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## The Physical and Cultural Desegregation of Latinx Students in United States Public Schools: Historical Precedents and Suggestions for Educators

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## **POSITION PIECE**

### **The Physical and Cultural Desegregation of Latinx Students in United States Public Schools: Historical Precedents and Suggestions for Educators**

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*Since the inception of public education in America, students of color have been segregated from their White peers. The historical segregation of Latinx students is a long-standing one, with legal and social repercussions still experienced in the 21<sup>st</sup> century. While the physical segregation of Latinx students precedes the era of *Brown v. Board of Education* (1954), the cultural segregation of Latinx students occurs even in today's supposed post-segregation society. When policymakers fail to protect such students, it is the duty of educational leaders to ensure that the environment, coursework, and curricula of public school campuses help Latinx students feel included, welcomed, and valued. The purpose of this position paper is to examine the historical and legal precedents of Latinx desegregation, to review the existing literature surrounding the physical and cultural segregation of Latinx students, and to explore potential suggestions for educational leaders that may bolster Latinx students' academic investment and success.*

**KEYWORDS:** cultural segregation, Latinx students, historic legal

In educational discourse concerning the segregation, and eventual desegregation, of students across public schools in the United States, the focus often, and reasonably so, becomes the separation between African American students and their White counterparts. These are not, however, the only populations that have been affected by policy and legal decisions in the pursuit of more inclusive schools. Latinx students, too, have experienced segregation perpetuated by district, statewide, and federal policy. Their plight toward desegregation includes many legal and historical precedents, some of which were inspired by the actions of Texas school district and community leaders.

#### **Legal Precedents**

The journey toward integrated schools for Latinx students is a long-standing one, one that precedes the groundbreaking *Brown v. Board of Education* (1954). In 1946, a group of five Mexican-American families residing in California propelled the fight for integrated schools in *Mendez v. Westminster* (1947), a case in which plaintiffs argued against policies that allowed for Mexican-American students to be assigned to inferior schools based on surname and complexion. The school district's argument in the *Mendez* case was that Mexican-American

children were not only intellectually inferior to their White peers, but that they also carried contagious diseases due to poor hygiene, and were limited by their supposed language deficiencies (Rosenberg, 2013).

The case was initiated by Gonzalo Mendez, Sr., who wanted his children to attend the 17<sup>th</sup> Street School located close to their home in the Raitt/Townsend neighborhood of Santa Ana, California, especially given that he had attended the same school in his youth. When his children were denied enrollment to the school, but their fairer-skinned cousins with the Italian-sounding last name “Vidaurri” were accepted, Mendez was incensed. This anger was doubled when Mendez discovered that his children would instead be assigned to Hoover Elementary School, a community school known for being “non-White” and “inferior” to the 17<sup>th</sup> Street School (Rosenberg, 2013).

In response, Mendez hired civil rights attorney David Marcus, who, along with four other families and on behalf of 5,000 students, initiated a class action lawsuit against four Orange County school districts: Westminster School District, Santa Ana Unified School District, Garden Grove Unified School District, and El Modena School District (now Eastern Orange School District). The case was strengthened with powerful testimonies by the children themselves, who discussed the discrimination they faced in their educational experiences, including reading then-commonplace signs around town that read “No Mexicans, No Dogs” (Aguirre, Bowman, Mendez, Mendez, Robbie, & Strum, 2015). The United States Court of Appeals ultimately ruled that the segregation of Mexican and Mexican-American students into separate “Mexican schools” was an unconstitutional practice—making it the first ruling in the United States in favor of desegregation. While the *Mendez* case never reached the United States Supreme Court, its ruling in the lower court motioned toward a future in which Latinx students could not be barred from educational opportunity on the basis of ancestry, surname, or assumed language deficiency. Importantly, Mendez’s lawyer, David Marcus, could never make the claim of racial discrimination in the case based on Latinos’ technical racial classification as White (Rosenberg, 2013).

*Mendez v. Westminster* is not the only case in which Latinx students were segregated based on assumed deficiencies, nor was it the first of its kind. On January 5, 1931, students at the Lemon Grove Grammar School in Lemon Grove, California, were surprised when, after returning from their winter break, the school’s principal Jerome Green barred Mexican-American students from entering the building. Instead, these seventy-five students were instructed to walk to a two-room building that the school board had decided to hastily build in a largely Latinx area of the town. The Lemon Grove board had approved the decision due to what they cited as overcrowding, as well as sanitary and moral conditions (Sanchez, 2004). Significantly, the decision was made without parent notification.

