvan. Now, as to your question about what effort do we take to go outside the State?

COMMISSIONER RUIZ. Yes, have you gone to California?

DR. BLISS. No, we have not.

COMMISSIONER RUIZ. Have you gone to anyplace other than New Mexico?

DR. BLISS. Not to my knowledge, not in the 3 years that I've been in the district.

COMMISSIONER RUIZ. Have you ever thought of going to your neighbor State to the south of us, the state of Coahuila? I understand that there are many schools in Mexico where American children attend to learn Spanish. Some of our universities have teacher exchange

programs. Have you checked the University of Southern California or any of those universities that have that type of an exchange as a transitory period in order to fill the gap while we're getting materials, local material trained?

DR. BLISS. No, we have not.

COMMISSIONER RUIZ. Have you tried the United States Office of Education?

DR. BLISS. You mean, have we gone to the department recruiting teachers?

COMMISSIONER RUIZ. Through the department of education in Washington?

DR. BLISS. No, we have not been there to recruit teachers.

COMMISSIONER RUIZ. Have you ever corresponded with organizations—well, they have printouts. Many institutions—

DR. BLISS. We get all the printouts, yes, from the U.S. Office of Education, from our own State associations, from the United States Directory of Available Teachers, from all sorts of sources.

COMMISSIONER RUIZ. And have you gone to printouts with relation to available talent in other universities outside New Mexico?

DR. BLISS. Yes, we are on the mailing list of a number of placement offices at colleges and universities throughout the Nation. When you talk about recruitment, I assume, you meant do we physically go to that institution or that particular point or place within the confines of the geographic areas you have mentioned.

COMMISSIONER RUIZ. What I am trying to find out is this. Affirmative action means exactly what it says and there's no mystery about it. For example, when we wanted to get our space age off the ground, to get through the use of rocketry for the space age. The Department of State had no difficulty in getting experts from Europe and from the United States. Have you suggested to the Texas State Education Agency to assist you in recruiting bilingual teachers from anyplace outside of the State of Texas?

DR. BLISS. I can remember when I was in Texarkana, Texas, and we first desegregated the schools, we went with an ESEA project and asked for funding from the Federal level to give us assistance in recruiting minority teachers, and they failed to give it to us. And I think we have been somewhat frustrated at the public school level in trying to comply with the Federal guidelines without Federal assistance to comply with those guidelines.

COMMISSIONER RUIZ. Well, apparently this is one of the negative things that we have to deal with at the present time?

DR. BLISS. No, we have to deal with it.

COMMISSIONER RUIZ. We, I am including we as part of you and myself because it's a mutual problem, sir. We have to deal with and as I understand, you are looking forward to establishing more energy along these lines, as you have giving your thought over to our chairman as to the near future.

DR. BLISS. Yes.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. We're very appreciative of your being with us and providing us with this information.

Counsel will call the next witness.

MR. GLICK. Mr. Chairman, the next are members of the Board of Education of the Corpus Christi Independent School District. To begin with, Cornell Barnard, the president of the the board; Marsha Darlington, Mr. Dale Hornsby, Mr. Franklin Bass, and Mr. Glenn Hutson. There are two members of the board who are not available to testify today.

Please remain standing so the Chairman may swear you in.

[Messrs. Barnard, Hornby, Bass, and Hutson and Ms. Darlington were sworn.]

TESTIMONY OF CORNELL BARNARD, PRESIDENT, BOARD OF EDUCATION, CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT; MARSHA DARLINGTON, FRANKLIN BASS, DALE HORNSBY, AND W. GLENN HUTSON, MEMBERS, BOARD OF EDUCATION, CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT

MS. TAYLOR. Would you all state your names and address and present position for the record and state how long you have served as a member of the board of education, beginning with Dr. Barnard?

DR. BARNARD. I'm Dr. Cornell Barnard. My home residence is 13 Lake Shore Drive, Corpus Christi, Texas. I have been on the board of education for 10 years.

MS. DARLINGTON. I am Marsha Darlington. I reside at 4729 Congressional in Corpus Christi, Texas. I have been a member of the body of trustees for approximately 4-1/2 years.

MR. BASS. I am Franklin Bass. I live at 633 Moray. I've been on the Corpus Christi Independent School District board for 10 years.

MR. HORNSBY. I'm Dale Hornsby. I reside at 4409 Coventry Lane in Corpus Christi, Texas. I have been a member of the board of trustees for approximately 5 months.

MR. HUTSON. W. G. Hutson, 3409 Floyd, Corpus Christi. I've been a member of this board of education for 12 years.

MS. TAYLOR. Dr. Barnard, what was your assessment of the conditions of the Corpus Christi Independent School District with respect to segregation when you were first elected to the school board?

DR. BARNARD. My observations, as far as the neighborhood school system that we used, we had no segregation. I think at that time, if I am not mistaken, we had a freedom of choice for the black. Is that not true, Mr. Gary? I think we had a freedom of choice for the black students and all the rest of the students went to the neighborhood school. Neighborhoods were—there was no—as far as I know, economically no one was restricted from living in any part of town. I'm not sure of this. I've heard differently. I know now that there is a law that restricts anyone from not selling to anyone in any part of town

Ms. TAYLOR. Mr. Hutson, prior to the *Cisneros* lawsuit—in filing of the *Cisneros* lawsuit in 1968—were any efforts made by individuals or groups in the community to call to the board's attention disparities in the provision of educational services that you know of?

MR. HUTSON. If I understand your question, there were from time to time clamors for better teaching and better learning. I do not know that it referred to any particular racial or ethnic group. I do not remember that—any evidentiary presentation to the board of education which would indicate that there was something lacking in our offering of equal opportunity in schools.

Ms. TAYLOR. All right. What plans were made by the school board to assure the successful implementation of the 1975 court-ordered computer desegregation plan?

MR. HUTSON. I'm sorry, I don't think I understood.

Ms. TAYLOR. What plans were made by the board, school board, to assure the successful implementation of the 1975 court-ordered computer desegregation plan, and I'd like for each one of you to respond to that if you would like?

MR. HUTSON. Since I'm talking to you would you like me to be first?

Ms. TAYLOR. Sure. Yes.

MR. HUTSON. This was an administrative matter. We anticiapted no problems with it; we had none. The court order was implemented by the superintendent of staff and the community accepted it as each one to his own taste.

Ms. TAYLOR. Would anyone else like to comment on that?

MR. HORNSBY. I pass because I was not on the board at that time.

MR. BASS. Ms. Taylor, I think this plan was implemented due to the fact that the court ordered us to implement this plan. Now, I want to make it perfectly clear to you that I never did like the order that was given to me; and I don't like it today, and you can take this and go back to wherever you want to and tell them exactly what I said about it too.

I think we've done a good job on implementing what we have been forced to do.

Ms. TAYLOR. Mr. Bass—

MR. BASS. That's right.

Ms. TAYLOR. What don't you like about the plan?

MR. BASS. I just don't think that it takes any ethnic balance in any school for a child to get an education. That child has to put out something of his own. If he don't—I can drive you up there to that waterhole, but I can't make you drink that water. Do you agree with me?

Ms. TAYLOR. I understand what you're saying. Would anyone else like to comment?

Ms. DARLINGTON. I would just like to think that—I think part of the reason that the elementary plan was put into effect with as little noise as there was in the community was because of two reasons. The first

reason was that those who were not affected did not make any noise. If your kid is not going, then why knock it. We don't think about a year from now. The other portion is those people who were affected had their children in school or else they had them in private schools and they were not affected. Those people were intimidated so they were not going to yell a great deal, their child is sitting in a minority situation or a majority situation. So, you had both groups of citizens who still didn't like it a lot, who were not cooperating a lot, because of our great loss of minority parents, but there was not a great uproar in the community because of those two reasons.

Ms. TAYLOR. Dr. Barnard, would you like to comment on that?

DR. BARNARD. No, I have no further comments.

Ms. TAYLOR. Or anyone else? Mrs. Darlington, I think you've pretty much answered my next question, but I'd like for you to elaborate a little bit more. What has been the Corpus Christi Independent School District's experience with the computer plan, and what do you see as the major complaints of it?

Ms. DARLINGTON. I think the plan is very inequitable and I think that's why the parents are very hesitant to put their child into it. I think that's why we've had the great amount of white flight that we have from the district at the elementary level, and I know that most citizens, not only in Corpus Christi, Texas, but all over these United States when dealt with fairly will try to be cooperative, and I don't think that the computer plan does that. It isolates students. It doesn't provide for their best interests. It walks a great number of students who are already in an integrated situation. It leaves the busing or the forced transportation to certain areas of the city, isolating those students in other areas of the—both majority and minority students. It's very arbitrary in the students that it picks. It has no regard for education, for safety for the student in the way of crossing the streets and freeways. There are not a lot of good things that I can say about it, yet the people of the community have had to buy it.

Ms. TAYLOR. Thank you. Mr. Hornsby, you indicated to the staff that you favor bilingual education. Why do you have this position? Why do you adhere to this?

MR. HORNSBY. Well, as has already been stated, we have been a community that has a large number of people who speak a language other than English, and I think for enhancement of their education, they certainly need to understand the language that they're being taught in. And obviously, one could not or I don't—it's my personal belief that one could not attend 12 years of public schooling, receiving language in—receiving education in a language other than English and then be a productive citizen in the United States when they completed their schooling. So, I think at some point you would have to delete this program. I don't know at this point just where that would be.

Ms. TAYLOR. All right. Since you were elected in April, I guess, of this year to the board, what efforts have been made to assure that the district is in compliance with the *Lau v. Nichols* decision?

MR. HORNSBY. Well, in the conversations that I have been a party to concerning the *Lau* decision there has been quite a bit of confusion apparent on the national level as to just what we're supposed to do with the *Lau* decision. And so, from what I've gleaned from the conversations that I have been a party to is that we would rather substitute the Texas Education Agency requirements instead of the *Lau* remedies.

MS. TAYLOR. I would like for each of you to respond to this question, please. Do you believe that minority representation on the board is necessary? If, yes, why? And if not, why not?

DR. BARNARD. I feel that actually the board represents the whole community. I wouldn't want to feel that our present board represents any group of people or ethnic group. I don't feel like it is absolutely necessary. I think that the minorities feel more confortable with a board that has a minority member.

MS. TAYLOR. Ms. Darlington?

MS. DARLINGTON. I think that you see in the composition of the board the people who are elected representative of the people who vote in this district, and I think if a minority person ran that was qualified to serve on this board that he would have won or she. I really don't think that—we do have a suit filed against us, as you probably know, about single-member districts. I do not see any vote dilution in the minority district. If you look at the many elections, you will find that minority people won those elections. There is no reason to think that people would vote in the school board election who would vote in the elections for representatives or for any other election in the city. And I think if qualified Mexican Americans and blacks ran for this board, that they would then be elected. They certainly have the voting power to do it.

MS. TAYLOR. Mr. Bass?

MR. BASS. Well, I want to say that I think I represent all the people in this city, not necessarily the Anglos, the Mexican, or the Negro. I hope that I am representing everybody in this city so I have to think that it—if they want to run and they have been candidates who have run, but have been unsuccessful only in one case—I think they have the opportunity. It's here for them.

MR. HORNSBY. I do not believe that it's a prerequisite to have an excellent board of education to have minority representation on the board. I think it might be desirable, but I don't view it as being a necessity. I would like to think that I am wise enough to represent the community as a whole.

MS. TAYLOR. Thank you. Mr. Hutson?

MR. HUTSON. Would you like to ask the question please?

MS. TAYLOR. Yes. Do you believe that minority representation on the board is necessary to ensure minority interest?

MR. HUTSON. No, I do not think it's necessary. I might comment, as Mr. Hornsby, that I think it's desirable. I have to give as a reason that there is in regarding the Mexican American community more than the black, there's considerable division there, and one of the ways they indicate their preference for people in public office is by staying away

from the polls. If they go to the polls, they always name a Spanish surname. So this is one method of indicating their preference for officials who are elected. And this would deprive them if we made some—imposed some plan—we are considering some that it would deprive them of their option of staying away from the polls, not because they're lazy or neglect but because of their conviction.

Ms. TAYLOR. Thank you very much. Mr. Chairman.

CHAIRMAN FLEMMING. I would like to pursue the question, Ms. Darlington and gentlemen, with respect to your answers concerning the representation of minorities on the school board. And I think each of you indicated that you believe that you were capable of representing such minorities. And first of all, I'd like to ask if in the counting of the votes—did you, first of all, have minorities, have a Mexican American, as a candidate for the school board in the past election?

Ms. DARLINGTON. Yes. There have been candidates running, yes.

CHAIRMAN FLEMMING. There were Mexican American candidates for the school board in the past election?

Ms. DARLINGTON. Yes.

CHAIRMAN FLEMMING. Were there black persons who were candidates for the school board in the past election?

Ms. DARLINGTON. I don't believe so.

CHAIRMAN FLEMMING. Those—the Mexican American candidate or candidates lost?

Ms. DARLINGTON. Right.

CHAIRMAN FLEMMING. Do you have any information as to those areas in which the Mexican Americans received the greater number of votes, the areas of the city?

Ms. DARLINGTON. I really didn't look over the election poll that minutely because I wasn't running. But I would assume that they would poll the most number of votes in the areas where there were most Mexican Americans.

CHAIRMAN FLEMMING. Would you know whether—from the board of election commissioners—they would have the count? Let me tell you what I am getting at. If in this community, as I believe it is true, there are certain sections that are predominately Anglo residents, then there are other sections in which they are predominately Mexican Americans, then there are other sections that are predominately black. That if in the sections that there were predominately Anglo and none of the Anglos voted for the Mexican Americans, then this would be interesting for a determination as to whether people are voting on the basis of race or ethnic origin. That is why it would be helpful to us, in this respect, in considering your replies to the questions.

Ms. DARLINGTON. I understand what you are trying to say, and I think that a more recent vote is the May election in which there were, I think, of one single—there were two elections where there were Mexican Americans who were opposing Anglos, and the vote all over the city was predominately Mexican American. The vote where the Anglo percentage was the highest was either half or predominately for the Mexican American. In the heavy Mexican American and black communities the vote was almost 100 percent for Mexican Americans. And

in that election I looked into the reviews enough to know in the school board elections we have not found that many voters in the predominately black and Mexican American communities, which nobody can make you vote. And so it has not been that those communities were not carried, but simply a lack of voters whereas the predominately Anglo community has consistently voted in school board elections.

CHAIRMAN FLEMMING. As you probably know, one of the concerns of this Commission is of voter participation, not only voter registration, but actually voting, and we have, of course, had an interest in the Voting Rights Act. And when the Commission endorsed the extension of the Voting Rights Act, one of the provisions that the Commission was concerned about was the extent to which the—because of the lack of bilingual education, because of the fact that the information concerning the election was not available equally in English and Spanish, whether that would have had a negative impact on the voter participation. This is one of the reasons why I'm pursuing this question because it relates not only to the result of the election, but it also relates to other aspects of the Commission's jurisdiction.

MS. DARLINGTON. Yes, I understand that and you do know that in Texas, now we have—all the election is bilingual as well as there must be one official in each precinct who is also bilingual.

CHAIRMAN FLEMMING. Yes, we are.

MS. DARLINGTON. So we no longer have this. This could have been possible in the past; however, all of our school district's things have come out bilingually for a number of years. I think we find that a lot of parents who are illiterate in English are also illiterate in Spanish and for those people, who are very low on the economic scale for the most part, are no more helped by our bilingual efforts in communicating with parents than we were able to get to them by communicating with them in English many years ago.

CHAIRMAN FLEMMING. Then my next question goes to the fact that the board of education recognizes there may be the need for additional adult education. Now, to what extent has the board developed and carried out programs for continuing education of the adult population?

MS. DARLINGTON. We have adult education. It's been—I can't tell you how many years it's been functional. We've had several different phases of it. We have one now that offers a GED [General Education Development certificate] for adults or those who are older than high school age, it [is] also administered to those who are of high school age but who have dropped out, however. We have offered from time to time schooling for parents to help their children, a sort of preschool programs for parents who want to help their children, and yet do not feel capable. This has been done on an adult education basis, although that's not the name of the program. I went to the adult education graduation last year; we must have graduated some 50 students, I believe. We have a good facility for that now because we were forced to close the school that is in a neighborhood where we can administer to many people on a walk-in basis. Many people were there and thrilled to death. I believe age 72 was the oldest one we graduated, but [he was] thrilled at [that] age to go ahead and finish his high school education.

CHAIRMAN FLEMMING. Each of you indicated that you believe that you could represent the total community. Well, would each of you indicate to this Commission your contacts with the minorities, the contact, and the nature of that contact?

DR. BARNARD. Could I answer on this adult education program? We also have education—TV educational programs over our public TV which many take advantage of, and over 65 people have a group that come into the adult education schools and help in tutoring our adults.

I'll try to answer your next question.

CHAIRMAN FLEMMING. What organizations that are black or Mexican Americans do you relate to, do you speak to, and what occasions do you listen to the concerns of those organizations and individuals?

DR. BARNARD. Anytime any group or any individual comes to me, black, Mexican American, or Anglo, my phone is always available. I'm always available for any discussion. Through my profession, I'm a dentist, I have a very high minority—

CHAIRMAN FLEMMING. What business?

DR. BARNARD. I'm a dentist.

CHAIRMAN FLEMMING. Dentist?

DR. BARNARD. Right. I have many patients that come to me. I have lived in this community all my life. I was raised with black and Mexican Americans. I went to school with them. We had blacks—of course, we were segregated at that time, but I have a very good relationship with the minorities in this town.

CHAIRMAN FLEMMING. You are not suggesting that when a patient comes to you for dental care that that's when you discuss the school problems?

DR. BARNARD. If they have a question, I discuss it with them. I had a lady in this week, this last week. Her child was being taken care of through the Title XIX dental care program, and she had some questions to ask me about her child being bused from one school to another. And I took the time out at that time to answer her questions because I knew it was important to her.

CHAIRMAN FLEMMING. Have you ever initiated any contact with the NAACP [National Association for the Advancement of Colored People] or any other civil rights organization?

DR. BARNARD. I wouldn't say that I initiated. When I ran for my last election, I talked to many people about the problems in the community to get my finger on the pulse of the community and become more aware of the problems.

CHAIRMAN FLEMMING. Have you done anything—have you communicated with anybody since the election?

DR. BARNARD. Oh, yes. I speak—I have contact with people all the time. I wouldn't say that I seek any organization. I go to individuals more than I go to organizations.

CHAIRMAN FLEMMING. The same question from each of you, please?

MS. DARLINGTON. I don't really have to seek a great deal of participation because it walks in and out of my front door everyday. I have four children who are in the public schools. They have friends of each and every ethnic race, and I communicate with those children as well as their parents. I have found that people who belong to organizations are much more politically inclined to foster their ownselves rather than to help the individual students or people, sometimes even of their own race. So I have more or less stayed away from the politicos involved in this thing and become more acquainted with people and their children.

CHAIRMAN FLEMMING. Mr. Bass.

MR. BASS. I can't say that I've gone out and tried to speak to any political groups. Now, I've attended PTA meetings all over this city. I've been in every school in our district. I've never refused to talk to anyone and they know that they can talk to me.

CHAIRMAN FLEMMING. Mr. Hornsby.

MR. HORNSBY. I've quite a bit of involvement with both the black community and the Mexican American community in that my place of employment employs a large number of Mexican Americans and blacks. In fact, about half of the plaintiffs are employed—in our, both desegregation suits—are employed at the same place that I am. I meet these people on a day-to-day, first-name basis and have quite a bit of contact with those people.

I grew up in a neighborhood in Corpus Christi that was predominately black and Mexican American. Before I was elected to the school board, I was president of the Concerned Neighbors Organization, then called the local antibusing faction. In that regard, I did request a meeting with the plaintiffs in this lawsuit and which they subsequently refused. We did neet twice with the NAACP here in Corpus.

And as Ms. Darlington said, I have four children also and I have quite a bit of integrated traffic in and out of my house. Also, I've made several speaking engagements with predominately black and Mexican American groups, and also my telephone is available to anyone at anytime and they do take advantage of it.

MR. HUTSON. You may be wondering if we are ignoring the so-called town meeting process that's so common east of the Hudson River and some other faraway places. That is not a characteristic of people in this part of the country. Most of the conduct of philosophy and political affairs is done on a one-to-one basis, one to two. I don't think anyone here is trying to evade the affirmative action side to the question, do we go out and try to find someone with whom to talk. Having been in Federal court all these years, we do not lack for verbiage of every kind, everytime we open the door and everytime we close one. I believe that the answer you are looking for lies, though, in the philosophy of what constitutes dialogue or what constitutes going out and finding what people want.

Somehow, we have been able to—these people have been able to find us. I would like to say, and in part answer the question you asked earlier, that was to come down the line and didn't—I do think we're making some progress on this matter of voting thing, mixing, because—and I say this not facetiously, because this shows there is some progress, that at my election prior to this last time that on two west side so-called Mexican American places, polling places, I got no votes. And so in those boxes this time, I got two at each place. So, there is some increase.

COMMISSIONER FREEMAN. You got two votes in the black community and you got zero—

MR. HUTSON. That's right.

COMMISSIONER FREEMAN. That was at about 200 percent increase?

MR. HUTSON. That's right.

COMMISSIONER RUIZ. On this question of one-to-one contact, when was the last time any board member went to one of these Mexican American homes to discuss the concerns of parents relating to their children's education, which parents do not speak English? Are there any? When was the last time?

MR. BASS. I really never knew there was any requirement that said I had to go to anyone's house like that, Mr. Ruiz.

COMMISSIONER RUIZ. I just wanted to know.

MR. BASS. No, I have not.

COMMISSIONER RUIZ. Which of the board members are bilingual, English and Spanish? Now, you believe in statistics, don't you, Mr. Bass?

MR. BASS. Oh, I think so, yes.

COMMISSIONER RUIZ. Well, your own statistics show that there are 18,000 students who have a home language in Spanish and not English. Do you believe that they're accurate?

MR. BASS. I certainly do.

COMMISSIONER RUIZ. No more questions.

DR. BARNARD. I would like to indicate—I'm sure that you may have had some testimony that we have employed community aides that work with our students, work with our minorities, and work with the parents in order to acquaint the parents with our educational system and keep our children in the schools. Many times in church work, I'd notice that people feel very ill at ease when I enter their home, and so I think that our own community aides do a much better job. They feel more at ease with these people and I don't like to make anyone feel on the defensive.

CHAIRMAN FLEMMING. Right along this line—

DR. BARNARD. Sure you do.

CHAIRMAN FLEMMING. —could I ask you as president of the board whether the board has—coming back up the—the superintendent indicated that there was in existence in this community an advisory committee made up of representatives of various groups to work on this whole problem of desegregation. Has the board ever invited that ad-

visory committee to meet with it or has the advisory committee ever asked to attend a meeting of the board and make representations to the members of the board?

DR. BARNARD. We have so many advisory committees. Are you talking about the court's advisory committee, court appointed?

CHAIRMAN FLEMMING. I'm referring to the one that the superintendent referred to this morning. I didn't gather that that was court ordered, but is it?

MR. GLICK. There is a committee that is court ordered, Dr. Flemming, but it is largely dealing with the mechanics of the computer-order planning. It's not advisory on deeper subject matter.

CHAIRMAN FLEMMING. I'm really referring to the other committee that was set up as I understand to advise the—

DR. BARNARD. I know the committee you are talking about. I met with them the last time we were discussing the junior high school integration plan.

CHAIRMAN FLEMMING. But have they ever met formally with the board?

DR. BARNARD. No, I don't think so; have they?

CHAIRMAN FLEMMING. The board, I assume, has never invited them to meet with you?

DR. BARNARD. They work through the administration. We have input through the superintendent.

CHAIRMAN FLEMMING. Dr. Barnard, you've listened to some of the questioning relative to the composition of the teaching force, in other words, relative to the representation of minority teachers in the school system. Do you have any views on that particular issue?

DR. BARNARD. You ask this question of me?

CHAIRMAN FLEMMING. Yes.

DR. BARNARD. We are attempting to hire the most qualified teachers we can find. I have a document that the staff prepared in July of '74 that I'd like to submit to your Commission so that you could be aware of the high percentage or low percentage of Mexican American teachers that are available even in this State. This is a three-page document.

CHAIRMAN FLEMMING. We'll be very happy to accept that as a part of the record and enter it as Exhibit No. 4, I think, if there's no objection.

