

1 UNITED STATES DISTRICT COURT  
 2 SOUTHERN DISTRICT OF CALIFORNIA  
 3 CENTRAL DIVISION

4  
 5 GONZALO MENDEZ and SYLVIA, GONZALO )  
 6 and GERONIMO MENDEZ, by their father )  
 7 and next of friend GONZALO MENDEZ; )  
 8 WILLIAM GUZMAN, and BILLY GUZMAN, by )  
 9 his father and next of friend )  
 10 WILLIAM GUZMAN; FRANK PALOMINO, and )  
 11 ARTHUR and SALLY PALOMINO, by their )  
 12 father and next of friend, FRANK )  
 13 PALOMINO; THOMAS ESTRADA and CLARA, )  
 14 ROBERTO, FRANCISCO, SYRIA, DANIEL )  
 15 AND EVELINA ESTRADA, by their father )  
 16 and next of friend, THOMAS ESTRADA; )  
 17 LORENZO RAMIREZ and IGNACIO, SILVERIO )  
 18 and JOSE RAMIREZ, by their father and )  
 19 next of friend LORENZO RAMIREZ,

20 Petitioners,

21 vs.

22 WESTMINISTER SCHOOL DISTRICT OF ORANGE )  
 23 COUNTY, and J. A. HOULIHAN, LEWIS )  
 24 CONRADY, RAY SCHMITT, as Trustees, and )  
 25 J. HARRIS, Superintendent of said School )  
 26 District; GARDEN GROVE ELEMENTARY )  
 27 SCHOOL DISTRICT OF ORANGE COUNTY, and )  
 28 WILLIAM C. NOBLE, ROBERT B. SMITH and )  
 29 PAUL APPLEBURY as Trustees, and )  
 30 JAMES L. KENT, Superintendent of said )  
 31 School District;  
 32 SANTA ANA CITY SCHOOLS, and GEORGE R. )  
 WELLS, HIRAM M. CURREY, JAMES K. GIVENS, )  
 DANIEL W. STOVER and GEORGE J. BUSDIEKER, )  
 its Board of Education, and FRANK A. )  
 HENDERSON and HAROLD YOST, its Super- )  
 intendent and Secretary; EL MODENO )  
 SCHOOL DISTRICT and HENRY CAMPBELL, )  
 THEODORE HOWER, CLARENCE JOHNSON, as )  
 Trustees, and HAROLD HAMMARSTEN, )  
 Superintendent of said School District,

Respondents.

No. 4292-M. Civil.

FINDINGS OF FACT  
 and  
 CONCLUSIONS OF  
 LAW.

**FILED**

MAR 21 1946

EDMUND L. SMITH, Clerk  
 By *M. Hansen*  
 Deputy Clerk

28 This cause came on for trial on the 5th day of July,  
 29 1945, before the Honorable Paul J. McCormick, Judge Presid-  
 30 ing, the petitioners being represented by their attorney  
 31 David C. Marcus, and amici curiae, American Civil Liberties  
 32 Union by attorneys A. L. Wirin and J. B. Tietz, and National

1 Lawyers Guild by Charles F. Christopher, attorney, and the  
2 respondents being represented by their attorneys Joel E. Ogle,  
3 County Counsel, and George F. Holden, Deputy County Counsel;  
4 and evidence having been introduced both oral and documen-  
5 tary; and said cause having been taken under submission,  
6 the Court having filed herein written conclusions, does  
7 herein make the following Findings of Fact and Conclusions  
8 of Law:

9 I.

10 It is true that the Garden Grove Elementary School  
11 District is a legally constituted school district in the  
12 County of Orange, State of California, and William C. Noble,  
13 Robert B. Smith and Paul Applebury are the duly elected,  
14 qualified and acting Board of Trustees, and James L. Kent  
15 is the District Superintendent of said School District.

16 II.

17 It is true that Westminster School District is a  
18 legally constituted School District in the County of Orange,  
19 State of California, and J. A. Houlihan, Lewis Conrady and  
20 Ray Schmitt are the duly qualified and acting Trustees, and  
21 J. Harris is the District Superintendent of said School  
22 District.

