

The Education of the Mexican American: The New Emerging Undereclass

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In his 1970 classic *The Education of the Mexican American: A History of Educational Neglect*, Dr. Thomas P. Carter, Professor of Education and Sociology at the University of Texas at El Paso, cites the pervasive view and attitude by Anglos that Mexican Americans are the makers of their own problems and that their culture fails to equip their children to succeed in school (1970). Carter noted, "The vast majority of educators interviewed for this study and most of the relevant literature argue that Mexican American children are culturally deprived or disadvantaged, that their home environment does not provide the skills...for a child's success in school" (1970). Carter further stated that literature and educators absolve themselves of any responsibility for the nonsuccess/non-achievement of Mexican Americans in schools by casting the blame on Mexican American "failures" in school to the premise of "deficit thinking" (Valencia, 2008). He stated, "...some children are culturally deprived is the idea that certain nurturing cultures do not provide the necessary influences to make children successful in school or acceptable in the majority society" (1970). Carter further noted that "American educators, pressed to explain the failure in school of low-status, and minority group children, rely on the theory of 'cultural deprivation'. The fault is seen to lie in the socialization afforded by the home and neighborhood, and it is assumed that the child must be changed, not society or its educational institutions" (1970).

These perceptions of Mexican Americans had their origins even prior to the signing of the Treaty of Guadalupe Hidalgo that halted hostilities of the 1848 U.S.-Mexican War. Mexican Americans at this time found early judicial support for being recognized as "whites" (Wilson, 2003). Prior to the Mexican War, Mexicans were granted citizenship by not only Texas, which gained its independence from Mexico in 1836 but also by the U.S. which annexed Texas in 1845. In 1845 the U.S. Congress recognized all citizens of the former Texas Republic to be U.S. citizens when Texas joined the Union. Furthermore the Treaty stipulated that all inhabitants in the ceded territory, territory lost by Mexico to the U.S. at the signing of the Treaty, who did not either leave the territory or announce their intent to remain Mexican citizens would after one year automatically become U.S. citizens (Wilson, 2003).

These ideas were tested in 1897 when a federal district court in Texas upheld the right of Mexicans to naturalize under the terms of the Treaty of Guadalupe Hidalgo. Ricardo Rodriguez, a thirty seven year old native of Mexico, who had lived in Texas for ten years, petitioned to become a naturalized U.S. citizen. The U.S. government contested his eligibility noting that Rodriguez was "not a white person" (Wilson 2003). Presiding U.S. District Judge Thomas Maxey conceded that, "Rodriquez would probably not be classified as white" but he further noted that the constitution of the Texas Republic, the Treaty of Guadalupe Hidalgo, and other agreements either "affirmatively confer[red] the rights of citizenship upon Mexicans, or tacitly recognize[d] in them the right of individual naturalization" (Wilson, 2003). Even though the judge believed that Rodriguez was probably Indian and not "white" he bowed to Rodriguez's claim that he was not Indian but Mexican. During this period the federal naturalization laws required that an alien be white in order to become a citizen of the United States. Therefore, the court stated that Mexicans would probably be considered non-white from an anthropological perspective. But because of the treaties between the U.S. and Mexico expressly allowing Mexicans to become citizens the court concluded that Congress intended that Mexicans were entitled to become citizens. The court upheld that Mexicans were white within the meaning of the naturalizations laws and thus Mexicans were given the benefit of the doubt with regard to their legal "whiteness" (Martinez, 1997).

However, by the 1920s a Mexican problem had emerged in the Southwest. The exploding commercial agricultural industry had become heavily dependent on cheap Mexican labor. The U.S. Congress however was reluctant to impose strict quotas on Mexican immigration or to exclude Mexicans on racial grounds.

Nonetheless, in the 1930s census the Census Bureau counted Mexicans as a separate race—as persons born in Mexico or with parents born in Mexico and who were “not white...” (Wilson, 2003). As a result of this measure the Mexican government protested this action by the U.S. government. Finally in the 1940s Census, individuals of Mexican descent were reclassified as “white” if they were not “definitely Indian or of other nonwhite race” (Wilson, 2003). In this political and social climate Mexican Americans began to organize civic groups that were specifically formed to fight discrimination against their community. Emerging from these efforts were organizations such as the League of United Latin Americans Citizens (LULAC) and the American G.I. Forum (AGIF). Both of these major organizations fought to combat efforts by nativist groups such as the Ku Klux Klan. And even though neither group officially formed a litigation arm within its organization they were major players and supporters of lawsuits seeking to protect Mexican American rights.

In 1893, three years prior to *Plessy v. Ferguson*, the Texas legislature enacted a statute to provide separate but “impartial” public free schools for “white and colored” children. The state law defined the “colored” class to include “all persons of mixed blood descended from Negro ancestry” (Wilson, 2003). And even though the statute was silent on the definition of “white” the Texas legislature empowered its Jim Crow laws regarding the segregation of school children of Mexican descent. In 1905 the legislature enacted a statute that provided “it shall be the duty of every teacher in the public free schools...to use the English language exclusively and to conduct all recitations and school exercises exclusively in the English language” (Wilson, 2003). Clearly via this action Anglo school officials affirmed their belief that Mexican American school children were culturally deficient and therefore created separate classrooms for Mexican students or even created “Mexican schools”. By the late 1920s ninety percent of the public schools in South Texas were segregated according to the “Anglo” or “Mexican” enrollment (Montejano, 1987).