DR. BARNARD. Any objections from the board?

CHAIRMAN FLEMMING. Exhibit No. 3, okay?

I'd just like to ask again as president of the board—you may want to defer to some other—as I indicated earlier, we all start from the premise that the Supreme Court has decided that segregated schools deny the equal educational opportunities to children and young people guaranteed by the Constitution. The local U.S. district court has now issued two plans; one you've been operating under the past year; and then the new one for the junior high school this year designed to im-

plement the rights guaranteed to the children and young people by the Supreme Court.

Do you believe that as members of the school board, irrespective of your feelings relative to the court order, and you've expressed, some of you, your feelings regarding the order, have the obligations as members of the board, as public officials, to see to it that the resources of the school district are used to implement the order, and that if the implementation of the order creates problems that there is an obligation to use resources in such a manner as to resolve the problems in a constructive manner?

DR. BARNARD. I would say emphatically, yes. We're—speaking for myself—I think I can speak for the board, we're all law-abiding citizens. We would obey the court's order and we do everything we could to make the order work and ensure the safety of our students.

CHAIRMAN FLEMMING. Thank you very much. We appreciate all the members of the board coming and being with us and sharing your views with us. Thank you very, very much.

Counsel will call the next witness.

MR. GLICK. Mr. Chairman, the next witnesses represent the State of Texas Education Agency and they are Dr. M.L. Brockette, who is the State commissioner of education, and Dr. Severo Gomez who is associate commissioner of education for educational programs for special populations. And with your permission I will request Ms. Gloria Cabrera, the regional counsel for the Commission in the Southwestern Region, to question the witnesses.

[Messrs. Brockette and Gomez were sworn.]

TESTIMONY OF MARLIN L. BROCKETTE, COMMISSIONER OF EDUCATION, TEXAS EDUCATION AGENCY, AND SEVERO GOMEZ, ASSOCIATE COMMISSIONER OF EDUCATION, EDUCATIONAL PROGRAMS FOR SPECIAL POPULATIONS, TEXAS EDUCATION AGENCY

MS. CABRERA. Please state your name, position, and address?

DR. BROCKETTE. I am Marlin L. Brockette, commissioner of education, Texas Education Agency, 201 East 11th Street, Austin, Texas.

DR. GOMEZ. I am Severo Gomez, associate commissioner of education, educational programs for special populations, the Texas Education Agency at 201 East 11th Street, Austin, Texas.

MS. CABRERA. Thank you. Do either of you have any statements to submit to the record or exhibits at this time?

DR. BROCKETTE. I have information that we discussed a few days ago that relates to the implementation of 5281, the court order, which includes the communications that we have with local districts under that order, and I would submit it for the record for what use it might be to the Commission.

I do not have a prepared statement. I am prepared to respond to the interest of the Commission and their questions. I do have, in addi-

tion to that information, materials and communications with our districts, our policies adopted by the State Legislature of Texas, and the State board of education concerning bilingual education, and to what extent that information in print is of use to the Commission, I'll be glad to leave that as a part of our records.

Ms. CABRERA. Thank you very much.

Commissioner, for the record, would you identify the court order you are submitting?

Dr. BROCKETTE. The court order is labeled 5281 of the United States [District] Court, Eastern Division of Texas, Tyler Division.

Ms. CABRERA. That's the *U.S. v. Texas?*

Dr. BROCKETTE. Yes.

Ms. CABRERA. Commissioner, we'd like to begin our discussion with general comments about the State bilingual act and the involvement of the Texas Education Agency in implementing that law.

Dr. BROCKETTE. Yes.

Ms. CABRERA. Would you please describe for us what responsibilities TEA has as a result of passage of the State bilingual act?

Dr. BROCKETTE. With the Commission's permission, since it's rather short here, in our State legislature's act they have identified or described what is to be the State policy towards bilingual education, and I'd like to submit that for our records and our information. It is as follows:

> that the Legislature finds that there are large numbers of children in the State who come from environments where their primary language is other than English. Experience has shown public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language.
>
> The Legislature believes that a compensatory program of bilingual education can meet the needs of these children and facilitate their integration into the regular school curriculum. Therefore, pursuant to the policy of the State to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English-speaking ability, it is the purpose of this subchapter to provide for the establishment of bilingual education programs in the public schools and to provide supplemental financial assistance to help local school districts meet the extra costs of the programs.

And that lays out our State policy by our legislature.

Ms. CABRERA. Yes, I understand that, Commissioner, but would you discuss for us, for example, what TEA does as regards the funding of the State bilingual act? Do those funds flow through TEA to the local districts?

Dr. BROCKETTE. Yes, they do. I have given you the authority that provides for the appropriation of those funds. I have here also the

State board of education's action against that policy which sets up a policy for the use and the distribution of those funds. I also have here with me the "Statement of Administrative Regulation," which, as commissioner, I am delegated by the State board of education and under this act to perform in the distribution of those funds to the local districts. My administrative procedure that supports the board policy enumerates the kinds of things that the money shall be spent for. And if that's the heart of your question, I do have it here in writing. I can make that a part of the record and I can enumerate what these funds are used for if that serves the intent of your question, or we'd handle it in anyway you see fit.

MS. CABRERA. We would be happy to take that for the record and if you would summarize how districts are identified to receive that money. What I am asking is how do you assure that a district has a need to receive that money, and then what do you do about providing that money to that district? If you could summarize that for us besides submitting that for the record?

DR. BROCKETTE. Let me take a crack at it and I'll ask Dr. Gomez to fill in what perhaps I might overlook.

In the spring of each year, we ask the local school districts for a report. This report is to be used for program planning for the next school year. The report gives us an identification of the students in each school district that have a need for bilingual education. The districts then submit an application to us based upon the provisions of this act, for people who need to be trained in order to teach in the bilingual program, for instructional materials that might be needed by the teachers in the teaching of the bilingual students, and for other kinds of operational costs that include but are not limited solely to testing that might be required, and the identification of students, evaluation of the program design that has been developed by the local school district. And those are the primary uses now that are made of the funds.

But, Dr. Gomez, from your administration of the program what other major things have I left out that the funds are used for?

DR. GOMEZ. I don't think you left out anything other than something very specific. The funds are allocated on the basis of the number of children that are designated by the district as having limited English-speaking ability, by the number of teachers that are to be trained to meet the needs of those children.

MS. CABRERA. Commissioner, if I could ask you now, does TEA have any standards the districts have to use in identifying the students that are going to need that help? Do you have tests or instruments that you provide to the districts that they are required by you to use?

DR. BROCKETTE. The districts must submit along with their application their plan for the use of the monies and their plan for the identification of students. We identify a list of tests from which they may select to give the required tests that are part of the development of

their plan and a part of the identification of the students in their community.

Here again, I'd ask Dr. Gomez to fill in what we may have overlooked as a requirement of the local district in submitting their plans.

DR. GOMEZ. There is a requirement to the district that they must submit to the Texas Education Agency the plan by which they select or determine how the children are of limited English-speaking ability. We do have, as the commissioner stated, a number of tests, that we have specialists in our bilingual division that are responsible for finding test[s] and making the information available.

When we began the program, when the law was passed in 1973, the schools were required to submit the names of the children in the spring of '74 and the program went in effect in the school year '74–75. At that particular time, those of us who were involved in the bilingual education felt that there really wasn't a very good test available commercially to determine what we would call limited English-speaking ability in children, but we had to implement the law, and we had been involved in bilingual education for several years through the Title VII program and other programs, so we had some experience in having teachers, in the identification of children.

So in our communication with the schools, we did suggest different tests that had been used in Title VII programs, but we also suggested to them that they use expert people in the community in the school that might be able to determine the linguistic capabilities of children on an opinion of an expert, rather than any kind of a test.

MS. CABRERA. Thank you. Dr. Gomez, if I understand both of you correct, what you are saying is that there is no standardized form or instruments for schools to use in identifying the students with limited English-speaking ability; is that correct?

DR. GOMEZ. Well what we're saying is that until recently, because tests are coming out, we feel that there were no tests that were specifically designed for this particular task. There were language tests, there were tests that indicated to some extent the capability of a child in one or another language; but we felt this wasn't something that we could use on a statewide basis, and we also felt that there were people in the field in different areas in different schools that might have capabilities—people in testing that might apply their testing capabilities that they have used in English programs, if they were bilingual, in a Spanish situation. So, we were asking is this is a possibility, not translating a test but probably adapting the tests in order to identify the children.

Since then, there have been some tests. Most of the tests that we consider at this point that are good tests are tests that have to be administered individually and by people who really know how to administer tests and not the regular classroom teacher that has not been trained in it.

DR. BROCKETTE. We have entered into a contract, I believe, for developing an oral language test; is that not correct?

DR. GOMEZ. Yes, we have in the past 2 years—2 years ago we developed some criteria reference tests in different areas including oral language. The other areas were reading, mathematics, and, well, and the language—in both English and Spanish. This past year we pilot-tested those materials. In this particular year, we're refining the tests and are going to use them in a broader sense, but not statewide at this point, to determine whether this particular oral language test can do the job that we're talking about here and we hope that it can.

MS. CABRERA. I see. Dr. Gomez, we've heard a lot of testimony about the *Lau* remedies and about the State bilingual act. In your professional opinion, what are the major differences between the State law and the *Lau* remedies?

DR. GOMEZ. Well, I think the main thing in terms of what the law—the *Lau*, rather, decision stated is that the children could be taught in a language other than English or in their home language. In the case of the remedies, the remedies went further in identification in determining whether a child was in this category by whatever language was spoken at home; not necessarily determining whether the child had developed language outside the home, but basically the thing is that in our State program under the law, monies are provided in grades K through five—K through three mandatory and then optional in grades four and five, and then beyond that it would be at local expense.

Now, of course, in our accreditation standards which would require that, of course, schools provide for the needs of children, if they happen to be of a linguistic nature, it would be covered there. But the *Lau* decision, of course, speaks to all grade levels, whereas our State monies in terms of the law provides monies only for grades K through five.

MS. CABRERA. How about the number of students that would trigger a requirement of a program, for example, I understand that the State law would require a program in the case where you have 20 children of the same language category within the same grade?

DR. GOMEZ. Yes.

MS. CABRERA. Do you see that as a major difference with *Lau?*

DR. GOMEZ. There is that difference too, because the State law says you have to have 20 or more at any grade level, but it also says that any school district who wants to provide for bilingual education for a less number than 20 can do it with State funds within the grades K through five.

MS. CABRERA. Do you see a difference in the evaluation? My understanding is that *Lau* does require an evaluation of the program whereas the State does not?

DR. GOMEZ. Well, in a sense, all our programs as a State—as people in the State, we do have an evaluation department. We do require assessment and evaluation in all of our educational programs. The specifics of the remedies in terms of the evaluation, I think, are

more—are broader than what we have in terms of evaluation for our State program at this time and mainly because of the great number of programs versus the limited number of personnel.

MS. CABRERA. I see. Thank you.

Commissioner Brockette, what position has the Texas Education Agency taken with regard to the *Lau* remedies and the State bilingual act?

DR. BROCKETTE. First of all, our State policy body, I think both of our legislature and State board of education, have not expressed any disagreement with the *Lau* court decision. There is some difference here perhaps in interpretation of just what remedies must be applied in order to carry out the intent and the interpretation of the court order.

Now, we have been working very closely with our regional office in Dallas on trying to identify just what, if any, these differences may be in our State plan for bilingual education and the *Lau* remedies as published. We have produced, for instance, a chart that shows our State policy, our State plan and remedy, the *Lau* remedy, and what is to be the difference, what we might view as the difference. And the regional Office of Civil Rights here has responded to that. This was done back in February of this year and we are still in our discussion and working relationship with that office in trying to interpret what the State policy is and what the State's plan is for addressing the *Lau* decision.

And that since all schools in Texas must come under this State authority and this State policy for a mandated bilingual program, I think it is a shared desire there with us that if these—this State program satisfies the court's order and gives high promise for students to develop bilingual competency that we could go through our responsibilities at the Texas Education Agency to see that this happens in our State and that's the process that's going on now with our regional Office of Civil Rights.

MS. CABRERA. Now, Commissioner, when you are talking about the regional office, you are talking about HEW; is that right?

DR. BROCKETTE. No, I—certainly we have had the leadership at the regional office of Mr. Baca, Commissioner, and staff members there, but Ms. Stuck has been—of Civil Rights—has been very much a leader in part of our whole discussion and it is Ms. Stuck we're working with in the regional office.

MS. CABRERA. I see. Have you received any indication from Ms. Stuck as to whether the State bilingual law will be declared in automatic compliance with the *Lau* remedies, any formal communication?

DR. BROCKETTE. Yes. That communication has come to us, really just last week, from Ms. Stuck, and we had made two specific kinds of recommendations and proposals in our communications with the regional office. Ms. Stuck has told us in this communication that is dated August the 4th, and received in our office here on the 10th, that this

is a subject that she feels like that the Washington office should address and she really does not have the authority to give us authorization to use the State plan and the State program as a fulfillment of the *Lau* decision.

MS. CABRERA. Could we have a copy of that for the record, Commissioner?

DR. BROCKETTE. You sure may.

MS. CABRERA. Thank you so much.

CHAIRMAN FLEMMING. Without objection, we'll enter it into the record at this point.

MR. GLICK. What exhibit number—Exhibit No. 5.

MS. CABRERA. Dr. Gomez, is there a special unit within TEA that is assigned to work exclusively with bilingual education and if so would you discuss for us the role and responsibility of that unit and then the staffing, the number of staff members, and give us the ethnic, racial, and sexual breakdown, please?

DR. GOMEZ. There's a division of bilingual education that is under my responsibility. When we began the program back in 1968 when I was appointed assistant commissioner for bilingual education—was at that time an office and now under—this was under Commissioner Edgar. Now under Commissioner Brockette in a reorganization—where my responsibilities have broadened, where I have responsibilities other than with bilingual education, then the division was formed—there is a division director, there is a program director, and there are six consultants and one intern who is working with us from the University of Texas. We had one the past year and another one this particular year. Of the eight people, all of them are Mexican American except two, and the division director and the program director are Mexican American. The two that are not Mexican American, one is a Franco American from Louisiana, and the other one is what we might call an Anglo American who has one-eighth Mexican American blood, but he's totally bilingual.

You asked me what the function of that division was. Of course, the function of that division is to implement the laws and the policies of the board that we've been talking about in establishing the bilingual programs throughout the State. Before the State law, we were involved in monitoring—assisting schools in the development of projects under Title VII, that was the beginning of our venture into bilingual education when Title VII became a reality under the Elementary and Secondary Education Act.

MS. CABRERA. Thank you so much, Dr. Gomez. I have no further questions.

CHAIRMAN FLEMMING. Thank you very much.

Commissioner Ruiz.

COMMISSIONER RUIZ. Dr. Gomez, with relation to the implementation of the State law, is there any program whereby a Spanish-speaking student who has graduated from high school can take a crash course in a teaching-training course in both languages?

DR. GOMEZ. Are there—I don't—you mean are there provisions under the program for high school students; is that what you are asking?

COMMISSIONER RUIZ. Well, what I am trying to say is to what extent can the law be implemented to waive certification requirements relative to scholastic background to fill in this obvious vacuum in trained teachers?

DR. GOMEZ. We have our training program that extends both to what we call the monolingual English-speaking teachers and the bilingual teachers. In the case of the teacher who is monolingual who is going to find herself in a bilingual classroom, in order for them to do so they must initially take 100-hour, intensive, language immersion course in the learning of the language. If that person after taking the test does not pass the proficiency test that's required as being proficient in the language, that person is given a special assignment permit for that first year with the recommendation to take an additional 200 hours and an third 100 hours if that's necessary.

COMMISSIONER RUIZ. Now, what I am trying to find out is this a way to cut across in order to get somebody in this vacuum that exists, perhaps, and that's the reason I asked the first question. Is there any course available to a bilingual student that graduates from high school to go directly into this type of a backup?

DR. GOMEZ. Well, under our State laws they could not serve as teachers unless they went through a university program.

COMMISSIONER RUIZ. That's what I'm trying to find out. They have to go through a university and take a lot of required courses first?

DR. GOMEZ. That's right.

COMMISSIONER RUIZ. And it might be mathematics, it might be philosophy, it might be a lot of things in order to get a teacher's credential?

DR. GOMEZ. That's right.

COMMISSIONER RUIZ. It might be Greek. Now, the question is, in the implementation of that law, is there any possible way to waive this in order to, in a situation such as has been developing here, fill in the vacuum?

DR. GOMEZ. As I interpret the law, no, but we do use teacher aides which for the most part are high school graduates and some of them have some college.

COMMISSIONER RUIZ. I understand that. I understand that.

DR. GOMEZ. But, no. In the law as it's written today, I do not believe that a high school student can be subjected to what you have suggested and then brought into a classroom as a teacher.

COMMISSIONER RUIZ. Now, with respect to your background language-wise and your expertise, what is your personal opinion with relation to some of these students that graduate from high school that could take a crash course for purposes of teaching youngsters that are just coming into kindergarten, etc., to fill in this vacancy; what is your personal opinion?

DR. GOMEZ. My personal opinion is the people who have capability could very well be used, certainly could be very well used to an advantage. However, they could not serve other than what we call teacher aides, regardless of what their function is under the existing law.

COMMISSIONER RUIZ. After graduating from high school, they can become teachers' aides?

DR. GOMEZ. Oh, yes.

COMMISSIONER RUIZ. That is your answer?

DR. GOMEZ. Yes.

COMMISSIONER RUIZ. And these teacher aides have to be under a credentialed teacher?

DR. GOMEZ. That's true.

COMMISSIONER RUIZ. And the credentialed teacher may be a monolingual teacher that doesn't understand any Spanish?

DR. GOMEZ. Well, if the monolingual teacher is in a program in which children have been designated under this mandatory law, that teacher must take that immersion course, or what you called it, an intensive concentrated course.

COMMISSIONER RUIZ. Crash?

DR. GOMEZ. Crash course in Spanish. So, the teacher is not going to be there unless she has been subjected to at least a 5-week program before she gets into the program.

COMMISSIONER RUIZ. In other words, the English-speaking teacher that speaks no Spanish has to learn Spanish?

DR. GOMEZ. That's true.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. We've listened to little testimony today relative to the number of persons from minority groups, particularly the Spanish-heritage groups, who are employed as teachers, and the statement has been made from time to time that it's very difficult to recruit persons from these groups for teaching positions and here in this system in Corpus Christi and in other systems. As you look down the road, what can be done over and above what is now being done to increase the supply of teachers from the minority groups?

DR. BROCKETTE. First of all, if it pleases the—Commissioner Flemming, I would like to say what is now being done.

CHAIRMAN FLEMMING. Yes, sir.

DR. BROCKETTE. Because it is outside of what is usually done and has been done; what is now being done with the appropriations of taxes that follows this, does provide funds for the institution of—which Mr. Gomez has referred. These institutes are conducted by local school districts, regional service centers, institutions of higher learning, as the case might be. And funds are appropriated for the use for that purpose. And now the people completing these institutes do receive endorsement of certificates that they already hold. At the outset, we had only some, oh, six colleges, maybe six to eight colleges, Dr.

Gomez, maybe, in the State, in the early seventies that were offering programs that might qualify one for a certificate or an endorsement in bilingual education. Now then, I understand we have some 28 to 30 colleges that have programs approved for this purpose, for this certification. Not all of the programs, I understand, have students in them at this time. They're in the position to prepare teachers now. We think that we have—we know that we have a demand that exceeds our supply of adequate teachers. We are trying to take steps to make that information known to high schools and college campuses and so forth and so that they will know that there are these opportunities, as well as these preparation programs that are in place, both institute and the college preparation.

The institute approach for bilingual—preparing bilingual teachers is the first time to my knowledge is the State legislature and the State board has made that kind of approach to a sort of crash program and crash supply of need.

CHAIRMAN FLEMMING. Again, looking down the road, do you anticipate that a district such as the Corpus Christi district will in the future be able to recruit more persons from the Spanish-heritage community as members of their teaching staff than is the case at the present time? Do you think that picture is going to improve?

DR. BROCKETTE. If our expectations come around in the addressing of the needs of the Spanish American student, we would believe that the motivation would be there and the competency would be there, that more and more of that segment of population will move on through our preparation programs and people would be available, but we are all now suffering in this supply area because of not nearly the same ratio or percentage of students have moved through our formal education programs to provide us with that ratio and that supply of people. Yes, I do have high hopes, to answer your question, that more and more people are going to be available in this field for teaching assignment.

DR. GOMEZ. May I add—

CHAIRMAN FLEMMING. What is your—just one moment. Taking the State as a whole, you've got a picture of the State as a whole. Do you feel that there has been in the immediate past and there is now in existence discriminatory practices in the employment of teachers which means that those of the Spanish American, Spanish-heritage community, who are qualified are finding it difficult to obtain a position?

DR. BROCKETTE. There may be a qualified certified Spanish American somewhere in our State unemployed in the teaching circles. I'm not aware of one.

CHAIRMAN FLEMMING. I gather from what you've said that you believe that your teacher-training institutions within the State are at least moving in the direction of trying to increase supply. Has the failure to do that in the past been based on prejudices and some discrimatory practices in terms of the admissions to the institutions of higher education?

DR. BROCKETTE. I'm just not prepared to answer that question, sir.

CHAIRMAN FLEMMING. Okay. Any additional questions?

MR. GLICK. Yes. I would just like to ask Dr. Gomez, in your description of the division within TEA that deals with bilingual programs, you discussed staffing and program activities, and I don't recall that you said anything about monitoring on—ongoing monitoring of the districts that receive State funds to see whether they are in compliance with State law. Is there such a program with monitoring and are there sanctions that can be employed against districts if they fail to meet the law?

DR. GOMEZ. We do monitor in the State program. In this particular, this last school year, there were 182 school districts in the State program. We monitored 65. The year before we monitored 65 and we project 100 school districts this next year. We have an instrument which is available here also which we call "Guide for Monitoring Visit," and it has different things and questions, etc., that we ask the teachers and we observe as we monitor. And with respect to your question on sanctions, the law, just as most laws in education do not have in them punitive action in terms of not complying, and the only avenue that we have for noncompliance of any particular law [is] through the accreditation process.

And what our monitoring, our consultants, do when they monitor in terms of noncompliance or whether there are discrepancies are put into a report and are sent to the schools and are told to remedy whatever the situation may be. We have not—in terms of sanction, we have not applied sanctions because the only avenue, as I said, is through the accreditation process.

When people, members of the Texas Education Agency accreditation team, go to the schools, they do look at this area also because it's a part of the standards that the school must comply with.

MR. GLICK. On something like this, then, there wouldn't even be the sanction of refusing further grants from the State education agency?

MR. GOMEZ. Well, the thing is that of course, the way we look at it, by refusing grants, it would not give the amounts of money that would be used for the children and, of course, under the law, the children are entitled to so much money for materials, equipment, etc., and for the training of the teachers. There isn't anything in the law that speaks of sanctions if there is a noncompliance with the law. What we want to do, of course, is to help the school districts in complying with the law if they're not.

MR. GLICK. Thank you, Dr. Gomez.

COMMISSIONER RUIZ. I would like to have into evidence as the next exhibit in order, a reference made to the document there, with respect to visiting.

COMMISSIONER FLEMMING. Without objection, it will be entered into the record at this point as Exhibit No. 6.

Mr. Brockette, just one further question. You and I discussed and you provided very interesting information as to what is being done to encourage adding to the supply of qualified teachers in the Spanish-heritage community. Are comparable efforts being made in the State to increase the supply of teachers from the black community?

DR. BROCKETTE. No, sir, not in the same way that I described to you we're making for bilingual education. Quite a different—quite a different situation existed in our State in reference to black educators. The State has had black educators in a ratio to the black population for many years prior to 1954 and desegregation orders. This was not true in the Mexican American population.

CHAIRMAN FLEMMING. Do you feel that since your supply picture is different, then do you feel that when members of the black community are given the opportunity for training and when they take advantage of that opportunity, that they do have opportunities for placement in the school systems of the State?

DR. BROCKETTE. Yes, quite a different story. That's true.

CHAIRMAN FLEMMING. Okay. We are very appreciative of both of you for being here with us today and filling us in on the State pictures. You have been very helpful. Thank you very much.

Counsel will call the next witness.

