



Written by [Bruce Walker](#) on December 29, 2011

Judge Rules Tucson Schools' Mexican-American Studies Illegal

Arizona's Administrative Law Judge Lewis Kowal determined on December 27 that the Tucson Public School District's Mexican-American Studies Program violated state law. In his opinion, the judge stated that a fair presentation of historical and cultural materials was permissible, but that what this program represented was different: "Teaching oppression objectively is quite different than actively presenting material in a biased, political and emotionally charged manner," he pointed out.



State Superintendent of Public Instruction John Huppenthal (left), a Republican who took office after the November 2010 election, ordered a review in January 2011 of the Tucson program. He determined on June 13, 2011 that the Tucson program violated Section 15-112 of Arizona Revised Statutes and that consequently funding to the district should be reduced by 10 percent until the district comes into compliance with the law. The specific areas in which the Tucson program failed were the following prohibitions of any classes or courses which:

- A(2) Promote resentment toward a race or class of people
- A(3) Are designed primarily for pupils of a particular ethnic group
- A(4) Advocate ethnic solidarity instead of treatment of pupils as individuals

The Arizona law has some specific exceptions: instruction required for Native American pupils in order to comply with federal requirements; instruction in English that may naturally address the requirements of an ethnic group; and instruction in the Holocaust or other examples of genocide.

Judge Kowal's ruling, which upheld the Superintendent's finding, was that the Tucson program promotes activism against white people, racial resentment, and ethnic solidarity. The Superintendent now has 30 days to review the judge's decision, and if he concurs (and it would appear certain that he would), the Tucson district would have 30 days after that to appeal Judge Kowal's ruling to Superior Court.

Superintendent Huppenthal said of his July decision: "In the end, I made a decision based on the totality of the information and facts gathered during my investigation, a decision that I felt was best for all the



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students in the Tucson Unified School District.”

Representatives of the school district claimed that the district could not afford the reduction of 10 percent of funding provided for by the state law, although they have not yet decided how to respond to the recent administrative law ruling. The district may only formally appeal after the Superintendent’s response to the ruling.

The district adopted the Mexican-American studies shortly after Arizona passed its landmark April 2010 immigration enforcement law, SB 1070. Critics of the program state that it demonizes white Americans as oppressors of Hispanics. The actual presentation of the program formed part of the basis for the judge’s ruling.

Teachers and pupils in the Tucson district have already filed a federal lawsuit requesting an injunction against the enforcement of Section 15-112. Richard Martinez, who represents the plaintiffs in this federal lawsuit, responded to the judge's ruling, “It confirms what we already knew the State of Arizona wanted to do, which is shut down Mexican-American studies. That’s why we are in federal court.”



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