However, parents of the Mexican-Americans students were not accepting of this forced change. With assistance from the Mexican consulate, a group sued the Lemon Grove school board for racial segregation of children who were United States citizens. The school board denied such allegations, instead justifying their decision by calling the new school an Americanization school, one which was aimed at bolstering the academic opportunities of students with language deficiencies and academic struggles. However, interventions to do just this had already been in place at the Lemon Grove Grammar School.

Though the court ruled in the plaintiff’s favor, citing that Mexican-American students were considered racially White and thus could not be constitutionally segregated, *Roberto Alvarez vs. the Board of Trustees of the Lemon Grove School District* would not set a precedent.

The school district did not appeal, which stopped higher courts from reviewing the ruling (Sanchez, 2004). Though the Mexican-American students of Lemon Grove were able to avoid the attempt at this segregationist practice, the same was untrue for many other Latinx students across the United States.

Several other cases did, however, set legal precedents that helped to outlaw the segregation of Latinx children in public schools; however, this progress did not occur quickly. As early as 1930, even before *Mendez v. Westminster* and *Roberto Alvarez vs. the Board of Trustees of the Lemon Grove School District*, the state of Texas became engulfed in a battle toward desegregation and educational equity for Mexican and Mexican-American students. In *Del Rio Independent School District v. Salvatierra* (1930), the League of United Latin American Citizens (LULAC) argued that the “separate but equal” law that applied to White and African-American children did not protect the Mexican-American students who were obligated to attend schools in Del Rio, Texas, whose facilities were less suitable than those at predominantly White schools. After an injunction by District Judge Joseph Jones, the Texas Court of Civil Appeals of San Antonio heard the case on October 29, 1930. The injunction was voided, and on December 24, a rehearing of the case was denied, making equitable facilities for Latinx students seem like a distant reality after the court failed to offer the students guaranteed protection under the law (Orozco, 2010).

### **LULAC and the Fight for Equity**

*Del Rio ISD v. Salvatierra* was devastating for proponents of equal educational facilities for Latinx students, but it helped to propel the movement of equity advocacy for Latinx children by igniting what would become an unstoppable blaze. Organizations that would help in the plight toward desegregated schools began to emerge. The most well-known, and ultimately, one of the most legally influential, of these organizations is the League of United Latin American Citizens, or LULAC. LULAC, which was originally a merger between The Order of the Sons of America in Corpus Christi and the League of Latin American Citizens, was created in 1929 as a response to the overt prejudice, discrimination, and segregation faced by Mexican-American citizens across the state of Texas (Orozco, 2010). Soon, LULAC would play an integral role in eliminating the prejudice students faced within the four walls of the educational institution.

Throughout the twentieth century, the effects of unjust educational practices for Latinx students were becoming more apparent, particularly through differing levels of educational achievement. Up until the late 1940s, it was commonplace for schools across Texas to whom Mexican-American students were assigned to focus on vocational training rather than academic curriculum, and to do so in minimal and sometimes unsafe facilities. In 1950, the United States census showed that the median educational level attained by U.S. residents with White surnames [i.e. non-Spanish European] was 10.5 years, while the median for citizens with Spanish surnames was only 3.5 years. Even despite this glaring disparity, no significant legal action had been taken across an educational system in Texas since the failed *Del Rio ISD v. Salvatierra* case in 1930.

That changed when, in 1948, partnered with the American G.I. Forum of Texas, LULAC challenged Texas schools’ inequities through *Delgado v. Bastrop ISD*, a case in which plaintiffs argued that the segregation of Mexican-American children without a specific state law in place was a violation of their rights, especially when coupled with lesser facilities, services, and educational instruction. Using *Mendez v. Westminster* as a legal precedent, LULAC argued that separating Mexican-American children, who were considered racially White, was illegal based

on the U.S. Ninth Circuit Court's claim that separation "within one of the great races" without a specific state law was unpermitted. The Federal Western District Court of Texas agreed, affirming that the segregation of Mexican-American students in Texas was unlawful and could only be perpetuated if justified by "scientific language tests applied to all students" (*Delgado v. Bastrop ISD*). The court thus ordered the cessation of separation by September of 1949, but the decision allowed room for the separation of classes on the same campus for students who were identified as language-deficient or non-English-speaking (Allsup, 2010).

