SCHOOLS AND SCHOOL DISTRICTS—SCHOOL DISTRICT LINES NO BARRIER TO COMMISSIONER WHEN SEEKING TO ELIMINATE RACIAL IMBALANCE—*Jenkins v. Township of Morris School Dist.*, 58 N.J. 483, 279 A.2d 619 (1971).

Morristown is a compact urban municipality of 2.9 square miles, which has an elementary school population of 2,823 of which approximately 43% are Negroes. Morris Township, consisting of 15.7 square miles, completely surrounds Morristown and has an elementary school population of 4,172 of which approximately 5% are Negroes.[1] Morris Township is an upper middle class white suburb, whereas Morristown not only has a large Negro population but a large percentage of low income and moderate white families as well.[2]

Morris Township has no high school; consequently, all its 10th, 11th, and 12th grade students have been sent to Morristown High School, pursuant to successive sending-receiving agreements.[3] In 1962 the two municipalities executed a formal ten-year sending-receiving contract containing a provision that "after the ten-year term the parties shall be free to make whatever arrangements they mutually agree upon 'subject to the provisions of law and the approval of the Commissioner of Education.' "[4] Guided by the results of a non-binding referendum in which Township voters disapproved of a possible school merger, Morris Township announced that at the expiration of the contract, it would withdraw its students from Morristown High School and provide a separate high school for them.[5]

The petitioners, residents of both municipalities, requested the Commissioner of Education to enjoin Morris Township from building

1 Jenkins v. Township of Morris School Dist., 58 N.J. 483, 487, 279 A.2d 619, 621 (1971); CANDEUB, FLEISSIG & ASSOCIATES, REPORT TO THE COMMISSIONER OF EDUCATION, STATE OF NEW JERSEY 32 (1969) [hereinafter cited as CANDEUB REPORT]; ENGELHARDT & ENGELHARDT, REPORT TO THE COMMISSIONER OF EDUCATION, STATE OF NEW JERSEY 11 (1969) [hereinafter cited as ENGELHARDT REPORT]. These reports were commissioned by the Morristown Board of Education.

2 58 N.J. at 486-87, 279 A.2d at 620-21; ENGELHARDT REPORT at 20. In 1968 the black population in Morristown was 23.9% but in Morris Township the black population was only 4.5%. CANDEUB REPORT, *supra* note 1, at 26.

3 58 N.J. at 488, 279 A.2d at 622; *cf.* N.J. STAT. ANN. § 18A:38-8 (1968).

4 58 N.J. at 488-89, 279 A.2d at 622. The sending-receiving relationship between Morristown and Morris Township has been in effect for over 100 years. The last 10th grade class to be sent by the Township under the contract entered Morristown High School in September, 1971, and will stay through graduation in 1974. *Id.*; *cf.* N.J. STAT. ANN. § 18A:38-20 (1968).

5 58 N.J. at 491-92, 279 A.2d at 624. The result of the referendum, conducted in 1968, was 2,164 against merger and 1,899 for merger. *Id.*

a separate high school and to take steps towards effectuating a merger of the Town and Township school systems.[6] Morristown High School has a 14% Negro enrollment which would immediately double if Morris Township students were withdrawn. This percentage would increase rapidly within the following eight years if the other sending districts, Morris Plains[7] and Harding Township, also withdrew their students.[8]

Morristown cross-petitioned, asking the Commissioner to declare void the non-binding referendum conducted by the Township Board of Education and to disregard municipal boundary lines to effectuate racial balance throughout the Town and Township.[9] It was contended that the two municipalities, although politically separate and distinct, are in fact a single community because of the close relationship between them.[10] Historically, as well as presently, Morris Township has used and enjoyed all the commercial and recreational facilities of Morristown. This was confirmed in a report prepared by community planning consultants commissioned by Morristown to investigate the effect of the withdrawal and the feasibility of the merger.[11]

Initially, the Commissioner granted a temporary injunction restraining the Township from terminating the sending-receiving agreement and furthering plans to erect its own school.[12] However, although realizing the adverse effect on the quality of education and definite racial imbalance that would be created if the Township were allowed to proceed with its plans,[13] the Commissioner nevertheless determined he

---

6 *Id.* at 485, 279 A.2d at 620.