23 III.

24 It is true that the Santa Ana City Schools is a  
25 legally constituted School System within the City of Santa  
26 Ana, County of Orange, State of California, and George R.  
27 Wells, Hiram M. Currey, James K. Givens, Daniel W. Stover  
28 and George J. Busdieker are its duly elected, qualified and  
29 acting Board of Education, and Frank A. Henderson and Harold  
30 Yost its Superintendent and Secretary, respectively.

31 IV.

32 It is true that the El Modeno School District is a

1 legally constituted School District within the County of  
2 Orange, State of California, and Henry Campbell, Theodore  
3 Hower and Clarence Johnson are its duly qualified and act-  
4 ing Trustees, and Harold Hammarsten is the Superintendent  
5 of said School District.

6 V.

7 It is true that for many years past the foregoing  
8 School Districts and Systems were and now are the owners  
9 of and beneficially interested in and have and do now main-  
10 tain, operate, manage and control the Public Schools within  
11 their respective districts and systems for the benefit,  
12 health, recreation and education of the public and, partic-  
13 ularly, the children residing in their respective districts  
14 and systems and for their use and benefit.

15 VI.

16 It is true the said School Districts and Systems  
17 and facilities are being maintained, operated, managed and  
18 controlled by and through said Boards of Education, Boards  
19 of Trustees, Superintendents and Secretaries as before named.

20 VII.

21 It is true that respondents and each of them acting  
22 with a common plan, design and purpose in their respective  
23 Districts and Systems, have adopted and do practice by  
24 regulation, custom and usage; rules, regulations and orders  
25 in the operation, management and control of their said  
26 Districts, Systems and facilities as hereinafter stated.

27 VIII.

28 It is true that for several years last past respon-  
29 dents have and do now in furtherance and in execution of  
30 their plan, design and purpose within their respective  
31 Systems and Districts, by their regulations, customs and  
32 usages and in execution thereof have declared and memorial-

1 ized: That all children or persons of Mexican descent,  
2 extraction or lineage shall be, have been and are now  
3 excluded from attending and using, enjoying and receiving  
4 the benefits of the education and recreation facilities  
5 of the Public Schools within their respective Districts  
6 and Systems. That said children of Mexican descent, ex-  
7 traction or lineage are now and have been segregated and  
8 required to and must attend and use certain Public Schools  
9 in said Districts and Systems, reserved for and attended  
10 solely and exclusively by children and persons of Mexican  
11 descent, while other Public Schools in such respective  
12 Districts and Systems are maintained for, attended and  
13 used by children purportedly known as White or Anglo-Saxon  
14 children.

15 IX.

16 It is true that petitioners and each of them are  
17 citizens of the United States, residents and taxpayers of  
18 said City and County, and it is true that each and all  
19 petitioners are of Mexican and Latin descent or extraction.

20 X.

21 It is true that petitioner Gonzalo Mendez is the  
22 father and next of friend of Sylvia, Gonzalo and Geronimo  
23 Mendez, who live and reside in the Westminster School  
24 District as aforesaid, and that said children, all minors,  
25 are subject to said rules and regulations of said District  
26 and are segregated and required to attend separate schools  
27 within said District.

28 XI.

29 It is true that William Guzman is the father and  
30 next of friend of Billy Guzman, who live and reside within  
31 the Santa Ana City School District as aforesaid, and that  
32 said child is subject to said rules and regulations of said

1 School System and is segregated and required to attend  
2 separate schools within said Santa Ana City School System

3 XII.

4 It is true that Frank Palomino is the father and  
5 next of friend of Arthur and Sally Palomino who live and  
6 reside in the Garden Grove Elementary School District as  
7 aforesaid, and that said children, both minors, are subject  
8 to said rules and regulations of said District and are  
9 segregated and required to attend separate schools within  
10 said District.

11 XIII.

12 It is true that Lorenzo Ramirez is the father and  
13 next of friend of Ignacio, Silverio and Jose Ramirez, who  
14 live and reside in the El Modeno School District as afore-  
15 said, and that said children, all minors, are subject to  
16 said rules and regulations of said District and are segre-  
17 gated and required to attend separate schools within said  
18 District.

19 XIV.

20 It is true that in execution of said rules and reg-  
21 ulations each, every and all the foregoing children are  
22 compelled and required to and must attend and use the Public  
23 Schools in said respective Districts reserved for and at-  
24 tended solely and exclusively by children of Mexican de-  
25 scent, extraction or lineage, and are forbidden, barred and  
26 excluded from attending any other Public School in said  
27 District or System solely for the reason that said children  
28 are of Mexican descent, extraction or lineage.

