Mendez v. Westminster: Paving the Way to School Desegregation

In 1947, parents won a federal lawsuit against several California school districts that had segregated Mexican-American schoolchildren. For the first time, this case introduced evidence in a court that school segregation harmed minority children.

In 1854, black students in San Francisco became the first children segregated in California's public schools. Soon, however, state law prohibited "Negroes, Mongolians and Indians" from attending public schools with white children anywhere in California.

Andrew Moulder, an early state superintendent of schools, stated: "The great mass of our citizens will not associate in terms of equality with these inferior races, nor will they consent that their children do so."

The Westminster School District in Orange County, California, maintained separate schools for white students and those of Mexican ancestry. (Courtesy of Sylvia Mendez)

In the early 1860s, California state laws authorized school districts to provide separate schools for black, Indian, and "Mongolian" (apparently Asian) children. But a segregated school would only be established if the parents of at least 10 racial minority students petitioned a district to build one. If the parents failed to do this, their children could be denied a public education altogether.

In districts with fewer than 10 racial minority schoolchildren, students could attend the regular schools unless the parents of white children objected. White parents tended to demand a segregated school for non-white students when their numbers increased in the community.

GOVERNMENT

California never included children of Mexican ancestry with blacks, Indians, and Asians in its state school segregation laws. Mexican-American children only became a target of local segregation efforts after 1900 when their numbers grew rapidly in the schools.

Racial School Segregation in California

After the Civil War, members of the small but well-organized black population in California demanded equal access to the public schools. They sued the San Francisco school board for refusing to enroll a black girl in a white school.

The California State Supreme Court ruled in 1874 that "separate but equal" schools for black students were legal. This was 22 years before the U.S. Supreme Court reached a similar conclusion for the entire nation in *Plessy v. Ferguson* (1896).

The expense of a separate education system for a relatively small number of black children, however, caused the state legislature finally to abolish "colored schools" in 1880.

By the 1880s, Chinese immigration made that group the largest non-white minority in California. Violent riots erupted against the Chinese by white workers fearful of job competition.

At first, the state barred Chinese children from any public education. Chinese parents sued, and in 1885, the California Supreme Court ruled this ban was unconstitutional. But the court reaffirmed that these children could be educated in Chinese "separate but equal" schools.

After the United States banned further immigration from China, separate schools for fewer Chinese children became a burden on taxpayers. School districts increasingly admitted Chinese students into the regular public schools. By the 1930s, segregated Chinese schools had mostly disappeared in California.

After the U.S. government barred more Chinese from entering the country, the need for cheap labor in California spurred Japanese immigration into the state. When San Francisco segregated Japanese school children, their parents protested, causing the government of Japan also to object.

President Theodore Roosevelt intervened and ordered the U.S. attorney general to file a lawsuit against the San Francisco school board. In 1907, he negotiated a settlement that ended Japanese school segregation. In exchange, Roosevelt promised to work for restrictions on further Japanese immigration into the United States.

California Indian children suffered school exclusion and segregation longer than any other minority. The state largely ignored schooling Indian children for many years. Finally, the federal government began to organize Indian day and boarding schools in the 1870s.

In 1921, the state legislature enacted a law that prohibited admitting Indian children to any public school if a federal school for them was nearby. A few years later, the California State Supreme Court ruled that although California Indian children had the right to a public education, they could be required to attend separate schools.

In the 1930s, the federal government started to phase out its Indian school system. Due mainly to the small number of Indian students scattered throughout the state, California finally ended all legal authority to segregate them in 1935.

Segregation of Mexican Americans

Mexican Americans were mostly unaffected by the turmoil over the racial segregation of "Negroes, Mongolians, and Indians" in California's public schools. The courts classed people of Mexican ancestry as racially "white."

After 1900, however, revolution in Mexico and the need for farm workers and unskilled laborers caused large numbers of Mexicans to immigrate to California. By 1930, these immigrants along with Mexican Americans who had lived in California for generations made up California's largest minority. As more children of this ethnic group entered the public school system, Anglo parents in some communities called for separate "Mexican schools."

Unlike California's other racial minorities, state law never authorized school districts to segregate children of Mexican ancestry. Even so, some districts began doing this after 1910, especially in Southern California. By the 1920s, many Southern California communities had established "Mexican schools" along with segregated public swimming pools, movie theaters, and restaurants.

A statewide survey in 1931 revealed that 85 percent of California schools segregated children of Mexican descent in either separate classrooms or schools. Rarely did these children receive an education equal to that provided to the other students in the community.

School boards offered many reasons for segregating students of Mexican descent. Most of these students were American-born citizens. Supposedly, these children needed a special curriculum to learn English and become "Americanized." But underlying these educational reasons lurked a common prejudice that Mexican-American children were mentally inferior, lacked personal hygiene, and posed a health threat to white Anglo children.

In addition, local school board members often believed that Mexican-American students would soon drop out to work in the fields and citrus groves. Thus, they thought that an equal education for them was a waste of taxpayer money.