7 Morris Plains, although named as a defendant in the suit, admitted all of the essential allegations of the petitioners and joined in the relief sought by them. However, it limited its demands to regionalization of grades 9 through 12.

8 58 N.J. at 488, 279 A.2d at 622; ENGELHARDT REPORT, *supra* note 1, at 19.

9 Jenkins v. Township of Morris School Dist., — S.L.D. —, — (N.J. Comm'r of Educ., November 30, 1970) at 3.

10 Jenkins v. Township of Morris School Dist., 1969 S.L.D. 27, 33 (N.J. Comm'r of Educ. 1969).

11 Our study of Morristown and Morris Township has shown us that the two municipalities are a single community. Our opinion is based on the following findings:

1. The Town/Township community has a common territorial base.
2. The Town/Township community has a single common center.
3. The municipal boundaries of the Town do not constitute community boundaries.
4. There is historical continuity in the Town/Township community.
5. There is extensive interaction and interdependence among diverse groups.
6. There is, and will continue to be, a mutual correspondence of interests between residents of Morristown and Morris Township.

CANDEUB REPORT, *supra* note 1, at 38.

12 1969 S.L.D. at 39.

13 58 N.J. at 493, 279 A.2d at 624-25; *cf.* Booker v. Board of Educ., 45 N.J. 161, 212 A.2d 1 (1965).

lacked the authority to eliminate or reduce the imbalance between independent school districts.[14] Consequently, the Commissioner removed the restraint he originally imposed and dismissed the petitions.[15]

The petitioners then filed notice of appeal to the appellate division. Before argument, the New Jersey Supreme Court granted certification on its own motion[16] and thereafter reversed the Commissioner, holding that he had the authority to disregard municipal and school district lines to achieve racial balance. The court determined that the Commissioner had the power both to enjoin the termination of the sending-receiving relationship and to order the merger of two school districts, if necessary to fulfill the State's education and desegregation policies.[17]

By statute, if a school district lacks facilities for high school pupils

---

14 N.J. STAT. ANN. § 18A:38-11 (1968) provides:

> The board of education of every school district which lacks high school facilities within the district and has not designated a high school or high schools outside of the district for its high school pupils to attend shall designate a high school or high schools of this state for the attendance of such pupils.

N.J. STAT. ANN. § 18A:38-13 (1968) provides:

> No such designation of a high school or high schools and no such allocation or apportionment of pupils thereto, heretofore or hereafter made pursuant to law shall be changed or withdrawn, nor shall a district having such a designated high school refuse to continue to receive high school pupils from such sending district except for good and sufficient reason upon application made to and approved by the commissioner, who shall make equitable determinations upon any such applications.

In analyzing these statutes the Commissioner determined that the provisions of the latter apply only if a school district lacks high school facilities and therefore a sending district is free to pursue plans to provide its own facilities without the necessity of the Commissioner's approval. Since Morris Township intended to erect its own high school, and the local school boards, under N.J. STAT. ANN. § 18A:11-1 (1968), have the authority to govern and manage the public schools of their district, the Commissioner felt that he was precluded from interfering in a district's determination to build its own school. *See* Board of Educ. of Newton v. Board of Educ. of Highpoint Regional High School Dist., 1966 S.L.D. 144 (N.J. Comm'r of Educ. 1966); *In re* Bd. of Educ. of Chatham Twp. and Chatham Borough, 1961-62 S.L.D. 144 (N.J. Comm'r of Educ. 1961).

As to the question of merger, the Commissioner determined that neither the United States Constitution, the New Jersey Constitution, nor the acts of the New Jersey Legislature gave him the power to order two independent school districts to merge. The United States Constitution was held inapplicable on the ground that there exists no federal prohibition against de facto segregation. In viewing the New Jersey Constitution, the Commissioner felt that art. I, par. 5, and art. VIII, did not apply when segregation had resulted strictly from housing patterns and neighborhood concepts. The existing statutory method of effectuating a merger of two school districts was also deemed inapplicable since its prerequisites had not been met. N.J. STAT. ANN. § 18A:13-34 (1968) makes approval by the districts a prerequisite to merger and mandates the submission of the issue to the voters of each district. Since the voters of Morristown voted against merger, the Commissioner determined that he did not have the power to compel merger.

15 58 N.J. at 493, 279 A.2d at 625.