29 XV.

30 It is true that each of petitioners are beneficially  
31 interested in the privileges, management, control and opera-  
32 tion of his or her respective school district and system and

1 its facilities and as members of the public and citizens of  
2 the United States are entitled to the use and enjoyment of  
3 the Public Schools within their respective districts and  
4 systems and are privileged and entitled to the use of the  
5 respective Public Schools in their district without segre-  
6 gation or discrimination because petitioners are of Mexican  
7 or Latin extraction, descent or lineage.

8 XVI.

9 It is true that petitioners are of good moral habits,  
10 not suffering from disability, infectious disease, and are  
11 qualified to be admitted to the use of the Schools and  
12 facilities within their respective School Districts and  
13 Systems.

14 XVII.

15 It is true that respondents and each of them through  
16 their agents and employees acting with common plan, design  
17 and purpose within their respective School Districts and  
18 Systems have by regulations, customs and usages and in  
19 execution thereof do now exclude, and for several years last  
20 past have barred, precluded and denied petitioners and other  
21 children of Mexican descent, extraction or lineage from  
22 attending and using and receiving the benefits and education  
23 furnished to other children residing in said School Districts  
24 and Systems and have segregated children of Mexican lineage,  
25 descent or extraction in Schools attended solely by children  
26 of Mexican lineage, descent or extraction and have denied  
27 them the use and right of attendance in other schools solely  
28 for the reason that petitioners are of Mexican or Latin  
29 descent or extraction.

30 XVIII.

31 It is true that petitioners and others of Mexican  
32 descent or extraction, citizens of the United States, at

1 various times have sought admission and the right to the use  
2 and attendance of other schools within their respective  
3 districts which they otherwise would attend and use, but  
4 respondents have by their regulations, customs and usages  
5 denied them such right and privilege based solely upon the  
6 fact that petitioners were of Mexican or Latin descent or  
7 extraction. That by reason thereof the injury to petitioners  
8 is continuous, great and irreparable, is calculated to affect  
9 and does affect their rights and privileges as citizens of  
10 the United States.

11 XIX

12 The pattern or ideal of segregating the school  
13 children of Mexican ancestry from the rest of the school  
14 attendance permeates and is practiced in all four of the  
15 respondent (defendant) districts, but there are procedural  
16 deviations among the school administrative agencies in ef-  
17 fectuating the general plan, but such deviations do not  
18 remove the discriminatory segregation of the school children  
19 of Mexican ancestry from the rest of the school attendance  
20 in any of the respondent (defendant) school districts.

21 XX

22 Spanish-speaking children are retarded in learning  
23 English by lack of exposure to its use because of segregation,  
24 and commingling of the entire student body instills and  
25 develops a common cultural attitude among the school children  
26 which is imperative for the perpetuation of American insti-  
27 tutions and ideals. It is also clear that the methods of  
28 segregation prevalent in the respondent (defendant) school  
29 districts foster antagonisms in the children and suggest  
30 inferiority among them where none exists.

31 XXI

32 The tests that are applied in the respondent

1 (defendant) school districts have been generally hasty,  
2 superficial and not reliable, and in some instances separate  
3 classification has been determined largely by the Latinized  
4 or Mexican name of the child. Such methods of evaluating  
5 language knowledge are illusory and are not conducive to  
6 the inculcation and enjoyment of civil rights which are of  
7 primary importance in the public school system of education  
8 in the United States.

9 XXII

10 The only tenable ground upon which segregation  
11 practices in the respondent (defendant) school districts  
12 can be defended lies in the English language deficiencies  
13 of some of the children of Mexican ancestry as they enter  
14 elementary public school life as beginners, but even such  
15 situations do not justify the general and continuous seg-  
16regation in separate schools of the children of Mexican  
17 ancestry from the rest of the elementary school population  
18 as has been shown to be the practice in the respondent  
19 (defendant) school districts - in all of them to the sixth  
20 grade, and in two of them through the eighth grade.

