In-School Segregation

Question: What will you do about the problem of in-school segregation? illegal for a school to use a test for educational placement purposes just because it may have the statistical effect of referring more minority students than white students for special education help?

Answer: In districts with a history of segregation, the use of ability grouping, testing, special education placement, some magnet programs, and differential discipline has sometimes produced serious problems of segregation within schools. This may be a vestige of segregation in districts with a history of segregation; for example, teachers may need training to deal effectively and on a nondiscriminatory basis when exposed for the first time to students of different backgrounds. This issue requires careful review on a case-by-case basis.

Background: A Feb. 18 USA Today report provides a good example of such problems. In a Rockford case, a magistrate judge has submitted a report on in-school segregation problems resulting largely from use of ability tracking, stating that the District "Committed such open acts of discrimination as to be cruel and committed others with such subtlety as to raise discrimination to an art form." For example, students in "gifted" classrooms within predominantly minority schools were almost all white, and they reportedly used separated classrooms, separate bathrooms, and sometimes separate entrances from minority students.

Busing

Question: If you are confirmed, will you support busing as a remedy for school segregation?

Answer: As the Supreme Court clearly stated almost 40 years ago in Brown and subsequent decisions, illegal intentional segregation and all its vestiges must be eliminated, root and branch, in our public schools. We have made enormous progress in this area and provided more equal educational opportunity to countless students since then, using many desegregation remedies, such as redrawing boundary lines, magnet school programs, voluntary transfers and, where it has been necessary, mandatory student reassignment or "busing." Effective school desegregation has been supported by the Division on a bipartisan basis, and should be in the future as well. Each case must be looked at individually and on its own merits, with the objective of faithfully following the law.

Background: Mandatory busing has been used relatively rarely, only in districts where most children are transported anyway for reasons unrelated to desegregation or where students have been transported away from schools closer to home in order to preserve segregation. Neither busing nor any other remedy may be ordered unless there has been a court finding of intentional segregation. As the House Subcommittee on Civil and Constitutional Rights found in 1982, where busing has been used and school officials have "made the effort to make desegregation work", as in charlotte-Mecklenberg, such remedies have been successful. The Subcommittee also found "compelling" evidence that desegregation has contributed to improved student achievement. In a shift from past Division policy under Republican and Democratic administrations, the Division beginning in 1981 affirmatively stated that it opposed and would not seek mandatory reassignment as a remedy, despite Supreme Court decisions such as Swann to the contrary.

Desegregation Across District Lines/Yonkers

Question: Do you support desegregation across district lines between cities and suburbs? What about school desegregation claims based on government discrimination in housing as in Yonkers?

Answer: In Yonkers, the court ruled that liability may be based in part on governmental conduct such as placement of public housing that causes illegal housing segregation and in turn promotes school segregation. Remedies aimed at desegregating both schools and housing can be and have been ordered in such cases, and can work well in tandem. The Supreme Court ruled in Milliken v. Bradley in 1973 that desegregation across district lines is required where there is proof of illegal segregative conduct that crosses district lines or has effects in more than one district. Some of the most effective desegregation in the country has been metropolitan in nature, as in Charlotte-Mecklenberg.

Unitary Status

Question: **The Supreme Court has made clear that a court should not be supervising desegregating school districts forever, and should strive towards returning control to local authorities. Yet there are many cases where districts have been subject to court order for almost 30 years.**

Answer: The court ruled in Green v. County School Board and subsequent cases that once a court has found illegal, intentional segregation in a school district, the court should retain jurisdiction until the district has fully desegregated and achieved "unitary status." As the Court explained recently, it is not sufficient for a district to comply in good faith with a desegregation order; in order to become unitary, it must also prove that it will not return to its former discriminatory ways and that the "vestiges" of segregation have been eliminated to the maximum extent practicable.

Race-Conscious Teacher Assignment

Question: What is your view of race-conscious assignment of teachers? Didn't DOJ recently claim in court that such assignment was improper?

Answer: DOJ follows the law established by the courts in this area. Court decisions have long recognized that eliminating racial identifiability of faculty is an important part of desegregation, and this may sometimes require race-conscious reassignment of faculty to eliminate faculty segregation at some schools.

Continuing Problem of School Segregation

Question: Do you believe school segregation and inequality of educational opportunity is still a serious problem in this country?

Answer: Yes. Recent studies have documented that many minority students attend racially isolated, high poverty schools and suffer from serious inequality of educational opportunity. Even within schools that have formally been desegregated, there are reports of in-school segregation. Inequality of opportunity on gender and other grounds continue to be reported. Where such conditions violate the Constitution and the laws enacted by this Congress, my job is to enforce them.

Background: A December, 1993 study for the National School Board Association (NSBA) documented an increasing and "very high level of segregation for minority students", with over 1/3 attending virtually all-minority schools. The study also found that a child in an "intensely segregated school" is 7 times more likely to be in a "high poverty school than a child in an integrated school", leading to in substantial inequality of educational opportunity. Anecdotal reports also document serious in-school segregation problems.

Question: **What is the current status of the Brown -Kansas case?**

Answer: Topeka, KS -- After the Brown decision, most of the housing projects were built on the east side of the city while single family dwellings grew on the west side. In 1979, the original case was resurrected with the plaintiffs charging that Topeka had never implemented a plan for desegregation and that the schools were once again segregated. The case has made its way to the Supreme Court twice. Last year, the Supreme Court refused to hear the case which means Topeka must finally implement a desegregation plan. Each side is preparing a plan. Two strong options involve redrawing school boundaries and school consolidation.

Prince Edward's County, VA -- In 1959, Prince Edward County officials locked the school doors rather than comply with the court rulings. In 1968, the courts reiterated their integration demands and busing ensued. In 1986, Richmond ended court-ordered busing acknowledging that its schools were 87 percent black.