Like California's other racial minorities, Mexican Americans began to challenge school segregation. In Lemon Grove near San Diego, they boycotted a segregated school that their children called "The Stable."

In 1931, a state court judge ruled that the Lemon Grove segregated school was not educationally justified or supported by state law. The judge ordered the Mexican-American children to attend school on an equal basis with the others in the community. This was the first successful school desegregation court decision in the nation. It only applied, however, to Lemon Grove.

During the 1930s, the California legislature failed to pass a law specifically permitting school districts to segregate Mexican-American students. But in 1935, the legislature passed a strangely worded law that considered Mexicans as Indians. The law authorized separate schools for Indians, but then exempted "descendants of the original American Indians of the United States." This seemed to leave those of Mexican ancestry as the only "Indians" subject to school segregation.

Mendez v. Westminster

During World War II, Gonzalo Mendez leased a farm from a Japanese-American family ordered to a relocation camp. The farm was located in Westminster, a small town in Southern California's Orange County. Mendez moved his family to the farm, which was near

(Continued on next page)

an elementary school designated for white children by the Westminster school board.

In September 1944, Westminster school officials told Mendez that his three children would have to attend the "Mexican school," Hoover Elementary. Ironically, the white school enrolled their cousins who had a French name and lighter skin. Years later, one of the Mendez children remembered the Hoover school as "a terrible little shack" that had no playground and was next to a cow pasture with an electrified fence.

Gonzalo Mendez turned over managing the farm to his wife, Felicita. This allowed him time to organize Mexican-American parents to challenge the segregation of their children in Westminster and three other Orange County school districts. In 1945, Mendez and the other parents sued the school districts in federal court. Mendez hired Los Angeles civil rights attorney David Marcus to argue their case.

For the first time in a federal court, Marcus put forth the argument that segregating K–12 students based on their nationality or ethnic background violated the 14th Amendment of the U.S. Constitution. This part of the Constitution prohibits states from denying "any person within its jurisdiction the equal protection of the laws."

Also for first time, Marcus introduced evidence that segregating students because of their ethnic background harmed them. Marcus called upon a sociologist and an education expert to testify that segregating Mexican-American students hindered their learning of English as well as "American customs and ways." Educator Marie H. Hughes testified that "segregation, by its very nature, is a reminder constantly of inferiority, or not being wanted, of not being a part of the community."

Perhaps the most effective testimony occurred when Marcus put the Mendez and other Mexican-American schoolchildren on the stand. They testified, in English, about how they felt when they were required to attend a run-down segregated school with old schoolbooks discarded from the white school.

Joel Ogle, the attorney for Orange County, defended the school districts. His primary argument was that the federal courts had no authority to decide cases involving K–12 education since that was entirely a state matter.

Ogle further justified the "Mexican schools" as necessary for "providing special instruction to students not fluent in English and not familiar with American values and customs." He insisted that these separate schools were equal to the white schools. Thus, he concluded, they were constitutional under California and U.S. Supreme Court rulings that upheld "separate but equal" schools.

In February 1946, Judge Paul J. McCormick decided the *Mendez* case in favor of the Mexican-American parents. He first dismissed Ogle's contention that the federal courts had no jurisdiction in state education cases. Any violation of U.S. constitutional rights by state or local government bodies, he wrote in his decision, warranted federal court intervention.

Judge McCormick carefully analyzed the school districts' claim that separate schools for Mexican-American children were necessary because they were not proficient in English. He concluded that segregating these children for as long as eight grades actually made it more difficult for them to learn English. Furthermore, he noted that the school districts typically assigned children with Spanish surnames to segregated schools regardless of their ability to speak English.

Judge McCormick did not directly address the constitutionality of "separate but equal." Instead, he pointed out that state law did not explicitly provide for the segregation of the Mexican ethnic minority in the public schools. Thus, he ruled that the Orange County school districts, acting on their own, violated the "equal protection" rights of Mexican-American citizens.

Judge McCormick also stated in his ruling that segregating children of Mexican ancestry "suggests inferiority among them where none exists." He ordered the school boards of Westminster and the other three districts to stop "further discriminatory practices" against the pupils of Mexican descent.

Appeal and Aftermath

The Orange County school districts appealed Judge McCormick's decision to the U.S. Ninth Circuit Court of Appeals in San Francisco. Joel Ogle repeated his arguments and asserted, "Segregation by itself is not a denial of equal protection of the laws."

David Marcus had a lot more help this time. Thurgood Marshall was a civil rights attorney for the National Association for the Advancement of Colored People (NAACP). He helped write an *amicus curiae* ("friend of the court") legal brief, presenting evidence that separate schools based on ethnicity or race were far from equal.

The American Jewish Congress, American Civil Liberties Union, National Lawyers Guild, Japanese American Citizens League, and even the Attorney General of California also filed *amicus curiae* briefs. They all supported the Mexican-American parents.

