

Brown v. Board of Education of Topeka / All Deliberate Speed—Answer Key

After the *Brown v. Board of Education of Topeka* decision, how quickly should schools have been desegregated? How quickly were schools desegregated?

Read Justice Frankfurter's notes on the language used in the *Brown II* opinion and answer the questions that follow.

DECREE # 2

1. The appellees in Nos. 1, 2 and 3, the respondents in No. 4, and the petitioners in No. 5 are permanently enjoined from excluding the appellants in Nos. 1, 2 and 3, the petitioners in No. 4, and the respondents in No. 5 from any public school on the ground of race.

2. The cases are remanded to the respective federal district and state courts for appropriate decrees to carry out the mandate of this Court in the light of the decisions in Brown v. Board of Education, 347 U.S. 483, and Bolling v. Sharpe, 347 U.S. 497.

3. The rights of the appellants in Nos. 1, 2 and 3, the petitioners in No. 4, and the respondents in No. 5 must be given effect immediately where all the relevant considerations controlling a court of equity make it feasible to do so. ~~[Provided that steps toward full compliance with the standards enunciated in Section 4, infra, are undertaken at once by the affected school districts, the admission of a named plaintiff may be delayed for a reasonable period, not to exceed one school cycle of 12 years.]~~

4. Insofar as reorganization may be necessary in the school districts affected by our judgment and mandate and in other school districts similarly situated, so as to make effective this decree that no student shall be denied admission to any public school because of his race, the respective lower courts are to require that any new or reorganized school districts to be established by local authorities shall be geographically compact, contiguous and non-gerrymandered. And it shall further be made incumbent upon local authorities that within a given school district Negro students be

not refused admission to any school where they are situated similarly to white students in respect to (1) distance from school, (2) natural or manmade barriers or hazards, and (3) other relevant educational criteria.

5. On remand, the defendant school districts shall be required to submit with all appropriate speed proposals for compliance to the respective lower courts.

6. Decrees in conformity with this decree shall be prepared and issued forthwith by the lower courts. ^{on the part of defendant} They may, when deemed by them desirable for the more effective enforcement of this decree, appoint masters to assist them.

7. Periodic compliance reports shall be presented by the ^{appropriate} defendant school districts to the lower courts ^{and} in due course, transmitted by them to this Court. ^{But} the primary duty to insure good faith compliance rests with the lower courts. ^{and they}

then duly transmitted to the Court

*with all deliberate
speed, after making
giving due hearing is
on the relevant
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all*

The decision in *Brown v. Board of Education of Topeka* came in two parts. First, the justices considered whether segregation was constitutional. The *Brown I* decision in 1954 determined that it was not, but there still remained the tricky question about how to end segregation. On this question, the Court heard arguments during the following term.

In 1955, the Supreme Court of the United States determined that segregation should be ended as soon as possible, but the Court also recognized that it would be difficult for communities to deal with the change and that there were many institutional, political, and social circumstances to be worked out. The Court struggled with how to phrase the order to desegregate schools and what kind of time frames should be attached to the order. The NAACP advocated for schools to be desegregated “forthwith,” which implies a quick timetable. However, Justice Warren adopted the advice of Justice Frankfurter and chose other language.

Questions to Consider

1. On page two of the typed notes, Justice Frankfurter writes his original recommendation for how quickly desegregation should occur. What does he say? (This is the typed version, not the handwritten version.)
“Decrees in conformity with this decree shall be prepared and issued forthwith by the lower courts.”
2. Justice Frankfurter then crosses out point 5 and changes point 6 to point 5. He also changes his recommendation for how quickly desegregation should occur. How does he alter his recommendation? (This is the handwritten note.)
He changes it to “with all deliberate speed.”
3. Why do you suppose Justice Frankfurter changed his mind? Think about what actions might be involved in desegregating schools at the local level.
He likely changed his mind with regard to the language because he and others recognized the difficulties involved with desegregating schools. He likely wanted to give schools leeway to make appropriate changes in line with what was best for students and communities.
4. What do Justice Frankfurter's notes tell you about how Supreme Court decisions are written? Supreme Court decisions take time, thought, and revision, just like any important and closely scrutinized piece of writing. Justices are not infallible and do not necessarily have the precise language of a decision tripping off their tongues (or fingertips). There was likely consultation with many different people on the language of this decision.
5. The Court’s recommendation that schools should desegregate “with all deliberate speed” had enormous consequences for the speed of desegregation. Read this excerpt of a letter from Roy Wilkins to President Kennedy regarding desegregation in Prince Edward County, Virginia. What does the letter tell you about how quickly desegregation occurred?
The letter to President Kennedy was written in 1963. It contends that since 1959, Prince Edward County refused to provide education for the students in its jurisdiction rather than desegregate schools. Though this was an extreme case, it was true generally that many school districts did not desegregate schools in a reasonable amount of time, perhaps in part due to the accommodating language in the Supreme Court's order to desegregate.



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

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May 15, 1963

THE WHITE HOUSE

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Honorable John F. Kennedy
President of the United States
The White House
Washington, D. C.

Dear Mr. President:

We are transmitting herewith petitions signed by 695 adult Negro citizens of Prince Edward County, Virginia.

As you are aware, Prince Edward County was one of the governmental units involved in the Supreme Court case of Brown v. Board of Education. Rather than accept the law of the land as enunciated by the Court in its decision in that case, county authorities closed the public schools. Since 1959 the county has provided no education for its children.

The petitions here presented request the assistance of the Federal Government in solving, so far as is possible, some of the problems created by this gross denial of human rights by local governmental action.

Since the initiation of this petition, we have noted the announcement by the Department of Justice that some remedial educational program will be sponsored by the Federal Government in Prince Edward County. We welcome this announcement and we commend the Administration for its recognition of Federal responsibility in the situation.

It is our fervent hope that any Federally supported program will be adequate to meet the existing needs. We believe that the massive neglect and contempt for human values practiced in Prince Edward County can be met only by massive corrective action. To this end we suggest, as a minimum, that any Federal program include the steps outlined in the attached petitions.

Such a program will require the cooperation of many governmental agencies. To be fully effective, we believe direction must come from you as the Chief Executive. We respectfully urge that you supply this direction.

We are enclosing a memorandum concerning various Federal programs that we believe could be utilized in providing the required Federal assistance in Prince Edward County.