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THE EMERGENCY SCHOOL ASSISTANCE PROGRAM

Mr. MONDALE. Mr. President, I am releasing today a study by the General Accounting Office of the administration of the emergency school assistance program. This study, along with the report of six civil rights organizations which was released last November, and supplemented by a committee staff investigation, together unfortunately demonstrate that in the administration of ESAP there has been wholesale, tragic and callous disregard for the needs of school children in desegregating school systems. Grants were made to school districts in violation of civil rights laws and of HEW's own program regulations. The purposes of the program were forgotten and the intent of Congress was dismissed, as \$75 million was distributed in return for token applications to desegregating school districts.

The emergency school assistance program was presented to Congress as an emergency program to help make integration successful, to provide quality education for black, white, Spanish-surnamed and other students, and to develop understanding and community acceptance among students, teachers, parents, and school administrators in newly desegregating school districts. It is the first installment of President Nixon's proposed \$1.5 billion program to aid both voluntary and legally desegregating school districts. So in a sense it is a demonstration. But I am sorry to say it has been a demonstrable failure.

First it was supposed to have been a nationwide program. When Congress appropriated the \$75 million it included an amendment designed to make the program a nationwide effort to help desegregated school districts. The amendment stated that any school district which was desegregating whether under State or Federal legal requirement would be eligible for funding. The administration has failed to comply with the spirit, if not the letter, of the amendment.

Except, in the case of one State, Pennsylvania, it is my understanding that school districts were declared ineligible unless they were desegregating either under title VI of the Civil Rights Act of 1964 or under Federal court order. More than a dozen districts in California, for example, that should have been eligible for funds and which initially had funds allocated to them, were subsequently declared ineligible because they were not under court order. Among these districts were Berkeley and Riverside, Calif., which had desegregated their schools voluntarily.

Because they undertook voluntarily to desegregate their schools, other districts across the country that desperately need help to make integration successful, were denied funds. More than 90 per cent of the ESAP appropriations allocated to local educational agencies went to southern States. These States are of course in need of assistance. But that assistance was spread so thin, to so many school districts, that only about \$18 has been spent for each minority group pupil.

Second, it was supposed to fund proj-

ects that would make integration a successful educational experience.

Instead, in an effort to get the money out last September and October, grants were made without the slightest regard for program content, for the merits of the proposals made by applicant school districts or even for whether school districts were eligible for funds.

Contrary to HEW's own regulations, applications were approved which, on their face, contain proposals having nothing whatever to do with the problems of desegregation. Most of the applications contained only the most cursory descriptions of how the money was to be spent.

Jackson, Miss., was the first grant awarded. It was awarded \$1.3 million by telegram from the Acting Commissioner of Education 4 days before HEW even received Jackson's application.

One district, Memphis, Tenn., submitted an application stating its desire to undertake special "curriculum revision programs." In order to revise its curriculum, according to GAO, the district proposed to employ one area specialist, one aide, and one truckdriver; to purchase one truck with trailer hitch; to renovate the main cage of the trailer; to acquire domestic and wild animals and necessary equipment, materials, feed and supplies, in order to maintain a mobile zoo at a total cost of \$14,797. The same application also proposed to purchase \$25,000 worth of newspaper subscriptions.

To make matters worse, the HEW program officer personally assisted the Memphis school district in preparing its application and in revising the project descriptions in the application.

With respect to the Atlanta Regional Office, GAO states in its report that:

In our opinion, 25 of the 28 applications included in our review did not contain, contrary to the regulations, comprehensive statements of the problems faced in achieving and maintaining desegregated school systems or adequate descriptions of the proposed activities designed to effectively meet such problems. In addition, the applications did not adequately explain how the proposed activities would meet the special needs of the children incident to the elimination of racial segregation and discrimination in the schools. In only a few cases did the applications show the basis for the dollar amounts requested for the proposed activities.

GAO's findings were confirmed by an investigation undertaken by the staff of the Select Committee on Equal Educational Opportunity. With respect to the Jackson, Miss., application, the HEW Regional Director in Atlanta stated to a committee investigator "all I did was sign off." Another regional official said, "We reviewed it when it came in and we rejected it, but Washington had already approved it." The same official said that his name was listed on the jacket covers as having approved applications that he had not approved and that he simply took directions from Washington that the applications had to be approved.