21  
22 From the foregoing Findings of Fact and from the  
23 additional facts disclosed by the admissions in the plead-  
24 ings, stipulations of the parties hereto at the pretrial  
25 conferences and during the trial of the action on the  
26 merits, and from all the evidence adduced herein, the  
27 Court concludes as matters of law the following:  
28  
29  
30  
31  
32





1 and oppress petitioners herein in the free exercise and  
2 enjoyment of their rights and privileges as secured and  
3 guaranteed to them as citizens of the United States by the  
4 Constitution of the United States, and particularly as  
5 provided under the Fourteenth Amendment. That petitioners  
6 are entitled to equal accommodations, advantages and privi-  
7 leges in the Public Schools in the State of California, and  
8 to equal rights and treatment with other persons as citizens  
9 of the United States in the use and enjoyment of the facili-  
10 ties of said Public Schools, and to equal protection of the  
11 laws in their use and enjoyment of said Public School rights  
12 and privileges as provided and afforded to other persons at  
13 all times when the same is open and used by them.

14 V.

15 That said regulations, customs and usages whereby  
16 Public School pupils in the respondent School Districts are  
17 segregated are unconstitutional, illegal and void, and are  
18 being enforced against petitioners and each of them by dis-  
19 criminatory conduct and practices by respondents, and by  
20 each of them, through their unlawful acts and conduct; and  
21 by their execution of such plan, design and purpose in bar-  
22 ring petitioners from the uses and privileges of said Public  
23 Schools solely for the cause and reasons as stated in the  
24 Findings of Fact is violative to petitioners' rights and  
25 privileges as citizens of the United States and such acts  
26 are discriminatory, illegal and void.

27 VI.

28 Petitioners have no plain, speedy or adequate or any  
29 remedy at law, and petitioners are suffering great and  
30 irreparable damage and are entitled to injunctive relief  
31 against all respondents, restraining further discriminatory  
32 practices against the pupils of Mexican descent in the public

1 schools of respondent school districts.

2 VII

3 The basis and composition of the public school  
4 system in the State of California clearly shows that such  
5 system of public education is unitary, and the statutes of  
6 the State of California and the decisions of the courts of  
7 the State of California clearly show the oneness of the  
8 public school system in the State of California, and also  
9 clearly show restricted powers of the elementary school  
10 authorities in the political subdivisions of the State of  
11 California.

12 VIII

13 Local school boards and trustees of school dis-  
14 tricts in the State of California are vested by State  
15 legislation with considerable latitude in the administra-  
16 tion of their districts. Nevertheless, despite the de-  
17 centralization of the educational system in the State of  
18 California, the rules of the local school districts are  
19 required to follow the general pattern laid down by the  
20 Legislature, and the practices of such local school boards  
21 and school trustees must be consistent with law and with  
22 the rules prescribed by the State Board of Education; and  
23 it is clear from the Constitution and laws of the State  
24 of California that the respondents (defendants) herein  
25 should be and are classified as representatives of the  
26 State of California to such an extent and in such a sense  
27 that the great restraints of the Constitution of the United  
28 State set limits to the action of such school boards and  
29 such trustees and all of the respondents (defendants) in  
30 this action.

31 IX

32 The common segregation attitudes and practices of

1 the school authorities in the respondent (defendant) school  
2 districts in Orange County, State of California, pertain  
3 solely to children of Mexican ancestry and parentage. They  
4 are singled out as a class for segregation. Such method  
5 of public school administration is contrary to the general  
6 requirements of the school laws of the State of California  
7 and, moreover, indicates an official school policy that is  
8 antagonistic in principle and action to Sections 16,004  
9 and 16,005 of the Education Code of the State. It is clear  
10 that the laws of the State of California relating to the  
11 public educational system in the State evidence a clear  
12 purpose to avoid and forbid distinctions among pupils based  
13 upon race or ancestry except in specific situations not  
14 pertinent to this action, and the distinctions of the type  
15 practiced by the respondents (defendants) have recently  
16 been declared in Hirabayashi v. United States, 320 U.S.81  
17 as "by their very nature odious to a free people whose  
18 institutions are founded upon the doctrine of equality,"  
19 and such distinctions are declared to be "utterly inconsis-  
20 tent with American traditions and ideals."

21 X

22 "The equal protection of the laws" pertaining to  
23 the public school system in California is not provided by  
24 furnishing in separate schools the same technical facili-  
25 ties, textbooks and courses of instruction to children of  
26 Mexican ancestry that are available to the other public  
27 school children regardless of their ancestry. A paramount  
28 requisite in the American system of public education is  
29 social equality. It must be open to all children by uni-  
30 fied school association regardless of lineage.

