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SEGREGATION IN U.S. PUBLIC SCHOOLS: THE LEGAL DISMANTLING OF THE  
“SEPARATE BUT EQUAL” DOCTRINE BY CHINESE AMERICANS, MEXICAN  
AMERICANS, AND AFRICAN AMERICANS

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## ABSTRACT

“Segregation in U.S. Public Schools” explores the legal exclusion of African American, Chinese-descent, and Mexican-descent students in U.S. public schools from the late-nineteenth century through the late-twentieth centuries. It seeks to examine the historical forces that justified the “separate but equal” doctrine established by the 1896 Supreme Court decision, *Plessy v. Ferguson*. From the late-nineteenth to the mid-twentieth centuries, African American, Mexican American, and Chinese American communities worked with one another to mount legal campaigns against *de facto* and *de jure* segregation in American public schools. The gradual battle to achieve educational equality was not a chain of isolated legal achievements, but rather, it was a culmination of collaborative, multi-ethnic alliances and grass-roots organizing that set the stage to end legal segregation in public schools. Through durable bonds among lawyers, community groups, and parents of school-age children, the precedent-setting cases of *Mendez v. Westminster* and *Tape v. Hurley* as well as other lesser-known state- and federal-level cases, successfully dismantled segregation in U.S. public schools in 1954 with the landmark Supreme Court case, *Brown v. Board of Education*.

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## **Introduction**

On the morning of September 7, 1943, eight-year old Sylvia Mendez and her two brothers accompanied their aunt, Soledad Vidaurri and their three cousins to the Seventeenth Street Elementary School in Westminster, California. Mrs. Vidaurri, acting on behalf of her brother Gonzalo Mendez and his wife, Felicitas, sought to enroll her own children and those of her brother and his wife at the local elementary school for the upcoming school year.<sup>1</sup> There, Vidaurri was told by school officials that her children Virginia and Alice, who were considered non-Mexican because of their light-skin, blue eyes, and non-Hispanic surname, would be allowed to enroll at the Seventeenth Street Elementary School, but that her niece Sylvia and her nephews, Gonzalo Jr. and Jerome, would be barred admission by virtue of their darker skin color and Hispanic surname. To add injury to insult, Seventeenth Street Elementary School officials directed Mrs. Vidaurri to enroll the Mendez children at the so-called Mexican school, 10 blocks away from their neighborhood school. In disbelief, Mrs. Vidaurri returned home with her children, niece, and nephews, and relayed her experience with school officials to her brother and his wife.<sup>2</sup>

Upon hearing about his children being turned away, Gonzalo and Felicitas Mendez, who had been attending to the arduous routine of running a nearby asparagus farm, were equally affronted by the treatment of their children.<sup>3</sup> Although such unfortunate incidences were probably known to the Mendez family—Mr. Mendez was born in Chihuahua, Mexico, and Mrs. Mendez was born in Puerto Rico—they had yet to be directly affected by World War II-era racism. Prior to moving to Westminster, Mr. and Mrs. Mendez operated a small café in neighboring Santa Ana where their children attended a racially-integrated elementary school. It was only after the

internment of the Munemitsu family, a Japanese American family, that the Mendez's first experienced racism. Just before their internment at an Arizona camp in 1942, the Munemitsu leased to Gonzalo and Felicitas Mendez their Westminster farm to safe-guard it in their absence. The Mendez's cultivated their leased farm very successfully.<sup>4</sup> The experiences of the Munemitsu and Mendez families demonstrated the paradox of legally-sanctioned racism against Japanese-descent people on the one hand and the racialization of Mexican-descent people on the other hand. While Japanese-descent people were held in internment camps because they were considered "enemy aliens" and "yellow peril," Mexican-descent peoples were socially-constructed as racial "others" and alien-citizens yet were legally classified as white.

The racial construction of Mexicans and Mexican Americans as both indolent and unintelligent reinforced the practice of legalized school segregation in the United States during the World War II-era. Nonetheless, Gonzalo Mendez was outraged to find that his children were rejected from attending their neighborhood school because of racial discrimination. Having had to drop out of school to work in the Arizona cotton fields to support his own family as a young boy, Mr. Mendez understood the importance of obtaining a quality, formal education.<sup>5</sup> He knew if his children attended the so-called Mexican school they would be only be prepared for jobs in manual labor, farm labor, or service work. In an attempt to reconsider the Seventeenth Street School decision, Mr. Mendez appealed to its principal, the Westminster School Board, and the Orange County School Board, but was unsuccessful. Undeterred, Mendez set out to find a lawyer who would listen to his grievances. Mendez heard about attorney David Marcus, the son of Jewish immigrants, who was married to a Mexican woman and had Mexican Jewish children. Marcus had recently won a court case in San Bernardino, California, that prohibited Mexicans from using the only public park and public pool in the county.<sup>6</sup> Although California, at this time, had a law in place that barred Chinese, Japanese, and Native Americans from using public

facilities and attending school with white students, no law or code prevented Mexicans from doing so. Marcus contended that because Mexican-descent peoples were considered white in the legal sense, that the Mendez claim of racial discrimination was founded. Marcus, however, believed that the Mendez case would be bolstered if it could be show that racial segregation of Mexican-descent students was an endemic practice.

On March 2, 1945, Marcus filed *Mendez, et al v. Westminster School District, et al*, 64 F.Supp. 544 (C.D. Cal. 1946), aff'd, 161 F.2d 774 (9th Cir. 1947) (*en banc*) with the federal government. *Mendez v. Westminster* challenged racial segregation in Orange County, California, specifically the school districts of Westminster, Garden Grove, Santa Ana, and El Medona.<sup>7</sup>

Throughout this process, Mr. Mendez devoted much of his personal savings and most of his time towards building a case, while Mrs. Mendez oversaw the running of the farm. The case would eventually be funded in part by the League of United Latin American Citizens (LULAC), but a great majority of the financing came from the Mendez family, mostly from farm profits.<sup>8</sup>

Consequently, Mendez and his lawyer spent the better part of the next year driving throughout the surrounding cities speaking with Mexican families who had encountered similar treatment, and convinced them to become plaintiffs for their case.





Image 1.1: Felicitas and Gonzalo Mendez, circa 1945.  
Source: [http://mendezvwestminster.com/\\_wsn/page2.html](http://mendezvwestminster.com/_wsn/page2.html)

The Mendez family would eventually be joined by four other families who would serve as lead plaintiffs in a federal court case representing more than five-thousand school-age, Mexican-descent children who were being forced to attend segregated schools at that time in California. The U.S. District Court, Southern District of California, found in favor of the Mexican plaintiffs and ruled that schools must be open to all students, regardless of race or national-origin. However, the decision was appealed by the defendants. During the appeals process, the efforts on the part of the Mexican-descent plaintiffs were bolstered by a mosaic of ethnic minority organizations as well as civil rights groups that worked in collaboration to challenge educational segregation. The American Civil Liberties Union (ACLU) and National Lawyers Guild (NLG) had filed *amicus curiae* or “friend of the court” briefs on the side of the plaintiffs during the original court proceedings. These two organizations were later joined by the National Association for the Advancement of Colored People (NAACP), the American Jewish Congress (AJC), and the Japanese American Citizens League (JACL), all of whom also filed *amicus curiae* briefs in support of Mendez.