16 58 N.J. 1, 274 A.2d 281 (1971).

17 58 N.J. at 508, 279 A.2d at 633.

within its district, the board of education of such district may designate a high school outside of the district for its students to attend.[18] A school district having the necessary accommodations may enter into, or be required to enter into, a sending-receiving relationship with a school district lacking sufficient accommodations,[19] but no such sending-receiving agreement "shall be changed or withdrawn . . . except for good and sufficient reason upon application made to and approved by the commissioner . . . ."[20] To warrant withdrawal, N.J. STAT. ANN. § 18A:38-21 (1968) demands a showing

> that [the receiving district] is no longer able to provide facilities for the pupils of the other district . . . or . . . that the board of education of the receiving district is not providing school facilities and an educational program suitable to the needs of the pupils of the sending district or that the board of education of the receiving district will not be seriously affected educationally or financially by their withdrawal.

Since Morristown High School is presently regarded as one of the superior high schools in New Jersey, any claim that it is not providing a suitable education or adequate facilities for its pupils is without basis. However, notwithstanding its present status, if the Township were allowed to withdraw its students serious economic and educational consequences would result which would impose significant disadvantages on the Morristown school system.[21] Therefore, the legislatively prescribed requirements for termination were not met, and the court concluded that the Commissioner had the authority to disapprove the termination of the sending-receiving relationship.[22] Thus, the students on the high school level would not be deprived of their state constitutional right to an equal educational opportunity.

*Brown v. Board of Education*[23] settled the law that de jure segregation in public schools is unconstitutional, for it creates conditions of unequal educational opportunity and tends to adversely affect the learning of pupils so deprived. Chief Justice Warren, writing for the unanimous Court in *Brown*, described education as "perhaps the most important function of state and local governments."[24]

---

18 N.J. STAT. ANN. § 18A:38-11 (1968).

19 N.J. STAT. ANN. § 18A:38-8 (1968).

20 N.J. STAT. ANN. § 18A:38-13 (1968).

21 *See* ENGELHARDT REPORT, *supra* note 1, at 16-21. Morristown High School ranks above the median of the superior school systems in New Jersey with respect to teaching experience, teachers with advanced degrees, pupil-teacher ratio and the number of courses offered. *Id.* at 17.

22 58 N.J. at 504, 279 A.2d at 630.

23 347 U.S. 483 (1954).

24 *Id.* at 493.

> In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.[25]

Traditionally, the nation has employed the neighborhood system of assigning students to schools according to population density and geographic boundaries within a district.[26] Such a placement procedure constitutes state action, and therefore must comply with the constitutional mandate of the equal protection clause.[27]

Accordingly, many courts have ruled that adherence to a neighborhood school plan which results in de facto segregation is a violation of equal protection guarantees where there exists either discriminative gerrymandered zones or discriminative private housing.[28] In New Jersey, the courts and the Commissioner of Education have extended protection to petitioners complaining of denials of equal educational opportunity resulting from de facto segregation.[29] Although no statute expressly grants the Commissioner the authority to affirmatively end racial imbalance in the State, the New Jersey Supreme Court has ruled that he has the duty and the responsibility to see that constitutional mandates are enforced.[30]

Through art. VIII, § IV, par. 1, of the New Jersey Constitution, providing for the maintenance and support of a "thorough and efficient" system of free public schools, the New Jersey courts have recognized the Commissioner's obligation to interpret and implement statutes relating to education in a manner which would harmonize with constitutional provisions. In *Board of Education of East Brunswick Twp. v. Township Council of East Brunswick*,[31] the court held that the Commissioner had the power to overrule the decision of the municipal

---

25 *Id.*

26 U.S. COMMISSION ON CIVIL RIGHTS, RACIAL ISOLATION IN THE PUBLIC SCHOOLS 41 (1967).

27 Hobsen v. Hansen, 269 F. Supp. 401 (D.D.C. 1967), *aff'd sub nom.* Smuck v. Hobsen, 408 F.2d 175 (D.C. Cir. 1969); Barksdale v. Springfield School Comm., 237 F. Supp. 543 (D. Mass.), *vacated on other grounds*, 348 F.2d 261 (1st Cir. 1965). *See also* Horowitz, *Unseparate but Unequal—The Emerging Fourteenth Amendment Issue in Public School Education*, 13 U.C.L.A.L. REV. 1147, 1154 (1966).