31 XI

32 English language deficiencies of some of the

1 children of Mexican ancestry as such children enter elemen-  
2 tary public school life as beginners may justify differen-  
3 tiation by public school authorities in the exercise of  
4 their reasonable discretion as to the pedagogical methods  
5 of instruction to be pursued with different pupils, and  
6 foreign language handicaps may be to such a degree in the  
7 pupils in elementary schools as to require separate treat-  
8 ment in separate classrooms. Such separate allocations,  
9 however, can be lawfully made only after credible examina-  
10 tion by the appropriate school authorities of each child  
11 whose capacity to learn is under consideration, and the  
12 determination of such segregation must be based wholly  
13 upon indiscriminate foreign language impediments in the  
14 individual child, regardless of his ethnic traits or  
15 ancestry. But even such situations do not justify the  
16 general and continuous segregation in separate schools of  
17 children of Mexican ancestry from the rest of the elemen-  
18 tary school population, as has been shown to be the practice  
19 in respondent (defendant) school districts - in all of them  
20 to the sixth grade, and in two of them to the eighth grade.  
21 Omnibus segregation of children of Mexican ancestry from  
22 the rest of the student body in the elementary grades in  
23 the schools involved in this action because of language  
24 handicaps is not warranted by the record before us.

## 25 XII

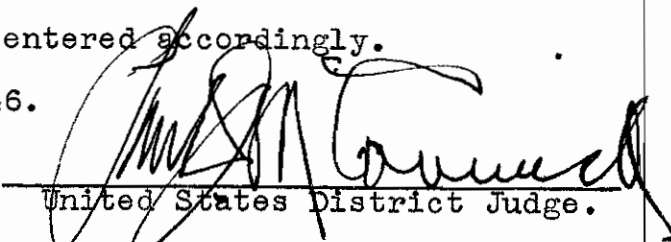
26 The persons constituting a class are so numerous  
27 as to make it impractical to bring them all before the  
28 court and, therefore, under Rule 23 FRCP this action has  
29 been properly brought by petitioners (plaintiffs) as the  
30 adequate representatives of the class of persons affected  
31 by the official action and activities of the respondents  
32 (defendants), and as the character of the right sought to

1 be enforced herein is several, and as there is a common  
2 question affecting the several rights of such persons con-  
3 stituting a class, and as a common relief is sought by  
4 such persons and is available to such persons, the action  
5 has been and is properly brought by the petitioners  
6 (plaintiffs) herein, and said petitioners (plaintiffs)  
7 herein are authorized to maintain the action.

8 XIII

9 That a judgment and injunction herein issue declar-  
10 ing that the regulations, customs, usages and practices of  
11 respondents (defendants) herein in segregating persons of  
12 Latin and Mexican descent in separate schools within the  
13 respective school districts in the City of Santa Ana,  
14 California, and elsewhere in the other schools of the re-  
15 spondents (defendants) in the County of Orange, State of  
16 California, are and each is arbitrary, discriminatory,  
17 illegal and void, and are and each is violative of peti-  
18 tioners' (plaintiffs) herein rights under the Constitution  
19 and laws of the United States, and under the Constitution  
20 and laws of the State of California, and that said respon-  
21 dents (defendants) and each of them be permanently re-  
22 strained and enjoined from segregating persons of Latin or  
23 Mexican descent in separate schools within the respective  
24 respondent (defendant) school districts in the County of  
25 Orange, State of California, or in the Santa Ana City  
26 Schools in the County of Orange, State of California, and  
27 that petitioners (plaintiffs) recover from the respective  
28 respondent (defendant) school districts the costs of suit  
29 herein. Judgment will be entered accordingly.

30 Dated March 21, 1946.

31   
32 United States District Judge.

No. 4292-M. Civil

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**U. S. District Court,**

SOUTHERN DISTRICT OF CALIFORNIA.

Central Division

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GONZALO MENDEZ et al.,

Petitioners,

vs.

WESTMINISTER SCHOOL DISTRICT

OF ORANGE COUNTY et al.,

Respondents.

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GOVERNMENT PRINTING OFFICE

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW.