

FACTS SHOW SO-CALLED “ETHNIC STUDIES” CURRICULUM IS RACIST

In the United States District Court for the District of Arizona

Case No. CV-10-623-TUC-AWT

13 **II. THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD OF**
14 **ADMINISTRATIVE PROCEEDINGS TO SHOW THAT TUSD ADOPTED A**
15 **COURSE OF STUDY THAT PROMOTED RACISM**

16 Plaintiff’s motion argues that the statute here gives the Superintendent “unchecked
17 power.” (Plaintiffs’ Motion for Summary Judgment [“Motion”], Doc. 97 at 20-21.) This is
18 incorrect. The Superintendent’s Findings were subject to appeal to an administrative
19 hearing officer, who conducted an extensive adversary hearing in this case, and then, a right
20 of appeal to state courts.

21 After four days of extensive and detailed hearings, the hearing officer in this case
22 concluded:

23 The Administrative Law Judge concludes that A.R.S. § 15-122 (F) permits the
24 historical (objective) instruction of oppression¹ that may, as a natural but
25 unintended consequence, result in racial resentment or ethnic solidarity.
26 However, teaching oppression objectively is quite different than actively
presenting material in a biased, political, and emotionally charged manner,
which is what occurred in MAS classes. Teaching in such a manner promotes

27 ¹ This sentence refutes the many false examples in the Motion for Summary Judgment of things that could not be taught under this statute.

1 social and political activism against the white people, promotes racial
2 resentment, and advocates ethnic solidarity, instead of treating pupils as
individuals.

3 This finding is supported by 36 pages of detailed citations to the evidence. This court
4 can take judicial notice of these Findings pursuant rule 201 of the Rules of Evidence, and
5 Plaintiff has submitted them as part of this record (Doc. 137-1).

6 Plaintiff has also made, as part of this record in this case, the Findings dated
7 December 30, 2010 of Superintendent Tom Horne. (See note 11 at p.5 of motion, referring to
8 having submitted the "Horne Finding" as Ct. Doc. No. 84, Ex.B to Plaintiff's 3rd amended
9 complaint). The contents of these Findings are misrepresented, with parts taken out of
10 context in the Motion for Summary Judgment. (Doc. 97 at 30, 31, 38). For convenience, a
11 copy of these Findings is attached as Exhibit A to this Response and Cross Motion. Like the
12 Findings of the hearing officer, it presents overwhelming evidence that TUSD adopted a
13 course of study that promotes racism:

14 The Findings pulled directly from the materials used in the ethnic studies class:

15 The students are taught "Critical Race Theory". A part of the "Critical Race
16 Theory" is defined by the materials taught to the students as follows: "Unlike
17 traditional civil rights, which embraces incrementalism and step-by-step
18 progress, critical race theory questions the very foundation of the liberal order,
including equality theory, legal reasoning, Enlightenment rationalism, and
neutral principles of constitutional law." (Emphasis added)

19 The materials for this class include "A Field Guide for Achieving Equity in
20 School." These materials include: "We often hear people referred to as being
21 privileged, which usually is a comment pertaining to the individual's financial
22 or economic status...In Courageous Conversation, however, privilege takes on
23 a different meaning: it refers to the amount of melanin in a person's skin, hair,
24 and eyes. (This is followed by a table which promulgates racial stereotypes by
detailing the differences between "white individualism" "colored group
collectivism".) "White people tend to dominate the conversation by setting the
tone for how everyone must talk and which words should be used. All of these
"White ways" must be recognized, internalized, and then silently acted on by
25 people of color". (This is an example, referring to the statute, of subsection 2,
26 "promote resentment toward a race or class of people")...The aforementioned
27 White cultural characteristics, such as individualism, blur into the
consciousness of Whiteness, which becomes not only a way of behaving but

1 also a way of thinking... White people depend on the overwhelming presence
2 of other White people in positions of power and influence to maintain a system
3 of racial advantage. At the same time, many White educators believe that
4 gains in school, as in their own lives, come from individual effort and
accomplishment.”

5 At page 200 of these materials, there is a table setting forth in detail the
6 difference between “White Talk” and “Color Commentary”. These materials
7 go on to state: “Anger, guilt, and shame are just a few of the emotions
8 experienced by participants as they move toward greater understanding of
Whiteness”. [If one were to substitute any other race for “Whiteness”, it would
be obvious how this promotes resentment toward a race or a people.]

9 The materials go on to state: “White Americans often feel a unique sense of
10 entitlement to Americanism, partly because many never travel beyond the
11 borders of the United States.” (p.9, Emphasis Added)

12 The Motion for Summary Judgment questions whether there has been any
13 showing that the course was designed primarily pupils of a particular ethnic group.

14 The Findings give a quotation from the former Chairman of the Ethnic Studies
15 Department that proves this beyond any doubt:

16 For example, Augustine Romero was the Chairman of the Ethnic Studies
17 Department at TUSD for many years, and is still involved. In a debate against
18 the undersigned on CNN, he was asked the following question and gave the
following answer:

19 Q [by the reporter]: And, Mr. Romero, I want to begin with you. Why not just
20 call the class Mexican studies or – like you would have – Mexican-American
21 studies? Why did you put the word la raza in there, which as you know, to
many people connotes a political movement, as opposed to an educational
course?