Due to the collaborative efforts of ethnic minority organizations as well as civil rights

groups the Mendez case was victorious. The Ninth Circuit Court of Appeals upheld the federal court ruling on the grounds that Mexican and Mexican American students could not be segregated because the California Education Codes did not provide such a stipulation. The Mendez ruling would eventually facilitate the integration of Mexican-descent students in California, 80-percent of whom were attending Mexican-only schools in 1940.<sup>9</sup> The Mendez ruling was also crucial because it reestablished Mexicans as legally and racially white; thus Mexican-descent peoples in California were entitled to the same rights and privileges granted to white Americans.

The Mendez case was a significant victory for Mexican Americans in California, but had broader implications beyond Mexican-descent peoples living elsewhere in the United States. The discrimination faced by the Mendez family was also deeply rooted in the treatment of people of Chinese and African descent, and consequently, the battle to end segregation in public schools drew on this shared history of racism. For example, the NAACP's brief written by Robert L. Carter and overseen by Thurgood Marshall on behalf of the Mendez family during their appeal would later serve as the model for the argument in landmark case of *Oliver Brown et al. v. Board of Education of Topeka, et al.* 347 U.S. 483 (1954) which would permanently overturn the "separate but equal" doctrine established by *Plessy v. Ferguson* (1896). Additionally, the Mendez decision extended to Asians and Native Americans. After the Mendez decision, California Governor Earl Warren proposed legislation to abolish Section 8003 of the Education Code which established "separate schools for Indian children, excepting children who are wards of the United States Government...and for children of Chinese, Japanese or Mongolian parentage."<sup>10</sup> The eradication of these school codes allowed Asian and Native American students to attend white schools, and significantly, implemented the landmark California Supreme Court decision established in *Tape v. Hurley* 66 Cal. 473 (1885), a prior state-level case meant to desegregate Chinese students in California schools. The Tape decision found that Chinese students could

attend the white school if no other school existed for them. In response to the Tape decision, white school board leaders built school for Chinese children to attend, and thus segregation continued between Chinese and white students. Warren's legislation, however, outlawed the practice of segregating Chinese students, which had been in place since the Tape case in 1885. Furthermore, the Mendez decision abolished racially-integrated schools in California, and in so doing, set forth an important legal precedent for anti-segregation cases throughout the Southwest. Following the Mendez case, in 1948 and 1950, federal district courts ruled that *de jure* segregation of Mexican American school children was unconstitutional in Texas and Arizona.

As the Mendez case shows, ethnic minority parents such as Gonzalo and Felicitas Mendez understood the role of public education as an integral quality of American democracy and a basic feature of modern citizenship. The value Americans held for a good education was evident through the development of free public education. Immigrant parents of minority students, contrary to common belief, wanted their children to have opportunities afforded by public education. From the mid-nineteenth to the mid-twentieth century, immigrants and citizens of Chinese, Mexican, and African descent have had to fight for the right to an education in the United States; first for the right to attend desegregated schools and later for the right to enroll in the same schools as white students. The Chinese Exclusion Act, National Origins Act, and Black Codes legally reinforced the social discrimination already practiced against Chinese descent, Mexican descent, and African Americans, the effects of which could be seen in the segregation of these children in schools. To challenge entrenched racism, resilient relationships cultivated among lawyers, community groups, and parents of school-age children, African Americans, Chinese Americans, and Mexican Americans organized to dismantle the doctrine of "separate but equal" in public schools.

## **Chapter One: The Origins of Educational Segregation**

African Americans, Chinese-descent and Mexican-descent peoples share a common history of white racism in the United States. The social construction of each group as a perpetual underclass, non-white, or alien-citizens was dictated by laws and legal codes that effectively racialized African Americans, Chinese-descent and Mexican-descent peoples as “others,” and until 1954,” justified racial segregation in U.S. public school. Segregation in schools, nonetheless, has its roots in the institution of American slavery and its legacies. While slavery may have initially been conceived as a temporary institution, it became an enduring feature of the American South as it was viewed as necessary for the function of southern life.<sup>11</sup> In fear of slave rebellions, southern states outlawed the education of enslaved Africans, and efforts on the part of white circumscribed black access to literacy as early as 1740. In that year, South Carolina became the first colony to formally enact anti-education legislation aimed to prevent Blacks from obtaining the ability to read. Passed in the wake of the Stono Rebellion, the first slave rebellion prior to the Revolution which was led by a literate slave, the legislation stated that anyone found teaching slaves to write could be fined as much as one hundred pounds. In 1755 Georgia modeled its anti-education laws on the South Carolina precedent, extending them in 1770 to ban the teaching of reading as well as writing to slaves.<sup>12</sup>

While eighteenth-century southerners curtailed slave education primarily through prohibitive legislation, their nineteenth-century equivalents also employed extra-legal means. Between 1800 and 1835, southern states passed laws making it a crime to educate slaves.<sup>13</sup> Violent attacks on black institutions became an increasingly common approach among whites to subdue African American education during the nineteenth century. In 1811 whites in Richmond, Virginia, burned down the school founded by a free black, Christopher McPherson. Born into slavery, McPherson succeeded in securing two years of formal schooling with his master's

consent. Obtaining adequate knowledge to support himself as a clerk and an accountant, McPherson was emancipated in 1792, though he continued to work for his master in Norfolk for some time. He subsequently relocated to Richmond, where he opened a night school for freemen and enslaved black, young men in 1811. Shortly thereafter he reported that he was instructing twenty-five black pupils in arithmetic, geography, English grammar, and religion. After McPherson published an advertisement for his establishment in a local paper called the *Virginia Argus*, Richmond whites began to stir to close the school, deeming McPherson's educational activities improper. He was soon charged with disturbing the peace and disorderly conduct. After these prosecutions proved unsuccessful, local whites took the matter into their own hands by setting the school ablaze and confining McPherson to a Williamsburg insane asylum. In the aftermath of the Richmond burning, it did not take white Virginians long to formally proscribe slave education, as Georgians and South Carolinians had done before them. In 1819 the state legislature outlawed instructing slaves to read or write. Less than one year later, local authorities put the statute to the test, raiding another black school in Richmond and closing it permanently.<sup>14</sup> As a result, white planters were able to maintain complete dominance over their slaves.