MR. GLICK. Mr. Chairman, the next witnesses are Mr. Edward J. Baca, who is the Regional Commissioner of Education for Region VI of the Department of Health, Education, and Welfare, and Dr. John Bell, who is with the Office for Civil Rights of Region VI. Gentlemen, will you step forward, please?

[Messrs. Baca and Bell were sworn.]

TESTIMONY OF EDWARD J. BACA, COMMISSIONER, REGION VI, U.S. OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND JOHN BELL, EDUCATION CHIEF, REGION VI, OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

MR. GLICK. Beginning with Dr. Bell, will you each identify yourself, name, position in Health, Education, and Welfare, and position and address.

DR. BELL. My name is John Bell, Education Chief, Office for Civil Rights [OCR], HEW Region VI, Dallas, Texas, 1200 Main Tower, Dallas, Texas.

MR. GLICK. Beginning with—I'm sorry. Yes, Mr. Baca.

MR. BACA. My name is Edward J. Baca, Regional Commissioner, U.S. Office of Education, Region VI, 1200 Main Tower Building, Dallas, Texas.

MR. GLICK. Mr. Haswell?

MR. HASWELL. I'm Harold Haswell, Assistant Regional Commissioner for Developmental Programs, Planning Evaluation, 1200 Main Tower, Dallas, Texas.

MR. GLICK. Mr. Dennard?

MR. DENNARD. I'm Eric N. Dennard, Assistant Regional Commissioner of School Systems, Department of HEW, 1200 Main Tower, Dallas, Texas.

MR. GLICK. Mr. Baca, our staff has a document which I believe has been received from your office which describes the Federal programs funding the Corpus Christi Independent School District over the last 3 years and anticipated for the forthcoming year. I would like you to take a look at that document and identify it as you can as accurate and what has been prepared by your office?

MR. BACA. Yes, sir. We did prepare that and submit it to your staff. I would like to say, however, that that may not be 100 percent accurate. We told the staff member that we thought we could give a pretty accurate picture but not 100 percent accurate of the Federal funding from the U.S. Office of Education in the Corpus Christi Independent School District.

MR. GLICK. Would that suggestion that that may be because there's some programs that are funded directly through Washington that would not come through the regional office?

MR. BACA. Well, that would be one reason. And another reason would be that many times the information is one fiscal year late in arriving—the information arriving to us.

MR. GLICK. Well, with that caveat, Mr. Chairman, may I introduce that document into the record as Exhibit No. 7?

CHAIRMAN FLEMMING. It will be made a part of the record at this point as Exhibit 7.

MR. GLICK. Thank you. Continuing with Mr. Baca, the Corpus Christi School District is now under a court order which requires desegregation of the elementary and junior high schools. What kind of programs, federally-funded programs, would you evaluate as being most helpful to a district that is undergoing a court-ordered desegregation program?

MR. BACA. I believe that the special projects funding out of the Emergency School Assistance Act [ESAA] would be probably the most appropriate immediately upon receiving a court order. There's also the Emergency School Assistance Act which has several pieces to it, basic nonprofit bilingual, which would also be very appropriate. I think most all of the other funding sources within the Office of Education would be appropriate in implementing a court-ordered desegregation order such as bilingual education, Title I, education for the educationally deprived children, Follow Through, and programs of that nature.

MR. GLICK. Prior to the school desegregation order of 1975 here in Corpus Christi Independent, as I understand, was the school district ineligible for receipt of the Emergency School Assistance Act funds?

MR. BACA. I'd like to defer that question to Dr. Bell. It's my understanding that they were ineligible up until this last fiscal year. May I defer that question?

MR. GLICK. Yes. Dr. Bell?

DR. BELL. The answer is yes. The court order that was in place in 1970–71 to '73 included a freedom-of-choice language. The regulation under ESAA specifically prohibited those school systems operating under such plans to be eligible under the program, so Corpus Christi was indeed declared ineligible by the Dallas office up until this past year.

MR. GLICK. Was that determiniation of eligibility made on the Department's own motion, on OCR's own determination, or was it as a result of government involvement in the suit? How did that come? Was it through a monitoring act? How did that information come through to you? What were the channels?

DR. BELL. As a part of the ESAA application, the school system was required to submit a copy of the court order. That order was referred to our Office of General Counsel for study and review. On the advice from that office, we declared the school system not eligible because of the freedom-of-choice language of the order.

MR. GLICK. So the determination was made in the Region VI office upon the advice of counsel in Washington, I assume?

DR. BELL. Both counsel in Washington as well as counsel in Region VI.

MR. GLICK. Has the regional office of the OCR undertaken any compliance reviews of the Corpus Christi Independent School District?

MR. BACA. Yes. The only contact that we have had with the Corpus Christi school district has been during this school year in April 26—April 30. That was limited only to updating information provided to us related to *Lau v. Nichols*. We have not conducted a comprehensive, indepth review of the school system.

MR. GLICK. Not at any time under Title VI since 1964, since the implementation of the act?

DR. BELL. An earlier review, excuse me, in 1968 and even one before that, but in recent years the only contact that we've had with the school system onsite in terms of a monitoring review was last April.

MR. GLICK. Last April. It has been our understanding from other hearings that we've held around the country, when a district is under a court order to comply with Title VI, that OCR does not undertake any monitoring activities on the part of the Department; is that correct? Is that your interpretation?

MR. BACA. This is true, yes. However, in this particular case, the April review was necessary for us to update the data provided related to the implementation of *Lau*. We do and we—rather, we do investigate court-ordered districts under the Emergency School Assistance Act. We have not developed a compliance program, broad-based, to deal with court-ordered school districts.

MR. GLICK. Is that because of choice in utilizing resources or is there some—excuse me—some determination by the Office of General Counsel of HEW that would be interfering with the court order? What would be the basis for that?

DR. BELL. Well, it's a combination of factors. The first factor is that we, the Department, accepts the court order and assurance from the school district to comply with the order as an assurance. And, two, we do not have the resources to conduct complaint investigations, not to mention routine reviews under Title VI.

Let me speak to that for just one moment. In the Dallas Office for Civil Rights, we have 21 field specialists. In Region VI, we have 2,000 plus school districts, 2,584 to be exact. And we receive yearly over 300 complaints and with that kind of workload and lack of resources, we simply cannot conduct routine compliance reviews out of voluntary districts, not to mention the more larger, more complicated, court-ordered districts.

MR. GLICK. I assume that this information then, this lack of resources, has been forcefully brought to the headquarters in Washington in HEW?

DR. BELL. Well, we have attempted for the last 6 years during my tenure as chief, but I am not sure whether or not the ears have been always receptive.

MR. GLICK. Dr. Bell, you mentioned *Lau* compliance reviews. What are the standards and criteria you use to determine when a district is in compliance with *Lau* requirements or meeting the guidelines?

DR. BELL. Well, to answer that question fully, I'm quite sure that, you know, that it would take perhaps 2 hours. But in essence, we look at the number of youngsters in the school system that is not able to function effectively in the English language, and those programs provided by the school system to help mainstream those youngsters so that the total educational process will not be a waste for them, and that's very simply stated; however, as you know, it's a very complicated process.

MR. GLICK. Yes. Dr. Brockette, you may have heard his testimony, Dr. Brockette testified a little bit earlier and you may have heard—his testimony indicated that the Texas Education Agency has made requests to OCR, he mentioned Ms. Stuck, for review of the State bilingual act for determination with respect to whether that act and its implementation, if effective, and would meet the Department's *Lau* requirements. Are you familiar with that request?

DR. BELL. Yes. I've participated in two conferences with Dr. Brockette and members of his staff, yes.

MR. GLICK. Do you have any idea as to whether—what the determination will be? I understand from Dr. Brockette that the determination would have to be made in Washington. Would you venture an opinion as to what it will be?

DR. BELL. Well, at least in my judgment, the State plan even though properly implemented might be effective, but that plan does not speak to mandated programs in grades 4 through 12. So, you are talking about a number of youngsters that might very well be identified as speaking only English or either have a limited English skill not being

programmed for by the school system beyond grades three, and optional grades four and five. Now, that is my personal judgment and, however, I cannot speak for the Director for the Office for Civil Rights and the Secretary of HEW.

MR. GLICK. Yes. Thank you. I understand, Dr. Bell.

At this point, Mr. Chairman, I would like to introduce into the record a document that goes along these lines, essentially comparison of the *Lau* guidelines and the State act, and it's a letter dated May 13, 1976, from Dorothy Stuck, Director of the Office for Civil Rights, Region VI, to Dr. Brockette. And it discusses at some great length, you may be familiar with this document, gentlemen, the contrast and the distinction between the two requirements. I think this would be useful for the record.

CHAIRMAN FLEMMING. Without objection, we'll enter it in the record at this point.

MR. GLICK. It will be Exhibit No. 8.

I'd like to address a question both to Dr. Bell and to Mr. Baca. There are, in some cases, some contrasting requirements for civil rights compliance between different Federal programs and some of those have been mentioned. I wonder if you see that, both of you gentlemen, as a handicap in funding districts that may be attempting to comply and being forced to fund districts that you may very well know that are not in compliance with the various civil rights compliance. How do these varying civil rights compliance impact on the funding school districts? Mr. Baca.

MR. BACA. I think that the Office for Civil Rights has, as you know, has the responsibility for judging the compliance of school district with the certain acts and so this is really a personal opinion of mine. I think that the ESAA legislation, because of the unique language in the legislation, places some compliance requirements that other pieces of legislation do not. And it seems to me that civil rights is a right all of itself and all legislation probably ought to have the same requirements across the board, but that's just a personal opinion. I think perhaps that Dr. Bell can give you a more professional or legal interpretation of that.

MR. GLICK. Dr. Bell.

DR. BELL. Well, there are some programs and ESAA is one example whereby the Office for Civil Rights is uniquely involved with the compliance determination, "compliant" to the actual funding of the school system. There are indeed some limitations with that and then there are, of course, many, many assets.

The limitation, as imposed this year, was that after receiving 300 plus applications, and the funding cycle was so very, very short, we simply did not have time nor the office resources to actually conduct onsite reviews involving those school systems that we had very serious questions related to information submitted as a part of the application and the past, let's say, history of the school system. Some of those we

were only able to raise questions by paper and not in actual field review.

I would much prefer to see a system whereby all school systems receiving Federal financial assistance submit a compliance document quite similar to ESAA, but I would not recommend that with the current constraints with the resources. I think that if we had resources in place we could properly and effectively monitor all school systems throughout the country, but we simply cannot do that. One, when the resources are not there; and, two, that by program time lines you do not have time to effectively engage in onsite reviews.

This past year with ESAA, we had less than 5-1/2 weeks. And as I said earlier, we had over 300 applications. So, it was indeed an impossible task.

MR. GLICK. That crunch results because of scheduling for funding applications? In other words, if they were spread over throughout the fiscal year, you might have a better opportunity to review?

DR. BELL. Yes.

MR. GLICK. But because of the requirements internally in the Department they're all compressed into that 5-week period that you mentioned, 300 applications to review in a 5-week period?

DR. BELL. Yes.

MR. GLICK. So, do you think that would it be possible by a rearrangement administratively of the funding process to spread out those applications over the course of a year so reviews could be done?

DR. BELL. Well, I would think so. I do think so. But as I said earlier that ESAA and these kinds of programs—now, under the order affecting HEW—had a priority but not the highest possible priority. What has priority now related to the *Adams* order affecting HEW is complaints, and when we have more complaints than we can possibly deal with with the current staff, then you are lumping another responsibility on the office not to include Title IX and Title IX compliance, not to include section 504 of the compliance, and not to include ESAA.

MR. GLICK. I see. Thank you. Is there anything you care to add to Dr. Bell's comments, Mr. Baca?

MR. BACA. Just one comment, perhaps. We got a little bit away from your original question in that it's very difficult for school districts to understand when they're placed in legal hold or can't be funded in ESAA or to be said that they are in noncompliance when they are in fact being funded under Title I or Follow Through or Impact Aid or any number of other programs, and it makes it very difficult to explain why this one particular piece of legislation has additional requirements over the others. That's all.

MR. GLICK. I have no further questions, Mr. Chairman.

CHAIRMAN FLEMMING. I guess I'd like to ask both Mr. Baca and Dr. Bell this question. As a result of your experiences in this region, have you thought of any additional steps or any additional assistance that the executive branch of the Federal Government might conceivably

give to a school district that has decided on its own, in good faith, to move in the direction of desegregation or that is operating under a court order? Are we missing some opportunities to really accelerate the desegregation of the schools? The thing I constantly keep in mind is the importance of implementing and protecting the consitutional rights of today's children and young people. If we don't do it today, the opportunity to give them opportunities which they should have has passed us by.

MR. BACA. I wanted to make some comments, then I'll ask—let Dr. Bell make some comments on the desegregation.

Much of the questioning this morning related to bilingual education.

CHAIRMAN FLEMMING. Yes.

MR. BACA. If I may refer to the Corpus Christi school district. We mentioned somewhere in the neighborhood of $140,000 to $150,000 being granted out of the U.S. Office of Education for bilingual education. And by the way, for the record, I'd like to state that Corpus Christi has been selected as one of the model bilingual programs under that particular act, and I believe there were only three selected nationwide; two of them being from Texas.

But also, we did an analysis—Dr. Haswell, who is with me this morning, did an analysis of the Educational Amendments of 1974. In there, we found that there were over 20 pieces of legislation within the Office of Education that talked to bilingual education. And by and large, we find that for Mexican Americans, we concentrate on those funds that say bilingual education or those who are funded out of the Office of Bilingual Education. To make my point clearer, for Indian children we look for funds that come from the Office of Indian Education.

That's my example. But you take in the Corpus Christi Independent School District, there is $1,416,000 this year of the basic—out of the basic Title I. That's about half of the money that this district receives from the Federal Government. Now, that is for "educationally deprived children." I'm not making any judgment here, but my guess would be that if this school district had looked and studied of the needs of the school children in, of this district that there may be a large sum of that $1-1/2 million that they received under Title I being used for bilingual education.

Another point I wanted to make, that was raised in the questioning this morning, was that of teacher training. There have been quite a large number of monies set aside for teacher training in bilingual education. Fellowships are being provided, in several universities here in this State have been granted awards for training teachers for bilingual education, not enough to meet the great demand that there is. Also, the Federal Government decided to phase out the Educational Professional Development Act. In there was a program known as Career Opportunities programs. Those programs provided many teachers both in desegregation—for desegregation to work with children, black children, Mexican American children, Indian children, what else have you;

but it was phased out, because there is, in fact, nationally an oversupply of teachers. I think school districts might take a look at the models that were established under such programs as Career Opportunities programs. There is still viable an ongoing program in the house of education known as Teacher Corps, which also provides for the training of teachers to meet the needs as was questioned here this morning.

In terms of desegregation, I'd like to defer to Dr. Bell.

CHAIRMAN FLEMMING. Just before we—are you saying one thing here, namely, that school districts often are not tapping resources that might be available, not necessarily through any fault on their part, but because of the fact that within the executive branch of the government, there hasn't been too good a job done of coordinating, pulling them together, indicating how different laws or different resources under those laws can be targeted for a particular objective?

MR. BACA. I believe it's more—a little of both, but more on the part of the Federal Government is at fault here, I believe. And I would like, if I may, not at this time because we do not have it, I'd like to later submit for the record the assessment that we did on the Educational Amendments of 1974 in relation to bilingual education.

In order to answer your question, I'd like to say part J of the Vocational Educational Act is strictly for bilingual education, and hardly anything has been done from that act for bilingual education.

CHAIRMAN FLEMMING. I would appreciate it very, very much if you would furnish it for the record and without objection it will be entered into the record at this particular point because as you know the Civil Rights Commission has a very real concern and interest in bilingual education. We put out a major report in this area and we feel that we've got some obligation on following up on a report of that kind, to see what's happening and so on. In connection with any followup we do on that, I think that study would be very, very helpful and would be particularly meaningful to me because it would be coming in effect from the grassroots. I mean, it comes out of your day-by-day experiences with the school district. And so, I'd be delighted to have that.

Commissioner Ruiz has given an exhibit—it will be Exhibit No. 9, won't it?—that's it, I think—we'll catch up with that.

But, John, in connection with this I hope that we do identify this as something that would contribute to our followup activities on bilingual education.

Okay. Dr. Bell.

DR. BELL. Well, I'm not really sure how I should answer your question. So often we talk about doing something special in the area of Title XVI compliance and each time we do, we hang some money out there somewhere in the blue, and I do not believe personally that that is the answer.

I heard this morning we do not have the money to implement these programs. The school systems throughout the country have a legal

obligation to develop and put in place and make operational programs based on the needs of the youngsters and the school systems. I do not believe that it is necessary for the Federal Government to underwrite every new program that is designed to meet the needs of these special youngsters and the school systems.

But to be more specific, I think that if we had more leadership at the top with the executive branch making perfectly clear the civil rights and equal rights and equal opportunity is indeed the law of the land, then we will not have the kind of footdragging as we have from 1954 through 1964 to 1976. And I do not believe that putting more Federal dollars into more programs is necessarily the answer. It may be a part of the answer, but very definitely it is not *the* answer.

CHAIRMAN FLEMMING. Well, I certainly share your point of view on that. There's no question about it. We've got to—increasingly come to the place where as a nation, we accept the fact that if the Constitution is going to mean something, then we've got to eliminate segregated schools and that becomes a part of our whole way of life.

It seems to me that the contributions or the investment of time, energy, and resources that's needed in order to achieve that objective has got to come from all levels of government, and we can't get into the frame of mind of in effect saying to people, if you will obey the Constitution, then we'll give you some extra money.

On the other hand, if the elimination of segregated schools as rapidly as possible creates some issues that it is difficult for a local school district to handle all by itself, then I think the State has an obligation to help and I think the Federal Government has an obligation to help.

But I agree with you that the greatest contribution that the Federal Government can make is to make it clear that this is the law of the land and it is going to be implemented and enforced.

We did run into one situation in another community where an assistant superintendent of schools that had a responsibility for—does have the responsibility for working on desegregation, identified the fact that they are at a point where they either should completely rebuild or relocate, say, five elementary schools, and that this could be done in such a way as to make a very positive contribution to desegregation, and really in such a manner as to cut down on the load of people as far as transportation is concerned. And I think he felt that maybe he might have a better chance of selling that kind of approach to the community if there was an indication on the part of the Federal Government that—if you really mean business to the extent of making that kind of a capital investment, maybe we could—the Federal government could—be of some help. I think we need to keep thinking about possibilities of this kind that will help to accelerate this. I am very, very impatient with plans that may result in desegregation 5 years from now because as I've indicated that means that there are *X*

number of children and young people that are going to be denied their constitutional rights because of our delay. And we do have to get that sense of urgency into the picture in order not to deny them their rights.

Commissioner Ruiz, do you have a question?

COMMISSIONER RUIZ. I have one question of Mr. Bell. What compliance review responsibility does OCR have with respect to affirmative action or discrimination in staff hiring?

CHAIRMAN FLEMMING. That is staff hiring within a local school district?

COMMISSIONER RUIZ. Yes.

CHAIRMAN FLEMMING. Right.

DR. BELL. Well, let me answer the question in the context of Corpus Christi. I think it might be more meaningful.

The Department would, indeed, require or request from the school system an affirmative action plan. If it is determined that there are teachers needed to effectively implement *Lau v. Nichols*, that requirement would strictly be based on the needs of the school systems to implement *Lau*.

The second part of that would be if we had evidence to show or to indicate that the school system did in fact discriminate in the past in the recruitment and employment of minority staff, then we would require not necessarily an "affirmative action plan," quote, but a directive action plan to overcome the effects of the past discrimination, but to have the effect of an affirmative action plan. We have not made a determination as to whether or not the school system has in fact historically discriminated in its recruitment and employment practices. However, we do have some preliminary—I would say "preliminary"—findings that there may be a serious shortage of staff in place to effectively implement *Lau* in grades K through 12. And if that should hold, then we would indeed require an affirmative action plan specifically related to the program needs of the school system.

CHAIRMAN FLEMMING. That's very helpful.

Do you have any other questions, Mr. Ruiz?

COMMISSIONER RUIZ. Do you see any weakness in the administration of Federal funds to school districts from the standpoint of civil rights compliance and, if so, would you make any recommendation for changes?

DR. BELL. As I indicated earlier, I think that—

COMMISSIONER RUIZ. That was covered before?

CHAIRMAN FLEMMING. Like some additional staff.

DR. BELL. Yes. Yes.

CHAIRMAN FLEMMING. That was one of the—incidentally, I certainly sympathize with you in terms of the processing of applications and the time limitations that are involved and so on.

I agree with you that oftentimes the executive branch could help on that in terms of some of the regulations, but also we're a little bit de-

pendent on the Congress in terms of when laws are passed. In my regular job as Commissioner on Aging, we're faced with the responsibility of passing on something like 300 to 400 applications during the transition quarter, which means that it has to be done by September 30th and that does not permit the kind of evaluation, site visits, and so on that you very properly have identified as being very important if we're going to be sure that the money is being invested in the right way.

We thank you very much for coming down and talking with us about these issues because we find that when we have hearings of this kind, it's very helpful to have those who are dealing with the problems from the Federal regional office come in and share their views so that it helps us get the whole situation in a better perspective. We're very grateful to you for coming. Thank you very, very much.

This completes the list of witnesses that we were to hear from this hearing; therefore, at this point the hearing will be adjourned.

Exhibit No. 1

COMMISSION ON CIVIL RIGHTS

TEXAS

Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 734, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on August 17, 1976, at Exposition Hall, 402 West Shoreline Drive, Corpus Christi, Texas. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning public school desegregation and equal education opportunity; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice particularly concerning public school desegregation and equal educational opportunity; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning public school desegregation, and equal educational opportunity.

Dated at Washington, D.C., July 14, 1976.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.76-20841 Filed 7-15-76;8:45 am]

Exhibit No. 2

Analysis of

"Cost Analysis of Implementation Lau Remedies

for the

Corpus Christi Independent School District"

prepared by

the Corpus Christi ISD Division of Instruction

and circulated by

Supt. Dana Williams

1. "In order to make the aforementioned assessments, the district must, at a minimum, determine the language most often spoken in the student's home, regardless of the language spoken by the student, the language most often spoken by the students in the home, and the language spoken by the student in a social setting. (by observation) Lau remedies p. 3

Statement (from Lau Remedies)	Cost	Comments
Page 3, #1		
By observations, the district must at a minimum determine language most often spoken	It would take 100 observers, making two observations a day, 4-1/2 months to complete this task. At a rate of $2.50 per hour, the total cost would be $180,000.	We feel these requirements are unrealistic in concept. From a total of 42,000 students, this district identified 18,000 who would have to be observed.
• at home		
• in social setting	In case the observations do not crossvalidate, we will utilize bilingual teachers during after school hours paying them $6 per hour to administer language dominance tests. We estimate that approximately 25% of the students will require them. Total cost: $13,500.	Cost is based on two tests per hour. This district's test could possibly be required for Chinese, Czech, German, and Korean.

The authors of the cost analysis, by attempting to paraphrase have obviously misquoted the statement contained in the Lau remedies. The remedies in fact, do not require that the students home language be determined by observation. Observation techniques are recommended (not required) specifically to aid in determining the language most often spoken by the student in a social setting. Observation is not necessarily required for determination of the language most often spoken in the students home. It seems reasonable to assume that such observations could be conducted by present teaching staff and/or paraprofessionals during regular school hours. Such periods as recess, lunch-time and other periods of free or non-classroom activity readily lend themselves to providing the types of informal environments required for assessing a student's "social setting" language.

Determination of a student's home language could also be achieved by utilizing present staff. One alternative for making this determination would be through the utilization of a parental questionnaire which would request information concerning: (1) the language most often spoken in the student's home; (2) the first language learned by the child, and (3) the language the child uses most often in speaking with other children. Such a language survey instrument is contained in the IDRA newsletter of January 1976, and a copy can be made available upon request.

Being that such alternatives are available for meeting the requirements of the Lau remedies, the Corpus Christi I. S. D.'s cost projections seem somewhat extravagant. By utilizing present district staff and resources it is apparent that the district can save itself a considerable sum of money. More importantly, by recognizing that said language determinations are as integral an aspect of the school's diagnostic practices as the administration of achievement measures, the district will be making significant progress toward accepting the basic premises on which the remedies are based. To assume that the Lau remedies recommend or require programs in addition to, rather than in lieu of, present instructional approaches reflects a gross misinterpretation of the intent of the document.

