

*Edue -
School
Finance*

stage of the litigation, it is useful to sketch briefly some preliminary ideas regarding the merits.

Regulations promulgated under Title VI by the Department of Education provide that "in determining the types of services, financial aid, or other benefits or facilities which will be provided under any such program * * * or the situations in which such services, financial aid, other benefits or facilities will be provided under any such program, [a fund recipient] may not * * * utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race." 34 C.F.R. 100.3(b)(2) (emphasis added). Plaintiffs must show a significant disparate effect against minority populations. The burden then switches to the state to show that the disparate effect is justified by some "educational necessity." See Larry P. v. Riles, 793 F.2d 969, 982 (9th Cir. 1981); Elston v. Talladega County Bd. of Educ., 997 F.2d 1394, 1407 (11th Cir. 1993) (defendant must show "substantial legitimate justification for the challenged practice").

Although the complaint skirts the question, counsel for the plaintiffs have provided the Educational Opportunities Section with data showing that even under the current funding formula, Philadelphia receives more state money per-pupil than the average school district, as do apparently all schools that educate populations that are a majority non-white. Thus in 1996, for every \$100 the "average" school district received from the state for each student, schools with majority minority populations received \$122, while schools with majority white populations received \$95. This is not to say that Philadelphia has as much money to spend on a per-pupil basis as other school districts; however, the disparities pointed out in the complaint between Philadelphia and suburban schools (§ 52), and between Philadelphia and majority white school districts (§§ 56, 57), concern total revenues (i.e., they include local property tax revenues raised by the school district), not simply revenues provided by the State.

Plaintiffs provided us with the following revenue information on a per-pupil basis for Pennsylvania's 500 school districts in fiscal year 1996:

<u>School Districts</u>	<u>State Revenues</u>	<u>All Other Revenues</u>	<u>Total Revenues</u>
90% or more white (414)	2886	4244	7130
50% or more white (486)	2779	4540	7319
less than 50% white (14)	3586	3800	7386
less than 25% white (5)	3573	3357	6930
Philadelphia	3541	3320	6861
average	2929	NA	NA