### **Closing the Loopholes**

Many believe that the culmination in the attempt to desegregate Latinx students from other children is the decision made in *Herminca Hernandez et al. v. Driscoll Consolidated Independent School District* (1957). In this pivotal case, the American G.I. Forum filed suit against Driscoll Consolidated I.S.D. for its development of a system of beginners' classes for the first scholastic year, which continued over the following three years through "low first," "high first," and a segregated second grade all without testing the students enrolled in such courses (Allsup, 2011). Based on by the precedent set by *Delgado v. Bastrop*, schools could only separate students using legitimate, scientific language exams, which the Driscoll Consolidated Independent School District had not done prior to assigning students into these remedial courses. The most powerful piece of evidence against the district's discriminatory practices toward Mexican-American students was the assignment of student Linda Pérez in what was considered the "Mexican" first grade in order to learn English, despite, interestingly enough, English being the only language that Pérez spoke (Allsup, 2011). While this case established a legal precedent disallowing the segregation of students of Mexican-American background, added legal action was required throughout the 1960s and beyond in order to challenge the lack of equitable educational opportunity for Latinx children.

### **An Unending Fight**

Despite various legal decisions aimed at solving the problem of Latinx segregation in schools, there is still progress to be made. The Civil Rights Project, or Proyecto Derechos Civiles, research team at the University of California, Los Angeles, uncovered that as recently as 2012, the typical White student in the United States attended a school whose student composition is nearly 75% White, while the average Latinx student attended a school whose student composition is approximately 56.8% Latinx (Orfield & Frankenberg, 2014). This data reveals that students today are as segregated in schools as they were in 1968, at the peak of attempted school desegregation reform. Significantly, the data also reveals that Latinx students are now the most segregated students of color in U.S. public schools, particularly in large suburban communities whose demographic makeups have undergone recent changes (Maxwell, 2014). According to the study, that segregation likelihood is doubled when considering socioeconomic influences. Unsurprisingly, this modern-day segregation is the result of a multitude of factors, including, but not limited to, poverty rates, housing segregation, and entrenched discrimination in the form of public policy and legislative inaction (Bouie, 2014).

Even in cases where Latinx students are not physically separated, a segregation of educational opportunity continues to permeate the fabric of public education across the United States. In 2010, a group of Republican legislators in Arizona passed the Arizona House Bill

2281, a piece of legislation that would effectually ban the Mexican-American studies class taught at a high school within the Tucson Unified School District. The passage of the bill came promptly after a controversial event during which Dolores Huerta, former activist with the United Farm Workers, made the comment at a Tucson High Magnet School assembly that “Republicans hate Latinos,” a comment which, soon after, caused the state’s Superintendent of Public Instruction to dispatch an aide who would tell the students otherwise.

The reactive plan failed. As the aide spoke against Huerta’s contentious claim, the students, predominantly Latinx, turned their backs and raised their fists in silent solidarity. Thus, HB 2281 was passed on the allegation that the Mexican-American studies course encouraged hate against other races, taught Latinx students that they had been historically oppressed by governmental authority, and even encouraged sedition and rebellion (Phippen, 2015). John Huppenthal, the Arizona Superintendent of Public Instruction at the time, once described his horror upon walking into the Mexican-American studies course and seeing a poster of Che Guevara, a major figure in Castro’s Cuban Revolution, plastered on the wall.

Curtis Acosta, the Mexican-American studies teacher and curriculum developer for the Tucson High Magnet School, believed otherwise. His description of the course curriculum and activities included reading texts by Chicano authors, studying poverty, disenfranchisement, and feminism among people of color, and viewing history through an objective lens— “not just through the nation’s conquering heroes, but also through the eyes of the displaced and conquered” (Phippen, 2015). Acosta staunchly disagreed with the passage of the bill, which he claimed infringed upon a course which engaged students who had otherwise felt detached and uninterested at school. Acosta also cited the fact that while HB 2281 banned Mexican-American studies, it made no comparable ban on similar ethnic studies courses for Asian-American, African-American, and Native American cultures. As of the fall of 2016, HB 2281 continues to be fought in court, and a final decision is set to be made late this year.

### **The Long-Winded Road Ahead**

Despite these setbacks, there is still hope. As a response to the Arizona Mexican-American studies scandal, Texas professor and author Tony Diaz stood before Texas legislators to petition for the offering of Mexican-American studies courses across the state. As a response, the Texas State Board of Education allowed for any interested institutions to begin including ethnic studies courses. Mission High School, in Mission, Texas, became the first public school in the state to implement a Mexican-American studies course in 2015, helping to continue to bridge the gap between White students and their Mexican-American counterparts, who often feel, if not actually physically segregated, emotionally, psychologically, and culturally segregated from the typical academic curriculum and philosophies perpetuated across public schools (Phippen, 2015).