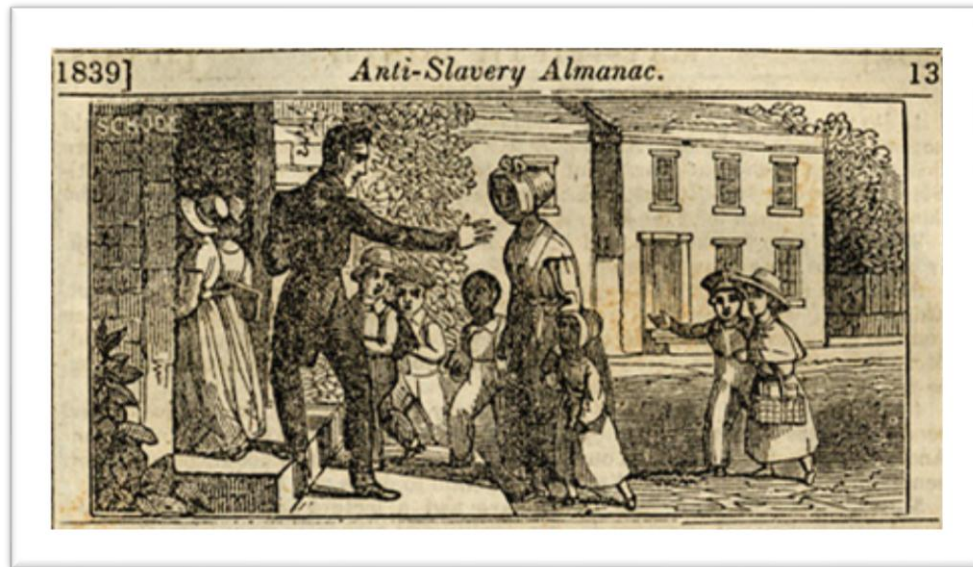


Image 1.2: “Turned Away from School”  
Source: The *Anti-Slavery Almanac*, 1839.

At the same time in the North, the public school movement was gathering momentum. In 1827, Massachusetts passed a law requiring the establishment of high schools in towns with populations of over five hundred families. The drive to achieve universal education was encouraged both by the idea that power rests with the people in a democracy, and thus for a democratic nation to be well governed, the citizens must be educated, as well as by a deep-seated belief that public education was an essential tool in Americanizing the children of immigrants. Horace Mann, a Massachusetts state politician, was the leader behind this movement and promoted the idea that high-caliber; tax-supported public schools could produce efficient workers, promote health, eliminate poverty, cut crime, and unite a society fragmented by class and ethnicity.<sup>15</sup> Mann championed the idea of education for all citizens, including African Americans, however, this view was not popular, and Mann’s main successes were in establishing free public schools throughout the North.<sup>16</sup>

While antislavery sentiment was strong in the North prior to the Civil War, discrimination at schools in free states was also rampant toward Blacks.<sup>17</sup> One such example is that of Sarah Roberts, the five-year-old daughter of a prominent Boston printer, Benjamin Roberts, who attempted to enroll at the common school closest to her home, but was denied on the basis of her skin color and physically removed. Instead she was forced to pass by several white-only schools on her way to the black-only Smith Grammar School. Her father wrote to the state legislature and when nothing was done to remedy the situation he brought suit against the city of Boston in *Sarah C. Roberts v. The City of Boston, Supreme Court of Massachusetts, Suffolk, 59 Mass. 198*, which was the first court case regarding African Americans' right to education. To argue the case, Roberts retained the services of both Charles Sumner, a young white abolitionist lawyer, and lawyer Robert Morris, who was the first black attorney admitted to the Massachusetts state bar and only the second black lawyer in the United States. Roberts' employ was illustrative of Boston's relatively liberal nature toward free blacks as compared to the rest of the country. The Massachusetts Supreme Court ultimately ruled that local elected officials had the authority to control local schools and that separate schools did not violate black students' rights.<sup>18</sup> The decision would be cited frequently to justify segregation in subsequent cases, most notably in *Plessey v. Ferguson*. Black parents in Boston, however, refused to accept defeat. They organized a school boycott and statewide protests. In 1855 the Massachusetts legislature passed the country's first law prohibiting school segregation. This action provided that no distinction based on color, race or religion should be made for any student applying for admission to any public school in the state.<sup>19</sup> Frederick Douglass reported the abolition of school segregation in Boston in his *North Star* newspaper stating, "We have always felt an interest in this Equal School Rights question. ... Our friends in Boston, will bear us witness that while resident of that city, we labored faithfully in conjunction with others, for the abolition of the Smith School."<sup>20</sup>

One of the consequences of emancipation was the flood of freed school-age African American in public schools. Congress had established the Freedman's Bureau before the end of the war, extending it in 1866, and education for blacks improved substantially during the existence of the Bureau, although in the South, real barriers were established to bar African American children from obtaining an education.<sup>21</sup> Black Codes in former-Confederate states were passed in former-Confederate states and restrictions extended to voting, holding office, and not serving on juries.<sup>22</sup> Historian Eric Foner contended that Black Codes seriously restricted African Americans stating:

“[African Americans] had no right to vote, they had no right to serve on juries. They had no right to testify in court in cases involving white people. They could not own guns the way white people could. And most importantly, they had to go to work for white people. They had to sign yearlong labor contracts with a white employer. Otherwise, they would be called vagrants, arrested, fined, and if they couldn't pay the fine, they'd be auctioned off to some white person who could pay the fine.”<sup>23</sup>

Black Codes effectively confined African Americans to the status of second-class citizenship, and restricted their ability to protect and advocate for themselves through legally recognized means. Black children were enrolled in school systems at percentages higher than those of whites in the South in the 1870s, but still less than five percent of the Black population were attending school. However, within a decade this began to change with the demolition of the Bureau, and as whites exerted greater control over the state political systems and passed discriminatory laws. Reconstruction led to resentment and bitterness in southern states, and racial prejudice grew as uneducated blacks played significant roles in state governments.

By 1870, more than five years after African Americans were freed, less than ten percent of all free Blacks attended school, compared to sixty-one percent of their white peers. Given that



public school was virtually non-existent in the South, it seemed to reason that any education that African Americans would receive would be in free states, although this was not necessarily the situation as the case of Harriet Ward of San Francisco, California, showed.<sup>24</sup> On July 1, 1872, Harriet Ward attempted to place her young daughter in Broadway Grammar School closest her home in San Francisco. The girl was rejected on the basis of her black skin. The case reached the California Supreme Court and was decided in the winter of 1874 with the court upholding the constitutionality of “separate but equal” facilities under California law. The Court ruling stated:

“But we find a full answer to this proceeding in the fact that colored children are not excluded from the public schools, for separate schools are provided for them, conducted under the same rules and regulations as those for the white, and in which they enjoy equal, and in some respects superior educational advantages. So far as they are concerned, no rule of equality is violated—for while they are excluded from the schools for the white, the white are excluded from the school provided for the Negro.”<sup>25</sup>

The Court reasoned that the Fourteenth Amendment forbid any state to hinder the privileges or immunities secured to every citizen. However, they held that the right of admission to public schools was not one of those privileges and immunities, and that public schools were the creation of states, and as such were at the discretion of the state lawmakers. Consequently, this ruling legally restricted the privileges protected by the Fourteenth Amendment and presented a legal barrier which hindered African Americans demands for equal schools and protection under the law.<sup>26</sup>

Consequently, although public education was spreading in the North blacks were often denied access, and education was a privilege enjoyed by a very small minority. While people in the North believed that African Americans should be free, it is clear their education was of little concern. Most states and territories required young people to attend school but most required

African American children to attend segregated, inadequate institutions. By the late nineteenth century, all of the former Confederate states had passed laws segregating Negroes from whites. Sharecropping and other forms of economic exploitation and discriminatory laws in place by the 1890s created living conditions for blacks similar to slavery.

In the post-bellum South, however, differing views on educating free blacks persisted in the South in the decades after Reconstruction. Due to their need for children as farm laborers, planters resisted most attempts to expand educational opportunities for black children. Southern planters feared that schooling would cause African Americans to either leave menial agricultural work or to demand higher wages. Additionally, planters opposed compulsory education laws because they depended on the use of child labor. Consequently, between 1880 and 1900 the number of black children in the South increased by 25 percent, but the proportion attending public school decreased.<sup>27</sup> There were also groups of white southerners who believed that the expansion of education was necessary for the industrialization of the South. These white southerners supported schooling for African Americans as a means of teaching them industrial habits and keeping them on the lowest rungs of southern society. To counter rejection in public schools and public places, churches were established as both institutions to both worship and to learn basic literacy skills.<sup>28</sup> Sunday and night schools held in local churches was often the first place adults and children learned to read and write for the first time.<sup>29</sup>

The course of public education and its various perspectives, nonetheless, were most vociferously articulated within the African American community. The disparate approaches to education was defined by two major black leaders—Booker T. Washington and W.E.B. Du Bois. As African Americans fought racial prejudice in the United States following the Civil War, some black leaders proposed a strategy of accommodation. In order to achieve economic success and physical security the theory of accommodation called for African Americans to work with whites

and accept some discrimination. This idea proved controversial. Booker T. Washington was the champion of accommodation. Du Bois maintained that no compromise with white demands should be made and that black education should be concerned with educating future leaders of the black community.<sup>30</sup> The Plessey decision affirmed the legality of Jim Crow and segregation in all areas of public and private life. By 1905, Black leaders, troubled with segregation and the inadequate education of their children, met in Niagara Falls, Ontario, where facilities were open to Negroes, and discussed what might be done to achieve “Negro freedom and growth”.<sup>31</sup> Led by W.E.B. Du Bois the group continued to meet annually to develop a new organization that would lead their race from unequal schools to better education. Continuous race riots and lynchings led to the establishment of the National Association for the Advancement of Colored People (NAACP) in February, 1909. The goal from its inception was to abolish enforced segregation and establish equal educational opportunities for Negro children. It was clear, by the early-twentieth century that the Plessey decision stood as a major obstacle to achieving better schools for Negroes. The Supreme Court had promulgated the principle of separate but equal, however, the emphasis was on separate, not equal. For instance, per-pupil expenditures, in South Carolina, for white students were ten times higher than that spent on colored students, and in Florida, Georgia, Mississippi, and Alabama, the ration was five to one.<sup>32</sup> In addition, the majority of public expenditures were utilized to support white, segregated schools, on average four to five times more than that spent on blacks, and large numbers of black children were kept working in the fields full time.<sup>33</sup> In 1900, 49.3 percent of African American boys between the ages of 10 and 15 were working full time, while 30.6 percent of girls in the same age category were employed under the same condition. The majority of these children, 404,225 out of 516,276 were employed as unskilled farm labor.<sup>34</sup> Dual systems to educate black and whites separately had become the rule in the American South.

As Reconstruction came to an end, these restrictive laws were further enforced through the Jim Crow-era segregation of blacks throughout the U.S., including its northern states. African American children, many of whom had been born as freeman, were prohibited from attending schools with white children. The development and enforcement of racially- motivated discriminatory Black Codes against African Americans, was similar to the exclusionary immigration laws facing the Chinese and Mexicans.

## **Chapter Two: Segregating Chinese and Mexican Students**

Restrictive immigration legislation aimed at people of Chinese and Mexican descent reinforced and furthered discriminatory practices against people of these ethnicities. The Chinese Exclusion Act, passed in 1882, greatly hindered Chinese immigration to the United States by placing harsh restrictions on what social classes could enter the country.<sup>35</sup> The National Origins Act, implemented in 1924, set the quota at 2 percent of each nationality residing in the United States in 1890.<sup>36</sup> These laws virtually excluded all Chinese but left the door open to peoples from the Western Hemisphere. Initially immigration from the other Americas was allowed, but measures were quickly developed to deny legal entry to Mexican laborers.<sup>37</sup> Restrictions on Mexican laborers were increased at the borders and Mexicans found themselves being racially identified.<sup>38</sup> Visa requirements and border-control policies severely affected Mexicans. Despite these exclusionary laws Chinese and Mexicans took advantage of loopholes and cracks in the governments enforcement practices in order to enter the United States.

Chinese and Mexican American immigrants who successfully entered the country were isolated residentially and were racially discriminated against. These immigrants were both economically feared and culturally detested and they were not perceived by society to possess any inherent rights. Along with the many single, male Chinese and Mexican immigrant laborers who flooded into America in the late nineteenth and early twentieth centuries came immigrant families. The influx of school age immigrant children led to social, political, and racial debate. Compulsory public education for all school age children had recently been established in the United States and the question of whether that extended to immigrant children was brought to light. Many white citizens did not view education as a right which these immigrants possessed, and believed that their purpose was to provide cheap labor. Regardless of the United States' claim

to provide equal opportunity for all, a long struggle for educational equality was about to ensue.

