



State of Arizona
Department of Education
Office of John Huppenthal
Superintendent of Public Instruction

Superintendent of Public Instruction John Huppenthal Statement of Finding Regarding Tucson Unified School District's Violation of A.R.S. §15-112

I. Summary

On January 1, 2011, pursuant to Arizona Revised Statutes (ARS) §15-112 (B) then Superintendent of Public Instruction Tom Horne issued a finding of violation by Tucson Unified School District's Mexican American Studies Program. Laws 2010, Chapter 311 which added ARS §15-112 became effective on January 1, 2011, the same day the initial finding was issued. Tucson Unified School District (TUSD) was not in session due to winter break at the time the violation was issued, therefore, as the new Superintendent of Public Instruction, it was incumbent upon me to determine if, in fact, TUSD was in violation of the statute post January 1, 2011.

In order to determine whether or not the Tucson Unified School District's (TUSD) Mexican American Studies Program (Program) violates any of the provisions of ARS §15-112, the Arizona Department of Education (ADE), at my direction, conducted an in depth investigation and review of the Program and its curriculum, materials, content and teaching practices. This investigation included a curriculum audit conducted by a contractor and various data submitted to and gathered by ADE. After careful examination of all the available information, I find there is a clear violation of ARS §15-112 as detailed below.

II. Finding

A. Relevant statute:

"§15-112. Prohibited courses and classes; enforcement

A. A school district or charter school in this state shall not include in its Program of instruction any courses or classes that include any of the following:

1. Promote overthrowing the U.S. government;
2. Promote resentment towards a race or class of people;
3. Are designed primarily for pupils of a particular ethnic race; and
4. Advocate ethnic solidarity instead of the treatment of pupils as individuals."

B. Violation - §15-112 A (2)

During classroom observations, no established curriculum was observed by the ADE auditors. Additionally, the head of the Mexican American Studies Department (Department), which administers the Program, refused both to be interviewed by the auditors and to provide complete curriculum materials to allow for a full evaluation of the utilized curriculum and classroom teachings. The auditors were unable to review any comprehensive curriculum. Materials in the classroom were generally non-existent and no consistency in materials or coursework existed in separate class sections identified as the being the same subject.

However, the limited materials the auditors reviewed and materials submitted to ADE contained content promoting resentment towards a race or class of people which are clear violations of Subsection A (2). Our finding is based on the limited curriculum and materials reviewed at TUSD and additional materials gathered independently of the conducted classroom observations.

Examples of such content include:

- Reviewed materials repeatedly reference white people as being “oppressors” and “oppressing” the Latino people.
- Reviewed materials present only one perspective of historical events, that of the Latino people being persecuted oppressed and subjugated by the “hegemony” – or white America.

C. Violation - §15-112 A (3)

In addition to the reviewed curriculum materials, the Department’s website clearly indicates the Program is primarily designed for pupils of a particular ethnic race; couple this with the fact that an extraordinary percentage of students enrolled in Program classes are Hispanic (over 90%) compared to the student population as a whole, constitutes a violation ARS §15-112 A (3). The examples below are a portion of the evidence supporting this finding:

- MASD website displays a chart of the Mexican American Studies Model which is stated to be the foundation for their curriculum and is explicitly directed toward Latino students. The Model shows the focus to be academic proficiency and academic identity for Latino students to result in increased academic achievement for Latino students.
- Website clearly states the Department was “formed to specifically enhance the academic success of Latino students” although it can benefit all students, the statement demonstrates the Program and the Department exists primarily to serve Latino students.
- Much of the reviewed curriculum and materials address the reader as being of Latino or Hispanic origin and thus a part of an oppressed people.

D. Violation - §15-112 A (4)

Curriculum and materials reviewed also showed violations of Subsection A (4), which prohibits advocating for ethnic solidarity instead of treating pupils as individuals. Much of the evidence supporting violations of Subsection A (2) also indicate violations under this subsection, additional supporting documentation includes:

- Reviewed curriculum and materials repeatedly emphasize the importance of building Hispanic nationalism and unity in the face of assimilation and oppression.

E. Additional Statutory and Regulatory Violations

ADE became aware of additional statutory and regulatory violations during the in-depth review of the Department and the Program. Additionally, text and material selection for Program courses fail to conform with both statutes and TUSD Governing Board adopted policies. ADE believes these violations contributed to the current controversy and conflict surrounding the Program.

1. ARS §15-341

Arizona Revised Statutes, Title 15, Article 3 delineates the powers and duties of school district governing boards; ARS §15-341 lists the general powers and duties of such boards.

- Subsection 2 requires governing boards to exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character. Much of the curriculum and material reviewed was of a partisan nature; in fact the intent of some materials is partisanship and political organization.
- Subsection 5 directs governing boards to set the curriculum and other criteria required to promote pupils from one grade to the next and for graduation as long as it conforms to the minimum criteria set by the State Board of Education (ARS §15-701 and §15-701.01). Local governing boards may require additional curriculum and criteria. Many of the high school course offerings from the Department are offered for credit towards graduation.

2. ARS §15-721 and §15-722

These sections of statute govern courses of study for elementary (§15-721) and high schools (§15-722). Both sections require school district governing boards to approve the course of study and the basic textbook for each course. Additionally, if a course does not include a basic text, the governing board must approve all supplemental books to be used in the course prior to approving the course. Additional duties are prescribed under these sections of statute for governing boards to maintain authority over texts and supplemental materials used in all courses and subject them to public review prior to adoption. For these purposes “textbooks” include all printed materials, digital content and related printed and non-printed material for use by pupils in a classroom.

- Our review of Tucson Unified School District Governing Board agendas dating back to January 2002 show no such review or adoptions took place for the actual courses of study. No evidence was found to support the TUSD Governing Board has reviewed any of the texts or supplemental materials used in many of the Program’s courses.
- Although district adopted textbooks appear to be used in the courses, official textbook and supplemental materials adoptions for both Language Arts and Social Studies do not include many of the books and materials observed by the auditors or those submitted to ADE for review.
- Additionally, this failure to review and adopt material is also a violation of the TUSD governing board’s own adopted policy IJJ which states, in part: “The Board will approve the course of study, the basic text materials including digital materials for each course, and all units recommended for credit under each general subject title prior to implementation of the course. The Board will also approve and adopt all new text and supplementary materials.”

As a result of the above findings, it is hereby ordered that the TUSD Board has 60 days to bring the Mexican American Studies Program into compliance with ARS 15-112. Failure to do so shall result in the withholding of 10% of state funds.