2. The second part of the plan must describe the diagnostic-prescriptive measures to be used to identify the nature and extent of each student's educational needs and then prescribe an educational program utilizing the most effective teaching style to satisfy the diagnozed educations. (Lau Remedies pp 4-5.)

Page 4, #II:

District must describe diagnostic/prescriptive measures used in identifying nature and extent of student's educational program utilizing most effective teaching style.	A general diagnostic prescriptive procedure guidebook for 2,000 teachers at $1.50 per book would be $3,000. Providing specific subject area teacher guides for 11 subjects (three levels of each subject) in the elementary school and 150 different courses at the high school level would cost $102,480.	Includes writers time plus printing cost. Based on $560 per guide produce.

Although the concept of a general diagnostic-prescriptive guidebook for teachers is admirable, there are other less costly responses to the issues raised by this requirement in the remedies. One alternative would be the development of a comprehensive staff development program component which would focus on diagnostic-prescriptive approaches for meeting the needs of LESA students. Such a program could be provided to the district, free of charge, by the Texas Lau Center which was created to assist direct which required technical assistance in order to implement program required by Lau.

In addition a district could utilize [redacted] expertise and district resources and materials related to diagnostic and prescriptive approaches for meeting student needs. Adaptation of said resources by focussing on the unique needs of LESA students could thus serve as an appropriate response to Lau requirements.

With current trends toward individualization of instruction and emphasis on meeting individual student needs, the district has more than likely developed some expertise in this area. The remedies simply require that districts apply or expand said approaches insure that the needs of LESA students are adequately met.

3. " . . . prescriptive measures must serve to bring linguistically, culturally different student(s) to the educational performance level that is expected of the L. E. A. and state, of non-minority students." (Lau remedies p. 5)

Statement	Comment
Page 5:	
Raise student performance level to that expected for non-minority student(s). by L.E.A. and T.E.A.	Expected performance is individual in nature, no group expectations are applied.

(Again the district paraphrases, and in the process, misquotes.)

The authors of the cost analysis should note that the remedies are written for a national audience, and that most states do set minimal educational performance levels for their students. Secondly, the remedies are possibly seeking to insure that districts will not consider substantially lower educational performance levels of students in LESA programs (lower in comparison to non-minority students in the district) as adequate performance merely because these students are placed in programs required as a response to Lau requirements.

Should there exist a wide disparity between the educational performance levels of LESA and non-LESA students, no rationalization of this state of affairs can be acceptable. To state that "expected performance is individual in nature, and that no group expectations are applied" serves to justify or absolve the district's responsibility for eliminating such disparities.

Only be addressing such issues can the district proceed toward realization of the goal of providing equal access to educational opportunities for all of its students, which is the basis for the development of the remedies.

4. "A program designed for students of limited English speaking ability must not be operated in a manner so as to solely satisfy a set of objectives divorced or isolated from those educational objectives estwblished for students in the regular program. (Lau remedies p. 5)

Statement	Comments
Page 5 (Continued):	
The program designed for these students must be based on the same objectives for students in the regular school program.	It is extremely difficult to require teachers to cope with all of these demands. It is unrealistic to expect that teachers can operate without a separate set of objectives for the identified students, especially since these students need such special consideration.

Again paraphrasing of the remedies has led the Corpus Christi staff to make this comment; "It is extremely difficult to require teachers to cope with all of these demands. It is unrealistic to expect that teachers can operate without a different set of objectives for the identified students, especially since these students need such special consideration." (p. 2)

The major error in this segment of the cost analysis lies in the paraphrased version which reads "must be based on the same objectives for students in the regular school program". The remedies do not use the term same, but rather "must not be operated in a manner so as to solely satisfy a set of objectives divorced or isolated from those students in the regular program. Of greater concern is the comment; "it is unrealistic to expect that teachers can operate without a seperate set of objectives for the identified students, especially since these students require such special consideration." The term seperate is acceptable only if equitable educational outcomes are deemed the ultimate objectives of programs for LESA students; if the comment implies that the objectives should result in lower achievement levels for LESA students than it blatantly violates the spirit of the Lau remedies. As stated earlier, equitable educational outcomes based on similar objectives for all students could serve to eliminate the great disparaties in performance levels between LESA and non-LESA students. Such a goal would be in keeping with the Lau decision, which sought to insure that all students were afforded equal opportunities.

5. In the third step the district must implement the appropriate type(s) of educational program(s) listed in this section, (III, 5), dependent upon the degree of linguistic proficiency of the students in question." (Lau remedies p. 6)

Statement	Cost	Comments
Page 6, #III (cont)	1. Monolingual Category (cont):	
	Staff development for 18 elementary and secondary teachers would be $3,000.	The per teacher cost for inservice is $168. See appendix A.
Page 9, #III, 2:		
Implement appropriate educational program according to degree of linguistic proficiency for students.	2. Predominantly Language Other Than English Category:	
	Teacher for 977 elementary students would be $490,000. (49 a $10,000 each.)	Based on 20 students per teacher, 49 teachers would be required.
	Teachers for 1,012 secondary students would be $250,000. (25 a $10,000 each.)	17 teachers would be required for junior high school and 8 teachers required for senior high school. Based on where the students are located, one school will need three teachers, some will need two and some need only one with teachers working with up to approximately 50 students on each campus.

Again, the paraphrasing is somewhat less than accurate. Fortunately, in this case, it does not lead to serious errors in interpertation. The cost and comments section, although quite interesting in detail, leads to more questions than the answers it proposes to provide.

First, what instrument or instruments were utilized to assess each student's linguistic proficiency (the cover letter mentions a survey, but no further explanations of the linguistic proficiency assessment is evident)?

Second, the cost analysis considers staff development expense only for the monolingual category; however, in analyzing the cost for the category labeled predominant language other than English, the cost is computed for 49 new teachers at 10,000 each. Why was a staff development program for all present staff affected, not considered, and its' cost computed. Did the district also give thought to the use of differentiated staffing patterns using available teachers and paraprofessionals withthe required language skills? Was a cost computed for this possible alternative? These aforementioned options are found acceptable in the remedies, and specific reference is made to these alternatives in the document.

Obviously, selection of one of these two alternatives would result in significantly smaller expenditures by the district while simultaneously complying with the staffing and program requirements delineated in the remedies. By taking advantaged of services provided by the Lau Center and state technical assistance office, the district could cut expenditures even further, thereby, reducing costs to a fraction of the figures originally projected.

6. In the case of the predominant speaker of the language other than English: At the intermediate and high school levels; the district must provide data relative to the students academic achievement and identify those students who have been in the school system for less than a year. If the students who have been in the district are achieving at grade level or better, the district is not required to provide additional educational programs. If, however, the students who have been in the school system for a year or more are underachieving, (not achieving at grade level), . . . the district must submit a plan to remedy the situation. (Lau remedies p. 10)

Statement	Cost	Comments
Page 10, #B:		
At the intermediate and high school level, district must provide data relative to student's academic achievement and must provide a specific plan for underachievers.	Test costs: 5 subject areas for 18,000 students, grades 7-12, at $1 per student would be $18,000.	Tests in reading, math, science, social studies, and language arts for all students grades 7 through 12.

The test costs projected in this area ($18,000), seem to imply that the district does not currently engage in achievement testing of its students. Assuming that some testing is currently being done, the district should consider utilizing available testing data to make the determinations required for students affected by the Lau provisions. The Lau remedies do not require that seperate tests be administered. Rather the prime concern lies in the identification of students who are underachieving by one or more grade levels.

Projecting test costs for a total of 18,000 students, thus seems an over-estimation of the actual expenditures truly required for the district to meet Lau requirement.

7. "In the cases of the predominate speaker of the language other than English. . .

2.B. At the intermediate and high school levels: the district must provide date relative to the students academic achievement; and identify those students who have been in the district for less than one year. If the students who have been in the program are achieving at grade level or better, the district is not required to provide additional educational programs. If however the students who have been in the program are achieving at grade level or better, the district is not required to provide additional educational programs. If however, the students who have been in the school system for a year or more are underachieving (not achieving at grade level) the district must submit a plan to remedy the situation. This may include smaller class sizes, enrichment materials, etc. In either this case, or the case of students who are underachieving and have been in the school system for less than a year, the remedy must include one or a combination of the following: 4) ESL 2) a TBE B) a Bil/Bic Program 4) A Multilingual/Multicultural program. (Lau p.11)

Statement (from Lau Remedies)	Cost	Comments
Page 11, #2, B:		
The school district must submit a plan for secondary underachievers who have been in the district for a year or more. The plan must include any one or a combination of the following: ESL, TBE, Bilingual/Bicultural Program, Multilingual/Multicultural Program.	We estimate that 1,000 students (predominate spellers of language other than English would be affected. The estimated cost of special programs for these students (based on Title I expenditures for similar students) to be approximately $300 per student or a total of approximately $300,000. This would include materials, personnel and staff development.	District would utilize ESL Program in addition to regular remedial efforts.

The overriding questions concerning the above projections is whether the the district recognizes the need for providing special programs for underachieving LESA students. If it recognizes the pedogigical appropriateness of such responses, than the projected $300,000 expense for providing these programs should not seem unreasonable. In addition, if the district recognizes that alternative educational approaches are warranted, than the expenditures required can be looked upon as a rechanneling of fiscal and personnel resources so as to improve the quality of education for a significant portion of it's student population. In responding to the identified student needs of LESA pupils the district would thus, not be expending additional resources, but rather initiate the process of re-allocating present resources in innovative ways.

8. In the case of the bilingual speaker (speaks both the language other than English and English with equal case) the district must provide data relative to the student(s) academic achievement.

Statement	Cost	Comments
Page 12, #3, A:		
District must provide achievement data relative to bilingual students. Testing would have to be conducted for some 15,000 elementary students who have not thus far been included in expenditures in this document.	Test costs: 5 subject areas for 15,000 students grades 1-6, at $1 per student would be $15,000.	Tests in reading, math, science, social studies, and language arts for all students, grades 1-6.

The figures used to estimate cost again, raise some questions. In page 3, item 2, the district mentions a total of 18,000 LESA students in grades 7-12, who are to be tested. The cover letter mentions a total LESA district pupil estimate of 18,000. However, on page 4, the districts estimate that there are 15,000 possible LESA students at grades 1-6. Taking the initial estimate of 18,000 at the intermediate and high school level, plus the addition 15,000 in grades 1-6, the district must then have 33,000 LESA students - if so, why the 18,000 LESA student estimate on the cover page. In consistencies such as these lead one to question the accuracy of the figures cited throughout the document.

As noted in a previous segment, questions arise on how much the district currently expends for testing in grades K-12. Why is it that the district did not investigate utilization of available test data? Why is there no data providing a comparision of expenses the district usually incurrs versus additional expenses brought on specifically as a result of the Lau remedies?

A more conclusive cost analysis would provide documentation on the districts current expenditures by categores (i.e. testing, etc.) and estimation of additional monies required solely to comply with the requirements cited in Lau.

Only as information concerning such issues becomes available can an objective judgement, concerning Lau related expenses in this particular area be made.

9. In the case of the bilingual speaker . . . In this case the treatment is the same at the elementary, intermediate, and secondary levels and differs only in terms of underachievers and those students achieving at grade level or better.

A. For those students in this category who are underachieving, treatment corresponds to the regular program requirements for all racially/ethnically identifiable classes or tracks composed of students who are underachieving, regardless of the language background. (Lau remedies, p. 11)

The cost analysis of the districts selected response to the Lau provisions in this case, seems to be again based on erroneous interpretation of the remedies. The projected costs of $300 per pupil implies that the district does not currently have operational programs for students in the district who are underachieving. To assume that the remedies require that new programs be instituted solely for LESA students is a somewhat distorted conclusion. Assuming that some programs are currently operational, some expenditures for materials, personnel and staff development are likely already provided for in the school budget; the increases in this budget category.

If the district did not have programatic approaches to serve the specialized needs of its underachievers, perhaps the requirements noted in Lau will serve to improve the quality of education received by said students in the district.

If such programs are already provided, Lau simply requires that such focussed assistance be given to students of limited English speaking ability who may not be receiving, but require such educational treatment.

10. In the fourth step of such a plan the district must show that the required and elective courses are not designed to have a discriminatory effect . . . schools must develop strong in centives and encouragments for minority students to enroll in electives where minorities have not traditionally enrolled. In this regard counselors, teachers, and principals have a most important role . . . the school district must see that all of its students are encouraged to fully participate and take advantage of all educational benefits. (Lau remedies pp. 13-14)

Statement	Cost	
Page 13, #IV, A, B:		
The school district must show that required elective courses are not designed to have a discriminatory effect. Close monitoring is necessary to evaluate to what degree minorities are in essence being discouraged . . . districts must take affirmative duties to see that minority students are not excluded from any elective courses and over included in others.	The district's approach to comply with these requirements would be to employ a special "Lau counselor" for each of the district's 18 secondary schools - $234,000.	The guidebooks previously mentioned would also assist in compliance with these requirements. Counselor's salary based on $13,000.

The "approach" selected by the district to comply with the requirements in Lau regarding LESA student enrollment in elective courses and co-curricular activities makes an observer question the present competency of the district's current counseling- and/or academic advisory staff. To suggest that a total new counseling component is required to serve the curricular and co-curricular related needs of LESA pupils is at a minimu, questionable. The remedies ----- state that staff training, specifically conducted for the purpose of better enabling the district to implement the program requirements is acceptable as a temporary response. A second, temporary alternative is utilization of para-professionals with necessary language and cultural backgrounds. To suggest that LESA students will be provided with a special "Lau counselor" is also contrary to the spirit of the remedies provision regarding racial/ethnic isolation in that said students would not be serviced by the same personnel serving the total student body.

A more appropriate temporary response might be an extensive staff development program designed to equip present staff with the skills and information required for the district to meet this Lau requirement. The district should recognize that re-training is but a partial remedy, however; provisions for recruitment and acquisition of required personnel should be initiated to insure that required programs can be fully operational within a reasonable span of time.

11. Evaluation

A "Product and Process" evaluation is to be submitted in the plan. This type of evaluation, in addition to stating the "product" (end result), must include "process evaluation" (periodic evaluation throughout the implementation stage). A description of the evaluation design is required. Time-lines (target for completion of steps) is an essential component.

Page 20, #VIII:

A "Product and Process" evaluatin is required.	Two additional evaluation specialists and a secretary would be required. Evaluation specialist at $20,000 each = $40,000. Secretary $6,000. Supplies and materials at $4,000. Total $50,000.

Again, the districts response to the requirements of Lau seems to reflect a case of overkill. Does the present evaluation staff not have the time or resources or capability to conduct the required activities? If so why is this not indicated? Since the Lau remedies do not specifically indicate the comprehensiveness" required in the evaluation design, why is it assumed that a totally new evaluation sub-component will be required? If an evaluation plan has not presently been formulated by the district, (taking into account available data, resources and personnel within the district) how is it that such a cost estimate can be made?

Options which should be considered by the district, might include:

(1) Utilization of present evaluation staff and related resources to conduct the evaluation activites specified in Lau.

(2) Re-analysis of possible costs, taking into consideration available staff and resources to arrive at a more realistic figure.

(3) Postponement of cost projection for evaluation until the district has developed a comprehensive plan which responds to all requirements detailed in the remedies. This action would in turn allow the district to develop a more precise cost estimate based on actual evaluation activites which would be dicated by said plan.

Exhibit No. 3

CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT
515 NORTH CARANCAHUA
P. O. DRAWER 110
CORPUS CHRISTI, TEXAS 78403

DEPARTMENT OF PERSONNEL

TO: Dana Williams

FROM: Dan McLendon

DATE: July 9, 1974

SUBJECT: Observations on the Employment of Mexican-American Teachers by the Corpus Christi Independent School District

Recent statements in the local newspapers attributed to Mr. Paul Montemayor have charged the district with discrimination regarding the employment of Mexican-American teachers, particularly as related to the high school level. As these and other related events would suggest that criticism of the district will increase in coming weeks, the following information seems appropriate for your use at some future time.

I assume the "survey" upon which Mr. Montemayor bases his statements is the district's March 22 report filed with the court. If that assumption is correct, the report indicates the district had a Mexican-American teacher percentage of 13.03 at the high school level (AEC excluded), but also indicates a Mexican-American teacher percentage of 24.42 at the junior high level and of 28.13 at the elementary level.

Mr. Montemayor's charges raise two interesting questions or issues - 1) what kind of effort is the district making in employing Mexican-American teachers and 2) what kind of success or results has the district experienced in this area. Although the issues are interrelated, it does not necessarily follow that an intensive effort at recruitment will produce the desired results or that "successful" recruitment is the result of a maximum effort. The comments below reflect observations on the second point, that of the results the district has experienced in the recruitment of Mexican-American teachers. The issue of effort is not addressed.

In determining how successful a district has been in the recruitment of personnel, one must have some standard by which to compare efforts. It's pointless to castigate a district for not having a higher percentage or number of employees of a particular ethnic group if they simply are not available. Therefore, in an attempt to establish a standard by which the district's efforts might be assessed, the following observations can be made regarding the availability of Mexican-American teachers:

- In 1972-73[1] Texas employed over 33% of all the Spanish-American[2] teachers[3] employed nationwide.

- Approximately 24% of the students of that same ethnic group were enrolled in Texas public schools during the same year.

- The number of Spanish-American teachers employed in Texas (7626) represented 6.5% of the total number of teachers employed state-wide.

It would appear, therefore, that the state's holding/drawing power as related to Mexican-American teachers was excellent when compared to that of other states. However, it is also evident that even though the state employs over one-third of the available Mexican-American teachers, the absolute number represented by that percentage is a small percentage of the total number of teachers employed state-wide. Their availability or "distributability" within the state, therefore, is extremely limited.

After determining the above, one is in a somewhat better position to determine the number of Mexican-American teachers which a district could be expected to employ. Methods which might be utilized include a) establishing as an acceptable "quota" a percentage of Mexican-American teachers equal to the percentage of Mexican-American students in the district (I assume this is what Mr. Montemayor is suggesting), b) establishing a local Mexican-American teacher/pupil ratio based on the state-wide Mexican-American teacher/pupil ratio, or c) establishing a local Mexican-American teacher/pupil ratio based on the state-wide ratio of the percentages of Mexican-American teachers to pupils.

If a) were the acceptable standard for hiring Mexican-American teachers, the following become evident:

- Corpus Christi ISD's quota would be 1075 Mexican-American teachers. This figure represents roughly 14% of all Mexican-American teachers available in the state. (2.8% of the state's Mexican-American student population attend district schools.)

- If 1075 Mexican-American teachers were an acceptable goal, it would take the district 6-8 years to reach that figure if contracts were offered only to Mexican-American teachers interviewed.[4] This assumes that qualified Mexican-American teachers would be available in all areas during this period (there are presently no Mexican-American applicants in science and traditionally there have been few Mexican-American applicants in English).

- If such a standard were required of all districts state-wide, the ten (10) largest districts would require in excess of 111% of the Mexican-American teachers available in the state while serving approximately 20.5% of the Mexican-American students state-wide.

Using method b), a state-wide teacher/pupil ratio of 1:133.20 (7626 teachers to 1,015,812 students) can be established. On this basis, CCISD would be entitled to 181.47 Mexican-American teachers (24,172 students divided by 133.20 students/teacher). In 1972-73 the district had 428 Mexican-American teachers, or 235% of its "entitlement."

Using c), a state-wide ratio of 1% teacher population to each 3.48% student population (22.6% state-wide Mexican-American student population divided by

6.5% Mexican-American teacher population) can be established. Applied to Corpus Christi's percentage of students, the district would have been entitled in 1972-73 to 152.29 Mexican-American teachers (53.0% Mexican-American students divided by 3.48% students/teacher state-wide ratio). The district's 428 teachers was 281% of its "entitlement" that year.

There are undoubtedly other ways by which an acceptable number of Mexican-American teachers in a given district might be determined. It would appear, however, that by most standards one might use, Corpus Christi has had considerable success in the employment of Mexican-American teachers. This seems to be substantiated by the following:

- Of 449 districts for which information is available, 124 had Mexican-American student populations of 30% or more.
- Of those 124, only 24 (19.8%) had better teacher/pupil percentage ratios than Corpus Christi ISD.
- Of those 24, only 3 (12.5%) were not located either on the Mexican border or in a county classified as South Texas or the Rio Grande Valley (Corpus Christi is located in the Upper Coastal Bend Region). (It would appear that the further removed a district is from the cultural influence of Mexico, the more difficult it is to attract Mexican-American teachers. Salaries do not seem to be a significant factor in drawing Mexican-American teachers. None of the 24 districts had 1971-72 salaries (the basis for hiring teachers for the 1972-73 school year) higher than those of Corpus Christi ISD. (El Paso was higher in bachelor and master degree maximums but lower at both levels in beginning salaries.))

Although the above offers only limited observations on the issues raised by Mr. Montemayor's comments, it does present data which helps to demonstrate that the problem is not as simple as people would be led to believe and that Corpus Christi ISD is, in fact, doing an effective job in recruiting Mexican-American teachers.

DM/bh

cc: Dr. Dwayne Bliss

FOOTNOTES

[1] All figures, unless otherwise stated, are based on information contained in U.S. Department of HEW, Office of Civil Rights, Directory of Public Elementary and Secondary Schools in Selected Districts, December, 1972. Information for 1973-74 is not available.

[2] "Persons considered by themselves by the school or by the community to be of Mexican, Puerto Rican, Central American, Cuban, Latin American or other Spanish origins." Elementary and Secondary Schools Civil Rights Survey, Fall 1973. The terms Mexican-American and Spanish-American are used synonymously in this paper.

[3] Full-time classroom teachers assigned to only one school.

[4] Based upon the average number of interviews by the personnel department over the past four years, the acceptance rate average of Mexican-American teachers over the past four years, and the approximate number of Mexican-American teachers who resigned from the district each year.

Exhibit No. 4

TEXAS EDUCATION AGENCY AUST . 78711

• STATE BOARD OF EDUCATION
• STATE COMMISSIONER OF EDUCATION
• STATE DEPARTMENT OF EDUCATION

May 6, 1971

TO: The Superintendent Addressed

SUBJECT: Court Order, Civil Action No. 5281, United States District Court, Eastern District of Texas, Tyler Division

Attached is a copy of the Court Order in Civil Action No. 5281. May I suggest that you and the board of school trustees study the Order so that you may understand the Texas Education Agency's responsibilities and its relationships with school districts as it complies with the requirements of the Order.

The Order has been appealed to the United States Fifth Circuit Court and the appeal will be heard in Jacksonville, Florida on June 14, 1971. In the meantime, a request for a stay in the implementation of the Order until the Fifth Circuit Court has acted has been requested.

If the stay is not granted, it will be necessary to send all school districts certain reporting forms on transfers accepted and public school transportation routes within the next two or three weeks.

Very truly yours,

J. W. Edgar
Commissioner of Education

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

UNITED STATES OF AMERICA	)	
	)	
V.	)	CIVIL ACTION NO. 5281
	)	
STATE OF TEXAS, ET AL.	)	

ORDER

On November 24, 1970, this Court entered an order in this case then styled United States of America v. State of Texas, et al., Civil Action No. 1424, Marshall Division, requiring inter alia that the Texas Education Agency, the State Commissioner of Education and their officers, agents, employees, successors re-evaluate all of their activities and practices relating to the desegregation of public elementary and secondary education within the State of Texas; upon completion of this re-evaluation the defendants were required to file a plan stating specific actions which they would take pursuant to their affirmative obligations under Title VI of the Civil Rights Act of 1964 and the Fourteenth Amendment to the Constitution. On January 15, 1971, the defendants filed their plan. Plaintiffs filed a response to this plan on February 1, 1971, incorporating both objections to defendants' plan and recommendations for what the defendants were legally required to accomplish by this plan. An evidentiary hearing was held on February 1 and 2, 1971. A further hearing was held in Tyler on April 12, 1971, the case then, and hereafter, being styled Civil Action No. 5281, Tyler Division.

The Court has carefully considered the submissions of the respective parties and the evidence presented at the hearings, in light of the defendants' affirmative duty to

take "whatever steps might be necessary to ... [eliminate] racial discrimination root and branch." Green v. New Kent County, 391 U.S. 430, 437-38 (1968), Swann v. Charlotte-Mecklenburg Board of Education, Nos. 281 and 349, _____U.S._____, (April 20, 1971). In this regard the duty of the state appears to be two-fold: First, to act at once to eliminate by positive means all vestiges of the dual school structure throughout the state; and second, to compensate for the abiding scars of past discrimination.

Accordingly, it is hereby ORDERED that the State of Texas, Dr. J. W. Edgar, Commissioner of Education of the State of Texas, the Texas Education Agency, their offices, agents, employees, successors and all other persons in active concert or participation with them (hereinafter referred to as defendants) shall fulfill those duties as follows:

A. Student Transfers

(1) Defendants shall not permit, make arrangement for or give support of any kind to student transfers, between school districts, when the cumulative effect in either the sending or receiving school or school district will be to reduce or impede desegregation, or to reinforce, renew, or encourage the continuation of acts and practices resulting in discriminatory treatment of students on the ground of race, color, or national origin.

(2) The Texas Education Agency shall review all student transfers and shall notify the sending and receiving districts promptly of all transfers which do not appear to comply with the terms of this Order.

(3) If, after receiving notice of the Texas Education Agency's refusal to approve transfers, the receiving district shall continue to accept the transfer of students, or if the sending district shall refuse to provide suitable educational opportunities for these students, defendants, after 15 days notice to the President of the Board of Trustees and the

Superintendent (if the district has such an official), shall refuse to transfer the funds, based on the average daily attendance of the transfer students involved to the account of the receiving district, and shall, thereby, terminate and refuse to grant or continue paying to the offending district a percentage of state funds equivalent to the district's entitlement based on the average daily attendance of the students transferring in violation of this Order.

(4) Defendants shall also refuse to distribute to the offending district any transportation funds which might accrue on account of transfer students accepted in violation of this Order. If the offending district continues to refuse to deny transfers which adversely affect desegregation, the Texas Education Agency shall warn the district that its accreditation status is in danger. This warning shall remain in effect for ten days, at which time, if the offending district has failed to correct its violations, the Texas Education Agency shall suspend the district's TEA accreditation.

B. Changes in School District Boundaries

(1) Defendants shall not permit, make arrangements for, approve, acquiesce in, or give support of any kind to changes in school district boundary lines - whether by detachment, annexation, or consolidation of districts in whole or in part - which are designed to, or do in fact, create, maintain, reinforce, renew, or encourage a dual school system based on race, color, or national origin.

(2) Defendants shall require the board of trustees of any school district desiring to annex or consolidate with a nearby district, in whole or in part, or desiring to change its boundaries in any other manner such as is described, for example, in Part II-A(2) of the Court's Order of November 24, 1970, to report said intention to the Commissioner of Education for the State of Texas at least 15 days prior to the effective date of such action, and shall take appropriate

measures to insure compliance with this requirement.

(3) Whenever the Commissioner shall receive notice that a district or a portion of a district is to be detached from, annexed to, or consolidated with another district, he shall institute an immediate investigation as to the effects of such projected change of boundaries on the desegregation status of all of the school districts concerned. He shall promptly notify the appropriate county and local officials of his findings, and indicate whether or not the transfer of territory is in violation of the law.

(4) If county and local officials proceed to consummate the transfer of territory after being notified that they are in violation of the law, defendants, after 15 days notice to the President of the Board of Trustees and the Superintendent of the district (if the district has such an official), shall refuse to transfer funds, based on the average daily attendance of the students in the territory detached, annexed or consolidated, to the account of the new district, and shall, thereby, terminate and refuse to grant or continue paying to the offending district a percentage of state funds equivalent to the district's entitlement based on the average daily attendance of the students detached, annexed or consolidated in violation of this Order. These funds shall be distributed to the remainder of the original district, in cases of illegal detachments, but shall not be used by that district to support the education of children living in the detached area. In cases involving the consolidation of whole districts, the Texas Education Agency shall hold the funds derived from the average daily attendance of the students illegally annexed to or consolidated with the new district in escrowpending dissolution of the illegal transfer of territory and the return of students to their original districts.

(5) Defendants are enjoined from granting "incentive aid" payments pursuant to Texas law (Art. 2815-4, Vernon's Texas Revised Civil Statutes as amended), to districts which are enlarged by annexations or consolidation actions in violation of this Order.

(6) Should a county board of education or a school district, having received notice from the Commissioner that a territorial alteration has been disapproved, fail to disavow the action and to declare its effects null and void, the Texas Education Agency shall notify the district that its accreditation status is in danger. This notice shall remain in effect for 10 days, at the end of which time, if the offending district has failed to correct its violations, the Agency shall suspend the district's TEA accreditation.

(7) In all cases involving annexation or consolidation of school districts, the Texas Education Agency shall apply the portions of the Order of the Court in this case dated April 19, 1971, concerning the annexation of nine all-black school districts to nearby bi-racial districts, and specifically, the portions of that Order relating to faculty and staff and to bi-racial committees, to the newly enlarged districts and shall require the said district to submit to the Texas Education Agency such reports as may be necessary to enable that Agency to determine whether the newly enlarged district is operating and will continue to operate in compliance with Title VI and the Fourteenth Amendment.

C. School Transportation

(1) Defendants shall not permit, make arrangement for, acquiesce in, or give support of any kind to bus routes or runs which are designed to, or do in fact, create, maintain, reinforce, renew, or encourage a dual school system based on race, color, or national origin.

(2) The transportation system in those county units and school districts having transportation systems shall be completely re-examined each year by the Texas Education Agency. Bus routes and runs as well as the assignment of students to buses will be designed to insure the transportation of all eligible pupils on a non-segregated and otherwise non-discriminatory basis. Bus routes and runs shall be constituted to provide that each bus operated by a district picks up every pupil along the route or run who is assigned to the school or schools and grade levels served by that bus. Where two or more equally efficient and economical routes or runs are available in a given area of the school district, the route or run which would promote or facilitate desegregation of buses shall be adopted by the district and approved by the Texas Education Agency rather than a route or run which, whether by intent, inaction, or inadvertence, would maintain or encourage segregation.

(3) Accordingly, if upon examination of transportation systems, the Texas Education Agency shall find that a district is operating one or more bus routes or runs which serve 66% or more students of a minority group, which are duplicated by one or more routes or runs serving more than 66% students of another race or ethnic background, the Texas Education Agency shall immediately investigate and determine whether the heavily minority routes or runs may be re-routed, terminated or combined with routes or runs which serve non-minority students so as to desegregate these routes or runs.

(4) If the Texas Education Agency finds that a county or local district is operating its transportation system in violation of this Order, it shall notify the appropriate officials of the local district. If the offending district

refuses to alter its bus routes or runs so as to avoid segregation in instances where the Texas Education Agency has determined that such alterations are necessary, or if such a district persists in operating bus routes or runs which adversely affect the desegregation of its schools, classes, or extra-curricular activities, the Texas Education Agency shall refuse to approve the entire route structure of the district, and shall, thereby, terminate and refuse to grant or continue paying state transportation funds to the offending district until it shall have altered all routes or runs operated in violation of this Order, so as to eliminate all vestiges of discrimination based on race, color, or national origin. In addition, the Texas Education Agency shall notify the district that its accreditation status is in danger. This notice shall remain in effect for 10 days, at which time, if the offending district has failed to correct its violations, the Agency shall suspend the district's TEA accreditation.

D. Extra-Curricular Activities

(1) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to activities run in connection with the elementary and secondary educational program operated by the state or any of its county and local educational agencies which, whether by intent, inaction, or inadvertence, results in segregation or other discrimination against students on the ground of race, color, or national origin. These extra-curricular activities include, but are not limited to, student government organizations, athletic teams for inter-scholastic competition, clubs, hobby groups, student newspaper staffs, annual staffs, band, band majorettes and cheerleaders.

(2) The Texas Education Agency shall instruct the members of its accreditation review teams in conjunction with its Title IV staff, to examine the extra-curricular activities of each district which they review. All violations of this Order which are discovered by such investigations shall be reported to the Commissioner of Education. If the Texas Education Agency receives complaints from any source that a school district is operating and supporting extra-curricular activities in violation of this Order, immediate investigation shall be made of such complaint.

(3) If the Commissioner finds that a district is operating and supporting extra-curricular activities in violation of this Order, he shall notify the county or local school district through the President of its Board of Trustees and through the Superintendent (if the district has such an official),that the district is operating in violation of Title VI of the Civil Rights Act of 1964 and the Fourteenth Amendment. At the same time, he shall warn the district that its accreditation is in danger. This warning shall remain in effect for 10 days, at which time, if the district has failed to correct the violations, the Texas Education Agency shall suspend the district's TEA accreditation.

(4) In addition to the suspension of the accreditation of districts operating discriminatory extra-curricular activities, the State of Texas and the Texas Education Agency shall reduce the percentage of state funds granted to the district under the Minimum Foundation Program for salaries and operating expenses by ten percent. Should the district persist in operating its extra-curricular activities in a manner which

results in segregation or discriminatory treatment of students on account of race, color, or national origin, the State of Texas and the Texas Education Agency shall reduce the percentage of state funds as described above by an additional ten per cent. for each semester or term that the violations continue.

(5) Defendants are required to consider that a suspension or reduction of programs and activities to avoid operating them on a desegregated basis constitutes a violation of Title VI and the Fourteenth Amendment.

E. Faculty and Staff

(1) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to the hiring, assigning, promoting, paying, demoting, reassigning or dismissing, or treatment of faculty and staff members who work directly with children in a discriminatory manner on account of race, color, or national origin. Defendants shall be responsible for the application and enforcement throughout the State of the provisions of the Order of the Court in this case dated April 19, 1971, referred to in Section 3, paragraph 7 herein, and specifically, the portions of that Order relating to the treatment of faculty and staff.

(2) In carrying out its affirmative duties under Title VI and the Fourteenth Amendment in this area, the Texas Education Agency shall require each county or local educational agency desiring to receive state funds under the Minimum Foundation Program to include with its preliminary application for such funds a list of objective, non-racial and non-ethnic criteria by which the county or local district will measure its faculty and staff for assignment, promotion, demotion, reassignment or dismissal and by which it will judge prospective employees for faculty and staff positions.

(3) The Texas Education Agency shall require the members of its accreditation review teams, in conjunction with the members of its staff designated to work in collaboration with the United States Office of Education to provide technical assistance to desegrating school districts pursuant to Title IV of the Civil Rights Act of 1964 (hereinafter referred to as "Title IV staff" or "Title IV personnel"), to examine the faculty and staff hiring and assigning practices of the districts which they visit for accreditation purposes, and to examine the records relating to hiring, assigning, promoting, paying, demoting, reassigning or dismissing of faculty and staff who work directly with children for a period including the three years prior to the complete elimination of the district's dual school structure. The review teams and state Title IV personnel shall also examine faculty assignments within each school district under review to determine whether the percentage of minority teachers in each school is substantially the same as the percentage of minority teachers in the school district as a whole, as required under Part II, Section A of the Order of this Court dated April 19, 1971, and referred to in Sections B(7) and E(1) herein. Any evidence of discriminatory practices concerning faculty and staff shall be reported to the Commissioner of Education.

(4) After such further investigation as deemed necessary by the Commissioner, he shall notify the district through the President of its Board of Trustees and its Superintendent (if the district has such an official),of any acts and practices with regard to faculty and staff which violate the areas described in Part II, Section A, of the Order of this Court, dated April 19, 1971, referred to in

Section B(7), E(1) and E(3) herein. At the same time, he shall warn the district that its accreditation is in danger. This warning shall remain in effect for 15 days, at which time, if the offending district fails to correct its violations with regard to faculty and staff who work directly with children, the Texas Education Agency shall suspend the district's TEA accreditation.

(5) In addition to the suspension of accreditation, the State of Texas and the Texas Education Agency shall refuse to approve the district's application for state funds under the Minimum Foundation Program for salaries, and shall, thereby, terminate and refuse to grant or continue paying such funds to the district.

(6) Defendants shall require a school district which has been found to have engaged in discriminatory practices in regard to the assignment, demotion, dismissal, reassignment or payment of faculty or staff to restore or offer to restore the faculty or staff member to his (or her) original position held prior to the discriminatory action and to pay the faculty member for any time he (or she) was unemployed or employed at a lower salary level because of the discriminatory action of the district, and for which he (or she) was not adequately compensated.

F. Student Assignment

(1) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to the assignment of students to schools, individual classrooms or activities on the basis of race, color or national origin.

(2) Defendants, having identified pursuant to this Court's order of November 24, 1970, school districts whose

enrollment of minority race children is greater than 66% and whose total student population is fewer than 250 students, shall show cause by August 15, 1971, why each such school district should not be annexed to or consolidated with one or more independent school districts of over 150 students, or one or more common school districts of over 400 students, so as to eliminate its existence as a racially or ethnically separate educational unit.

(3) Defendants shall review each year all school districts in the state in which there exist schools enrolling more than 66% minority group students, as reported in accordance with Part II(E)(6) of the Court's order in this case dated November 24, 1970, and shall make findings as to whether or not the student assignment plans of these districts have resulted in compliance with federal constitutional standards. On October 1, 1971, and on the same date each subsequent year until further order of this Court, defendants shall file a report with the Court indicating (1) the school districts reviewed and the particular findings concerning the assignment and transfer of students within each such district; (2) what steps each district is taking to eliminate their racially and ethnically identifiable schools and what recommendations defendants have proposed in this regard; and (3) what special cultural and educational activities these districts have instituted to compensate for the inherently unequal educational opportunities provided to students in these racially or ethnically identifiable schools. Copies of this report shall be served upon the Civil Rights Division of the United States Department of Justice and the Office for Civil Rights of the United States Department of Health, Education and Welfare. A copy of this report shall also be retained

in the Offices of the Texas Education Agency in such a m.. that it will be readily and conveniently available for public inspection during normal business hours.

G. Curriculum and Compensatory Education

(1) Defendants shall insure that school districts are providing equal educational opportunities in all schools. The Texas Education Agency, through its consulting facilities and personnel, shall assist school districts in achieving a comprehensive balance curriculum on all school campuses, and, where necessary, in providing for students to transfer to different schools in the district on a part-time basis to avail themselves of subjects not offered in their assigned school. Full time transfers may be allowed only where they do not adversely affect desegregation as further described. in Section A herein.

(2) The Texas Education Agency shall institute a study of the educational needs of minority children in order to insure equal educational opportunities of all students. The Texas Education Agency shall request the assistance of the United States Office of Education and any other educational experts whom they choose to consult in making this study. By not later than August 15, 1971, a report on this study shall be filed by the Texas Education Agency with the Court including:

(a) Recommendations of specific curricular offerings and programs which will insure equal educational opportunities for all students regardless of race, color or national origin. These curricular offerings and programs shall include specific educational programs designed to compensate minority group children for unequal educational opportunities resulting from past or present racial and ethnic isolation, as well as

programs and curriculum designed to meet the special educational needs of students whose primary language is other than English;

(b) Explanation of presently existing programs funded by the State of Texas or by the Federal Government which are available to local districts to meet these special educational needs and how such programs might be applied to these educational needs;

(c) Explanation of specific standards by which the defendants will determine when a local district, which has racially or ethnically isolated schools or which has students whose primary language is other than English, shall be required by the defendants to participate in the special compensatory educational programs available; and

(d) Explanation of procedures for applying these standards to local districts including appropriate sanctions to be employed by the defendants should a district refuse to participate in special compensatory educational programs where it has been instructed to do so pursuant to application of the standards developed under subsection (c) above.

(e) Copies of this report shall be served as described in Section F above, and a copy shall also be retained in the Offices of the Texas Education Agency as described therein.

H. Complaints and Grievances

The defendants shall send to all county and local educational agencies an information bulletin designed to notify faculty, staff and patrons of local school districts of the availability of complaint and grievance procedures and to inform them of how to utilize these procedures. Defendants shall

further require that every county and local educational agency shall place this bulletin on public display in such a way as to assure its availability at all times during school hours. A copy of this bulletin shall be filed with the Court on or before Agusut 15, 1971, with a copy to the plaintiff.

I. Notification

The defendants, in all cases where notification is given to a school district of imminent loss of accreditation or state funds because of its failure to meet the requirements of Title VI, Civil Rights Act of 1964 and the Fourteenth Amendment, shall, at the same time, notify the plaintiff. In the event that it becomes necessary to suspend the district's accreditation or to reduce or remove state funds the defendants shall also notify the plaintiff.

J. Jurisdiction

This Court retains jurisdiction of this matter for all purposes, and especially for the purpose of entering any and all further orders which may become necessary to enforce or modify this decree.

SIGNED and ENTERED this 20th day of April, 1971.

Wm. Wayne Justice
UNITED STATES DISTRICT JUDGE

Texas Education Agency

• STATE BOARD OF EDUCATION
• STATE COMMISSIONER OF EDUCATION
• STATE DEPARTMENT OF EDUCATION

201 East Eleventh Street
Austin, Texas
78701

July 16, 1971

TO: The Superintendent Addressed

SUBJECT: Modified Order, Civil Action No. 5281, United States District Court, Eastern District of Texas, Tyler Division

Enclosed for your information and that of the board of school trustees is a copy of the Modified Order in Civil Action No. 5281.

The United States Court of Appeals for the Fifth Circuit, on July 9, 1971, did affirm the Order in Civil Action No. 5281 except that the District Court was directed to make certain modifications. You and the board of school trustees may determine these modifications by comparing the Modified Order with the original Order mailed to you under date of May 6, 1971.

Very cordially yours,

Leon R. Graham

Leon R. Graham
Assistant Commissioner
for Administration

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

UNITED STATES OF AMERICA	)	
	)	
V.	)	CIVIL ACTION NO. 5281
	)	
STATE OF TEXAS, ET AL.	)	

MODIFIED ORDER

This Court's Order of April 20, 1971, in the above-entitled and numbered civil action is hereby modified to comply and conform with the directions of the United States Court of Appeals for the Fifth Circuit in its Opinion of July 9, 1971, in Cause No. 71-1061, entitled United States of America, Plaintiff-Appellee, versus State of Texas, Et Al., and Dr. J. W. Edgar, Commissioner of Education, Et Al., Defendants-Appellants, _____F.2d_____ (5 Cir. 1971), and, as so modified, such Order is re-issued, as follows:

On November 24, 1970, this Court entered an order in this case then styled United States of America v. State of Texas, et al., Civil Action No. 1424, Marshall Division, requiring inter alia that the Texas Education Agency, the State Commissioner of Education and their officers, agents, employees, successors re-evaluate all of their activities and practices relating to the desegregation of public elementary and secondary education within the State of Texas; upon completion of this re-evaluation the defendants were required to file a plan stating specific actions which they would take pursuant to their affirmative obligations under Title VI of the Civil Rights Act of 1964 and the Fourteenth Amendment to the Constitution.. On January 15, 1971, the defendants filed their plan.

Plaintiffs filed a response to this plan on February 1, 1971, incorporating both objections to defendants' plan and recommendations for what the defendants were legally required to accomplish by this plan. An evidentiary hearing was held on February 1 and 2, 1971. A further hearing was held in Tyler on April 12, 1971, the case then, and hereafter, being styled Civil Action No. 5281, Tyler Division.

The Court has carefully considered the submissions of the respective parties and the evidence presented at the hearings, in light of the defendants' affirmative duty to take "whatever steps might be necessary to . . . [eliminate] racial discrimination root and branch." Green v. New Kent County, 391 U.S. 430, 437-38 (1968), Swann v. Charlotte-Mecklenburg Board of Education, Nos. 281 and 349, _____ U.S. _____, (April 20, 1971). In this regard the duty of the state appears to be two-fold: First, to act at once to eliminate by positive means all vestiges of the dual school structure throughout the state; and second, to compensate for the abiding scars of past discrimination.

Accordingly, it is hereby ORDERED that the State of Texas, Dr. J. W. Edgar, Commissioner of Education of the State of Texas, the Texas Education Agency, their officers, agents, employees, successors and all other persons in active concert or participation with them (hereinafter referred to as defendants) shall fulfill those duties as follows:

A. Student Transfers

(1) Defendants shall not permit, make arrangement for or give support of any kind to student transfers, between school districts, when the cumulative effect in either the sending or receiving school or school district will be to reduce or impede

desegregation, or to reinforce, renew, or encourage the continuation of acts and practices resulting in discriminatory treatment of students on the ground of race, color, or national origin.

(2) The Texas Education Agency shall review all student transfers and shall notify the sending and receiving districts promptly of all transfers which do not appear to comply with the terms of this Order.

(3) If, after receiving notice of the Texas Education Agency's refusal to approve transfers, the receiving district shall continue to accept the transfer of students, or if the sending district shall refuse to provide suitable educational opportunities for these students, defendants, after 15 days notice to the President of the Board of Trustees and the Superintendent (if the district has such an official), shall refuse to transfer the funds, based on the average daily attendance of the transfer students involved to the account of the receiving district, and shall, thereby, terminate and refuse to grant or continue paying to the offending district a percentage of state funds equivalent to the district's entitlement based on the average daily attendance of the students transferring in violation of this Order.

(4) Defendants shall also refuse to distribute to the offending district any transportation funds which might accrue on account of transfer students accepted in violation of this Order. If the offending district continues to refuse to deny transfers which adversely affect desegregation, the Texas Education Agency shall warn the district that its accreditation status is in danger. This warning shall remain in effect for ten days, at which time, if the offending district has failed to correct its violations, the Texas Education Agency shall suspend the district's TEA accreditation.

B. Changes in School District Boundaries

(1) Defendants shall not permit, make arrangements for, approve, acquiesce in, or give support of any kind to changes in school district boundary lines - whether by detachment, annexation, or consolidation of districts in whole or in part - which are designed to, or do in fact, create, maintain, reinforce, renew, or encourage a dual school system based on race, color, or national origin.

(2) Defendants shall require the board of trustees of any school district desiring to annex or consolidate with a nearby district, in whole or in part, or desiring to change its boundaries in any other manner such as is described, for example, in Part II-A(2) of the Court's Order of November 24, 1970, to report said intention to the Commissioner of Education for the State of Texas at least 15 days prior to the effective date of such action, and shall take appropriate measures to insure compliance with this requirement.

(3) Whenever the Commissioner shall receive notice that a district or a portion of a district is to be detached from, annexed to, or consolidated with another district, he shall institute an immediate investigation as to the effects of such projected change of boundaries on the desegregation status of all of the school districts concerned. He shall promptly notify the appropriate county and local officials of his findings, and indicate whether or not the transfer of territory is in violation of the law.

(4) If county and local officials proceed to consummate the transfer of territory after being notified that they are in violation of the law, defendants, after 15 days notice to the President of the Board of Trustees and the Superintendent of the district (if the district has such an official), shall refuse to transfer funds, based on the average daily attendance

of the students in the territory detached, annexed or consolidated, to the account of the new district, and shall, thereby, terminate and refuse to grant or continue paying to the offending district a percentage of state funds equivalent to the district's entitlement based on the average daily attendance of the students detached, annexed or consolidated in violation of this Order. These funds shall be distributed to the remainder of the original district, in cases of illegal detachments, but shall not be used by that district to support the education of children living in the detached area. In cases involving the consolidation of whole districts, the Texas Education Agency shall hold the funds derived from the average daily attendance of the students illegally annexed to or consolidated with the new district in escrow pending dissolution of the illegal transfer of territory and the return of students to their original districts.

(5) Defendants are enjoined from granting "incentive aid" payments pursuant to Texas law (Art. 2815-4, Vernon's Texas Revised Civil Statutes as amended), to districts which are enlarged by annexations or consolidation actions in violation of this Order.

(6) Should a county board of education or a school district, having received notice from the Commissioner that a territorial alteration has been disapproved, fail to disavow the action and to declare its effects null and void, the Texas Education Agency shall notify the district that its accreditation status is in danger. This notice shall remain in effect for 10 days, at the end of which time, if the offending district has failed to correct its violations, the Agency shall suspend the district's TEA accreditation.

(7) In all cases involving annexation or consolidation of school districts, the Texas Education Agency shall apply the portions of the Order of the Court in this case dated April 19, 1971, concerning the annexation of nine all-black school districts to nearby bi-racial districts, and specifically, the portions of that Order relating to faculty and staff and to bi-racial committees, to the newly enlarged districts and shall require the said district to submit to the Texas Education Agency such reports as may be necessary to enable that Agency to determine whether the newly enlarged district is operating and will continue to operate in compliance with Title VI and the Fourteenth Amendment.

