

THE WHITE HOUSE

WASHINGTON

February 27, 1970

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Desegregation of Higher Education Facilities in  
North Carolina

Responding to your inquiry, there are two Offices in HEW which have roles to play in the school desegregation process-- a process which involves higher as well as elementary and secondary education:

1. The Office for Civil Rights (formerly headed by Leon Panetta) monitors the compliance of any federally-aided educational institution with the requirements of Title VI of the Civil Rights Act of 1964. In the case of North Carolina, its institutions of higher education are in part federally financed, and the Civil Rights Act monitor-ship follows the federal funds.

2. There is another HEW office called the Division of Equal Educational Opportunity -- and it is part of the Office of Education. This staff carries out HEW's responsibility under Title IV of the Civil Rights Act for assisting local school boards to draw up desegregation plans. Sometimes this assistance is invited by the local authorities; sometimes it is ordered by the Federal Courts. Plans drawn up by this staff (and its consultants) need not be accepted by the local authorities; typically they have 30 days to draw up alternative plans-- but if the Courts are in the picture, some plan must be submitted for Court approval within a stated deadline; it then has the force of judicial decree.

The first-mentioned of these HEW offices usually gets into the act first.

In the North Carolina case about which you inquired, the Office for Civil Rights initially required reports from the State's colleges, and supplemented them with on-site inspections. In this case, that Office concluded that North Carolina was still maintaining a dual system of higher education on a racial basis and a letter stating this evidence was sent to the senior-most North Carolina educational officials (among whom is the Governor). The letter is at Tab A.

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The basis of the requirements suggested in the letter, in addition to Title VI of the Civil Rights Act, is the finding in Lee v. Macon County (dealing with Alabama's junior colleges) which in turn was based on the Green case. The Lee v. Macon language includes the sentence ". . .the law is clear that there is an affirmative duty on the part of the defendants, and the members of this Court, to formulate and put into effect a desegregation plan which 'promises realistically to work now.'" The Alabama and the North Carolina situations are very similar.

Governor Scott now has the option of inviting HEW's Office of Education to come and help him and his State Board draw up a desegregation plan for North Carolina's federally aided institutions of higher learning, or he and his Board can draft one themselves.

Failure to propose an acceptable plan could lead to cutting off federal funds for the colleges, as the Civil Rights Act provides, although in no cases involving higher education has this yet happened.

Leonard Garment



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

WASHINGTON, D.C. 20201

OFFICE OF THE SECRETARY

FEB 10 1970

Honorable Robert W. Scott  
Governor of North Carolina and  
Chairman of the Board of Higher Education  
Raleigh, North Carolina 27602

and

Mr. Dallas Herring  
Chairman, State Board of Education  
State Department of Public Instruction  
Raleigh, North Carolina 27602

Gentlemen:

The Office for Civil Rights of the Department of Health, Education, and Welfare has required that all institutions of higher education receiving Federal financial assistance submit a compliance report indicating the racial enrollment at these institutions. Based on these reports, particular colleges are visited to determine their compliance with Title VI of the Civil Rights Act of 1964. These visits, together with the reports received from the four-year State colleges and universities in North Carolina, indicate that the State of North Carolina is operating a system of higher education in which certain institutions are clearly identifiable as serving students on the basis of race.

Specifically, the predominantly white State institutions providing four or more years of higher education have an enrollment which is approximately 98 percent white. The traditionally black institutions have an enrollment which is almost exclusively black. In addition to this situation which prevails in individual institutions throughout the State, the two land-grant colleges, North Carolina Agricultural and Technical State University and North Carolina State University, originally devised as separate agricultural and technical colleges, one for blacks and one for whites, remain structurally separate and predominantly of one race.

Other manifestations of the State's racially dual system of higher education are evident in the close proximity of the University of North Carolina at Chapel Hill, 96 percent white, and North Carolina



Central University at Durham, almost totally black; and in the City of Greensboro, where are located the University of North Carolina at Greensboro, 98 percent white, and North Carolina Agricultural and Technical State University, almost totally black. Similarly, Elizabeth City State University, almost totally black, and the College of the Albemarle, predominantly white, offer a duplication of programs to students residing in the same service area of the State.

Educational institutions which have previously been legally segregated have an affirmative duty to adopt measures to overcome the effect of the past segregation. To fulfill the purposes and intent of the Civil Rights Act of 1964, it is not sufficient that an institution maintain a nondiscriminatory admissions policy if the student population continues to reflect the formerly de jure racial identification of that institution.

This appears to be the situation at nearly all of the State institutions in North Carolina; therefore, these institutions must discharge their affirmative duty by adopting measures that will result in desegregation as soon as administratively possible.

We are aware that the scope of authority of each individual institution is not broad enough to effect the necessary changes and achieve the desired objective. However, this legal disability does not relieve responsible State officials of the duty to make whatever cooperative arrangements are needed to continue the eligibility of the institutions for Federal financial assistance. Accordingly, I am directing to you the request that a desegregation plan for the public institutions of higher education in North Carolina which are under State control be submitted for comment to this office in outline form 120 days from receipt of this letter, and that a final desegregation plan be submitted for our approval no later than 90 days after you have received comments on the outline of the plan.

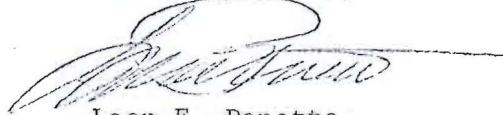
While I do not wish to stipulate the form which a desegregation plan should take, I would suggest that a system-wide plan of cooperation between institutions involving consolidation of degree offerings, faculty exchange, student exchange, and general institutional sharing of resources would seem to offer a constructive approach. The Southern Regional Education Board, established by the Governors of the Southern and Border States, has available the programs and the results of inter-institutional cooperation and no doubt the Board would be willing to work with you, members of your staff, the State college presidents, and other North Carolina State education officials in order to formulate

an appropriate plan. In addition, officials of the Bureau of Higher Education in the Washington and Regional Office of Education have had considerable experience in this area, and these officials would be available to assist appropriate State education officials.

Needless to say, my staff will be available to offer whatever services may be appropriate. Dr. Eloise Severinson, Regional Civil Rights Director, Office for Civil Rights, Department of Health, Education, and Welfare, 220 Seventh Street, N.E., Charlottesville, Virginia 22901, would be the person to contact for any information and assistance.

We look forward to working with you to bring about a desegregated system of State higher education in North Carolina.

Sincerely yours,



Leon E. Panetta  
Director, Office for Civil Rights

cc:

Dr. William Turner  
Director of Administration  
Office of the Governor  
Raleigh, North Carolina 27602

Dr. Cameron West  
Director, Board of Higher Education  
P.O. Box 10887  
Raleigh, North Carolina 27605

Dr. I. E. Ready  
Director, Department of Community Colleges  
State Department of Public Instruction  
Raleigh, North Carolina 27602

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 23, 1970

MEMORANDUM FOR JOHN EHRLICHMAN

The February 21 News Summary reported that North Carolina Governor Bob Scott said his State's higher education program is endangered by a Federal Desegregation Order, and he probably won't obey it. The Order is from HEW and calls for submission of plans further integrating North Carolina colleges and universities within the next 120 days.

On reading the above the President questioned how this Order was issued. He is of the understanding that HEW submits plans only when requested by authorities within the State.

Please submit your comments by way of a memorandum to the President.

Thank you.

*JRB*

JOHN R. BROWN III