Race was not mentioned in the early school laws of California. In the early 1850s, however, there was resentment towards the Chinese influx of cheap laborers among white Californians and, in 1855, section eighteen of the school law or the “white children” clause codified the denying of public school attendance to all non-white children. Thus, the struggle began for Chinese and other non-whites to struggle via the courts to obtain their rights in the public schools of California. Chinese parents in San Francisco began petitioning to have their children educated in the public school; however, the vote to educate Chinese students lost by a vote of 7-2 for fear that it would drive away white children from the school.<sup>39</sup> As a result of Chinese prostitution, the Chinese were being stereotyped as dirty, sexually promiscuous, and unintelligent. Many white parents did not wish to have their children associating with Chinese children because they believed them to be morally corrupt. The schooling of Chinese children was not again brought before the school board for four years. In September, 1859 the first Chinese school was established in San Francisco and Chinese children began being educated in a separate, but free, school. The Chinese school would be opened and closed numerous times over the next seven years during a constant struggle between Chinese parents advocating for their children’s education and the school board of San Francisco arguing there were not enough funds or Chinese pupils to provide for the school. Of all the San Francisco school superintendents during these struggling years, John Pelton was the most progressive in wanting to extend the benefits of public education to the Chinese. Pelton proposed that the Chinese School needed a teacher who could speak both Chinese and English, a recommendation which preceded bilingual education in the United States by a hundred years. In his Annual Report to the board Pelton stated, “From the census returns we find that there are 179 Chinese children in this city, under fifteen years of age. Of these, only thirty-seven are attending school.”<sup>40</sup> Pelton’s report described

the alarming number of Chinese children who were not receiving an education because of their inability, due to law, to attend any public school except the Chinese School which could not accommodate such a large number of children. Yet, the report also showed that the Chinese were paying one twentieth of the cities' total taxation, none of which was going towards financing a Chinese school at that time.

Due to the negative feeling towards Chinese at the time, Pelton's term did not last long and James Denman, who had closed the Chinese School ten years before, was re-elected. From 1868 to 1870, the Chinese School was moved to a location which fell in Caucasian territory. The common practice of insulting, abusing, and throwing stones at Chinese students caused a decline in attendance at the Chinese School. Ironically, it was during this time that the Burlingame Treaty, an agreement between the U.S. and China that provided for the migration and emigration of their citizens from one country to the other, was passed. Under the most-favored-nation-clause, each was to grant the same privileges, protection and right of residence to citizens in reciprocity. The School Law of 1870, which was sparked by an upsurge of racism against the increasing number of Chinese in California, was changed to provide for separate schools for children of African and Indian descent.<sup>41</sup> Chinese children were completely omitted from the provisions of the law and Denman had the legal right to close the Chinese School permanently. The Chinese School was closed on March 1, 1871 and for the next fourteen years public schooling was not offered to the Chinese in San Francisco.<sup>42</sup>

While these ethnic groups each had their own experience with educational inequality, they also shared a collective experience of being racialized and isolated within society through a number of enacted racial laws. Passed in 1882, the Chinese Exclusion Act was a climax to more than thirty years of progressive racism.<sup>43</sup> Anti-Chinese sentiment had existed ever since the great migration from China during the Gold Rush, during which white miners and prospectors imposed

taxes and laws to inhibit the Chinese from success. The Gold Rush happened during a period of poverty in China, which both pushed and pulled the Chinese to emigrate.<sup>44</sup> Racial tensions increased as more and more Chinese emigrated, occupied jobs, and created competition on the job market. By 1882 the Chinese were banned from immigrating; the Chinese Exclusion Act, initially only a ten year policy, was extended indefinitely, and made permanent in 1902.<sup>45</sup> Consequently, the Chinese were identified legally as “alien” within America, and Chinese children already within the United States, many of whom were U.S. citizens by birth, were banned from attending schools in San Francisco.<sup>46 47</sup> This segregation further reinforced the Chinese peoples’ racialized status in society.

The great outward movement of Chinese people to the United States in the years from 1845 to 1877 was a direct consequence of the discontinuance of slavery in the British Empire. When the California gold rush occurred in the 1850s, Chinese immigration dramatically increased.<sup>48</sup> In 1849, the Chinese population in California was fifty-four men and one woman; by 1852; the Chinese population had swelled to 18,026 men and 14 women and continued to steadily grow.<sup>49</sup> As evident by these numbers, on the mainland, migration policies and practices encouraged cheap male labor to enter the country, while women’s entrance was limited. In American society there was widespread fear and discrimination against Chinese women who were believed to be morally corrupt and sexually promiscuous.<sup>50</sup> Consequently, Chinese women were heavily interrogated and had to prove with testimonial and documentation that they were women of a high class. For Chinese immigrants to the United States, especially Chinese migrants to California and Hawaii, the history of legal restrictions resulted in unfavorable conditions for family formation.<sup>51</sup> As a result, the Chinese developed tight-knit communities throughout the mining districts of California, which relied heavily upon relationships among kith. However, their presence became an increasing agitation to the white citizens of the Southwest. Legislation



to remedy the “Chinese problem” was proposed several times in Congress in the 1870s because white constituents were angered by influx of cheap immigrant labor.<sup>52</sup> However, it was not until 1882 that The Chinese Exclusion Act, the most damaging legislation to Chinese immigration, passed abolishing Chinese laborers from immigrating for ten years, and officially prohibiting state or federal courts from granting citizenship to Chinese, which prevented the reunification of transnational families.

The Exclusion Act made it legally impossible for Chinese laborers to enter the United States. Chinese immigrants who did arrive at the dock had to endure hostile and lengthy interrogations, which scrutinized minute details about their life, family, hometown, and any other specific question officials could think of. Chinese women could enter only if they qualified as one of the exempt classes, and the Act severely limited the number of Chinese women who came to America. As a result of Chinese women being virtually banned from entering the United States, with the exception of merchant’s wives who had to go through heavy interrogation, Chinatowns were inhabited mostly by men and prostitution became popular<sup>53</sup>. In San Francisco Chinese prostitutes were common because many Chinese girls were sold by poor parents, lured, or kidnapped and then resold into slavery or prostitution once in America.<sup>54</sup> Chinese prostitutes were highly discriminated against and because of racial prejudice were consistently singled out for moral condemnation, despite the fact that there were white and Mexican American prostitutes as well.<sup>55</sup> The rampant prostitution in the predominantly male towns brought negative attention to Chinese women, and reinforced the idea that Chinese women were immoral and vile and would taint white society.<sup>56</sup> Consequently, Chinese prostitution perpetuated white citizens’ belief that Chinese would corrupt society and furthered segregation of the two races. The few women who were able to get through were the wives and daughters of merchants, however rigorous enforcement of the Act, along with the implementation of anti-Chinese measures regulating

prostitution, such as the Page Law of 1875, prevented even those women with legitimate claims from entering the country and made immigration to America a challenge for any woman.<sup>57</sup> Ironically, because of prostitution Chinese women were faced with near impossible obstacles when trying to enter the United States, and the immigration laws preventing women from entering for fear of immorality prevented Chinese families, which would have solved the prostitution problem, from forming. To remedy this discrimination and difficulty the Chinese developed tight knit communities among kith and kin, which provided relationships and support that helped them enter the country. Through reliance on family and friends Chinese were able to enter or re-enter the country by depending on these people for advice, financial support, and evidence which proved their right to enter the country.<sup>58</sup> Friends and family already in the U.S. would vouch for their character, provide them with affidavits and letters which supported their class position, and often conjure paperwork which proved false family relations were already within the country.<sup>59</sup> When Chinese friends or family, who already lived in the United States, would come to testify on their behalf they were often interrogated about how they entered the country which meant they placed themselves at risk as well.