C. School Transportation.

(1) Defendants shall not permit, make arrangement for, acquiesce in, or give support of any kind to bus routes or runs which are designed to, or do in fact, create, maintain, reinforce, renew, or encourage a dual school system based on race, color, or national origin.

(2) The transportation system in those county units and school districts having transportation systems shall be completely re-examined each year by the Texas Education Agency. Bus routes and runs as well as the assignment of students to buses will be designed to insure the transportation of all eligible pupils on a non-segregated and otherwise non-discriminatory basis. Bus routes and runs shall be constituted to provide that each bus operated by a district picks up every pupil along the route or run who is assigned to the school or schools and grade levels served by that bus. Where two or more equally efficient and economical routes or runs are available in a given area of the school district, the route or run which would promote or facilitate desegregation of buses shall be adopted by the district and approved by the Texas Education Agency rather than a route or run which, whether by intent, inaction, or inadvertence, would maintain or encourage segregation.

(3) Accordingly, if upon examination of transportation systems, the Texas Education Agency shall find that a district is operating one or more bus routes or runs which serve 66% or more students of a minority group, which are duplicated by one or more routes or runs serving more than 66% students of another race or ethnic background, the Texas Education Agency shall immediately investigate and determine whether the heavily minority routes or runs may be re-routed, terminated or combined with routes or runs which serve non-minority students so as to desegregate these routes or runs. In no event shall this paragraph be construed as requiring any fixed percentage of students of a minority group on a particular route or run.

(4) If the Texas Education Agency finds that a county or local district is operating its transportation system in violation of this Order, it shall notify the appropriate officials of the local district. If the offending district refuses to alter its bus routes or runs so as to avoid segregation in instances where the Texas Education Agency has determined that such alterations are necessary, or if such a district persists in operating bus routes or runs which adversely affect the desegregation of its schools, classes, or extra-curricular activities, the Texas Education Agency shall refuse to approve the entire route structure of the district, and shall, thereby, terminate and refuse to grant or continue paying state transportation funds to the offending district until it shall have altered all routes or runs operated in violation of this Order, so as to eliminate all vestiges of discrimination based on race, color, or national origin. In addition, the Texas Education Agency shall notify the district that its accreditation status is in danger. This notice shall remain in effect for 10 days, at which time, if the offending district has failed to correct its violations, the Agency shall

suspend the district's TEA accreditation.

D. Extra-Curricular Activities

(1) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to activities run in connection with the elementary and secondary educational program operated by the state or any of its county and local educational agencies which, whether by intent, inaction, or inadvertence, results in segregation or other discrimination against students on the ground of race, color, or national origin. These extra-curricular activities include, but are not limited to, student government organizations, athletic teams for inter-scholastic competition, clubs, hobby groups, student newspaper staffs, annual staffs, band, band majorettes and cheerleaders.

(2) The Texas Education Agency shall instruct the members of its accreditation review teams in conjunction with its Title IV staff, to examine the extra-curricular activities of each district which they review. All violations of this Order which are discovered by such investigations shall be reported to the Commissioner of Education. If the Texas Education Agency receives complaints from any source that a school district is operating and supporting extra-curricular activities in violation of this Order, immediate investigation shall be made of such complaint.

(3) If the Commissioner finds that a district is operating and supporting extra-curricular activities in violation of this Order, he shall notify the county or local school district through the President of its Board of Trustees and through the Superintendent (if the district has such an official), that the district is operating in violation of Title VI of the Civil Rights Act of 1964 and the Fourteenth Amendment. At the same time, he shall warn the district that its accreditation is in danger. This warning shall remain in effect for 10 days,

at which time, if the district has failed to correct the violations, the Texas Education Agency shall suspend the district's TEA accreditation.

(4) In addition to the suspension of the accreditation of districts operating discriminatory extra-curricular activities, the State of Texas and the Texas Education Agency shall reduce the percentage of state funds granted to the district under the Minimum Foundation Program for salaries and operating expenses by ten percent. Should the district persist in operating its extra-curricular activities in a manner which results in segregation or discriminatory treatment of students on account of race, color, or national origin, the State of Texas and the Texas Education Agency shall reduce the percentage of state funds as described above by an additional ten percent. for each semester or term that the violations continue.

(5) Defendants are required to consider that a suspension or reduction of programs and activities to avoid operating them on a desegregated basis continues a violation of Title VI and the Fourteenth Amendment.

(6) Any school district aggrieved by the proposed reduction or the reduction of Minimum Foundation Program Funds, or the proposed suspension or the suspension of accreditation shall have the right to petition the United States District Court for the Eastern District of Texas, in which this suit is pending, for such relief as said Court may deem proper.

E. Faculty and Staff

(1) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to the hiring, assigning, promoting, paying, demoting, reassigning or dismissing, or treatment of factulty and staff members who work directly with children in a discriminatory manner on account of race, color

or national origin. Defendants shall be responsible for the application and enforcement throughout the State of the provisions of the Order of the Court in this case dated April 19, 1971, referred to in Section B(7) herein, and specifically, the portions of that Order relating to the treatment of faculty and staff.

(2) In carrying out its affirmative duties under Title VI and the Fourteenth Amendment in this area, the Texas Education Agency shall require each county or local educational agency desiring to receive state funds under the Minimum Foundation Program to include with its preliminary application for such funds a list of objective, non-racial and non-ethnic criteria by which the county or local district will measure its faculty and staff for assignment, promotion, demotion, reassignment or dismissal and by which it will judge prospective employees for faculty and staff positions.

(3) The Texas Education Agency shall require the members of its accreditation review teams, in conjunction with the members of its staff designated to work in collaboration with the United States Office of Education to provide technical assistance to desegregating school districts pursuant to Title IV of the Civil Rights Act of 1964 (hereinafter referred to as "Title IV staff" or "Title IV personnel"), to examine the faculty and staff hiring and assigning practices of the districts which they visit for accreditation purposes, and to examine the records relating to hiring, assigning, promoting, paying, demoting, reassigning or dismissing of faculty and staff who work directly with children for a period including the three years prior to the complete elimination of the district's dual school structure. The review teams and state Title IV personnel shall also examine faculty assignments within each school district under review

to determine whether the percentage of minority teachers in each school is substantially the same as the percentage of minority teachers in the school district as a whole, as required under Part II, Section A of the Order of this Court dated April 19, 1971, and referred to in Sections B(7) and E(1) herein. Any evidence of discriminatory practices concerning faculty and staff shall be reported to the Commissioner of Education.

(4) After such further investigation as deemed necessary by the Commissioner, he shall notify the district through the President of Its Board of Trustees and its Superintendent (if the district has such an official), of any acts and practices with regard to faculty and staff which violate the areas described in Part II, Section A, of the Order of this Court, dated April 19, 1971, referred to in Section B(7), E(1) and E(3) herein. At the same time, he shall warn the district that its accreditation is in danger. This warning shall remain in effect for 15 days, at which time, if the offending district fails to corrects its violations with regard to faculty and staff who work directly with children, the Texas Education Agency shall suspend the district's TEA accreditation.

(5) In addition to the suspension of accreditation, the State of Texas and the Texas Education Agency shall refuse to approve the district's application for state funds under the Minimum Foundation Program for salaries, and shall, thereby, terminate and refuse to grant or continue paying such funds to the district.

(6) Any school district aggrieved by the proposed termination or the termination of Minimum Foundation Funds or the proposed suspension or the suspension of accreditation shall have the right to petition the United States District Court for the Eastern District of Texas, in which this suit is pending, for such relief as said Court may deem proper.

(7) This Order shall not be construed to have any effect upon the state or federal remedies available to any individual members of Faculty or Staff for discriminatory action by a school district in assignment, demotion, dismissal, re-assignment, payment or other employment conditions.

F. Student Assignment

(1) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to the assignment of students to schools, individual classrooms or activities on the basis of race, color or national origin, except where required to comply with constitutional standards.

(2) Defendants, having identified pursuant to this Court's Order of November 24, 1970, school districts whose enrollment of minority race children is greater than 66% and whose total student population is fewer than 250 students, shall show cause by August 15, 1971, why each such school district should not be annexed to or consolidated with one or more independent school districts of over 150 students, or one or more common school districts of over 400 students, so as to eliminate its existence as a racially or ethnically separate educational unit.

(3) Defendants shall review each year all school districts in the state in which there exists schools enrolling more than 66% minority group students, as reported in accordance with Part II (E)(6) of the Court's order in this case dated November 24, 1970, and shall make findings as to whether or not the student assignment plans of these districts have resulted in compliance with federal constitutional standards. On October 1, 1971, and on the same date each subsequent year until further order of this Court, defendants

shall file a report with the Court indicating (1) the school districts reviewed and the particular findings concerning the assignment and transfer of students within each such district; (2) what steps each district is taking to eliminate their racially and ethnically identifiable schools and what recommendations defendants have proposed in this regard; and (3) what special cultural and educational activities these districts have instituted to compensate for the inherently unequal educational opportunities provided to students in these racially or ethnically identifiable schools. Copies of this report shall be served upon the Civil Rights Division of the United States Department of Justice and the Office for Civil Rights of the United States Department of Health, Education and Welfare. A copy of this report shall also be retained in the Offices of the Texas Education Agency in such a manner that it will be readily and conveniently available for public inspection during normal business hours.

(4) If a school district which is reviewed pursuant to paragraph F(3) is the subject of a school desegregation suit or a court-approved plan of desegregation, a copy of the report required by paragraph F(3) shall be submitted to the District Court having jurisdiction of such suit or plan.

G. Curriculum and Compensatory Education

(1) Defendants shall insure that school districts are providing equal education opportunities in all schools. The Texas Education Agency, through its consulting facilities and personnel, shall assist school districts in achieving a comprehensive balance curriculum on all school campuses, and, where necessary, in providing for students to transfer

to different schools in the district on a part-time basis to avail themselves of subjects not offered in their assigned school. Full time transfers may be allowed only where they do not adversely affect desegregation as further described in Section A herein.

(2). The Texas Education Agency shall institute a study of the educational needs of minority children in order to insure equal educational opportunities of all students. The Texas Education Agency shall request the assistance of the United States Office of Education and any other educational experts whom they choose to consult in making this study. By not later than August 15, 1971, a report on this study shall be filed by the Texas Education Agency with the Court including:

(a) Recommendations of specific curricular offerings and programs which will insure equal educational opportunities for all students regardless of race, color or national origin. These curricular offerings and programs shall include specific educational programs designed to compensate minority group children for unequal educational opportunities resulting from past or present racial and ethnic isolation, as well as programs and curriculum designed to meet the special educational needs of students whose primary language is other than English;

(b) Explanation of presently existing programs funded by the State of Texas or by the Federal Government which are available to local districts to meet these special educational needs and how such programs might be applied to these educational needs;

(c) Explanation of specific standards by which the defendants will determine when a local district, which has racially or ethnically isolated schools or which has students whose primary language is other than English, shall be required by the defendants to participate in the special compensatory educational programs available; and

(d) Explanation of procedures for applying these standards to local districts including appropriate sanctions to be employed by the defendants should a district refuse to participate in special compensatory educational programs where it has been instructed to do so pursuant to application of the standards developed under subsection (c) above.

(e) Copies of this report shall be served as described in Section F above, and a copy shall also be retained in the Offices of the Texas Education Agency as described therein.

H. Complaints and Grievances

The defendants shall send to all county and local educational agencies an information bulletin designed to notify faculty, staff and patrons of local school districts of the availability of complaint and grievance procedures and to inform them of how to utilize these procedures. Defendants shall further require that every county and local educational agency shall place this bulletin on public display in such a way as to assure its availability at all times during school hours. A copy of this bulletin shall be filed with the Court on or before August 15, 1971, with a copy to the plaintiff.

I. Notification

The defendants, in all cases where notification is given to a school district of imminent loss of accreditation or state funds because of its failure to meet the requirements of Title VI, Civil Rights Act of 1964 and the Fourteenth

Amendment, shall, at the same time, notify the plaintiff. In the event that it becomes necessary to suspend the district's accreditation or to reduce or remove state funds the defendants shall also notify the plaintiff.

J. Jurisdiction

(1) This Court retains jurisdiction of this matter for all purposes, and especially for the purpose of entering any and all further orders which may become necessary to enforce or modify this decree.

(2) Nothing herein shall be deemed to affect the jurisdiction of any other district court with respect to any presently pending or future school desegregation suit.

SIGNED and ENTERED this 13th day of July, 1971.

Wm. Wayne Justice
UNITED STATES DISTRICT JUDGE

Texas Education Agency

201 East Eleventh Street
Austin, Texas
78701

- STATE BOARD OF EDUCATION
- STATE COMMISSIONER OF EDUCATION
- STATE DEPARTMENT OF EDUCATION

August 17, 1971

TO: The County or District Superintendent Addressed

SUBJECT: Modified Court Order, Civil Action 5281, United States District Court, Eastern District of Texas, Tyler Division

We desire to remind you of two very important sections of the Order: B. Changes in School District Boundaries, and E (2) Faculty and Staff

Section B., Changes in School District Boundaries, requires the board of trustees of any school district desiring to annex or consolidate with a nearby district, in whole or in part, or desiring to change its boundaries in any other manner to report said intention to the State Commissioner of Education at least fifteen (15) days prior to the effective date of such action.

We, therefore, request that any school district superintendent who becomes aware of any proposed consolidation, annexation or detachment of territory which will involve his district to notify us immediately and, in no instance, later than fifteen (15) days prior to the time such action is to become effective. In a like manner, we request all county superintendents to notify us at least fifteen (15) days prior to the time their county boards propose to consider the annexation of any school district to another school district or the detachment of territory from a school district and its subsequent annexation to a second school district.

Section E (2),Faculty and Staff, requires each school district to submit with its preliminary application for Foundation Program funds a list of objective, non-racial and non-ethnic criteria by which the district will measure its faculty and staff for assignment, promotion, demotion, reassignment or dismissal, and by which it will judge prospective employees for faculty and staff positions.

This same requirement is applicable to county boards that operate cooperative special service, counselor or supervisor programs under the Foundation Program Statutes since the law requires personnel filling such positions be recommended by the county superintendent and employed by the county board.

While we would be pleased to receive a list of the objective, non-racial and non-ethnic criteria from all school districts, our interpretation of the Modified Court Order is that it is not mandatory for school districts under the jurisdiction of Texas Federal District Courts other than the Eastern District of Texas, Tyler Division, to furnish this Agency such criteria with their preliminary applications for Foundation Program funds.

Very cordially yours,

Leon R. Graham
Assistant Commissioner
for Administration

Texas Education Agency

201 East Eleventh Street
Austin, Texas
78701

•STATE BOARD OF EDUCATION
•STATE COMMISSIONER OF EDUCATION
•STATE DEPARTMENT OF EDUCATION

August 20, 1971

TO: The County or District Superintendent Addressed

SUBJECT: Correction to Our Letter of August 17, 1971 Entitled "Modified Court Order, Civil Action 5281, United States District Court, Eastern District of Texas, Tyler Division"

The last paragraph of this communication, as found on the back of the page, should read as follows:

> While we would be pleased to receive a list of the objective non-racial and non-ethnic criteria from all school districts, our interpretation of the Modified Court Order is that it is not mandatory for school districts under court orders for desegregation in Federal District Courts other than the Eastern District of Texas, Tyler Division, to furnish this Agency such criteria with their preliminary applications for Foundation Program funds.

We sincerely regret the error in our original letter.

Very cordially yours,

Leon R. Graham
Assistant Commissioner
for Administration

Texas Education Agency

• STATE BOARD OF EDUCATION
• STATE COMMISSIONER OF EDUCATION
• STATE DEPARTMENT OF EDUCATION

201 East Eleventh Street
Austin, Texas
78701

August 23, 1971

TO: THE COUNTY OR DISTRICT SUPERINTENDENT ADDRESSED

SUBJECT: Implementation of Court Order, Civil Action 5281, United States District Court, Eastern District of Texas, Tyler Division

You have previously received a copy of the Court Order in Civil Action 5281, United States District Court, Eastern District of Texas, Tyler Division. The Order, among other requirements, directed the Texas Education Agency to (1) initiate specific activities to ensure equal educational opportunity for all minority children, and (2) develop a bulletin on complaint and grievance procedures.

Enclosed are copies of three documents that have been prepared and filed with the Court, Department of Justice and the Department of Health, Education and Welfare as required by the Order.

The first document entitled "Texas Education Agency Plan for Meeting Requirements of Section G, Curriculum and Compensatory Education of the Court Order, Civil Action 5281, United States District Court, Eastern District of Texas, Tyler Division, delineates the Agency plan for implementing the Court Order relative to Section G, Curriculum and Compensatory Education. One copy of this plan is enclosed for review by you, the board of school trustees and the administrative staff.

The second document entitled "Alternative Programs to Improve Curriculum for Minority Students" provides direction for school districts to begin the implementation of applicable curriculum modification measures in the 1971-72 school year. Sufficient copies are enclosed to supply one to each school campus in your district.

The third document is a brochure, "Procedures for Filing a Complaint Arising from Ethnic Discrimination." The brochure describes both formal and informal complaint and grievance procedures. Sufficient copies are enclosed so that one can be displayed in a prominent location on each school campus. Please note that copies of the brochure printed in Spanish are available upon request. Requests for the Spanish version should be addressed to I. R. Huchingson, Director, Division of Administrative Services, Texas Education Agency.

The Agency staff is prepared, to the extent possible, to assist school districts in complying with the Court Order.

Very truly yours,

J. W. Edgar
Commissioner of Education

Texas Education Agency

• STATE BOARD OF EDUCATION
• STATE COMMISSIONER OF EDUCATION
• STATE DEPARTMENT OF EDUCATION

201 East Eleventh Street
Austin, Texas
78701

MEMORANDUM

TO: Richard Bennett

FROM: Alton O. Bowen

DATE: May 6, 1975

SUBJECT: Implementation of Modified Order, Civil Action 5281

Attached is a copy of my letter to all school superintendents notifying them that we are required to secure from them annually a list of the non-racial, non-ethnic, etc. criteria they use in measuring their faculty and staff for assignment, promotion, etc.

Would you please take the necessary steps to make sure that each preliminary application for foundation school funds for fall, 1975, and each year thereafter includes the required list of criteria before funds are released to the district. Instructions accompanying FIN-060 may need to be revised to accommodate this action. In addition, you should initiate a request in August of each year for the establishment of a task force to review all lists of criteria against the requirements of section E(2) of Modified Order Civil Action 5281. No funds should be released until a district's list has been approved by the task force. You are responsible for negotiations with any district which doesn't file a list or which files a list that is not approved by the task force. The Division of Technical Assistance will furnish you with technical assistance at your request. Any impasse should be referred to me for resolution.

Although we must carry out this provision of the court order, we should be of as much assistance to districts as possible and do our best to maintain cordial relationships with them.

cc: M. L. Brockette
J. B. Morgan
Gilbert Conoley

Texas Education Agency

• STATE BOARD OF EDUCATION
• STATE COMMISSIONER OF EDUCATION
• STATE DEPARTMENT OF EDUCATION

201 East Eleventh Street
Austin, Texas
78701

September 14, 1973

TO: The Administrator Addressed

SUBJECT: Amendments to Court Order, Civil Action 5281, United States District Court, Eastern District of Texas, Tyler Division

Enclosed is a compilation prepared by the Attorney General's office of the Modified Court Order, Civil Action 5281 entered July 13, 1971 and the amendments entered by the Court on August 9 and August 15, 1973.

We do urge that you and the board of school trustees study the Order as amended most carefully with particular reference to Section A. Student Transfers, Section F. Student Assignment and the completely new Section J. Conveyances of Real Property by a School District.

Very cordially yours,

Leon R. Graham
Assistant Commissioner
for Administration

Texas Education Agency

• STATE BOARD OF EDUCATION
• STATE COMMISSIONER OF EDUCATION
• STATE DEPARTMENT OF EDUCATION

201 East Eleventh Street
Austin, Texas
78701

TO: THE SCHOOL OFFICIAL ADDRESSED

You may recall from Section E(2) of the Modified Order, Civil Action 5281 sent to you by Leon Graham under date of September 14, 1973, that the Texas Education Agency is ordered to require:

> each county or local educational agency desiring to receive state funds under the Minimum Foundation Program to include with its preliminary application for such funds a list of objective, non-racial and non-ethnic criteria by which the county or local district will measure its faculty and staff for assignment, promotion, demotion, reassignment or dismissal and by which it will judge prospective employees for faculty and staff positions.

This order is interpreted to require that such criteria be filed annually. Consequently, to ensure prompt processing of your preliminary application for Foundation School funds (Form FIN-060) for the 1975-76 school year and thereafter would you please attach the required list of criteria to the application due Fall 1975 and each fall thereafter.

To assist you in the development of a list of criteria designed to meet the requirements of Section E(2), some typical objective criteria which might be used by your district are listed below. Please note that the use of objective criteria does not mean that the subjective judgment of the superintendent and/or other administrators or board members as to the effectiveness of an applicant or employee cannot be used. It merely assures everyone concerned that part of the selection process will be determined by non-subjective means, and that in no case will racial or ethnic criteria be used. The following list might serve as a model which can be used to develop objective criteria to meet the needs of your district.

Teacher

Certification:

- Certification (hours above degree held should bring additional weight to each of the categories below)
- Certification (Master's degree; teaching in area of certification)

- Certification (Master's degree; not teaching in area of certification)
- Certification (Bachelor's degree; teaching in area of certification)
- Certification (Bachelor's degree; not teaching in area of certification)
- Certification (no degree)
- Temporary certification
- Non-certified (degree)
- Non-certified (no degree)

Experience:

- In grade, subject, or position applied for
- In the system
- In teaching profession, either in public or private schools
- In related profession

Number of hours of voluntary participation in inservice training, workshops, etc.

Fluency in more than one language where language barriers exist.

Administrators

Certification (same as for teachers)

Experience:

- As an administrator (size of staff supervised, etc.)
- Level of experience (elementary, secondary)
- In system
- In any system
- As a teacher
- Experience in related field

Please feel free to use any portions of the above in compiling your district's criteria for hiring, assigning, promoting, paying, demoting, reassigning or dismissing faculty and staff members. If additional help is needed, feel free to contact the Office of Technical Assistance at (512) 475-5959.

Sincerely,

Alton O. Bowen

Alton O. Bowen
Deputy Commissioner
for Administrative Services

cc: M. L. Brockette
J. B. Morgan
Gilbert Conoley

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

UNITED STATES OF AMERICA	X	
	X	
V.	X	CIVIL ACTION NO. 5281
	X	
STATE OF TEXAS, ET AL.	X	

MODIFIED ORDER

This Court's Order of April 20, 1971, in the above-entitled and numbered civil action is hereby modified to comply and conform with the directions of the United States Court of Appeals for the Fifth Circuit in its Opinion of July 9, 1971, in Cause No. 71-1061, entitled United States of America, Plaintiff-Appellee, versus State of Texas, Et Al., and Dr. J. W. Edgar, Commissioner of Education, Et Al., Defendants-Appellants, _____F.2d_____(5 Cir. 1971), and, as so modified, such Order is re-issued, as follows:

On November 24, 1970, this Court entered an order in this case then styled United States of America v. State of Texas, et al., Civil Action No. 1424, Marshall Division, requiring inter alia that the Texas Education Agency, the State Commissioner of Education and their officers, agents, employees, successors re-evaluate all of their activities and practices relating to the desegregation of public elementary and secondary education within the State of Texas; upon completion of this re-evaluation the defendants were required to file a plan stating specific actions which they would take pursuant to their affirmative obligations under Title VI of the Civil Rights Act of 1964 and the Fourteenth Amendment to the Constitution. On January 15, 1971, the defendants filed their plan. Plaintiffs filed a response to this plan on

February 1, 1971, incorporating both objections to defendants' plan and recommendations for what the defendants were legally required to accomplish by this plan. An evidentiary hearing was held on February 1 and 2, 1971. A further hearing was held in Tyler on April 12, 1971, the case then, and hereafter, being styled Civil Action No. 5281, Tyler Division.

The Court has carefully considered the submissions of the respective parties and the evidence presented at the hearings, in light of the defendants' affirmative duty to take "whatever steps might be necessary to . . . /eliminate/ racial discrimination root and branch." Green v. New Kent County, 391 U.S. 430, 437-38 (1968), Swann v. Charlotte-Mecklenburg Board of Education, Nos. 281 and 349, _____U.S._____, (April 20, 1971). In this regard the duty of the state appears to be two-fold: First, to act at once to eliminate by positive means all vestiges of the dual school structure throughout the state; and second, to compensate for the abiding scars of past discrimination.