The committee staff investigation found that in Charleston, S.C., \$300,000 of its \$441,000 grant was approved for the purchase of Ampex television equipment. HEW's own post-grant field review of the Charleston project as

reported in a memorandum of December 14 states:

It appears that the program . . . is not dealing with emergency problems resulting from desegregation of school . . . It appears that this grant is not dealing with an emergency situation . . . This project does not relate to the problems resulting from desegregation.

An HEW employee who signed off, approving Charleston's application, told the select committee investigator:

This is a rubber stamp, blank check operation. I don't know what's in any of the applications.

Third, ESAP was intended and presented to Congress as a "project grant" program under which money would be awarded solely on the basis of the needs of individual school districts. The GAO report demonstrates that the program was operated on a formula grant basis under which each school district was told the amount of funds for which it was eligible.

There was a striking correlation between the amounts of funds for which school districts were told they were eligible and the amounts of the grants made. Grants to 20 of the 28 Atlanta school districts were within 5 percent of the established funding levels, within 2 percent in 16 districts and within 1 percent in 11 of these districts. Thus, rather than concentrating funds on the basis of need where there was some promise of a result the amounts allotted to school districts within the 24 States averaged about \$18.65 for each minority group child.

Fourth, it has been demonstrated now in two independent reports that school districts with both known and undisclosed civil rights violations were funded in violation of law.

As I indicated earlier, HEW determined the amount of funds for which school districts were eligible under a formula. That formula was released to HEW's regional offices in a memorandum dated August 24, 1970. HEW began funding projects 3 days after this formula was released; 1,318 school districts were, at that time, determined to be potentially eligible for ESAP funds. In spite of this, that same August 24 memorandum discloses that:

HEW lacked information as to whether 343 of these districts were in compliance with title VI or court orders; HEW had information indicating a bad civil rights compliance record on 394 districts;

HEW had no information on another 247 districts.

Thus at the time HEW began funding from its list of 1,318 potentially eligible school districts, it either lacked sufficient information or had file records disclosing bad compliance records in 984, or 75 percent of the 1,318 target districts.

Although HEW officials in Washington told GAO that applications were to be reviewed by both regional and headquarters' civil rights personnel for compliance with civil rights requirements, GAO found that in Atlanta—

Regional officials told us that they had accepted, in the absence of indications to

the contrary, the assurances of the school districts that they were not (1) discriminating on the basis of race in teacher and professional staffing patterns, (2) assigning children to classes on the basis of their being members of minority groups, or (3) engaging in the transfer of property or services to any nonpublic school or school system which practiced racial discrimination.

In one Alabama school district the school superintendent assured HEW on November 4 that there was no discrimination against teachers in the school district. The district was granted \$168,247 on November 5. Yet, the Justice Department had been investigating complaints filed by the National Education Association since September. On January 8, 1971, 2 months after the ESAP grant was approved, Justice's investigation resulted in a court order requiring reinstatement of the dismissed teachers.

The GAO report discloses that school districts with civil rights complaints under review at HEW and in the Justice Department were awarded funds without regard to those violations. Nineteen of the 28 school districts examined in the Atlanta region were under court-ordered desegregation plans. HEW's Office for Civil Rights told GAO it was not responsible for investigating complaints against those 19 court-ordered districts. In two of these districts the HEW Atlanta office had forwarded civil rights violations complaints to the Justice Department before approval of the ESAP grants. No attempt was made in these two cases or in other cases to determine whether complaints were justified or what the status of the Justice Department's reviews were.

Last November the six civil rights groups that studied ESAP stated in their report that 179 of 295 ESAP-assisted school districts which they visited were engaged in civil rights violations that rendered them clearly ineligible for grants. In 87 other districts they found sufficient evidence to question eligibility. In only 29 of the 295 districts did they find no evidence of illegal civil rights practices.

Specifically, they found the following clear violations in ESAP districts that had received funds: 94 districts with segregated classrooms or facilities; 47 districts with segregated or discriminatory busing; 62 districts without desegregated faculty or staff; 98 districts that had dismissed or demoted black teachers; 12 districts in violation of HEW or court-ordered student assignment plans; and 13 districts that have assisted private segregated academies.

In appropriating \$75 million for the ESAP program, Congress specifically required that any school district which had transferred public property or rendered services to a private segregation academy should be ineligible for funds. Despite this provision and despite HEW's own determination that a majority of 14 Louisiana school districts had transferred property or provided transportation to private schools under State law, HEW certified these districts as eligible if there was no indication of civil rights violations other than these transfers.

Let me cite another example:

HEW was notified by the Select Com-

mittee and by the Washington Research project on September 3, that the Jackson, Miss. School District had transferred textbooks to private segregation academies about a week before Jackson filed its ESAP application. Jackson's ESAP application contains an assurance signed by the applicant as follows:

The applicant is not engaged in the gift, lease, or sale of property or services, directly or indirectly to any nonpublic school or school system, which, at the time of such transaction practices discrimination on the basis of race, color or national origin, where such gift, lease, or sale was for the purpose of, or had the effect of, encouraging, facilitating, supporting or otherwise assisting the operation of such school or school system as an alternative available to non-minority group students seeking to avoid desegregating public schools.

The Jackson School District gave that assurance in its application 1 week following the transfers of textbooks. The application also requires that the applying school district state the name and address "of any nonpublic school or school system" to which property directly or indirectly has been transferred.

Jackson was the first school district funded under ESAP.

Following the report of this transfer to HEW, a truck arrived at the segregation academies to which the textbooks had been transferred, collected the books and delivered them to the State Schoolbook Depository. The books were then delivered by the State Schoolbook Depository back to the private schools.

About a month later, after looking into the situation, HEW notified Jackson that it was still free to spend ESAP funds.

Fifth, contrary to regulations, few districts established biracial and student advisory committees. The regulations require that these be consulted during the application process and with respect to policy matters arising in the demonstration and operation of ESAP projects. Fourteen of the 28 school districts studied by GAO in the Atlanta region failed to comply with the regulations establishing biracial advisory committees. Applications filed by 21 of the districts did not contain assurances that a student advisory committee would be formed in each secondary school affected by the ESAP project.

Sixth, again in violation of law, at least two applications were approved which, with the most cursory examination, would have disclosed that ESAP money was to be used to supplant non-Federal funds available to the school district. In one case HEW approved \$48,000 for the construction of mobile classrooms already under contract with the school district a month before the grant was made.

Mr. President, this is a tragic story. It adds up at the very least to a classic case of bureaucratic negligence and incompetence. But more important, school children simply have been forgotten at a time when we need above all to fund an educational process designed to bring students, parents, and teachers of all races and backgrounds together in quality, integrated schools. Instead we have spent \$75 million in a manner that may well result in a demonstration that school desegregation will fail.

I hope that as we consider the school integration legislation now pending in Congress we can somehow recognize that integration implies more than just the mixing of children behind school doors. It can be successful only if there are programs designed to emphasize those human elements—the warmth, receptivity, sensitivity, and respect which children and adults must have for each other if we are to get along together in our society. I believe that integration, not mere desegregation, is an indispensable element in our education process. But it will not work, indeed it will fail, unless Federal aid designed to help integration is directed toward the kind of culturally sensitive programs designed to foster human understanding.

TRIBUTE TO IVOR BOIARSKY

Mr. PERCY. Mr. President, as my colleagues know, I have a strong personal interest in the State of West Virginia. My son-in-law, Jay Rockefeller, my daughter, Sharon and my grandson Jamie have made West Virginia their home, and through them I have come to know the State well and to admire its strong-willed, independent people, and its magnificent natural beauty.

Since my son-in-law is secretary of State of West Virginia, I have had an opportunity over the past few years to become acquainted with a few of his State's political leaders and to develop a high regard for them. Jay Rockefeller told me many times during this period that one of his closest personal friends and the most effective leader in State government was the distinguished speaker of the House of Delegates, Ivor Boiarsky, an assessment that I came to share as I learned more of this remarkable West Virginian.

Ivor Boiarsky's unexpected death in Charleston last Friday night, on the day before the legislature was to adjourn, left his colleagues stunned and leaderless and was a personal tragedy not only for his family, but for all of the people of his State. Barely past the age of 50, he was in the prime of his public life and should have had another productive decade to give to the people of West Virginia.

His 13 years of service in the house of delegates, including 26 months as speaker and eight years as chairman of the Finance Committee, brought him a well-deserved reputation for absolute integrity and uncompromising dedication to better government.

As is invariably the case with politicians, Mr. Boiarsky faced disagreements on issues. But even though he was a fierce advocate for such causes as individual and minority rights, tax reform and preservation of the environment, his motives were never questioned even by his opponents. His positions were always forthright and open, and as a consequence he was admired and respected by colleagues in both parties.

Mr. President, Ivor Boiarsky exemplified the very best in State government today. Combining ability, integrity, and deep personal commitment, his name became synonymous with excellence in public service in his State I join the