On April 14, 1947, the federal appeals court judges ruled 7–0 to uphold Judge McCormick's decision. This court also avoided the "separate but equal" issue.

The judges decided the *Mendez* case on grounds that California law, while still permitting the segregation of certain racial groups, "does not include the segregation of school children because of their Mexican blood." By overstepping their authority, the appeals court concluded, the Orange County school boards violated both California law and the "equal protection" clause of the federal 14th Amendment.

The school boards decided against appealing to the U.S. Supreme Court. Thus, the *Mendez* case ended as the first successful federal school desegregation decision in the nation.

This decision shielded only children of Mexican ancestry from public school segregation in California *under its current laws*. Any state, including California, was still free to enact laws that segregated children based on their race or ethnicity in "separate but equal" schools.

Even before the *Mendez* appeals court decision, the California state legislature acted to repeal all provisions in the education code that permitted school segregation. Governor Earl Warren signed this law in June 1947, thus ending nearly 100 years of public school segregation in the state.

Although the impact of the *Mendez* case was limited, its real importance was to test new legal arguments and evidence against segregation in the public schools. This paved the way for the historic *Brown v. Board of Education* case decided by the U.S. Supreme Court in 1954.

Thurgood Marshall, who helped write the NAACP's *amicus curiae* brief on behalf of the Mendez and other Mexican-American children, argued against black school segregation in the *Brown* case. As in the *Mendez* case, he made extensive use of social science evidence demonstrating how segregated schooling harmed minority children.

Earl Warren, who signed the law ending school segregation in California seven years earlier, was chief justice of the U.S. Supreme Court. He wrote the unanimous decision that finally overturned the "separate but equal" doctrine. "Separate educational facilities are inherently unequal," he declared.

Gonzalo and Felicita Mendez quietly resumed their modest lives. Their youngest daughter, who never attended the segregated Hoover school, did not know about their key role in ending segregated schooling in California until she read about it in college.

In 1998, an Orange County school district honored Gonzalo and Felicita Mendez by naming a new school after them. In 2007, the U.S. Postal Service issued a stamp commemorating the 60th anniversary of the *Mendez* appeals court decision.

For Discussion and Writing

1. Why did racial and ethnic minorities object to "separate but equal" schools? Why do you think the federal courts did not address the "separate but equal doctrine"?
2. What did *Mendez v. Westminster* accomplish? What did it fail to do?
3. Why is *Mendez v. Westminster* considered today a key case, leading up to the *Brown v. Board of Education* decision of 1954?

For Further Study

Mendez v. Westminster: For All the Children/Para Todos Los Ninos. DVD. KOCE-TV, 2002. This documentary recounts the role of the Mendez family in ending school segregation in California. The DVD may be purchased by calling KOCE-TV at 888-246-4585.

Valencia, Richard R. "The Mexican American Struggle for Equal Educational Opportunity in Mendez v. Westminster: Helping to Pave the Way for Brown v. Board of Education." *Teachers College Record*. March 2005.

A C T I V I T Y

Diversity in American Schools

Imagine that you are a student today at Central High. The school draws students from all over the city and is quite diverse racially and ethnically. You notice, however, that students tend to hang out with other students of the same race or ethnicity. You see this in the halls, at lunch, and at pick-up sports games.

Form small groups. Each group should discuss and prepare to report its answers to these questions:

1. Why do you think students gather in racial or ethnic groups?
2. Do you think it presents a problem? Why or why not?
3. What methods or activities, if any, might bring students together in diverse groups? (If your answer is none, explain why.)

Standards Addressed

National High School U.S. History Standard 20: Understands how Progressives and others addressed problems of industrial capitalism, urbanization, and political corruption. (4) Understands how racial and ethnic events influenced American society during the Progressive era (e. g., the movement to restrict immigration; how racial and ethnic conflicts contributed to delayed statehood for New Mexico and Arizona; the impact of new nativism; influences on African, Native, Asian, and Hispanic Americans)

National High School U.S. History Standard 29: Understands the struggle for racial and gender equality and for extension of civil liberties. (4) Understands significant influences on the civil rights movement (e. g., the social and constitutional issues involved in Plessy v. Ferguson (1896) and Brown v. Board of Education (1954) court cases; the connection between legislative acts, Supreme Court decisions, and the civil rights movement; the role of women in the civil rights movement and in shaping the struggle for civil rights).

California History-Social Science Content Standard 11.8: Students analyze the economic boom and social transformation of post-World War II America. (2) Describe the significance of Mexican immigration and its relationship to the agricultural economy, especially in California.

California History-Social Science Content Standard 11.10: Students analyze the development of federal civil rights and voting rights. (2) Examine and analyze the key events, policies, and court cases in the evolution of civil rights, including Dred Scott v. Sandford, Plessy v. Ferguson, Brown v. Board of Education, Regents of the University of California v. Bakke, and California Proposition 209.

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About Constitutional Rights Foundation

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