

dential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

(Pub. L. 93-380, title II, §208, Aug. 21, 1974, 88 Stat. 516.)

#### **§ 1708. Jurisdiction of district courts**

The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 1706 of this title.

(Pub. L. 93-380, title II, §209, Aug. 21, 1974, 88 Stat. 516.)

#### **§ 1709. Intervention by Attorney General**

Whenever a civil action is instituted under section 1706 of this title by an individual, the Attorney General may intervene in such action upon timely application.

(Pub. L. 93-380, title II, §210, Aug. 21, 1974, 88 Stat. 516.)

#### **§ 1710. Civil actions by Attorney General; notice of violations; certification respecting undertaking appropriate remedial action**

The Attorney General shall not institute a civil action under section 1706 of this title before he—

- (a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part 2 of this subchapter; and
- (b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

(Pub. L. 93-380, title II, §211, Aug. 21, 1974, 88 Stat. 516.)

### **PART 4—REMEDIES**

#### **§ 1712. Formulating remedies; applicability**

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

(Pub. L. 93-380, title II, §213, Aug. 21, 1974, 88 Stat. 516.)

#### **§ 1713. Priority of remedies**

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set

out below, or of the first combination thereof which would remedy such denial:

- (a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;
- (b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;
- (c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;
- (d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 1714 of this title;
- (e) the construction of new schools or the closing of inferior schools;
- (f) the construction or establishment of magnet schools; or
- (g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 1714 and 1715 of this title.

(Pub. L. 93-380, title II, §214, Aug. 21, 1974, 88 Stat. 517.)

#### **§ 1714. Transportation of students**

##### **(a) Limitation to school closest or next closest to place of residence**

No court, department, or agency of the United States shall, pursuant to section 1713 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

##### **(b) Health risks; impingement on educational process**

No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

##### **(c) School population changes resulting from population changes**

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transpor-

tation of students to compensate wholly or in part for such shifts in school population so occurring.

(Pub. L. 93-380, title II, §215, Aug. 21, 1974, 88 Stat. 517.)

#### § 1715. District lines

In the formulation of remedies under section 1712 or 1713 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

(Pub. L. 93-380, title II, §216, Aug. 21, 1974, 88 Stat. 518.)

#### § 1716. Voluntary adoption of remedies

Nothing in this subchapter prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this subchapter nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this subchapter, if such plan is voluntarily proposed by the appropriate educational agency.

(Pub. L. 93-380, title II, §217, Aug. 21, 1974, 88 Stat. 518.)

#### § 1717. Reopening proceedings

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] in effect on August 21, 1974, and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(Pub. L. 93-380, title II, §218, Aug. 21, 1974, 88 Stat. 518.)

#### REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

#### § 1718. Limitation on court orders; termination of orders conditioned upon compliance with fifth and fourteenth amendments; statement of basis for termination orders; stay of termination orders

Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws may, to the extent of such

transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable, and will continue to be in compliance with the requirements thereof. The court of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

(Pub. L. 93-380, title II, §219, Aug. 21, 1974, 88 Stat. 518.)

### PART 5—DEFINITIONS

#### § 1720. Definitions

For the purposes of this subchapter—

(a) The term “educational agency” means a local educational agency or a “State educational agency” as defined by section 801(k)<sup>1</sup> of the Elementary and Secondary Education Act of 1965.

(b) The term “local educational agency” means a local educational agency as defined by section 801(f)<sup>1</sup> of the Elementary and Secondary Education Act of 1965.

(c) The term “segregation” means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term “desegregation” means desegregation as defined by section 2000c(b) of title 42.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

(Pub. L. 93-380, title II, §221, Aug. 21, 1974, 88 Stat. 518.)

#### REFERENCES IN TEXT

Section 801 of the Elementary and Secondary Education Act of 1965, referred to in subsecs. (a) and (b), is section 801, title VIII, of Pub. L. 89-10, which was formerly classified to section 881 of this title. Section 801 of that Act was renumbered section 1001 of title X by Pub. L. 95-561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was reclassified to section 3381 of this title. Section 1001 was subsequently renumbered section 8001 and amended generally by Pub. L. 100-297, title I, §1002, Apr. 28, 1988, 102 Stat. 293, and, as so amended, did not contain subsections or specific definitions. Section 8001 was subsequently omitted in the general amendment of Pub. L. 89-10 by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. For definitions, see section 7801 of this title.

<sup>1</sup> See References in Text note below.