In 1930 the initial Mexican American desegregation lawsuit, *Independent School District v. Salvatierra*, was filed in the state of Texas. The lawsuit was filed by Jesus Salvatierra and other Mexican American citizens (Plaintiffs) of the community of Del Rio, Texas on behalf of their minor children. In January 1930 the Del Rio Independent School District’s Board of Trustees (Defendants) ordered a bond election to be held on February 1930. The purpose of the bond election was to secure funding to build a new senior high school and to remodel and enlarge the district’s three elementary schools. The third of the three elementary schools was situated on the west end of the school property. This elementary school was identified as the “Mexican “or “West End” school. The Plaintiffs filed the suit asserting that the Board of Trustees exclusively and illegally maintained the West End school for Mexican American children and that the construction of new classrooms in the West End school would exacerbate such segregation in the district (Valencia, 2008).

LULAC argued the case on behalf of the plaintiffs. They immediately sought an injunction to end the segregation. The district superintendent justified the segregation by stating that many of the Mexican American children were from migrant families who worked at distant farms for much of the school year. He further argued that conversely Anglo children were in most cases not from migrant families and thus would have several months advantage in the classroom. This advantaged he noted would cause low self esteem when the educational scores of migrant children were held up against the standards established by the non-migrant children. With this as his foundation the superintendent argued that the segregation of the student population was not raced based but rather offered each set of students a “fair opportunity” to all children (Wilson, 2003). He argued that the segregation of the students afforded the district to meet each groups’ particular needs. However he did admit that Anglo migrant children who entered school late each year were not segregated.

The state court refused to enjoin the district as a result LULAC appealed the lower court’s decision to the Texas Court of Civil Appeals. The Appeals Court ruled that school officials could not segregate their Mexican American students solely on their ethnic background. The court stated that the segregation practiced by the district was unacceptable since “the rules for the separation are arbitrary [and] applied indiscriminately to all Mexican pupils...without apparent regard to their individual aptitudes...while relieving children of other white races from the operation of the rule” (Wilson, 2003). However the court rejected LULAC’s request for an injunction, because “to the extent that the plan adopted is applied in good faith...with no intent...to discriminate against any of the races involved, it cannot be said that the plan is unlawful or violative even of the spirit of the constitution” (Wilson, 2003).

In summary the court treated Mexican Americans as white, holding that Mexican Americans could not be segregated from children of “other white races” merely or solely because they are Mexicans. The court did however permit segregation of Mexican Americans on the basis of linguistic difficulties and migrant farming patterns (Martinez, 1997). In short Mexican Americans were culturally incompatible with Anglos by being both Spanish speakers and migrant farm workers.

The *Salvatierra* case was followed in 1931 by the court case *Alvarez v. Lemon Grove School District* filed in Lemon Grove, California. On January 5, 1931, Jerome T. Green, principal of the Lemon Grove Grammar School, acting under instructions from the school trustees, stood at the door and admitted all pupils except Mexican students. Principal Green announced that the Mexican children did not belong at the school, could not enter, and instructed them to attend a two room building constructed to house Mexican children (Alvarez, 1986). The trustees had approved the construction of a two room school in the Mexican neighborhood for the Mexican American children due to pressure from the White community to segregate Mexican American children from the White children (Valencia, 2008).

Clearly the separation had been carefully planned by the school board. On July 23, 1930 some six months before the barred entrance, the board met. They discussed the separation which had received the endorsement of the Chamber of Commerce (Alvarez, 1986). On August 13, a special board meeting was called because the situation regarding the school had reached emergency conditions and the “...board wanted a special school for the Mexican children” (Alvarez, 1986). No attempt was made to inform the Mexican parents, and the board, in a follow-up meeting decided against any official notice so as not to commit themselves in writing (Alvarez, 1986). Twenty days later, the children were expelled from the main school and their desks and all personal belongings were moved to the “new school”.

The nativist and restrictionist attitudes of the period and the precedent of segregation in the form of the Americanization schools gave the board license to segregate the children. The segregation of Mexican American children became widespread in both California and Texas. Beginning in the 1920s segregation of students was institutionalized in Texas (Alvarez, 1986). Between the decade of the 1920s and the decade of the 1930s the number of segregated schools in the state of Texas doubled. “No southwestern state upheld legally the segregation of Mexican American children, yet the practice was widespread. Separate schools were built and maintained... He had a “language handicap” and needed to be “Americanized” before mixing with Anglo children. His presence in an integrated school would hinder the progress of the white American children” (Alvarez, 1986).

The Mexican parents organized themselves and challenged the school board’s right to build and maintain a separate and segregated school for Mexican American children. As the case approached the hearing, board members appealed for support of their attempt to segregate the children. The local attempt at segregation was also supported at the state level. California Assemblyman George Bliss introduced a bill in the California legislature that would have legalized the segregation of Mexican American and Anglo students. The Mexican American community was not deterred. In February, 1931 they issued a writ of mandate to the board to reinstate the Mexican American students. They argued that “the exclusion was clearly an attempt at racial segregation...by separating and segregating all the children of Mexican parentage...from the children of American...parentage” (Alvarez, 1986). The further argued that the board had “...no legal right or power to exclude... (the Mexican children) from receiving instruction upon an equal basis” (Alvarez, 1986).

Judge Claude Chambers presided over the case. In 1934 he expressed his views as a judge. He stated, “I believe a court should uphold the dignity of the law and respect the rights of all equally, irrespective of whether they be rich or poor, and irrespective of what race, nationality or religion they may belong to...” (Alvarez). These beliefs he carried into court. During the proceedings, the judge levied the majority of his questions to the school board and school staff. The following is an exchange between the judge and members of the school administration:

Judge: When there are American children who are behind, what do you do with them?

