

(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.

#### PART 6—MISCELLANEOUS PROVISIONS

##### § 1721. Separability

If any provision of this subchapter or of any amendment made by this subchapter, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this subchapter and of the amendments made by this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 93-380, title II, §223, Aug. 21, 1974, 88 Stat. 519.)

#### REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this part”, meaning part A of title II of Pub. L. 93-380, Aug. 21, 1974, 88 Stat. 519, which is classified generally to this subchapter.

#### SUBCHAPTER II—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

##### § 1751. Prohibition against assignment or transportation of students to overcome racial imbalance

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 93-380, title II, §251, Aug. 21, 1974, 88 Stat. 519.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 93-380, Aug. 21, 1974, 88 Stat. 484, as amended, known as the Education Amendments of 1974. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 6301 of this title and Tables.

##### § 1752. Appeals from Federal district court transfer or transportation orders affecting school attendance areas and achieving balancing of students; postponement of Federal court orders pending exercise of appellate remedy; expiration of section

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

(Pub. L. 93-380, title II, §253, Aug. 21, 1974, 88 Stat. 519.)

##### § 1753. Uniform rules of evidence requirement

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

(Pub. L. 93-380, title II, §254, Aug. 21, 1974, 88 Stat. 520.)

##### § 1754. Provisions respecting transportation of pupils to achieve racial balance and judicial power to insure compliance with constitutional standards applicable to the entire United States

The proviso of section 407(a) of the Civil Rights Act of 1964 [42 U.S.C. 2000c-6(a)] providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV [42 U.S.C. 2000c et seq.], under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(Pub. L. 93-380, title II, §255, Aug. 21, 1974, 88 Stat. 520.)

##### § 1755. Additional priority of remedies after finding of de jure segregation

Notwithstanding any other provision of law, after June 30, 1974 no court of the United States shall order the implementation of any plan to

remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

(Pub. L. 93-380, title II, §256, Aug. 21, 1974, 88 Stat. 520.)

**§ 1756. Remedies with respect to school district lines**

In the formulation of remedies under this chapter 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, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have 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, §257, Aug. 21, 1974, 88 Stat. 520.)

**§ 1757. Prohibition of forced busing during school year**

**(a) Congressional findings**

The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

**(b) Student transportation orders incidental to student transfers pursuant to school desegregation plans effective beginning with academic school year**

Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

**(c) “Academic school year” defined**

For the purpose of this section, the term “academic school year” means, pursuant to regulations promulgated by the Secretary, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

**(d) Orders subject to provisions of section**

The provisions of this section apply to any order which was not implemented at the beginning of the 1974-1975 academic year.

(Pub. L. 93-380, title II, §258, Aug. 21, 1974, 88 Stat. 520; Pub. L. 96-88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

“Secretary”, meaning the Secretary of Education, substituted for “Commissioner” in subsec. (c) pursuant to sections 301(a)(1) and 507 of Pub. L. 96-88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

**§ 1758. Reasonable time for developing voluntary school desegregation plans following detailed notice of violations**

Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

(Pub. L. 93-380, title II, §259, Aug. 21, 1974, 88 Stat. 521.)

**CHAPTER 40—CONSOLIDATION OF EDUCATION PROGRAMS**

SUBCHAPTER I—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

PART A—GENERAL PROVISIONS

**§§ 1801 to 1806. Omitted**

CODIFICATION

Sections were omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143.

Section 1801, Pub. L. 89-10, title IV, §401, as added Pub. L. 93-380, title IV, §401, Aug. 21, 1974, 88 Stat. 535; amended Pub. L. 94-482, title III, §328, Oct. 12, 1976, 90 Stat. 2220; Pub. L. 95-112, §2(d), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for making grants for libraries and library resources for fiscal years ending prior to Oct. 1, 1979.

Section 1802, Pub. L. 89-10, title IV, §402, as added Pub. L. 93-380, title IV, §401, Aug. 21, 1974, 88 Stat. 537, provided for allotments to States.

Section 1803, Pub. L. 89-10, title IV, §403, as added Pub. L. 93-380, title IV, §401, Aug. 21, 1974, 88 Stat. 538; amended Pub. L. 94-482, title III, §323(a)(3), title V, §501(e)(1), Oct. 12, 1976, 90 Stat. 2217, 2237, provided for structure and function of State plans.

Section 1804, Pub. L. 89-10, title IV, §404, as added Pub. L. 93-380, title IV, §401, Aug. 21, 1974, 88 Stat. 540, directed Commissioner to afford the State educational agency reasonable notice and opportunity for a hearing prior to final disapproval of a State plan.

Section 1805, Pub. L. 89-10, title IV, §405, as added Pub. L. 93-380, title IV, §401, Aug. 21, 1974, 88 Stat. 541, related to payments to States.

Section 1806, Pub. L. 89-10, title IV, §406, as added Pub. L. 93-380, title IV, §401, Aug. 21, 1974, 88 Stat. 541; amended Pub. L. 94-482, title III, §324, title V, §501(r), Oct. 12, 1976, 90 Stat. 2220, 2238, related to participation of children enrolled in private schools.