Image 2.1: Chinese Girls' Presbyterian Mission Home at 933 Sacramento St. in San Francisco, circa, 1885. Source: Oakland Museum of California, California's Perspectives on American History, Thomas Housework, photographer.

For the Chinese women who were granted entry, life in America was difficult; they spoke little if any English, had no means to support themselves, and were confined within Chinatown, where they continued to abide by the patriarchal views of their home country and were subordinate to men. However, even though the home was a source of oppression for Chinese women because they were responsible for all housework and child care responsibilities, it was also a source of empowerment. Unlike in China, where several generations often lived in the

same house, in San Francisco's Chinatown the typical family structure was nuclear, and each family had their own house. Thus, Chinese women in America were not forced to be submissive to controlling in-laws and the scarcity of women and common goal to survive were issues that began to give women more control in their relationship with their husbands.<sup>60</sup> Chinese women ran the household, raised the children, and often made important contributions to the family's financial situation by taking on domestic jobs they could complete from home such as sewing, washing, or caring for boarders.<sup>61</sup>

As a result of perceived rampant Chinese prostitution, Chinese women were summarily discriminated against by the rest of society and immigration restrictions against the Chinese were enforced strictly as a way of protecting white U.S. citizens from these supposed morally corrupt people. Chinese women who were able to enter the country often spent most of their time in the home attending to their children and housework. However, Protestant women had moved West by this time and were eager to spread Christianity to the Chinese by visiting their Chinatown homes. Thus, Chinese women began to realize how isolated they were from the rest of society and recognized that restrictions were placed on Chinese who were able to make it into the country as well. After the passing of the Chinese Exclusion Act, Chinese children already within the United States, many of whom were U.S. citizens by birth, were banned from attending schools in San Francisco.<sup>62</sup> Consequently, Chinese mothers were particularly open to having missionaries provide their children with an education during this time. While these visits by missionaries won few converts to the Christian religion they did serve to educate Chinese American children in English and mothers were very interested in their children learning to read and write.<sup>63</sup> The Chinese established essential relationships among friends, neighbors, and family which developed into large tight knit Chinese communities. Together they battled against laws and the ways they were enforced, through both the judicial system and protests. Community organizations hired

lawyers and used courts to affirm the rights of merchant families, returning laborers, and American citizens of Chinese descent who were attempting to re-enter the country.<sup>64</sup> The Chinese consulate or the Chinese Six Companies sponsored many of the early court cases. Both Chinese diplomats and working-class immigrants protested American exclusion policies in various ways such as newspaper editorials, petitions and letters to politicians.<sup>65</sup> These kith and kin relationships and community organizations led to the development of Chinese towns and residential communities and became support systems for Chinese economically, politically, and culturally. However, these communities also isolated Chinese from the rest of Americans and made them a recognizable “other” within society. Consequently, Chinese became targets both because they were racially identifiable as an economic threat to white American laborers and because they were culturally and racially separate.

Similar to the exclusion which Chinese students were experiencing, Mexican students were banned from attending schools with white children and had to fight for the right to receive an education. The intentional separation of Chicano students from their white peers in public schools began in the post-1848 decades following the Treaty of Guadalupe Hidalgo. The signing of the Treaty and the U.S. annexation, by conquest, of the current Southwest signaled the beginning of decades of persistent, pervasive prejudice and discrimination against people of Mexican origin that lived in the United States. Subsequently, racial isolation of school children became a normative practice in the Southwest, despite there being no legal statutes to segregate Chicano students from Anglo students. Similarly, the large influx of Mexican immigrants would be discriminated against and racially constructed as non-white due to the threat they posed economically and morally. In the last two decades of the nineteenth century, Mexican immigrants began arriving in the United States in earnest, a pattern which continued until the beginning of the Great Depression. From 1860 through 1880, fifty-five thousand Mexican

workers immigrated to the U.S. and found themselves in areas which had just recently belonged to Mexico; 63 percent in Texas, 14 percent in California and 7.6 percent in New Mexico.<sup>66</sup> By this time, the incorporation of Mexican workers into the U.S. economy was sufficiently important in the headings of commercial agriculture, the mining industry, and the railroad. The working conditions and salaries of the Mexicans were deficient, the exploitation was intense and the wages very low.<sup>67</sup>

The inferior treatment experienced by Mexican laborers was also being experienced by schoolchildren of Mexican descent. Educational opportunities for Tejanos, from 1850 to 1900, were minimal and fluctuated. As early as 1892, Mexican children were being denied entrance into “American schools” in Corpus Christi, Texas. By the late 1890s, Corpus Christi Mexican School had an enrollment of 110 students, and thirty years later the same school enrolled 1,320.<sup>68</sup> The highest rate of Mexican children attending school in Texas during this time was 23.5% of school age children in West Texas in 1900.<sup>69</sup> The disadvantageous nature of this condition is emphasized by the fact that school attendance among Anglo children was consistently twice or more than that of Mexican children during this time.<sup>70</sup> Thus, Mexican youth were being consistently hindered from attaining an education, and held down in the lowest ranks of society.

The immigration intensified with the Mexican Revolution as Mexican’s had been driven from their homeland and forced to become immigrants by rural economic dislocation, which was a result of Porfirio Diaz’s modernization programs, as well as the 1910 revolution.<sup>71</sup> In the aftermath of the revolution, the Mexican government was unable to improve the lives of its citizens. During the next several decades, the crop fields in Mexico were harvesting smaller and smaller bounties and employment became scarce, and as a result, between 1910 and 1917, fifty-three thousand workers per year migrated to the U.S.<sup>72</sup> Additionally, the start of World War I led to intense Mexican immigration because there was a need for Mexican workers, not just in the

fields but in industrial positions as well. During this time period there were also work agencies in the interior of Mexico that recruited mainly for the railway and agricultural industry. The railroad had infiltrated the Southwest as a way to obtain new sources for raw materials which the ever-expanding Eastern and Midwestern industries needed. Skilled American workers were drawn to this sparsely populated area and were employed in railroads, mines, smelters, and ranches.<sup>73</sup> These industries also attracted thousands of unskilled Mexican workers who were in need of work and who proved indispensable to employers looking for cheap labor.