This recent transitory period toward more inclusive schools has not been without controversy. In 2016, Momentum Instruction proposed a Mexican-American history textbook to the Texas State Board of Education titled *Mexican American Heritage*—a textbook that describes Mexican-Americans, and namely, Chicano activists of the 1960s, as people who “adopted a revolutionary narrative that opposed Western civilization and wanted to destroy this society” (Wang, 2016, p. 2). Allegations of questionable rhetoric in the textbook did not end there. On one page of the textbook, authors Jaime Riddle and Valarie Angle wrote about Mexican-Americans’ disconnect from United States culture, as well as their ambivalence about

assimilating into American values, claims that caused upset amongst Chicano advocates and scholars, including Tony Diaz, who had initially proposed the inclusion of the Mexican-American studies course (Wang, 2016).

### **A Call for Leadership**

The physical and cultural desegregation of Latinx students is still possible, especially with the aid of educational leaders who are committed to serve as advocates for students. While change begins on the plane of advocacy and organizing, current school leaders can still help Latinx students feel valued in schools, regardless of changes (or lack thereof) in statewide or federal policy. For one, school leaders can help students feel welcomed through course offerings tailored to the needs and interests of student populations. When Mexican-American studies courses (or similar ethnic studies courses) are not available, Mexican-American and Latinx-American history should be taught objectively as a critical component of United States history. This suggestion is not without purpose. Between 2008-2011, students who were enrolled in a Mexican-American Studies (MAS) course in Tucson, Arizona, were more likely to pass the state's standardized mathematics assessment than their non-participating counterparts (Cabrera, Milem, & Marx, 2012). Similarly, Mexican-American studies students were "51 percent more likely to graduate from high school than non-MAS students" in 2009, despite initially being lower-performing than their non-MAS peers (Cabrera, Milem, & Marx, 2012, p. 6). Though the transfer of Tucson's success may not be a guarantee across the United States, the significant correlations between Mexican-American studies and academic outcomes presents an optimistic perspective about the potential educational impact of exposing students' to their own cultural histories and empowering them in the process.

Whether or not ethnic studies courses for Latinx students are available, teachers who interact with Latinx student populations should be well-versed in the historical contexts of Latinx culture, which means that school districts must offer more meaningful professional development for the integration of Latinx history and culture in core curriculum. Professional development in this sector is useful regardless of teacher grade level placement, as classrooms with students as young as first grade can evidence more vocabulary growth when teachers implement culturally responsive pedagogy (Underwood, P.S., 2009, p. 47). Language, an integral aspect in the historical segregation of Latinx students, should be fostered with the addition of more dual-language classrooms and schools wherein all students can develop academic vocabularies in both English and Spanish (or other native) languages. According to Lindholm-Leary and Adelson-Rodriguez (2015), students with extensive dual language instruction are less likely to drop out of school, making dual-language opportunities, even at the secondary level, a reasonable suggestion. Finally, acceptance of all ethnic groups should be promoted through modeling from faculty and staff on a daily basis and as a matter of school-wide norms, rather than through a one-day cultural celebration. This can be done through authentic multicultural materials, more opportunities for students to write about personal experiences, professional development for teachers on the dangers of stereotypes and cultural stigmas, and student-centered classrooms and discussions (Bianchi, 1999).

Aside from evidenced academic outcomes, more extensive efforts to show Latinx students the value of their history, personal experiences, and culture may help to foster school communities that are more compassionate, understanding, and culturally well-rounded in an increasingly connected global society. This is not only true for Latinx populations, but for all

students who may be subjected to the commonly one-note cultural experience offered by traditional course curriculum. As early as 1997, one study uncovered that university students gained empathy and a deeper understanding of diversity after completing an intercultural communication course focused on cultural awareness (Sleeter, 2011). And for those Latinx students who do presently feel isolated, integrating their stories into the curriculum may also drive academic investment in an educational experience they can finally feel tied to.

Regardless of whether or not United States schools have reached the point of integration imagined by the visionary petitioners in *Mendez v. Westminster*, one truth is clear: as Latinx student populations soar, the genuine policy and practice-based desegregation for all students is a priority that should be on the forefront of our national education agenda in the years to come. Moreover, it is equally important to note that while the physical segregation of Latinx students has been at the foreground of the educational equity battle, physical desegregation is not the end-all solution. Educators and policymakers must also consider the elements that help such students feel truly and meaningfully integrated—not only within the scope of the traditional majority culture so often taught in U.S. history courses, but also within the vibrant and interconnected cultures with which Latinx students most closely identify.

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