28 Brewer v. School Board, 397 F.2d 37, 41-42 (4th Cir. 1968); Wheeler v. Durham City Bd. of Educ., 346 F.2d 768, 774 (4th Cir. 1965); Bush v. Orleans Parish School Bd., 230 F. Supp. 509 (E.D. La. 1963).

29 Booker v. Board of Educ., 45 N.J. 161, 212 A.2d 1 (1965); Morean v. Board of Educ., 42 N.J. 237, 200 A.2d 97 (1964); Elliot v. Board of Educ., 94 N.J. Super. 400, 228 A.2d 696 (App. Div. 1967).

30 *See* Booker v. Board of Educ., 45 N.J. 161, 212 A.2d 1 (1965).

31 48 N.J. 94, 223 A.2d 481 (1966).

governing body which attempted to reduce the school budget. Reaffirming this, it was concluded in *Board of Education of Elizabeth v. City Council of Elizabeth*[32] that the Commissioner must assume his constitutional responsibility, regardless of whether the municipal entity, by vote or otherwise, dissents from his finding.[33]

"No person shall be . . . segregated . . . in the public schools, because of religious principles, race, color, ancestry, or national origin."[34] To ensure that the State's educational system will not tolerate separation of the races, the New Jersey courts have systematically held that the Commissioner must have the power to eliminate racial discrimination and segregation in the public schools.[35]

In *Booker v. Board of Education*,[36] the New Jersey Supreme Court, relying upon both the New Jersey and Federal Constitutions, established the affirmative duty of the Commissioner, as representative of the State,[37] to reduce or eliminate racial imbalance caused by de facto segregation. The effect of segregation, rather than its cause, proved to be the significant element.

> Although such feeling and denial [of equal educational opportunities] may appear in intensified form when segregation represents official policy, they also appear when segregation in fact, though not official policy, results from long standing housing and economic discrimination and the rigid application of neighborhood school districting.[38]

However, *Booker* dealt with a community wholly contained within a single district fixed by municipal lines, while *Jenkins* involves separate municipal units and school districts. Nevertheless, the brand of inferiority attached to a predominately black school located within the confines of a racially mixed school district is no greater than that attached to one located outside the technical boundaries of the district but within the social community in which the black children "study, serve and work."[39] The Commissioner found in *Jenkins* that "should the districts fail to merge, the black student population of Morristown—particularly at the elementary school level—will suffer the same harm-

---

32 55 N.J. 501, 262 A.2d 881 (1970).

33 *Id.* at 506-07, 262 A.2d at 883-84.

34 N.J. CONST. art. I, par. 5.

35 Cases cited note 29 *supra*.

36 45 N.J. 161, 212 A.2d 1 (1965).

37 N.J. STAT. ANN. § 18A:4-23 (1968) (Commissioner of Education is state's chief educational officer).

38 45 N.J. at 168, 212 A.2d at 5.

39 *Id.* at 179 n.2, 212 A.2d at 11 n.2.

ful effects that the Commissioner of Education has worked so hard to eliminate within single school districts throughout the State."[40]

The plaintiffs therefore requested that the Commissioner alleviate the racial imbalance which exists between the Town and the Township on the elementary school level, kindergarten through 9th grade, by compelling the two districts to merge. Whether the Commissioner had this power to avoid de facto segregation became the major question in *Jenkins*.

Specific provision exists for the merger of local districts into regional districts with voter approval,[41] but there is no specific provision if the voters do not approve of such merger. The Board of Education of Morris Township had agreed to abide by a non-binding referendum to determine whether a merger of the two school districts would be pursued or a separate Township high school erected. The merger was rejected by a slim margin,[42] and the Township Board decided upon withdrawal of its students from Morristown High School.

Characterizing the referendum and the board's reliance thereon as "illegal and an improper abdication of the Township Board's responsibility to perform its function,"[43] the Commissioner invalidated its result. The supreme court affirmed this decision, and further held that the Commissioner is authorized to compel a merger of school systems in order to avoid de facto segregation.

In *Booker*, the constitutional mandate to provide for a thorough and efficient school system was construed to give the Commissioner comprehensive and far-reaching powers to combat segregation. He has the obligation to take affirmative steps to eliminate racial imbalance, regardless of its causes.[44] Where he determines that the local officials are

---

40 — S.L.D. at — (N.J. Comm'r of Educ., November 30, 1970) at 18.

41 N.J. STAT. ANN. § 18A:13-34 (1968).

42 *See* note 5, *supra*.

43 — S.L.D. at — (N.J. Comm'r of Educ., November 30, 1970) at 47.

44 45 N.J. at 178, 212 A.2d at 10. In *Booker* the New Jersey Supreme Court stated:

> In a society such as ours, it is not enough that the 3 R's are being taught properly for there are other vital considerations. The children must learn to respect and live with one another in multi-racial and multi-cultural communities and the earlier they do so the better. It is during their formative school years that firm foundations may be laid for good citizenship and broad participation in the mainstream of affairs. Recognizing this, leading educators stress the democratic and educational advantages of heterogeneous student populations and point to the disadvantages of homogeneous student populations, particularly when they are composed of a racial minority whose separation generates feelings of inferiority. It may well be, as has been suggested, that when current attacks against housing and economic discrimination bear fruition, strict neighborhood school districting will present no problem. But in the meantime the states may not justly deprive the oncoming generation of the educational advantages which are its due, and indeed, as a nation, we cannot afford standing by. It is heartening to

not taking reasonably feasible steps towards the adoption of a suitable desegregation plan, he has the power to either call for a further plan by the local officials or "prescribe a plan of his own."[45]

*Booker*, although greatly increasing the power of the Commissioner to combat segregation, was not dispositive of controversies involving segregation between separate school districts. In the case of de jure segregation, federal court decisions had determined that district lines could be disregarded to correct racial imbalance.[46] *Haney v. County Board of Education*[47] determined that "political subdivisions of the state are mere lines of convenience for exercising divided governmental responsibilities" and "canot [*sic*] serve to deny federal rights."[48] It was stressed that equal protection rights do not depend upon the votes of the majority.[49]

*Jenkins* has applied this rationale to give the Commissioner the power to cross district lines to eliminate de facto segregation. The court was greatly influenced in its decision by the unique circumstances of this case. First, because of the close relationship between Morristown and Morris Township, these two municipalities are, in fact, one community.[50] Second, practically all the schools of both the Town and the Township are geographically located near their common boundary, forming two very close rings.[51] The Morristown schools on the inner ring are largely black, while the Morris Township schools on the outer ring, some only one mile away, are almost entirely white.[52] Because of the proximity of the schools, the court reasoned that a merger would not involve any significant bussing expenditures.[53] Already the Township transports almost all of its students, and the Town transports between 25% and 30% of its students.[54] "Unlike other areas in the State, the split can readily be avoided without any practical upheavals; . . .

---

note that, without awaiting further Supreme Court pronouncements, some states, including our own, have taken significant legislative or administrative steps towards the elimination or reduction of *de facto* segregation.

*Id.* at 170-71, 212 A.2d at 6.

45 *Id.* at 178, 212 A.2d at 10.

46 Gomillion v. Lightfoot, 364 U.S. 339 (1960); Haney v. County Bd. of Educ., 410 F.2d 920 (8th Cir. 1969); United States v. Texas, 321 F. Supp. 1043 (E.D. Tex. 1970).

47 410 F.2d 920 (1969).

48 *Id.* at 925.

49 *Id.*

50 58 N.J. at 485-87, 279 A.2d at 620-21.

51 *Id.* at 488, 279 A.2d at 621-22.

52 ENGELHARDT REPORT, *supra* note 1, at 10.

53 58 N.J. at 505, 279 A.2d at 631.

54 ENGELHARDT REPORT, *supra* note 1, at 34.

the record indicates . . . that merger would be entirely 'reasonable, feasible and workable'."[55]

The New Jersey Supreme Court established that governmental subdivisions of the State may readily be bridged when necessary to vindicate State constitutional rights and policies. In accordance with this holding, Commissioner Marburger ordered Morristown and Morris Township to merge their school districts to achieve racial balance in the schools.

*Jenkins* constitutes a break from tradition by giving the Commissioner the power to cross municipal and school district lines to effectuate racial balance. That break can best be understood by viewing the role of the State in education. Under the New Jersey Constitution, education is a function and responsibility of the State and not of its governmental subdivisions.[56] Each local school district is a component of the State under the jurisdiction of the State Department of Education and separate from the control of individual municipalities, except as otherwise specified by the legislature.[57]

Accordingly, there has been an ever-increasing shift of power from the local school districts to the State Department of Education.[58] In *Board of Education of Elizabeth*[59] and *Board of Education of East Brunswick*,[60] it was determined that the Commissioner had the authority to overrule a local municipal governing body and the local electorate; and the Commissioner in *Jenkins* declared illegal a non-binding referendum whereby the will of the majority of the electorate was disregarded.

The State's educational system must be directed toward the best interest of its children. It has been concluded that students of all backgrounds tend to achieve better in schools which are predominantly middle class.[61] In terms of racial imbalance, Negro students tend to achieve better in desegregated schools which are primarily white, rather than in schools having a large Negro population and consequently a low socio-economic level.[62]

---

55 58 N.J. at 505, 279 A.2d at 631.

56 N.J. CONST. art. VIII, § 4, par. 1.

57 Gualano v. Board of Est. of Elizabeth School Dist., 39 N.J. 300, 303-04, 188 A.2d 569, 570-71 (1963); Botkin v. Westwood, 52 N.J. Super. 416, 425, 145 A.2d 618, 623 (App. Div.), *appeal dismissed*, 28 N.J. 218, 146 A.2d 121 (1958); Kaveny v. Board of Comm'rs of Montclair, 69 N.J. Super. 94, 101-02, 173 A.2d 536, 541 (L. Div. 1961), *aff'd*, 71 N.J. Super. 244, 176 A.2d 802 (App. Div. 1962).

58 *See* Note, *Schools and School Districts—The Subtle Move Toward Total State Control*, 2 SETON HALL L. REV. 175 (1970).

59 55 N.J. 501, 262 A.2d 881 (1970).

60 48 N.J. 94, 223 A.2d 481 (1966).

61 *See* COLEMAN, ET AL., EQUALITY OF EDUCATIONAL OPPORTUNITY, U.S. DEPT. OF HEALTH, EDUCATION AND WELFARE, OFFICE OF EDUCATION 218-334 (1966).

62 *Id.* at 331.

The Commissioner, in a 1963 decision, was of the opinion

> that in the minds of Negro pupils and parents a stigma is attached to attending a school whose enrollment is completely or almost exclusively Negro, and that this sense of stigma and resulting feeling of inferiority have an undesirable effect upon attitudes related to successful learning. Reasoning from this premise and recognizing the right of every child to equal educational opportunity, the Commissioner is convinced that in developing its pupil assignment policies and in planning for new school buildings, a board of education must take into account the continued existence or potential creation of a school populated entirely, or nearly so, by Negro pupils.[63]

On the other hand, it is argued that middle and upper-middle class children will not suffer in an integrated school and, in fact, will benefit by working and learning in a social climate that is conducive to developing healthy relationships among whites and blacks. They will be better able to prepare for their future in a mixed society by sharing experiences with children who come from different socio-economic backgrounds.[64] Nevertheless, *Jenkins* is the first instance in which the Commissioner has crossed municipal and school district lines to achieve this goal. Of course, the facts in this case are unique since Morristown and Morris Township comprise one identifiable community. However, will this decision provide the opportunity for other towns with high non-white student enrollments to claim identification with predominately white communities, and will they expect the Commissioner to force mergers of school districts? Or, will the Commissioner's power be so interpreted that identification will be an unnecessary factor so long as adjoining school districts are racially imbalanced? How far will the Commissioner's power extend? Will *Jenkins* prove to be the applicable standard making the Commissioner's power limitless in the State of New Jersey? These questions which *Jenkins* has brought to the fore will inevitably be answered in future litigation. The holding in *Jenkins* is uniquely susceptible to either a narrow or broad construction. If the facts of the case are considered the paramount basis for the court's decision, then *Jenkins* will affect few communities. However, if it is determined that the basis for the court's decision is the State's strong public policy against a segregated school system, then the powers of the Commissioner to avoid desegregation will be virtually unlimited.

*Virginia Maroon*

---

63 Fisher v. Board of Educ. of Orange, 1963 S.L.D. 123, 127 (N.J. Comm'r of Educ. 1963).

64 COLEMAN, *supra* note 61, at 331.