By the late 1920s they were the single largest group of illegal aliens.<sup>74</sup> An emergence of Mexican racialization was occurring, and the actual and imagined association of Mexican's with illegal immigration, as well as the creation of "Mexican" as a separate racial category in the census, recognized and legitimized this racialization. The legal racialization of these ethnic groups' national origin cast them as permanently foreign and inassimilable to the nation.<sup>75</sup> Despite being born in the United States with formal U.S. citizenship these racial formations of Chinese and Mexican led them to remain alien in the eyes of the nation.

While there were no regulations abolishing Mexican immigration into the United States until the 1924 Immigration Act, which viewed undocumented workers as fugitives, there was a head tax on all immigrants beginning with the 1882 Immigration Act and consistently increasing with time. By 1917, the head tax was eight dollars which when converted to today's monetary value is equivalent to \$481.00 for an unskilled worker, a considerable amount to save up for one person, let alone an entire family who was attempting to immigrate.<sup>76</sup> Thus, families often had to split up and save money in order to reunite, and Mexican communities were formed in order to offer support, comfort, and familiarity to those new to or alone in the United States. Yet, despite racial stereotypes held by white U.S. citizens, the desire for Mexican workmen as cheap labor in the truck gardening and cotton fields of Texas, the fruit farms of California, and as contract

laborers in the beet fields of Utah and Michigan was great.<sup>77</sup>

Nearby San Diego, California, the small community of Lemon Grove one of the areas where there was a demand for cheap Mexican labor. As a result, many Mexican families had emigrated from Baja California to Lemon Grove and the San Diego area in general, which offered jobs in agriculture and mining. Despite the substantial Mexican presence in the local and national labor force, some of the white residents of Lemon Grove regarded Mexicans as indolent, underdeveloped, and slow. In other words, they felt there was no value in educating the Mexicans because they were inferior and they believed they would return to Mexico. During this time period, in the early part of the twentieth century, the brown-skinned Mexican immigrant was frequently perceived as inferior to his light-skinned European counterpart. Due to the Mexican's alleged substandard nature, the practice of segregating Mexican children and children of Mexican descent in "Mexican schools" was viewed as a practical, legitimate, and accepted practice.



Image 2.2: "The 1934 1st Grade Class at the "Mexican" Wilson School in Orange County, California."

Source: <http://www.mamiverse.com/mendez-vs-westminster-4598/>



One such plan to segregate Mexican schoolchildren was developed in July of 1930 by trustees of the Lemon Grove School District, which also received the support of the Chamber of Commerce as well as the PTA. In August of 1930, the trustees held a special meeting because the “situation had reached emergency conditions,” which according to the trustees included overcrowding as well as purported “sanitary and moral” disorders that were engendered by Mexican children.<sup>78</sup> There was no attempt to tell the parents of the children who would be affected by the board’s decision. It was apparent the board wished to delay a battle with the parents and avoid a controversy and, therefore, they used the element of surprise. According to Robert Alvarez, Jr., the son of the plaintiff, the members of the board “decided against any official notice so as not to commit themselves in writing.” On the 5th of January, 1931, the day when the Lemon Grove students returned to class following the Christmas break, Principal Jerome T. Green placed himself at the front doorway of the school to greet and admit the white students, and to inform the Mexican children they could not enter. He told the Mexican children their desks and personal effects had been transported to a new two-room school, which became to be known as the “caballeriza,” literally a place for horses.<sup>79</sup> The parents of the Mexican students were infuriated and wanted their children to continue at their former school site, but had little power to do anything about it. They had no way of countering the Chamber of Commerce’s backing of the segregation plan because they held no influential positions in the Chamber; when the matter was deliberated at a PTA meeting, none of the parents of the Mexican children were present because the PTA essentially was a white organization.

Although the parents seemingly were operating from a position of weakness, they were neither lacking in courage nor uninformed of their rights; they adamantly refused to send their children, numbering seventy, to a school that resembled a barn and was branded by an inferior instructional program. Only three children attended class at the Mexican school. The parents

quickly planned neighborhood meetings. At one of the meetings they formed *El Comité de Vecinos de Lemon Grove* (The Lemon Grove Neighbors Committee) and sought support from the community as well as legal assistance. Initially, the leaders of *El Comité* sought guidance from Enrique Ferreira, the Mexican Counsel. Ferreira, whose power to intervene legally was quite limited, did arrange, however, for a pair of San Diego attorneys, Fred C. Noon and A.C. Brinkley, to serve as counsel. To counter the parents' boycott of the *caballeriza*, the Lemon Grove School Board expelled students whose absences exceeded 20 days. A social worker also was quickly sent to meet with some of the parents who were receiving assistance from the county. The social worker's deployment was a deliberate attempt to intimidate through bullying tactics and unveiled threats of deportation.<sup>80</sup>

With the assistance of the attorneys Noon and Brinkley, the parents filed a suit, which characterized the board's action as an explicit attempt to segregate children on the basis of race. The suit indicated ninety-five percent of the children who were segregated were born in the United States and, therefore, were entitled to the rights and privileges afforded to all citizens. Furthermore, the parents demanded a quick resolution to the matter to "prevent serious embarrassment and to determine the legal right under the laws of California, of children of Mexican parentage, nationality and or descent to attend the public schools of California on the basis of equality with other Americans."<sup>81</sup> The lawsuit was listed under the name of Roberto Alvarez, Jr., an exemplary student who spoke fluent English. At the time of the case, Roberto was ten years old. The suit was filed in the Superior Court of California in San Diego. The suit disputed the Lemon Grove trustees' authority to build and maintain a separate, segregated school for Mexican children and children of Mexican descent. The creation of the segregated facility was regarded by the parents as illegal and detrimental to the children as well as a danger to the welfare of the Mexican community. In addition to the battle that would take place in court, the

parents used the mainstream media to educate the public and garner support for their cause. Newspaper articles appeared in Los Angeles, California, as well as in Tijuana, Baja California, Mexico. *La Opinión*, a prominent Spanish-language paper founded in Los Angeles in 1926, featured a page-long article, “No Admiten los Niños Mexicanos” (Mexican Children Denied Admission). The article included a letter from *El Comité* indicating the Lemon Grove board’s action was not only racist, but also illegal insofar as the board members sought to distinguish Mexican children from children of other nationalities and send them to a separate, inferior school.<sup>82</sup>