Accordingly, it is hereby ORDERED that the State of Texas, Dr. J. W. Edgar, Commissioner of Education of the State of Texas, the Texas Education Agency, their officers, agents, employees, successors and all other persons in active concert or participation with them (hereinafter referred to as defendants) shall fulfill those duties as follows:

A. Student Transfers

(The Modified Order of July 13, 1971, has been amended by the Court by Order dated August 9, 1973, and Section A now has the following language:)

(1) Defendants shall not permit, make arrangement for or give support of any kind to student transfers, between school districts, when the cumulative effect, in either the sending or receiving school or school district, will be to reduce or impede desegregation, or to reinforce, renew, or encourage the

continuation of acts and practices resulting in discriminatory treatment of students on the ground of race, color, or national origin.

(2) In applying the above section to student transfers between school districts, the defendants may grant the following classes of exceptions regardless of the race, color, or national origin of students.

(a) Class One: All transfers of students to county or multi-county day schools for the deaf.

(b) Class Two: Special education students from districts where the special education class for which the students are qualified is unavailable and such class is available in the receiving district, provided such students have been properly screened according to Texas Education Agency guidelines by the receiving districts.

(c) Class Three: The Commissioner of Education may grant additional transfers in hardship situations. Before such transfers are granted by the Commissioner, the parties will be notified at least 30 days in advance of the intent to grant such transfers and the reasons therefor. The parties may object to such transfers to the court, and the court may approve or disapprove such transfers with or without a hearing.

(3) In addition to the above exceptions, defendants shall use the following guidelines to determine the cumulative effect of student transfers in the various school districts of Texas.

(a) Where student transfers between school districts involve ethnic consideration concerning race, color or national origin of students, only hardship situations shall be considered, and such transfers shall

be governed by the procedure in Paragraph A(a)(c), above.

(b) In such situations, the defendants shall not approve transfers where the effect of such transfers will change the majority or minority percentage of the school population, based on average daily attendance in such districts by more than one per cent (1%), in either the home or the receiving district or the home or the receiving school.

(4) Defendants may use the following additional guidelines in approving or disapproving student transfers between the various school districts in Texas:

(a) The Agency will review and apply this Section to all in-grade transfers between school districts in Texas.

(b) The Agency will investigate all complaints of violations of its decisions made pursuant to Section A of the Court Order.

(c) The Agency will from time to time solicit the assistance of other agencies, both State and Federal, in arriving at a decision under Section A of this Court Order, but the Agency shall not be bound by such recommendations.

(d) The Agency will consider as factors relevant to its decision in approving or disapproving student transfers under this Section: (1) whether the receiving district or the home district is composed solely of students of one race or ethnic origin, (2) whether all the students seeking transfers are of one race or ethnic origin, and (3) whether the sending or receiving school district is operating under the provisions of an order

issued by another District Judge requiring said school district to eliminate segregation on the ground of race, color, or national origin.

(e) The Agency will use such additional guidelines as may be ordered by the court. The Agency may also use such guidelines as adopted by the Agency and submitted to the court and to all other parties, in writing, provided no objection is filed by the parties to said agency-adopted guidelines within twenty-one (21) days of the filing of said guidelines with the court or their receipt by certified mail, return receipt requested, by the parties. In the event of objection by the parties or the court within such period, the Agency may request a hearing for approval of said guidelines by the court.

(5) The Texas Education Agency shall review all student transfers and shall notify the sending and receiving districts promptly of all transfers which do not appear to comply with the terms of this order.

(6) If, after receiving notice of the Texas Education Agency's refusal to approve transfer, the receiving district shall continue to accept the transfer of students, or if the sending district shall refuse to provide suitable educational opportunities for these students, defendants, after 15 days notice to the President of the Board of Trustees and the Superintendent (if the district has such an official), shall refuse to transfer the funds, based on the average daily attendance of the transfer students involved to the account of the receiving district, and shall, thereby, terminate and refuse to grant or continue paying to the offending district a percentage of state funds equivalent to the district's entitlement based on the average daily attendance of the students

transferring in violation of this order.

(7) Defendants shall also refuse to distribute to the offending district any transportation funds which might accrue on account of transfer students accepted in violation of this order. If the offending district continues to refuse to deny transfers which adversely affect desegregation, the Texas Education Agency shall warn the district that its accreditation status is in danger. This warning shall remain in effect for ten days, at which time, if the offending district has failed to correct its violations, the Texas Education Agency shall suspend the district's TEA accreditation.

(8) The State Board of Eduction shall entertain no appeal from any decision of the Agency which applies sanctions against a school district in compliance with this or any preceding order of this court. However, any school district aggrieved by the proposed reduction or the reduction of funds, or the proposed suspension or the suspension of accreditation, shall have the right to petition the United States Court for the Eastern District of Texas, in which this suit is pending, for such relief as said court may deem proper.

B. Changes in School District Boundaries

(1) Defendants shall not permit, make arrangements for, approve, acquiesce in, or give support of any kind to changes in school district boundary lines - whether by detachment, annexation, or consolidation of districts in whole or in part - which are designed to, or do in fact, create, maintain, reinforce, renew, or encourage a dual school system based on race, color, or national origin.

(2) Defendants shall require the board of trustees of any school district desiring to annex or consolidate with a nearby

district, in whole or in part, or desiring to change its boundaries in any other manner such as is described, for example, in Part II-A(2) of the Court's Order of November 24, 1970, to report said intention to the Commissioner of Education for the State of Texas at least 15 days prior to the effective date of such action, and shall take appropriate measures to insure compliance with this requirement.

(3) Whenever the Commissioner shall receive notice that a district or a portion of a district is to be detached from, annexed to, or consolidated with another district, he shall institute an immediate investigation as to the effects of such projected change of boundaries on the desegregation status of all of the school districts concerned. He shall promptly notify the appropriate county and local officials of his findings, and indicate whether or not the transfer of territory is in violation of the law.

(4) If county and local officials proceed to consummate the transfer of territory after being notified that they are in violation of the law, defendants, after 15 days notice to the President of the Board of Trustees and the Superintendent of the district (if the district has such an official), shall refuse to transfer funds, based on the average daily attendance of the students in the territory detached, annexed or consolidated, to the account of the new district, and shall, thereby, terminate and refuse to grant or continue paying to the offending district a percentage of state funds equivalent to the district's entitlement based on the average daily attendance of the students detached, annexed or consolidated in violation of this Order. These funds shall be distributed to the remainder of the original district, in cases of illegal detachments, but shall not be used by that district to support the education of children living in the

detached area. In cases involving the consolidation of whole districts, the Texas Education Agency shall hold the funds derived from the average daily attendance of the students illegally annexed to or consolidated with the new district in escrow pending dissolution of the illegal transfer of territory and the return of students to their original districts.

(5) Defendants are enjoined from granting "incentive aid" payments pursuant to Texas law (Art. 2815-4, Vernon's Texas Revised Civil Statutes as amended), to districts which are enlarged by annexations or consolidation actions in violation of this Order.

(6) Should a county board of education or a school district, having received notice from the Commissioner that a territorial alteration has been disapproved, fail to disavow the action and to declare its effects null and void, the Texas Education Agency shall notify the district that its accreditation status is in danger. This notice shall remain in effect for 10 days, at the end of which time, if the offending district has failed to correct its violations, the Agency shall suspend the district's TEA accreditation.

(7) In all cases involving annexation or consolidation of school districts, the Texas Education Agency shall apply the portions of the Order of the Court in this case dated April 19, 1971, concerning the annexation of nine all-black school districts to nearby bi-racial districts, and specifically, the portions of that Order relating to faculty and staff and to bi-racial committees, to the newly enlarged districts and shall require the said district to submit to the Texas Education Agency such reports as may be necessary to enable that Agency to determine whether the newly enlarged district is operating and will continue to operate in compliance with Title VI and the Fourteenth Amendment.

C. School Transportation

(1) Defendants shall not permit, make arrangement for, acquiesce in, or give support of any kind to bus routes or runs which are designed to, or do in fact, create, maintain, reinforce, renew, or encourage a dual school system based on race, color, or national origin.

(2) The transportation system in those county units and school districts having transportation systems shall be completely re-examined each year by the Texas Education Agency. Bus routes and runs as well as the assignment of students to buses will be designed to insure the transportation of all eligible pupils on a non-segregated and otherwise non-discriminatory basis. Bus routes and runs shall be constituted to provide that each bus operated by a district picks up every pupil along the route or run who is assigned to the school or schools and grade levels served by that bus. Where two or more equally efficient and economical routes or runs are available in a given area of the school district, the route or run which would promote or facilitate desegregation of buses shall be adopted by the district and approved by the Texas Education Agency rather than a route or run which, whether by intent, inaction, or inadvertence, would maintain or encourage segregation.

(3) Accordingly, if upon examination of transportation systems, the Texas Education Agency shall find that a district is operating one or more bus routes or runs which serve 66% or more students of a minority group, which are duplicated by one or more routes or runs serving more than 66% students of another race or ethnic background, the Texas Education Agency shall immediately investigate and determine whether the heavily minority routes or runs may be re-routed, terminated or combined with routes or runs which serve non-minority students so as to desegregate these routes

or runs. In no event shall this paragraph be construed as requiring any fixed percentage of students of a minority group on a particular route or run.

(4) If the Texas Education Agency finds that a county or local district is operating its transportation system in violation of this Order, it shall notify the appropriate officials of the local district. If the offending district refuses to alter its bus routes or runs so as to avoid segregation in instances where the Texas Education Agency has determined that such alterations are necessary, or if such a district persists in operating bus routes or runs which adversely affect the desegregation of its schools, classes, or extra-curricular activities, the Texas Education Agency shall refuse to approve the entire route structure of the district and shall, thereby, terminate and refuse to grant or continue paying state transportation funds to the offending district until it shall have altered all routes or runs operated in violation of this Order, so as to eliminate all vestiges of discrimination based on race, color, or national origin. In addition, the Texas Education Agency shall notify the district that its accreditation status is in danger. This notice shall remain in effect for 10 days, at which time, if the offending district has failed to correct its violations, the Agency shall suspend the district's TEA accreditation.

D. Extra-Curricular Activites

(1) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to activities run in connection with the elementary and secondary educational program operated by the state or any of its county and local educational agencies which, whether by intent, inaction, or inadvertence, results in segregation or other discrimination against students on the ground of race, color, or national origin. These extra-

curricular activities include, but are not limited to, student government organizations, athletic teams for interscholastic competition, clubs, hobby groups, student newspaper staffs, annual staffs, band, band majorettes and cheerleaders.

(2) The Texas Education Agency shall instruct the members of its accreditation review teams in conjunction with its Title IV staff, to examine the extra-curricular activities of each district which they review. All violations of this Order which are discovered by such investigations shall be reported to the Commissioner of Education. If the Texas Education Agency receives complaints from any source that a school district is operating and supporting extra-curricular activities in violation of this Order, immediate investigation shall be made of such complaint.

(3) If the Commissioner finds that a district is operating and supporting extra-curricular activities in violation of this Order,he shall notify the county or local school district through the President of its Board of Trustees and through the Superintendent (if the district has such an official), that the district is operating in violation of Title VI of the Civil Rights Act of 1964 and the Fourteenth Amendment. At the same time, he shall warn the district that its accreditation is in danger. This warning shall remain in effect for 10 days, at which time, if the district has failed to correct the violations, the Texas Education Agency shall suspend the district's TEA accreditation.

(4) In addition to the suspension of the accreditation of districts operating discriminatory extra-curricular activities, the State of Texas and the Texas Education Agency shall reduce the percentage of state funds granted to the district under the Minimum Foundation Program for salaries and operating expenses by ten percent. Should the district persist in operating its extra-curricular activities in a manner which results in

segregation or discriminatory treatment of students on account of race, color, or national origin, the State of Texas and the Texas Education Agency shall reduce the percentage of state funds as described above by an additional ten percent for each semester or term that the violations continue.

(5) Defendants are required to consider that a suspension or reduction of programs and activities to avoid operating them on a desegregated basis continues a violation of Title VI and the Fourteenth Amendment.

(6) Any school district aggrieved by the proposed reduction or the reduction of Minimum Foundation Program Funds or the proposed suspension or the suspension of accreditation shall have the right to petition the United States District Court for the Eastern District of Texas, in which this suit is pending, for such relief as said Court may deem proper.

E. Faculty and Staff

(1) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to the hiring, assigning, promoting, paying, demoting, reassigning or dismissing, or treatment of faculty and staff members who work directly with children in a discriminatory manner on account of race, color or national origin. Defendants shall be responsible for the application and enforcement throughout the State of the provisions of the Order of the Court in this case dated April 19, 1971, referred to in Section B(7) herein, and specifically, the portions of that Order relating to the treatment of faculty and staff.

(2) In carrying out its affirmative duties under Title VI and the Fourteenth Amendment in this area, the Texas Education Agency shall require each county or local educational agency desiring to receive state funds under the Minimum Foundation Program to include with its preliminary application for such

funds a list of objective, non-racial and non-ethnic criteria by which the county or local district will measure its faculty and staff for assignment, promotion, demotion, reassignment or dismissal and by which it will judge prospective employees for faculty and staff positions.

(3) The Texas Education Agency shall require the members of its accreditation review teams, in conjunction with the members of its staff designated to work in collaboration with the United States Office of Education to provide technical assistance to desegregating school districts pursuant to Title IV of the Civil Rights Act of 1964 (hereinafter referred to as "Title IV staff" or "Title IV personnel"), to examine the faculty and staff hiring and assigning practices of the districts which they visit for accreditation purposes, and to examine the records relating to hiring, assigning, promoting, paying, demoting, reassigning or dismissing of faculty and staff who work directly with children for a period including the three years prior to the complete elimination of the district's dual school structure. The review teams and state Title IV personnel shall also examine faculty assignments within each school district under review to determine whether the percentage of minority teachers in each school is substantially the same as the percentage of minority teachers in the school district as a whole, as required under Part II, Section A of the Order of this Court dated April 19, 1971, and referred to in Sections B(7) and E(1) herein. Any evidence of discriminatory practices concerning faculty and staff shall be reported to the Commissioner of Education.

(4) After such further investigation as deemed necessary by the Commissioner, he shall notify the district through the

President of its Board of Trustees and its Superintendent (if the district has such an official), of any acts and practices with regard to faculty and staff which violate the areas described in Part II, Section A, of the Order of this Court, dated April 19, 1971, referred to in Section B(7), E(1) and E(3) herein. At the same time, he shall warn the district that its accreditation is in danger. This warning shall remain in effect for 15 days, at which time, if the offending district fails to correct its violations with regard to faculty and staff who work directly with children, the Texas Education Agency shall suspend the district's TEA accreditation.

(5) In addition to the suspension of accreditation, the State of Texas and the Texas Education Agency shall refuse to approve the district's application for state funds under the Minimum Foundation Program for salaries, and shall, thereby, terminate and refuse to grant or continue paying such funds to the district.

(6) Any school district aggrieved by the proposed termination or the termination of Minimum Foundation Funds or the proposed suspension or the suspension of accreditation shall have the right to petition the United States District Court for the Eastern District of Texas, in which this suit is pending, for such relief as said Court may deem proper.

(7) This Order shall not be construed to have any effect upon the state or federal remedies available to any individual members of Faculty or Staff for discriminatory action by a school district in assignment, demotion, dismissal, reassignment, payment or other employment conditions.

Student Assignment

(The Modified Order of July 13, 1971, has been amended by the Court by Order dated August 9, 1973, and Section F now has the following language:)

(1) Defendants are required to consider forthwith the application of the procedures and provisions of this order to any school district reviewed pursuant to Section F of this court's Modified Order of July 13, 1971, where (a) such review has been conducted at any time prior to the entry of this order, (b) such district was found to be in violation of federal constitutional standards, and (c) specific recommendations designed to eliminate such violations were provided to the district by the defendants but have not been implemented.

(2) Defendants shall not permit, make arrangement for, acquiesce in or give support of any kind to the assignment of students to schools, individual classrooms or other school activities on the basis of race, color, or national origin, except where required to comply with constitutional standards.

(3) Defendants shall review each year all school districts in the state in which there exists schools enrolling more than 66% minority group students, as reported in accordance with part II(E)(6) of the Court's Order in this case dated November 24, 1970, and shall make findings as to whether or not the student assignment plans of these districts have resulted in compliance with the terms of this order. Priority shall be given to any district about which the defendants receive specific complaints. Any district found not to be in compliance shall be notified that it is in violation, and, further, shall be provided in writing by the defendants with a specific detailed plan designed to eliminate all such violations of the terms of this order. Defendants shall be required to take all measures necessary to insure that whenever possible, the notice and plan provided for herein shall be received by the district at least 45 days prior to the beginning of the

next semester or term. As to any district reviewed at any time prior to the entry of this order, defendants shall serve the notice and plan provided for herein forthwith in order that the sanctions provided hereafter in this order be made applicable to the school semester or term starting on or about September 1, 1973.

(4) If, by the end of the first week of the semester or term following receipt of the notice and plan provided for in paragraph F(3), a district has failed to implement such plan, or, has failed to adopt and implement an equally effective alternate plan to eliminate all racially or ethnically identifiable schools found to be in violation of constitutional standards as provided by paragraph F(3), the defendants shall warn the district through the President of its Board of Trustees and through its Superintendent (if the district has such an official) that its accreditation is in danger. This warning shall remain in effect for ten days after which time, if the district has still failed to achieve compliance, the Texas Education Agency shall suspend the district's TEA accreditation.

(5) In addition to suspension of accreditation and simultaneously therewith defendants shall suspend payment of all state funds granted to the district under the Minimum Foundation Program for salaries, operating expenses, transportation and all other purposes.

(6) Defendants shall suspend immediately without further notice the accreditation and the payment of all Minimum Foundation Program funds of any district which changes or otherwise modifies a plan adopted and implemented pursuant to paragraphs F(3) and F(4) herein when such changes or modifications are designed to, or do in fact, recreate, renew, reimplement or result in violation of federal constitutional standards.

(7) On or before June 1 of each school year until further orders of this court, defendants shall file a report with the court indicating (a) the school districts reviewed and the particular findings concerning the assignment and transfer of students within each such district, (b) all recommendations made and actions taken by the defendants and each such district to eliminate racially or ethnically identifiable schools, (c) what special cultural and educational activities these districts have instituted to compensate for the inherently unequal educational opportunities provided to students in these racially or ethnically identifiable schools. Copies of this report shall be served upon the Civil Rights Division of the United States Department of Justice, the Office for Civil Rights of the United States Department of Health, Education and Welfare and all parties to this action. A copy of this report shall also be retained in the offices of the Texas Education Agency in such a manner that it will be readily and conveniently available for public inspection during normal business hours.

(8) Any school district aggrieved by the proposed reduction or the reduction of Minimum Foundation Program funds or the proposed suspension of accreditation shall have the right to petition the United States District Court for the Eastern District of Texas, in which this suit is pending, for such relief as said court may deem proper.

(9) If a school district which is reviewed pursuant to paragraph F(3) is the subject of a school desegregation suit or a court-approved plan of desegregation, a copy of the report required by paragraph F(3) shall be submitted to the District Court having jurisdiction of such suit or plan.

G. Curriculum and Compensatory Education

(1) Defendants shall insure that school districts are providing equal education opportunities in all schools. The Texas Education Agency, through its consulting facilities and personnel, shall assist school districts in achieving a comprehensive balance curriculum on all school campuses, and, where necessary, in providing for students to transfer to different schools in the district on a part-time basis to avail themselves of subjects not offered in their assigned school. Full time transfers may be allowed only where they do not adversely affect desegregation as further described in Section A herein.

(2) The Texas Education Agency shall institute a study of the educational needs of minority children in order to insure equal educational opportunities of all students. The Texas Education Agency shall request the assistance of the United States office of Education and any other educational experts whom they choose to consult in making this study. By not later than August 15, 1971, a report on this study shall be filed by the Texas Education Agency with the Court including:

(a) Recommendations of specific curricular offerings and programs which will insure equal educational opportunities for all students regardless of race, color or national origin. These curricular offerings and programs shall include specific educational programs designed to compensate minority group children for unequal educational opportunities resulting from past or present racial and ethnic isolation, as well as programs and curriculum designed to meet the special educational needs of students whose primary language is other than English;

(b) Explanation of presently existing programs funded by the State of Texas or by the Federal Government which are available to local districts to meet these special educational needs and how such programs might be applied to these educational needs;

(c) Explanation of specific standards by which the defendants will determine when a local district, which has racially or ethnically isolated schools or which has students whose primary language is other than English, shall be required by the defendants to participate in the special compensatory educational programs available; and

(d) Explanation of procedures for applying these standards to local districts including appropriate sanctions to be employed by the defendants should a district refuse to participate in special compensatory educational programs where it has been instructed to do so pursuant to application of the standards developed under subsection (c) above.

(e) Copies of this report shall be served as described in Section F above, and a copy shall also be retained in the Offices of the Texas Education Agency as described therein.

H. Complaints and Grievances

The defendants shall send to all county and local educational agencies an information bulletin designed to notify faculty, staff and patrons of local school districts of the availability of complaint and grievance procedures and to inform them of how to utilize these procedures. Defendants shall further require that every county and local educational agency shall place this bulletin on public display in such a way as to assure its availability at all times during school hours. A copy of this bulletin shall be filed with the Court on or before August 15, 1971, with a copy to the plaintiff.

I. Notification

The defendants, in all cases where notification is given to a school district of imminent loss of accreditation or state funds because of its failure to meet the requirements of

Title VI, Civil Rights Act of 1964 and the Fourteenth Amendment ... shall, at the same time, notify the plaintiff. In the event that it becomes necessary to suspend the district's accreditation or to reduce or remove state funds the defendants shall also notify the plaintiff.

J. Conveyances of Real Property by a School District

(The Court, by orders dated August 9, 1973, and August 15, 1973, has ordered the following to be added to the Modified Order of July 13, 1971:)

(1) Defendants shall not permit, make arrangement for, approve, acquiesce in or give support of any kind to sales, leases or other conveyances of real property by a school district where such conveyances are designed to or do, in fact, create, maintain, reinforce, or encourage a dual school system based on race, color or national origin.

(2) Defendants shall require the board of trustees of any school district desiring to sell, lease or otherwise convey any interest in real property or buildings to report said intention to the Commissioner of Education for the State of Texas at least 15 days prior to the effective date of such conveyance and shall take all appropriate measures to insure compliance with this requirement.

(3) Whenever the Commissioner shall receive notice that a district intends to sell, lease or otherwise convey any interest in real property, he shall promptly notify the appropriate local school officials that the following language shall be incorporated into the instrument of conveyance, sale or lease, and further, that failure of the district to comply with this requirement will result in the imposition of sanctions as set out in paragraph J(4):

> "The further covenant, consideration and condition is that the following restrictions shall in all things be observed, followed and complied with:
>
> "(a) The above-described realty, or any part thereof, shall not be used in the operation of, or in conjunction with, any school or other in-

stitution of learning, study or instruction which discriminates against any person because of his race, color or national origin, regardless of whether such discrimination be effected by design or otherwise.

(b) The above described realty, or any part thereof, shall not be used in the operation of, or in conjunction with, any school or other institution of learning, study or instruction which creates, maintains, reinforces, renews, or encourages, or which tends to create, maintain, reinforce, renew or encourage, a dual school system.

"These restrictions and conditions shall be binding upon /grantee, lessee, etc./, /name of grantee, lessee, etc./, /his heirs, personal representatives and assigns or its successors and assigns, as the case may be/, for a period of fifty (50) years from the date hereof; and in case of a violation of either or both of the above restrictions, the estate herein granted shall, without entry or suit, immediately revert to and vest in the grantor herein and its successors, this instrument shall be null and void, and grantor and its successors shall be entitled to immediate possession of such premises and the improvements thereon; and no act or omission upon the part of grantor herein and its successors shall be a waiver of the operation or enforcement of such condition.

"The restriction set out in (a) above shall be construed to be for the benefit of any person prejudiced by its violation. The restriction specified in (b) above shall be construed to be for the benefit of any public school district or any person prejudiced by its violation."