22 ROMERO: ...so that our students could recognize and connect to their
23 indigenous side, just like the word “dine” for the Navajo translates to ‘the
24 people,’ like the word ‘o’odham’ for the Tohono O’odham translates to ‘the
25 people.’ The word ‘yoeme’ for the Yoeme people translates to ‘the people.’

26 It was an attempt to connect to our indigenous sides, as well as our Mexican
27 side. (Emphasis added)

If one of the purposes of this course is “an attempt to connect with our

1 indigenous sides, as well as out Mexican side,” then obviously the course is
2 designed primarily for pupils of a particular ethnic group”. (p.3).

3 The Motion for Summary Judgment makes vague references to the Findings
4 criticism of a text book holding up Jose Angel Gutierrez as a role model (Motion
5 p.31) while deliberately omitting the key point: Gutierrez’s solution to the existing
6 problems was to call upon Chicanos to “kill the Gringo.” (Findings p.7)

7 The Motion for Summary Judgment claims that this course promotes an
8 “exchange of ideas” (Doc. 97 at 14), “open minds” (*id.* at 15), and “robust exchange
9 of ideas” (*id.*). If that were true, no one would object to the course, as the above quote
10 in the Findings of the hearing officer made clear. But, as the hearing officer found,
11 and substantiated, the materials are presented in a biased, political, and “emotionally
12 charged” one-sided manner. For example:

13 In a section of materials called “Conquest and Colonización”, the students are
14 taught “We will see how half of Mexico was ripped off by trickery and
15 violence. We will see how Chicanos became a colonized people. In the
16 process of being colonized, we were robbed of land and other resources.”
(Findings p.9).

17 That is not an “exchange of ideas” promoting critical thinking, “open minds,”
18 or “robust exchange of ideas.”

19 The Motion for Summary Judgment argues about “chilling affects” on the
20 exercise of 1st amendment rights. But the testimony from teachers and former
21 teachers show that it is this program itself which is chilling 1st amendment rights:

22 In the past several weeks, messages have filtered out from teachers and other
23 TUSD employees...about what an officially recognized resentment-based
24 program does to a high school.

25 In a word, it creates fear.

26 Teachers and counselors are being called before their school principals and
27 even the district school board and accused of being racists. And with a cadre
of self-acknowledge ‘progressive’ political activists in the ethnic-studies
department on the hunt, the race transgressors are multiplying.

1 John Ward, a former TUSD teacher who, despite his name, is Hispanic, and
2 who objected to what Ethnic Studies specialists did in his History class, described
3 how the TUSD administration intimidated him by removing him from his class, and
4 calling him a “racists” even though he himself is Hispanic. This tactic, he writes:

5 ...is fundamentally anti-intellectual because it immediately stops debate by
6 threatening to destroy the reputation of those who would provide counter
7 arguments.

8 Unfortunately, he [John Ward] is not the only one to have been intimidated by
9 the Raza studies department in this way.

10 Ward has written further on this subject:

11 Condition: TUSD uses tax payer funded programs to indoctrinate students,
12 based primarily on ethnic divisions, in the belief that there is a war against
13 Latino culture perpetrated by a white, racist, capitalist system.

14 Cause: TUSD has hired a group of radical socialist activists who promote an
15 anti-capitalist and anti-Western Civilization ideology. They use ethnic
16 solidarity as their vehicle of delivery. A climate of outright intimidation has
17 stopped many from standing up to this group for fear of being labeled racists.

18 Effect: Impressionable youth in TUSD have literally been reprogrammed to
19 believe that there is a concerted effort on the part of a white power structure to
20 suppress them and relegate them to a second-class existence. This fomented
21 resentment further encourages them to express their dissatisfaction through the
22 iconoclastic behavior we see—the contempt for all authority outside of their
23 ethnic community and their total lack of identification with a political heritage
24 of this country. (Findings p.5)

25 A second teacher wrote:

26 I heard him tell his students that the U of A is a racist organization because
27 only 12% of students are Latino and they do not support the latin students
there. I heard him tell students that they need to go to college so they can gain
the power to take back the stolen land and give it back to Mexico. He
personally told me that he teaches his students that republicans hate Latinos
and he has the legislation to prove it. When I asked him about Mexican
American Republicans who are against illegal immigration, he said this is an
example of ‘self-racism.’ (Emphasis added. Findings p.5-6)

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A third teacher wrote:

I have, during the last two years, been attacked repeatedly here at Tucson High by members of the Ethnic Studies department because I question the substance and veracity of their American History and Social Justice Government classes. I have been called racist by fellow Tucson High teachers, members of the Ethnic Studies department, and students enrolled in the departments' classes. These charges come simply because I ask the department to provide the primary source material for the perspective they preach. The teachers of these classes not only refuse to stop the name-calling but openly encourage the students' behavior. (Findings p.6)

A fourth teacher wrote:

I have had Hispanic students tell me that this is NOT the United States of America . . . it is "occupied Mexico". . . I have made simple comments as a substitute such as "please pick up the paper under your desk" only to receive an immediate response of "You don't like Mexicans?" My response was to repeat my request of picking up the papers and calmly add that they must be REALLY confused . . . because I am also of Mexican descent. (Findings p.6)

Fifth,

Hector Ayala was born in Mexico, and is an excellent English teacher at Cholla High School in TUSD. He reports that the director of Raza Studies accused him of being the "white man's agent," and that when this director was a teacher, he taught a separatist political agenda, and his students told Hector that they were taught in Raza Studies to "not fall for the white man's traps." (Findings p.6)