Answer: They are kept in a lower grade.

Judge: You don’t segregate them? Why not do the same with the other children? Wouldn’t the association of American and Mexican children be favorable to the learning of English for these (Mexican) children?

Answer: Silence is the answer (Alvarez, 1986).

In concluding Judge Chambers stated, "I understand that you can separate a few children, to improve their education they need special instruction; but to separate all the Mexicans in one group can only be done by infringing the laws of the State of California. And I do not blame the Mexican children because a few of them are behind (in school work) for this segregation. On the contrary, this is a fact in their favor. I believe that this separation denies the Mexican children the presence of the American children, which is so necessary to learn the English language" (Alvarez, 1986). On March 30, 1931 a judgment was passed in favor of the Mexican community. The Lemon Grove case is significant because it was the nation's first successful class action school desegregation court case. However, the case "was isolated as a local event, and had no precedent setting ruling affecting the State of California or other situations of school segregation in the Southwest" (Alvarez, 1986).

The Lemon Grove case may appear to be an isolated event of the 1930s. Given the fact that no further Mexican American segregation lawsuits were filed between 1932-1945 the segregation of Mexican American children became common place throughout the southwest. The return of servicemen from World War II served as a major factor in reigniting desegregation campaigns by the Mexican American community. World War II had equated racism with Hitler and the Axis powers and yet when the valiant warriors returned home they experienced the same discrimination and second class citizenship that existed when they left to fight a war in the name of democracy, equality, and justice. Even though Mexican Americans were disproportionately represented among the casualties and they were the most decorated ethnic group of the war they continued to face discrimination and segregation (Schmal, 1999). Their children continued to be separated from Anglo school children and segregated into "Mexican" schools. These "Mexican" schools were typically shacks or barns rather than equal structures to that of "Anglo" schools. Furthermore, the "Mexican" schools were commonly ill equipped in books, desks, school supplies (Regua, 2007).

In 1945 Mexican parents attempted to enroll their children into the Main Street Elementary School of the Westminster School District located in Orange County, California. Main Street School was an Anglo school and not an integrated school. The children of the Mexican parents were turned away from the school and directed to Hoover School, the "Mexican" school. The children of Gonzalo and Felicitas Mendez were some of the children turned away at Main Street Elementary. The children were refused admission because they were Mexican (Regua, 2007). The Mendezes led the charge of Mexican parents and with the assistance of LULAC filed a class action lawsuit against four school districts in the region. The lawsuit became known as *Mendez v. Westminster School District*. David Marcus, counsel for the Mendez, argued for desegregation of California's schools "on the grounds that perpetuation of school admissions on the basis of race or nationality violated the Fifth and Fourteenth Amendments" (Regua, 2007). The defendants on the other hand argued that Mexican children were unfit and incapable to attend the "Anglo" school.

The defense argued that the Mexican American children possessed contagious diseases, had poor moral habits, were inferior in their personal hygiene, spoke only Spanish and lacked English speaking skills. Joe Ogle, defendant's counsel, "claimed that the districts were not segregating children on the basis of race or nationality, but for the reasonable purpose of providing special instruction to students not fluent in English....he pointed out that in the case of *Plessey v. Ferguson* the Supreme Court had allowed states to segregate races..." (Valencia, 2008). Marcus and the plaintiffs "argued that because Mexican school children were considered White, alleged discrimination was based not on race but on national origin" (Valencia, 2008).

Expert witnesses for the plaintiffs argued that segregation of the Mexican students was at "cross purposes with Americanization" and segregation hindered the assimilation of the child to American customs and ways. Marie H. Hughes, expert witness for the plaintiffs testified that the segregation of Mexican students lessened their English language learning and Americanization development and engendered feelings of inferiority (Valencia, 2008). Hughes further noted, "Segregation, by its nature, is a reminder constantly of inferiority, of not being wanted, of not being a part of the community. Such an experience cannot possibly build the best personality or the sort of person who is at most home in the world and able to contribute and live well" (Valencia, 2008). A year after the case was filed, presiding judge, Paul J. McCormick ruled in favor of the plaintiffs and noted that "the segregation of Mexican Americans in public schools is a violation of the state law" (Regua, 2007). Judge McCormick further noted, "A paramount requisite in the American system of public education is social equality.

It must be open to all children by unified school association regardless of lineage.... The natural operation and effect of the Board's official action manifests a clear purpose to arbitrarily discriminate against pupils of Mexican ancestry and to deny to them the equal protection of the laws" (Valencia, 2008).

The first Mexican American initiated court case dealing with the question of segregation involving the state of Texas was filed in 1948. The case was *Delgado v. Bastrop Independent School District*. The Delgado case was similar to the Mendez case in that it sought to bring to an end statewide school segregation. This case was initiated following a 1947 Ninth Circuit Court decision which found that separation "within one of the great races" without a specific state law requiring the separation was not permitted. Therefore, segregation of Mexican American children, who were considered Caucasian, was illegal. The Texas Attorney General in a response to LULAC attorney, Gustavo (Gus) Garcia affirmed that segregation of Mexican American children in the public school system by national origin was unlawful and pedagogically justified by scientific language tests applied to all students (Allsup, 1982).

The case was initiated when Minerva Delgado's request to attend the white school, which was nearest to her home, was denied by school superintendent, P.J. Dodson. In response to the Delgado request to send their daughter to the White school, Dodson responded, "She will have to go up there [Manor Ward School, designated for Mexican American children] until she can speak English" (Valencia, 2008). In their complaint attorneys for Delgado argued two succinct points in light of the Texas Attorney General's interpretation of the Ninth Circuit Court. The points were: (a) segregation of Mexican descent children is illegal when there is no state constitutional or state legislative provision expressly authorizing it, and (b) the cases upholding segregation of Negroes have no application because those cases uphold segregation of a different race; Mexican Americans are of the same race as Anglo Americans (Allsup, 1982).

Judge Ben H. Rice of the United States District Court, Western District of Texas, agreed and ordered cessation of this separation by September 1949. In his opinion Judge Rice noted, the customs and practices of segregating Mexican American students in Central Texas school districts are "arbitrary and discriminatory and in violation of plaintiffs constitutional rights as guaranteed by the Fourteenth Amendment...and are illegal".... He further stated defendants were "permanently restrained and enjoined from segregating Mexican American pupils and from denying said pupils use of the same facilities and services enjoyed by other children of the same age or grades" (Allsup, 1982). However, a loophole was provided school districts. He wrote that school districts "shall not be prevented" from maintaining "separate classes on the same campus in the first grade only" and such separation shall be for instructional purposes only. He also ordered that "scientific and standardized tests" shall be given to all students to ascertain whether they have "sufficient familiarity with the English language to understand classroom instruction in first-grade subject matters" (Valencia, 2008). The ruling by Judge Rice clarified three essential points: (a) segregation of Mexican American pupils was not allowable under state law, so segregation brought about by custom and practice was also illegal; (b) segregation of Mexican American students was allowable only under narrow circumstances, that is, children who had limited English skills could be segregated only in the first grade; and (c) school officials throughout the state could be legally held responsible for approving and maintaining the segregation of Mexican American students. These points notwithstanding, comprehensive desegregation of Texas' schools never occurred.

In 1949, the Driscoll School District, in compliance with the *Delgado Case*, abandoned the practice of segregation of Mexican American students in its district. However the district continued its practice of segregating Mexican American children who it deemed were "deficient" in English (Valencia, 2008). The district defended its position on Mexican American students in the first and second grade by arguing the all-to-familiar argument that "those [children] who speak and understand the English language would be held back and retarded in the work [and] those who do not speak and understand the English language would be unable to learn the course of study prescribed" (Valencia, 2008). Counsel for the plaintiffs argued that it was not unreasonable to have a good faith grouping for language deficiencies for the first year. However, counsel did argue that it was unreasonable to force Mexican American first graders to stay in the first grade a full three years before being promoted to the second grade. In short Mexican American students completed grades 1 and 2 in four years while Anglo students completed the same grades in only two years. (Valencia, 2008). James DeAnda, counsel for the plaintiffs argued that the position adopted by the district discriminated against the Mexican American children on the basis of ethnicity and this action deprived them of their rights under the Fourteenth Amendment.

DeAnda agreed that there were often good reasons for keeping Spanish speaking children segregated until they could speak and understand English. However, he objected to automatic and extended segregation of these children on the assumption they could not be as familiar with English as the Anglo children if they were of Mexican descent or belonging to migrant families (Wilson, 2003). “White children” were automatically placed in English speaking classes (Wilson, 2003).

The defendants raised a counterclaim and argued that because the Mexican American parents failed and refused to speak English at home their children lacked English proficiency. To address this deficiency they proposed that parents of the plaintiffs “and all members of the class they represent should be required by mandatory injunction, to the extent of their ability, to speak on the English language in the presence of their children who are of pre-school age or who are in the elementary grades, both while school is in session and during the summer vacation months...also be required by mandatory injunction to prevent their said children from playing and associating with other children and persons who do not speak the English language” (Valencia, 2008). To counter the district’s claim, DeAnda brought in a number of the school’s Mexican American students to testify, so that Judge James Allred, presiding judge in the case, could see for himself that they spoke English as well as an Anglo first or second grader.

In the end Judge Allred ruled in favor of the plaintiffs. He ruled that the grouping of Mexican American first and second graders was “purposeful, intentional, and unreasonably discriminatory” (Wilson, 2003). He further ruled that the actions of the district were directed at the Mexican Americans students as a class and were not based on individual capacities. Judge Allred further stated, “I know that any treatment of these people, on the basis that they are of Latin extraction, as a group, or treating an individual that way because he happens to come from that group is, on its face, discriminatory and based on an unreasonable basis” (Wilson, 2003). Judge Allred ordered that a new system of assigning students should begin operating by the 1957-1958 academic year thus giving “the school authorities ample time to formulate a program accordingly without undue interference with the current work” (Wilson, 2003).

The 1960s proved to be a quiet period within the Mexican American community in regards to desegregation lawsuits. This quiet period came to an end in 1970 with the filing of *Cisneros v. Corpus Christi Independent School District (CCISD)*. This suit confronted and overcame the “other white” legacy of Mexican Americans. It is important to recall that in the 1940 census Mexican Americans were officially classified as “other white”. Therefore attorneys who had fought segregation cases on behalf of Mexican Americans now had to turn their attention away from illegitimate testing in schools to long term residential patterns. Because Mexican American students were recognized as being “white”, Mexican American parents could not transfer their children into Anglo majority schools due to the fact that according to existing interpretations of laws all Mexican American students were already enrolled in “white” schools. Prior to the *Cisneros* case attorneys handling Mexican American suits had forcefully argued the fact that Mexican Americans were “other white” and thus no state law existed to sanction their segregation. As a result school districts contended that Mexican Americans had no basis for an equal protection claim because *Brown (Brown v. Topeka, Kansas)* the controlling authority in desegregation cases could not be applied to Mexican Americans. The law considered Mexican Americans as legally “white” the CCISD desegregated their schools by pairing African American and Mexican American students and thus claimed their district as being unitary.

Jose Cisneros and over two dozen other parents, both African American and Mexican American, retained the services of James DeAnda and filed the suit against the Corpus Christi Independent School District for maintaining a dual school system (segregated school system). Consequently, DeAnda needed to develop an equal protection argument against the pairing of African Americans and Mexican Americans so as to be protected under *Brown v. Board of Education*. The basic question was: Does *Brown* apply to Mexican Americans? If the answer was yes, then Mexican Americans could avail themselves of the Equal Protection Clause of the Fourteenth Amendment (Valencia, 2011). DeAnda therefore argued that *Brown* did in fact apply to Mexican Americans and condemned the segregation of Mexican Americans. Marshalling evidence from history, sociology, and demographics he demonstrated that despite being “white” Mexican Americans had suffered widespread discrimination at the hands of Anglo Texans. Throughout his argument, DeAnda drew a picture of segregation of Mexican American students in the district.

He argued that is in fact the CCISD was integrated then the percentage of each ethnic group in each school would approximate each group's percentage of the total population (Wilson, 2003). Instead the figures demonstrated an ethnic imbalance. He showed that in the districts own reporting of school figures Mexican Americans were lumped with African American much more often than they were paired with the Anglo majority. To further enhance his argument, DeAnda called upon Dr. Carter as an expert witness. Presiding Judge Woodrow Seals, U.S. District Court for the Southern District, asked Dr. Carter if Mexican Americans should be considered "an identifiable group". Dr. Carter responded, "the federal census bureau, and the state of Texas, regarded them as a distinct minority.... [E]veryone considers [them] an ethnic minority or a cultural minority. In social science, a minority is a group of people who may be a physical majority, but... [also] a group of people who are not full participants in the dominant society. In other words, there is discrimination. So...from a legal a legal point of view, a Government point of view, and a social science point of view, they are a minority...no matter how you cut it, [they] are going to come out as a minority...from social science and from the legal...from the cultural...and the racial point of view" (Wilson, 2003).

Judge Seals stated that *Brown* did in fact apply to Mexican Americans. He noted "These Mexican American students are an identifiable ethnic minority class sufficient to bring them within the protection of *Brown*" (Valencia 2008). Judge Seals declared that for the purposes of desegregating the public schools of Corpus Christi, Mexican Americans formed an identifiable minority group that deserved but had been denied equal protection of the laws. He noted "no less protection should be fashioned for the district's Mexican-Americans than for its Negroes" because Mexican Americans "[had] experienced deprivations and discriminations similar to those suffered" by the blacks in the district (Wilson, 2003). Judge Seals noted that through a host of administrative decisions, the CCISD board had created and perpetuated a dual system. He declared that "regardless of all explanations and regardless of expressions of good intentions" these were official decisions that were "calculated to, and did, maintain and promote a dual school system" (Wilson, 2003). He ruled that "as a matter of fact and law" the CCISD was "a de jure segregated school system...wholly so with respect to the district's Mexican Americans and predominately so with respect to the district's Negroes" (Wilson, 2003).

The CCISD appealed Judge Seals' decision. On August 2, 1971, the Fifth Circuit affirmed the district court's ruling that the segregation of Mexican Americans and African Americans was unconstitutional (*Jose Cisneros v. CCISD, 1972*). The full court argued that the drawing of student assignment plans were initially the prerogative of the school board they further noted however that the school board had failed to desegregate to any substantive degree. Moreover the Fifth Circuit stated that it was "astounding that the school board would then urge that this court delay implementing the district court order when the school board itself failed to advance any constructive suggestions of its own" (*Jose Cisneros v. CCISD, 1972*).

On April 18, 2006 MALDEF filed the *Santamaria v. Dallas Independent School District (Santamaria v. DISD)* on behalf of plaintiff Luresia Mayorga Santamaria and her three children (*Santamaria v. DISD, 2006*). This case is different from the previously discussed segregation cases because this case concerned racial isolation in a racially diverse elementary school. This case involved "with-in school segregation"—segregation of Mexican American students from their White classmates. The plaintiffs contended that Mexican American pupils who attended Preston Hollow Elementary School of the DISD and who were classified as not limited-English-proficient (non-LEP) were nevertheless enrolled in English as a Second Language (ESL) classes were intentionally segregated on the basis of race, color, or national origin in violation of the Equal Protection Clause of the Fourteenth Amendment (*Santamaria v. DISD*).

The plaintiffs further noted that DISD also provided different tours to the parents of Anglo children who visited the school. The district assured the parents of Anglo children that the classes with a high number of minority children are for the LEP students and that the Anglo children would not be placed in those classes. In addition Preston Hollow did not integrate Mexican American and Anglo students for non-core curricular programs despite the requirement by the State of Texas that LEP students "shall participate with their English-speaking peers in regular classes provided in the subjects and shall have a meaningful opportunity to participate with other students in all extracurricular activities" (*Santamaria v. DISD, 2006*). Segregation issues also included promotional materials for the school. In an email concerning the production of a school brochure, the president of the PTA, Meg Bittner, explained the need to exclude Mexican American children from the portrayal of the school. Bittner wrote, "While our demographics lean much more Hispanic, we try not to focus on that for this brochure.

Our neighbor school being most Hispanic throws the neighborhood families off a bit...I just don't want any hurt feeling if we use one or two Hispanics kids in the shot" (*Santamaria v. DISD, 2006*).

Judge Sam A. Lindsay presiding over the case rendered his decision on November 16, 2006. His ruling included assessing punitive damages against the school principal, Teresa Parker, and ordering Principal Parker to eliminate the racial segregation at Preston Hollow by January 2007. In his opinion Judge Lindsay wrote, "In reserving certain classrooms for Anglo students, Principal Parker was, in effect, operating, at taxpayer's expense, a private school for Anglo children within a public school that was predominately minority...to prevent white flight from Preston Hollow" (*Santamaria v. DISD, 2006*).

On June 28, 2007 the U.S. Supreme Court in a 5-4 decision, however, dealt a severe blow to elementary and secondary school desegregation efforts when it rendered its decision in the *Parents Involved in Community Schools v. Seattle School District No. 1* (*Parents v. Seattle School District No. 1, 2007*). The holding of the majority states, "The student assignment plan of Seattle Public Schools and Jefferson County Public Schools does not meet the narrowly tailored and compelling interest requirements for a race-based assignment plan because it is used only to achieve "racial balance". Public schools may not use race as the sole determining factor for assigning students to schools. Race-conscious objectives to achieve diverse school environments may be acceptable" (*Parents v. Seattle School District No. 1, 2007*). Chief Justice John Roberts, who wrote the majority opinion, commented that "the districts have also failed to show that they considered methods other than explicit racial classifications to achieve their stated goals" (*Parents v. Seattle School District No. 1, 2007*). Justice Stephen G. Breyer wrote the dissenting opinion. In his comments he "denounced the majority opinion in that it undermined the promise of *Brown* and "cannot be justified in the name of the Equal Protection Clause". Breyer also stated that the majority opinion was regressive, "the Court's decision today slows down and sets back the work of local school boards to bring about racially diverse schools.... This is a decision that the Court and the Nation will come to regret" (*Parents v. Seattle School District No. 1, 2007*).

Apart from segregation issues, the education of Mexican American educational opportunities have been mired in the shortchanging of adequate funding for their schools. A regional study funded by the Office of Education reported that, "Teaching materials adequate in amount and of the right kind for Mexican children are conspicuously absent" (Valencia, 2008). These financing inequities can be traced to the rise of segregated schools that began in the 1930s and persisted well into the 1960s. The struggle for equitable funding for segregated Mexican American schools finally manifested in the state of Texas with two Mexican American initiated lawsuits—*Rodriquez v. San Antonio Independent School District* (*Rodriquez v. SAISD*) (1972) and *Edgewood Independent School District v. Kirby* (*EISD v. Kirby*) (1989).

In the 1960s Texas public schools experienced serious inequities in school funding across districts within the state. During the 1969-1970 academic school year, Texas ranked forth-ninth out of fifty states in disparities in per pupil expenditures (Valencia, 2008). Consequently on July 10, 1968 (*Rodriquez v. SAISD, 1972*) was filed. Demetrio Rodriquez, lead plaintiff, along with seven other parents and eight children alleged an unconstitutional denial of equal educational opportunity under the Equal Protection Clause of the Fourteenth Amendment. Defendants in the case were the seven school districts in the San Antonio metropolitan area and the Attorney General of the state of Texas. On December 23, 1971 the U.S. District Court ruled in favor of the plaintiffs. The Court stated that the problem for funding education in the state lies with the ad valorem taxation system. "This system assumes that the value of property within the various districts will be sufficiently equal to sustain comparable expenditures from one district to another. It makes education a function of the local property tax base. The adverse effects of this erroneous assumption have been vividly demonstrated at trial..." (*Rodriquez v. SAISD, 1972*).

Data presented by the plaintiffs clearly demonstrated the variance in property values between the wealthiest districts in the state when compared to the poorest districts in the state. A survey of 110 school districts in Texas conducted in school year 1967-1968, demonstrated that the ten districts with a market value of taxable property per pupil above \$100,000 enjoyed an equalized tax rate of only thirty-one cents, whereas in the poorest four districts, with less than \$10,000 in property per pupil, were burdened with a rate of seventy cents. The tax rates notwithstanding, the low rate of the rich districts yielded \$585 per pupil while the high rate of the poor districts yielded only \$60 per pupil (*Rodriquez V. SAISD, 1972*). When reviewing the data for the seven districts named in the law suit the variance in yield per pupil was just as striking.

Market value of property per student varied from a low of \$5,429 in Edgewood, to a high of \$45,095 in Alamo Heights. As a result taxes as a percent of the property's market value were highest in Edgewood and the lowest in Alamo Heights. The tax rates produced twenty one dollars per pupil in Edgewood while the lower rate in Alamo Heights provided \$307 per pupil (*Rodriquez v. SAISD, 1972*).

In its decision the Court stated, "Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education in our democratic society. It is required in the performance of our most basic public responsibilities. Today it is the principal instrument in awakening the child to cultural values,,,,, Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms" (*Rodriquez v. SAISD, 1972*). Therefore the Court ruled in favor of the plaintiffs and charged "the defendants and the Texas Legislature...determine what new form of financing should be utilized to support public education" (*Rodriquez, v. SAISD, 1972*).

On October 1972, the defendants appealed the District Courts decision directly to the United States Supreme Court. The appellants hired Charles Alan Wright, constitutional scholar and law professor at the University of Texas to argue their appeal. The basis of their appeal was "wealth as a suspect classification and that education as a fundamental right both lacked constitutional support" (Valencia, 2008). On March 21, 1973, in a 5-4 vote, the U.S. Supreme Court reversed the district's ruling (Valencia, 2008). Justice Lewis F. Powell, writing for the majority ruled that the Texas school finance system did not discriminate against the poor. The majority further noted that there is no reason to believe that the poorest families in Texas are necessarily grouped in the poorest property-wealth districts. "Discrimination against poor districts did not mean discrimination against poor people" (Valencia, 2008). As to the second point the majority noted "that the importance of education for the individual and society is undisputed" (Valencia, 2008). Yet the majority opinion further noted that education is (a) not among the rights explicitly afforded under the U.S. Constitution and (b) nor is education implicitly protected. The Courts decision found the Texas funding system constitutional and was neither "irrational" nor "discriminatory".

On May 23, 1984, the Mexican American Legal Defense and Education Fund (MALDEF) filed *EISD v. Kirby* in the 250th District Court of Travis County, Texas and reopened the issue of public school finance. On April 29, 1987, Judge Harley Clark, presiding judge for the District Court, ruled in favor of the plaintiffs. Judge Clark ruled that: (a) education is a fundamental right; (b) wealth is a suspect classification; (c) the existing school fiancé scheme in Texas is unconstitutionally inefficient; and (d) the Constitution of Texas demands fiscal neutrality in the funding of public schools. The defendants appealed the trial court ruling to the Court of Appeals of Texas (Third District, Austin, Texas). The appellants argued that education was not a fundamental right and that wealth is not a suspect classification. The appellants further argued that Judge Clark had inappropriately applied the strict scrutiny stand in the equal protection analysis (Valencia, 2008). On December 14, 1988 the Appeals Court overturned the lower court's decision and disagreed with the argument that education is a fundamental right under the Texas Constitution.

The Appeals Court decision was ultimately appealed to the Texas Supreme Court. On October 2, 1989 in a unanimous 9-0 decision the state Supreme Court ruled in favor of the appellants. Justice Oscar Mauzy noted in his opinion, "Edgewood Independent School District, sixty-seven other school districts, and numerous individual school children and parents filed suit seeking a declaration that the Texas school financing system violates the Texas Constitution. By a 2-1 vote, the court of appeals ...declared the system constitutional. 761 S.W.2d 859 (1988). We reverse the judgment of the court of appeals and...affirm that of the trial court" (*EISD v. Kirby, 1989*). Justice Mauzy further noted in his opinion, "there are glaring disparities in the abilities of the various school districts to raise revenues from property taxes because property wealth varies greatly from district to district. The wealthiest district has over \$14,000,000 of property wealth...while the poorest has approximately \$20,000; this disparity reflects a 700 to 1 ration. The lower expenditures in the property poor districts are not the result of lack of tax effort. Generally, the property rich districts and tax low and spend high while the property poor districts must tax high merely to spend low. Property poor districts are trapped in a cycle of poverty.... We hold that the state's school financing system is neither financially efficient nor efficient in the sense of providing for a "general diffusion of knowledge" statewide, and therefore it violates article VII, section 1 of the Texas Constitution" (*EISD v. Kirby, 1989*). In response to the 1989 decision, the Texas Legislature adopted Senate Bill 1 in 1990 which required biennial studies on district inequity. The Texas Supreme Court found the system remained unconstitutional.

In 1991 the Legislature passed House Bill 351 creating 188 County Education districts which were allowed to levy state-mandated property taxes. School districts sued asserting that HB 351 levied a state ad valorem tax which violated the Texas Constitution. The Texas Supreme sided with the Carrollton-Farmers Branch ISD and ruled the bill unconstitutional. In 1993 the Legislature passed Senate Bill 7, the “recapture” bill (“Robin Hood Plan”)—redistribution of property tax dollars to create equity. School districts sued the state in 1995 however the Supreme Court found on behalf of the defendants and ruled SB 7 constitutional. In 2001, the West Orange-Cove Consolidated School District sued that state arguing that because they must levy the maximum property tax rate to maintain equity the local property tax had become equivalent to a state ad valorem tax which is prohibited by the Texas Constitution (Invest in Texas Schools, 2004).

On October 2005, State District Judge John Dietz ruled that the state’s school finance system was unconstitutional because school districts lack meaningful discretion to set local tax rates and because the cost of providing an adequate education exceeds the funds available to districts through current funding formulas (House Research Organization, 2005). Judge Dietz determined that school districts lacked sufficient funds to provide an adequate education while taxing at or near the \$1.50 cap as established by the state. The judge concluded that the plaintiffs had established that state funding system of public education failed to provide districts with an adequate, suitable, and efficient system as required by the Constitution and that the current Texas finance system failed to provide districts with sufficient revenue to provide for a general diffusion of knowledge to their students.

The public school finance picture for the state of Texas is still unresolved. Despite numerous challenges and Band-Aid measure to the state’s funding system a lawsuit will likely be filed by school districts contending with deep budget cuts (LaCoste-Caputo and Scharrer, 2010). The Texas Supreme Court charged the state Legislature with overhauling the state’s school finance system in 2006. Lawmakers made property tax cuts but didn’t improve education funding and Districts have been frozen at 2006 funding levels. Any increase in property values benefits the state and not the school districts. Consequently by December 2011 more than 60 school districts from across the state filed a lawsuit against the state of Texas claiming the public education finance system is inadequate and inequitable. David Thompson, lead lawyer for the lawsuit, stated, “We wish the litigation weren’t necessary, but the nature of school finance just seems to be that you have this back-and-forth dialogue going on between the legislative branch and the judicial branch. It seems like a judicial decision seems to be a necessary spur to legislative action” (Scharrer, 2011). The school finance lawsuits claim the state is not adequately funding education, especially as student enrollment grows by about 85,000 children per year. Most of the enrollment growth is made up of low-income children who cost more to educate (Scharrer, 2011). Former superintendent of San Antonio’s largest school district, Northside Independent School District, summed up the sentiment of educators across the state when he noted, “School superintendents across Texas are very frustrated. If the only option that school districts have to force the Legislature to do what is right, as far as public education is concerned, is a lawsuit, that’s pretty said” (Scharrer, 2011).

On October 2000, the Texas Higher Education Coordinating Board (THECB) formally approved the Closing the Gaps Higher Education Plan for the state of Texas (THECB, 2012). Central to the plan was addressing the large gap that existed among the racial and ethnic groups in both enrollment and graduation from the state’s colleges and universities. THECB clearly understood the ramifications of the state’s ever increasing minority population and the consequences of failing to enroll and graduate the racial/ethnic minorities in the state’s colleges and universities. THECB noted that “the groups with the lowest enrollment and graduation rates will constitute a larger proportion of the Texas population...if steps are not taken quickly to ensure an educated workforce for the future the state’s future prosperity could turn to a crisis” (THECB, 2000). THECB further noted, “Enrollments in the state’s public and independent colleges and universities are not keeping pace with the booming Texas population. There is a shortfall in the number of degrees and certificates earned...fewer degrees and certificates leads to a less-educated workforce” (THECB, 2000). The plan called for an increase of Mexican American participation in higher education by over 340,000 over a fifteen year period. The plan was amended in 2010 that established an even more ambitious goal of 439,000 for Hispanics (THECB, 2010). Needless to say these goals have not been achieved.

Texas’ high school graduation rates for Hispanics are dismal. In 2004, barely half of Texas’ Hispanics age 25 and older had a high school degree (Spencer, 2011). This marked the second straight year the state had the lowest percentage of high school graduates of any state in the nation.

Per Dr. Steve Murdock “The downside is Texas could be less competitive. It could be poorer because we know educational attainment is the best predictor of income” (Spencer, 2011). In a study conducted by John Hopkins University released in 2007, 185 Texas high schools were labeled “dropout factories” (Scharrer and Caputo, 2011). The term “dropout factories” was applied to high schools with an attrition rate of at least 40 percent (Simmons, 2011). As a group Hispanics have the highest dropout rate in the state, 45 percent, according to the Intercultural Development Research Association (IDRA) (Scharrer and Caputo, 2011). Dropout rates along the Texas border are even more distressing. Many of the border schools have a dropout rate approaching 48% (Scharrer and Caputo, 2011).

According to Dr. Murdock, the public school system for the state of Texas is home to more and more low-income children and persistent high dropout rates and that unless that changes, the future of Texas will contain more long-term unemployment and poverty and more folks depending on food stamps, Medicaid and CHIP, and higher incarceration rates (Scharrer, 2010). Dr. Murdock stated, “Clearly with the dismal levels that we have in terms of education right now, that’s clearly where we’re headed” (Scharrer, 2010). The Texas trend line is clear. School districts with large numbers of low-income students have higher dropout rates. And with so many Mexican American households living in poverty it should come as no surprise that Mexican American students, along with Blacks, constitute a high percentage of the dropouts for the state of Texas. Maria Robledo Montecel, Director of IDRA, states that 70% of the 2.7 million students who left school in the state of Texas between the years 1990 and 2011 were either Hispanic or Black (Scharrer and Caputo, 2011).

If these students were retained and graduated, Texas’ large young population would give the state a competitive advantage. Furthermore, increasing the college graduation rates of Hispanics and African Americans to that of whites could mean about \$300 billion a year in additional income for the state (Scharrer, 2010). Bill Hammond, president and CEO of the Texas Association of Business stated: “Every kid deserves to be educated, and we’re going to figure out what it takes and do it. The only way we will turn around public education in Texas is for the business community to realize that their future is at stake” (Scharrer, 2010). Otherwise the future for the state and nation is bleak. If nothing changes, average Texas household incomes will be about \$6,500 lower in 30 years than they were in 2000, according to Dr. Murdock. These numbers are not adjusted for inflation so it would actually be worse than it appears (Scharrer, 2010).

The state’s public school enrollment increased by 856,061 between 2000 and 2010. However, the number of children from families defined as “low income” increased by an even greater number, 893,055 according to the Texas Education Agency which oversees public education for the state (Scharrer, 2010). The failure to prepare students from low income households to handle the rigors of public education often leaves them falling behind and many eventually dropout. The exact extent of the state’s dropout problem is unknown. However, each year more than 130,000 students who entered Texas high schools as freshman do not graduate with their class four years later. In a 2005 lawsuit over school finance the Texas Supreme Court declared that “more than half of the Hispanic ninth graders and approximately 46% of the African American ninth graders leave the system before they reach the 12th grade” (Scharrer, 2010). It is estimated that each class of dropouts costs the state of Texas approximately \$377 million every year in Medicaid and prison expenses and lost revenue. Hammond, the head of the Texas Association of Business noted that much of the state’s leadership looks like him—Anglo—and said they “do not understand that in 20 years time, their children are going to face a bleak future in spite of the fact that they have a college education because there are not going to be enough educated workers to move the economy ahead” (Scharrer, 2010).

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