(4) If a school district, after notice from the Commissioner, proceeds to sell, lease or otherwise convey any interest in real property but fails to comply with the requirements set forth in paragraph J(3) herein, the defendants shall proceed to impose sanctions in accordance with the following:

(a) The Commissioner shall notify the proper official or officials of the school district that the district is not in compliance and that, unless the district initiates legal proceedings in a court of competent jurisdiction, within thirty days from date of the notice, to reacquire possession of the property, the payment of all state funds to said district under the Minimum

Foundation Program for salaries, operating expenses, transportation and all other purposes shall be suspended. If the district initiates legal proceedings as required but, in the judgment of the Commissioner, the district fails to prosecute said proceedings expeditiously and in good faith, the Commissioner at any time thereafter may suspend the payment of all state funds to the district. Any party to this action who has reason to believe or to question that the Commissioner is not proceeding as required herein may, upon proper motion, apply to this Court for whatever relief is indicated, at law or at equity.

(b) In the event that a school or other facility used in conjunction with any institution of learning which would constitute a breach of the condition set forth in paragraph J(3) is operated on the real property conveyed by the district, the defendants shall suspend the payment of state funds under the Minimum Foundation program for salaries, transportation and all other purposes, operating expenses, and, simultaneously therewith, defendants shall suspend the district's TEA accreditation. The suspension of funds and of accreditation as provided in this subparagraph shall continue until such times as the school or other institution of learning which was the basis for these sanctions has ceased operation or until such time as the district in question has taken steps to exercise its rights of reversion and has reacquired the property in question.

(5) Defendants are enjoined from granting TEA accreditation to any school or other facility used in conjunction with any institution of learning, study or instruction, the operation of which would constitute a breach of the condition set forth in paragraph J(3).

(6) Any school district aggrieved by the proposed suspension or the suspension of Minimum Foundation Funds, or the suspension

of accreditation shall have the right to petition the United States District Court for the Eastern District of Texas in which this suit is pending, for such relief as said court may deem proper.

K. Jurisdiction

(The Modified Order of July 13, 1971, was changed by amendment by the Court by Order dated August 9, 1973, and Section J of such Modified Order now appears as Section K.)

(1) This Court retains jurisdiction of this matter for all purposes, and especially for the purpose of entering any and all further orders which may become necessary to enforce or modify this decree.

(2) Nothing herein shall be deemed to affect the jurisdiction of any other district court with respect to any presently pending or future school desegregation suit.

Exhibit No. 5

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
REGIONAL OFFICE
1200 MAIN TOWER BUILDING
DALLAS, TEXAS 75202

August 4, 1976

OFFICE FOR CIVIL RIGHTS
Action - Dr. Flores
Copy to
Dr Brockette
Mr Conley

RECEIVED
AUG 12 1976
DEP. COMM. ADMN. SERV.

RECEIVED
AUG 10 1976
OFFICE OF

The Honorable M. L. Brockette
Commissioner of Education
Texas Education Agency
Austin, Texas 78711

Dear Dr. Brockette:

This is to acknowledge your letter of June 22, 1976 which responded to our analysis of the position paper presented to this Office by the Texas Education Agency February 20, 1976. Specifically, your letter was in further response to our analysis of the Agency's position paper - a general discussion of beliefs and philosophy of TEA and a discussion of two (2) proposals for the implementation of Bilingual Education Programs.

Inasmuch as there are only minimal differences between the Federal stance and the philosophical position outlined in your letter on the roles of the Federal and State Governments in education, I will not address that issue here. In addition, I cannot address your second proposal, that the Office of Education channel Title VII funds through the State Board of Education because the Office for Civil Rights is not involved in funding decisions of the Office of Education. Furthermore, it is my understanding that the proposal you outline would require significant modifications of the Title VII legislation.

Your first proposal, which was the focus of our initial meeting, appears to be the major element of your letter. It is my understanding that the State Board of Education is requesting the Department of Health, Education and Welfare, the Office of Education, and the Office for Civil Rights to look to the State Board of Education as the primary enforcement agency for the implementation of the Lau decision and the Bilingual Education Act, (Texas Education Code Sections 21.451 - 21.460). The enforcement process would include the State Board's implementation of school accreditation standards as the primary enforcement measures to insure that all school districts rectify language deficiencies as needed in order to open the instructional program to all students.

During our meeting, we both agreed that a "partnership" of some type could prove mutually advantageous, not only in Lau implementation, but also in other areas of our responsibilities. However, the nature of your proposal

Page 2 - The Honorable M. L. Brockette

(to assume Title VI compliance responsibility) reaches beyond an agreement that can be made with a Regional Office. The possible impact of such a relationship extends to the policy making function of this Office, which is retained by the Director.

Because of the unique nature of your request, I have suggested to Mr. Martin Gerry, Director, Office for Civil Rights, that he review the proposal personally, and that he bring in other agency representatives he feels would be affected by the proposal. When that review is completed, I have recommended to him, that he arrange a meeting with you to discuss this matter.

I regret my absence from the Regional Office has delayed this response. I will keep you advised on future developments as soon as I have some word from our headquarters Office.

Sincerely,

Dorothy D. Stuck
Director
Office for Civil Rights
Region VI

cc: Mr. Martin Gerry, Director
Office for Civil Rights
Washington, D. C.

Exhibit No. 6

GUIDE FOR MONITORING VISIT

(BILINGUAL PROGRAMS)

Division of Bilingual Education
Texas Education Agency
201 East 11th St.
Austin, Texas 78701
(512) 475-3651

School District _____

_____

_____

Superintendent _____

Funding: 1. State Amount $_____

No. Pupils _____

Grade Levels _____

Contact Person _____

2. Title VII Amount $_____

No. Pupils _____

Grade Levels _____

Contact Person _____

3. Other Amounts $_____

No. Pupils _____

Grade Levels _____

Contact Person _____

Total Pupils (unduplicated) _____

Reviewer(s) _____

Date(s) of Visit _____

MANAGEMENT COMPONENT: Attach any needed documentation.

1. How were students selected?

2. How were classroom assignments made?

3. When and how were parents notified?

4. What are the goals of the program?

5. Have planned activities been implemented on time?

6. How are state special allowance funds spent?

7. Observations:

INSTRUCTIONAL COMPONENT: Have components of the statewide design been implemented? Describe.

1. The basic concepts initiating the child into the school environment are taught in the language he brings from home.

2. Language development is provided in the child's dominant language.

3. Language development is provided in the child's second language.

4. Subject matter and concepts are taught in the child's dominant language.

5. Subject matter and concepts are taught in the child's second language.

6. Specific attention is given to develop a positive identity in the child.

7. At what point is the second language instruction (oral and written) instituted?

8. Are concepts taught in the child's dominant language as indicated in standard scope and sequence charts?

9. Observations:

STAFF DEVELOPMENT COMPONENT: Attach any needed documentation.

1. Status of instructional staff:

Name	Status	Comments

2. Attach Staff Development Schedule showing:
   a. TEA Teacher Training Institutes attended;
   b. Dates of district in-service programs;
   c. Topics for in-service sessions; and
   d. Names of persons to conduct in-service sessions.

3. Observations:

PARENT AND COMMUNITY INVOLVEMENT COMPONENT:

Describe briefly the activities in which the parents and community members will be involved. Specifically note all planning, implementation, and evaluation of the school's bilingual program.

MATERIALS COMPONENT

1. State-adopted materials in use

   (Specify by title, grade, and language)

   _____

   _____

   _____

   _____

   _____

2. Other materials in use

   (Specify by title, grade, and language)

   _____

   _____

   _____

   _____

   _____

Materials and equipment are:

	Yes	No
. in working and usable condition		
. current and up-to-date		
. in use in the classroom		
. centrally stored		
. available to teacher upon request		
. available to teacher automatically		
. checked out to each teacher and/or classroom on a permanent (yearly) basis		

EVALUATION COMPONENT:

	YES	NO
1. Does the Evaluation Design follow an appropriate format?		
2. Do all the behavioral objectives contain the following elements?		
. target group or individual		
. behavior or product to be developed		
. level of acceptable performance		
. units and means of performance measurement		
. conditions for measurement		

3. List title and publisher of language assessment instruments used by the district to identify children of limited English speaking ability and language dominance.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

4. List title and publisher of testing instruments used to measure academic achievement.

_____	_____
_____	_____
_____	_____
_____	_____

5. Is data collection proceeding on schedule and available as stated in the evaluation design?
Yes___ No___

GENERAL OBSERVATIONS: Make observations concerning materials selection, use; classroom management; staffing; etc.

Exhibit No. 7

August 1976

OFFICE OF EDUCATION GRANTS TO
CORPUS CHRISTI I.S.D.

Program#	Program Name	FY '73	FY '74	FY '75	FY '76
13.403	Bilingual Ed.	87,000	105,400	155,000	143,643
13.427	Educational Deprived Children-Handicapped		1,000	14,500	7,142
13.428	ESEA, Title I A	1,264,686	1,014,789	1,662,442	1,416,267
13.428	ESEA, Title I C	40,883	53,167	37,765	38,210
13.433	Follow Through	252,912	282,586	263,292	260,820*
13.478	SAFA Maint. & Oper.	1,079,094	321,204	995,804	578,354
13.479	National Defense Ed. Act, Title III	32,976	25,589	18,060	12,840
13.480	ESEA, Title II	85,328	75,739	78,672	-----
13.492	Upward Bound	-----	69,000	-----	-----
13.502	Voc, Ed, Adm,	153,342	84,362	84,849	Phased out
13.516	ESEA, Title III Pre-sch., El. & Sec., Special Projects	10,632	-----	-----	-----
13.519	ESEA, Title III Sup. Ed. Center/Serv.	165,620	191,234	177,857	65,924
13.519	PL 93-380, Title IV C	-----	-----	-----	180,892
13.525	ESAA, Basic	-----	-----	90,360	282,450
13.570	PL 93-380, Title IV B	-----	-----	-----	61,751
TOTAL		3,172,473	2,224,070	3,488,241	3,048,293
GRAND TOTAL					11,933,077

* Requested amount

EEEC - Title IV

Exhibit No. 8

May 13, 1976

Dr. M. L. Brockette
Commissioner of Education
Texas Education Agency
State Board of Education
Austin, Texas 78711

Dear Dr. Brockette:

We appreciated the opportunity to meet with you and members of your staff in Dallas on February 20, 1976, for the purpose of discussing the current efforts being made by the State of Texas to provide equal educational opportunities for national origin minority students with limited English speaking ability. We welcomed the forum that allowed you and representatives of other state organizations present to share with us the concerns of some school districts about the feasibility of implementing the Department's "Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under Lau v. Nichols" (Lau Remedies).

As we discussed with you at the meeting, the Lau Remedies were developed by a Task Force designated by the Office for Civil Rights to assist school districts in developing voluntary plans for compliance with Title VI of the Civil Rights Act of 1964. The Remedies outline educational approaches which would constitute appropriate action to be taken by a school district to open its instructional program to students currently foreclosed from effective participation in that program. These approaches are intended to be illustrative rather than exhaustive. Although they should provide substantial assistance to school districts seeking remedies which would be legally acceptable to OCR in a variety of circumstances, they do not foreclose the use of other educational approaches which can be demonstrated to have equal promise in meeting the needs of limited or non-English speaking students in a school district.

As part of your concern with the Lau Remedies, you requested that this Office examine carefully the efforts of the State to implement a statewide bilingual program for students with limited English speaking abilities (LESA), and to consider that effort as adequate to meet the current requirements of Title VI of the Civil Rights Act of 1964.

...DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Page 2 - Dr. Brockette

The document, prepared by a member of your staff, entitled A Comparison of the HEW Lau Remedies to State Law and State Board of Education Policy, was very helpful to us in understanding the State's perception of the discrepancies between the State law/Board of Education policy on bilingual education and the Lau Remedies.

We should state from the outset that we are in general agreement with your characterization of the discrepancies stated in the comparison document. Therefore, our reaction to your document, as set forth below, concentrates more on providing an explanation for those areas where the Lau Remedies are different from, or go beyond, the State requirement. Also, we have taken the liberty to point out additional discrepancies or problems with the implementation of the State bilingual program, based upon further analysis of the documents you provided us as well as information obtained from our on-site reviews of school districts during the past several years.

I. Identification of the Student's Primary or Home Language

Proper identification and assessment of a student's language is perhaps the single most important element of a Title VI plan designed to remedy past discriminatory practices against students with limited English speaking abilities. It is this initial identification and assessment that determines not only those students who will receive additional educational responses but also the type of appropriate responses to be provided. Thus, the Remedies call for a systematic process for the determination of home language and for the assessment of language frequency. The underlying assumption is that school districts must be able to assess the degree to which each student functions in one or more languages in order to provide an appropriate educational response.

The overall importance of this language identification and assessment area is stressed in the Remedies and examples are given there of some procedures to be followed by school districts. We should point out that observation of the student in the home is not one of the requirements. We should also note that other methods for the identification and assessment of language will be accepted, if it can be demonstrated that such methods are effective in the identification and assessment of language proficiency.

The State requirements for language identification and assessment, as defined by State law and State Board policy, set forth some positive guidelines for school districts to follow. As was noted in the comparison document, the State's assessment criteria do not provide for the categorization of students according to language

proficiency, other than to differentiate between students with limited English speaking abilities (LESA) from those who are English language proficient.

Even with that differentiation, it appears that local school districts have wide latitude in determining their own policy, methods and criteria for identifying LESA children. From our on-site reviews in school districts that are implementing the State bilingual program, we have found a variety of assessment procedures in use, most of which appeared to operate to provide a limited number of LESA children. For example, in one school district, monolingual English speaking first grade teachers recommended Spanish surnamed students for further screening for possible placement into the State program. Language assessments were then completed by a bilingual person who used a locally developed verbal test devised for the purpose of determining which students would participate in the State program. Bilingual teachers provided the further assessments only with those students referred by the monolingual English speaking teachers.

In another school district visited by staff from this Office, we found that adequate efforts were made to assess the language skills of students who attended schools where Title VII Bilingual Programs were located. However, no language assessments were attempted for hundreds of Spanish surnamed students who attended other schools in the district.

We have also observed from our reviews that efforts are not being made by school districts to identify students of LESA above the elementary grades.

II. Diagnostic/Prescriptive Approach

The diagnostic/prescriptive approach, as described in the Remedies, is consistent with a basic Title VI requirement that specific remedial action must be taken by a school district to correct the effects of past discriminatory practices.

In addition to correcting the past discrimination, a noncomplying district must develop procedures designed to prevent the continuance or recurrence of the discriminatory practices. From a Title VI perspective, it is not sufficient for a school district to treat a group of students who have been subjected to discrimination with a general or "benign" approach. Thus, the diagnostic/prescriptive approach described in the Remedies, or a similar approach, would be required to assure that the necessary corrective action had been taken under Title VI.

In the comparison document you identify a discrepancy in this section as follows:

> "...prescriptive measures must be designed to bring students to the performance level expected of non-minority students in the State and LEAs. The State and its LEAs do not identify achievement expectation levels based on ethnicity."

We must emphasize that OCR would require a school district to develop a plan consistent with the principles set forth in the Remedies only where there is sufficient evidence which reveals that national origin minority students with limited English speaking abilities have been excluded from effective participation in the district's educational program. Since, in a particular school district, locale, or state, the achievement level for minority students would likely be adversely impacted by past and present discriminatory practices against LESA students, Title VI requires school districts to tie the goal for the educational achievement of LESA students to that of non-minority students.

III. Educational Program Selection

Educational program selection options in the Lau Remedies are a logical extension of the identification/assessment and diagnostic/prescriptive procedures.

All students whose home language is other than English and who are identified as LESA children, must be provided with one, or a combination of, the educational programs specified in the Remedies. We believe this process assures a reasonable and appropriate educational response for each student whose educational progress would be impeded by immersion into a traditional English dominant curriculum.

In contrast, the State program of bilingual education centers in grades K-3 (by 1976-77), with options for some school districts to expand the program into grades 4 and 5. In addition, on-site reviews of several school districts in the State have revealed discrepancies in the actual implementation of the State bilingual program. The pertinent elements of Texas Education Code Section 21.454, "Program Content: Method of Instruction," provides that

the bilingual education program established by a school district shall be a full-time program of instruction in all subjects required by law or by the school district, except for predominantly nonverbal subjects, such as art, music, and physical education.

Our reviews of school districts implementing the State bilingual program revealed that, in practice, students with LESA are not provided a full-time bilingual instruction program. Instruction in the native language is generally limited to the language arts area and then for only one or two periods of the school day. The emphasis of the State bilingual program at this point in time appears to be on the development of English language skills (ESL) rather than on the development of cognitive skills in the native language. Additionally, the State program requires that LESA students move out of the bilingual program at the end of grade three (grades 4 and 5 are optional); whereas, OCR's position, as explained in the Remedies, is that instruction in the native language is required until such a time the district can demonstrate, using predictive data, the student's ability to function in a dominant English language curriculum. Thus, the Remedies strongly support the teaching of English as a second language as part of the instructional program, but not at the expense of the LESA students' mastery of the cognitive skills and subject matter content expected of other students in the district.

IV. Required and Elective Courses

This section of the Remedies applies primarily to the school districts where minority students have been denied opportunities to enroll in certain courses because of a discriminatory effect resulting from the student's inability to speak and understand English, or because of some other discriminatory practice. If minority enrollment in required or elective courses has been limited, a school district would be required to develop affirmative steps similar to those described in the Remedies, as part of an overall plan to comply with Title VI.

V. Instructional Personnel Requirements

It is general knowledge that many school districts in the State do not currently employ sufficient numbers of teachers with the necessary teaching skills in a second language. Those districts, if found to be in noncompliance with Title VI, would be required to implement a detailed in-service training program similar to the one described in the Remedies (in addition to a plan for securing the necessary staff).

The Remedies specifically tie instructional personnel requirements for a school district to the educational need for personnel who are linguistically/culturally familiar with the background of students identified in Section I as needing additional programmatic responses. A school district that does not have the number of qualified teachers necessary to fully implement the instructional program for LESA students must submit a plan for securing such teachers. This educational-related requirement may be separate from the necessity for some school districts to develop and implement affirmative action plans to recruit and employ additional minority teachers in order to correct specific discriminatory hiring practices under Title VI.

The State's program for issuance of bilingual education certificates and endorsements is a step in the direction of providing qualified bilingual teachers. We are also aware that a substantial amount of Federal funds are being used by the State to provide language training for monolingual teachers. Although it is reasonable that language training for monolingual teachers will assist those teachers in working with LESA students in the classroom, and with bilingual teachers and aides in team teaching situations, we have not seen any evidence that this approach will provide an available pool of teachers who can function in the classroom in a language other than English. Our on-site reviews to date have revealed that local school districts are using differing methods for determining the language proficiency of bilingual teachers, some of which are questionable in terms of assuring the teachers' competency to teach in a language other than English.

We must point out that this Office will accept any plan that works to provide the necessary instructional personnel specified in the Remedies. If your efforts to retrain monolingual teachers are not effective, you may wish to consider other methods to achieve your goal, such as encouraging local school districts, through financial incentives, to implement career development programs for bilingual teacher aides.

VI. Racial/Ethnic Isolation and/or Identifiability of Schools and Classes

Although no discrepancy in this section was noted in the comparison document between State Law/State Board Policy and the Remedies, we believe that further clarification is needed, particularly with regard to racially/ethnically isolated and/or identifiable classes. For example, the Texas Education Code, Section 21.454 provides for

the participation of children in the bilingual program with English speaking students in nonverbal subjects, but it does not speak directly to the integration of these students into the other academic areas. From our visits, we have found many school districts who are segregating Spanish speaking students into separate, isolated classes for the entire school day, with the possible exception of physical education, art and music. These school districts invariably use the State law as the justification for the segregation. We should point out that some school districts in the State that we have visited are implementing the State bilingual program and often additional bilingual programs, without segregating one group of students from another. Therefore, we must conclude that the State's commitment to comply with Title VI in the assignment of students to classes is either not widely published, or it is ignored by many school districts.

We realize that there are instances where some isolation of students may be necessary. In those situations we are willing to review the specific educational justification for such isolation in light of the current Title VI requirements. As a general rule, Title VI policy, as described in the Remedies, is that it is not legally permissible or educationally necessary to have racially/ethnically isolated and/or identifiable classes in order to respond to students language needs.

VII. Notification to Parents of Students Whose Primary or Home Language is Other Than English

We believe that the discrepancies noted in the comparison document for this section are accurate. The Office for Civil Rights assumes, as stated in the Remedies, that all information sent from the school to the homes is important and therefore must be provided to parents of LESA children in the necessary languages.

Equally important is the way in which the school district informs minority and non-minority parents of all aspects of the programs designed for LESA children. If the program is characterized as a remedial program, or a "dumping" place for minority children, then it obviously will not receive the support of minority or non-minority parents. All educational approaches for LESA students must be an integral part of the total school curriculum and all parents should be informed of this fact.

VIII. Evaluation

A school district submitting a Title VI compliance plan embodying the principles set forth in the Lau Remedies would be required to submit a "product and process" evaluation as characterized in the comparison document. The evaluation document should be specific with regard to the process used or to be used in implementing each section of the plan. The documentation of process is particularly important for all plans in Section I, II, and III, where a specific group of students are to be identified and provided with appropriate educational responses. The process evaluation of the district's efforts to meet the instructional personnel requirements is also more important than some of the other sections of a plan that do not require on-going activities. Stated end results or "products" for each component of the plan are necessary, as well as the projected time lines for the completion of major activities.

The requirement for the above type of evaluation is essential, from OCR's viewpoint, to assure that a school district determined to be in noncompliance with Title VI is making every reasonable effort to correct past discriminatory practices. The evaluation component will also assist a school district and the Office in identifying those areas where additional technical assistance may be needed to assure the success of the plan.

It appears that elements of the State's evaluation design for districts implementing a State bilingual program could be incorporated into an evaluation for a Title VI plan. A major difference to keep in mind is that the State's evaluation design is specifically directed toward evaluating a district's efforts to implement the State bilingual program, whereas, the evaluation design described in the Remedies would address all areas of noncompliance with Title VI. Also, the State policy does not require an evaluation design, but states that "school districts operating bilingual programs should develop an evaluation design..."

We hope that the above discussion of the comparison document and other issues related to the State bilingual program and Title VI compliance will be of assistance to you, your staff and the State Board of Education in assessing the current posture of the State with regard to school districts that may be required to develop plans to comply with Title VI of the Civil Rights Act of 1964. From our viewpoint, there are some significant gaps between the current State offerings for LESA students and the Title VI requirements. We are willing to work with you in every possible way to close those gaps. One of the issues discussed at our meeting in February,

but not included in the comparison document, was the cost of implementing the Remedies. You and representatives of other State organizations present, expressed a concern that compliance with Title VI in this area would require a prohibitive expenditure of additional money. We do not believe this to be necessarily a fact, although certainly some additional initial expenditures may be necessary in those school districts that have made little progress in providing educational opportunities for LESA students. The actual cost for implementing the types of educational approaches described in the Remedies should not be considered in isolation, but rather in conjunction with the local, State and Federal resources currently available for school districts. More importantly, we must consider the human costs of continued failure to meet the educational needs of a sizeable portion of our student population and to provide these students with the same opportunities and the same access to the educational program as all other students. The initial steps already taken by the State and many local school districts in the direction of equal educational opportunity demonstrates the capability to do whatever is necessary to complete the job.

As you recall, we agreed to meet with you and your staff following your receipt of this letter to further discuss ways in which the State and Federal requirements can be brought together. We are willing to participate in such discussions and to explore any alternatives that are consistent with the requirements of Title VI. Currently, staff from this Office are conducting on-site reviews of fourteen school districts in Texas to determine those districts' compliance with Title VI in the area of equal educational services for students whose home language is other than English. These reviews are scheduled for completion in early May. Our target date for submitting letters of determination to the fourteen districts is June 15, 1976. Therefore, we would suggest that any additional meetings between the State and this Office be scheduled prior to June 1.

We look forward to hearing from you and to working with you in this endeavor.

Sincerely yours,

Dorothy D. Stuck
Director
Office for Civil Rights
Region VI

bcc: Clarke, Stuck, Henderson,
Howell, Stokes
OCR: JLittlejohn:mh:5-10-76

Exhibit No. 9

This exhibit is on file at the
U.S. Commission on Civil Rights.

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