then its existence is not subject to constitutional remedy.[1282] Distinguishing between the two situations has occasioned much controversy.

For instance, in a case arising from a Denver, Colorado school system in which no statutory dual system had ever been imposed, the Court restated the obvious principle that *de jure* racial segregation caused by "intentionally segregative school board actions" is to be treated as if it had been mandated by statute, and is to be distinguished from *de facto* segregation arising from actions not associated with the state.[1283] In addition, when it is proved that a meaningful portion of a school system is segregated as a result of official action, the responsible agency must then bear the burden of proving that other school segregation within the system is adventitious and not the result of official action.[1284] Moreover, the Court has also apparently adopted a rule that if it can be proved that at some time in the past a school board has purposefully maintained a racially separated system, a continuing obligation to dismantle that system can devolve upon the agency so that so that subsequent facially neutral or ambiguous school board policies can form the basis for a judicial finding of intentional discrimination.[1285]

Different results follow, however, when inter-district segregation is an issue. Disregard of district lines is permissible by a federal court in formulating a desegregation plan only when it finds an inter-district violation. "Before the boundaries of separate and autonomous school districts may be set aside by consolidating the separate units for remedial purposes by imposing a cross-district remedy, it must first be shown that there has been a constitutional violation within one district that produces a significant segregative effect in another district. Specifically it must be shown that racially discriminatory acts of the state or local school districts, or of a single school district, have been a substantive cause of inter-

---

[1282] *Compare* Washington v. Seattle School Dist., 458 U.S. 457 (1982), *with* Crawford v. Los Angeles Bd. of Educ., 458 U.S. 527 (1982).

[1283] "[T]he differentiating factor between *de jure* segregation and so-called *de facto* segregation . . . is *purpose* or *intent* to segregate." Keyes v. Denver School District, 413 U.S. 189, 208 (1973) (emphasis by Court). *See also* Columbus Bd. of Educ. v. Penick, 443 U.S. 449, 457 n.5 (1979).

[1284] It is not the responsibility of complainants to show that each school in a system is *de jure* segregated to be entitled to a system-wide desegregation plan. 413 U.S. at 208–13. The continuing validity of the *Keyes* shifting-of-the-burden principle, after Washington v. Davis, 426 U.S. 229 (1976), and Dayton Bd. of Educ. v. Brinkman, 433 U.S. 406 (1977), was asserted in Columbus Bd. of Educ. v. Penick, 443 U.S. 449, 455–458 & n.7, 467–68 (1979), and Dayton Bd. of Educ. v. Brinkman, 443 U.S. 526, 540–42 (1979).

[1285] Columbus Bd. of Educ. v. Penick, 443 U.S. 449, 458–61 (1979); Dayton Bd. of Educ. v. Brinkman, 443 U.S. 526, 534–40 (1979).