The case of the *caballeriza* was heard in the Superior Court of San Diego County on February 24, 1931. The presiding judge was Claude Chambers and he speedily and boldly indicted each member of the Lemon Grove board for illegally segregating the children. The board members denied the allegations. The rationale for the board’s action was based on the pretense of improving educational opportunities for the Mexican children and the children of Mexican descent. They indicated the facility was an Americanization school in which the “deficiencies,” linguistic and otherwise, would be corrected. The board felt by sending the children to the segregated facility, the *caballeriza*, the “deterioration” of the white children would be lessened if not reversed. Furthermore, through the teaching of American customs, the reputation of the Mexican children invariably would rise to the alleged level of superiority of the white students.<sup>83</sup> The board members described the school as a new facility, certainly not barnlike, with a fully equipped playground that could accommodate nearly eighty students. They also indicated the school’s locale was selected for reasons of safety. The *caballeriza* had been situated in the barrio, the Mexican area of Lemon Grove, allegedly for the welfare of the children who no longer would be required to cross the busy main boulevard as they did while attending their former school, Lemon Grove Grammar School. The board members also indicated that the great majority

of Mexican students, many of whom were older than their white counterparts in corresponding grades, had been deemed as lacking English proficiency and, therefore, required special attention. The defendants argued the Mexican students' language, Spanish, was a tremendous handicap and a segregated school for Mexican children would protect them from unnecessary competition with the white students, thereby mitigating feelings of inferiority.<sup>84</sup> The board members contended the purpose of the building of the new school was not a racist attempt to segregate children, but to provide the "backward and deficient" students a better instructional program than they had received at their former school.<sup>85</sup>

During the course of the trial many witnesses took the stand. Ten witnesses for the plaintiffs decried the false generalizations regarding the students' academic skills, and much of the testimony dealt with the actions, comments, and attitudes of the school staff and board. The list of those who testified at the trial included the school's principal, Jerome T. Green, the president of the Chamber of Commerce, as well as the *caballeriza*'s teachers. When Judge Chambers asked if allowing Mexican children to mingle with white students would facilitate the acquisition of English, the board and members of the instructional staff failed to respond. When the plaintiff's counsel, Fred C. Noon, queried one of the teachers as to why the Mexican children were separated from the white children, the defendant stated segregation was not only preferred, but truly necessary for a program of personalized instruction. Furthermore, it was revealed during the course of the trial that some of the Mexican children lived in the white neighborhood and some of the white children lived near the barrio. Therefore, the board's action had little to do with the children's welfare and safety insofar as the school's locale placed white as well as Mexican children at risk because members of both groups had to cross the busy main boulevard to attend their respective schools. On the 30th of March, 1931, Judge Chambers rendered his monumental decision. He ruled in favor of the plaintiffs and refuted each claim made by the members of the

Lemon Grove School Board. According to Leonel Sanchez, a writer for *The San Diego News Tribune*, Judge Chamber's ruling indicated the board could undeniably "separate a few children to offer special instruction," but "to separate all the Mexicans in one group can only be done by infringing the laws of the State of California."<sup>86</sup> The judge demanded an immediate reinstatement of the Mexican children in the main school, Lemon Grove Grammar School. Judge Chambers declared the separation of the Mexican children was a blatant act of segregation and, moreover, affirmed that Mexican children legally were entitled to attend Lemon Grove Grammar School on the basis of being equal to white children.

Notwithstanding the case's low historical profile, the Lemon Grove matter, indeed, was and is significant. According to Alvarez in his article "The Lemon Grove Incident: The Nation's First Successful Desegregation Court Case", the case serves as testimony to the Lemon Grove Mexican community who successfully used the legal system to protect the rights of their children, the great majority of whom were U.S. citizens.<sup>87</sup> The case also serves as testimony to the courageous Mexican American parents who doggedly safeguarded their children's right to a proper education in a desegregated environment. Due to the parents' diligence, tenacity, and courage, they prevailed in a prominent civil rights case and overturned an unconcealed, malicious discriminatory practice. In California, the establishment of "Mexican" schools was commonplace. Cities such as Pasadena, Santa Ana, Ontario, and Riverside, as well as Los Angeles, featured separate educational facilities for Mexican children and children of Mexican descent. Furthermore, in 1931 more than eighty percent of California school districts with significant Mexican-descent populations were segregated and many of the remaining twenty percent maintained segregate practices, some of which endured into the 1950s.<sup>88</sup> It would take many more years of organizing community support and struggling in the courts before the construction of Mexican Americans as white and segregation of Mexican American students would formally

end.



Image 2.3: “No Dogs, Negroes Mexicans”

Source: <http://www.umbc.edu/cadvc/foralltheworld/section1/segregation.php>

As Mexican’s numbers increased and they integrated themselves as an essential part of the American economy, school boards across the Southwest developed a *de jure* segregationist policy that was to last until the mid-twentieth century. Segregation based directly on race or nationality was outlawed in the five southwestern states.<sup>89</sup> There were no laws that mandated the practices of segregation; however, educators did invoke the state power granted to school administrations to adapt educational programs to the special needs of linguistically and culturally distinct communities. Consequently, the superintendent of the Santa Ana, California, School District utilized a state attorney general’s opinion upholding segregation as a lawful educational policy for dealing with the special requirements of Mexican children.<sup>90</sup> By the mid-1930s eighty-five percent of surveyed districts in the Southwest were segregated in one form or another. In some areas, such as in the south Rio Grande valley of Texas, strict segregation existed through most of the grades. While, in other areas, such as smaller districts in California, no uniform pattern of segregation prevailed. Nonetheless, *de jure* segregation of Mexican children was

common throughout the Southwest, and the practice was accepted by society as separating substandard students so not to taint the education of white children.

Not only were Mexican students segregated in separate schools from their white peers, but the schools they were assigned to were far inferior. For instance, in the mid-1920s in Santa Paula, California, the Mexican school enrolled nearly 1,000 students in a schoolhouse with eight classrooms, two bathrooms, and one administrative office, while the Caucasian school enrolled less than 700 students in a building with 21 classrooms, a cafeteria, a training shop, and multiple administrative offices.<sup>91</sup> The Mexican students attended a school with a much higher student per class ratio and inferior facilities, and thus received a very unequal education. Despite the crucial role which Mexican and Chinese immigrants played in the development of the Southwest's economy, they were viewed by Americans as culturally pre-modern and racially inferior. The commonly held belief was that the only way to redeem these immigrants was to Americanize them, and public schools were viewed as the principal institution for this job.

In urban areas of the Southwest, Mexican immigrants' main opportunities for employment were in manual labor jobs, consequently industrial education became a major component of the curriculum in "Mexican schools."<sup>92</sup> In the racially segregated public schools of El Paso, for example, the type of training offered in the Mexican schools complemented the border city's industries and businesses. Most Mexican students in this area left school by the fourth or fifth grade to supplement their family's income, and the schools did nothing to combat this problem.<sup>93</sup> Rather, school officials argued that because Mexican children had a need to work early schools should focus on manual and domestic education that would best assist Mexicans in finding jobs. Mexican students were believed to be incapable of competing with white students on an academic level, and school officials encouraged the view that these students place in society was being employed as cheap labor.

The experience of Mexican students in El Paso was not unique and, in 1921, the *New Mexico Journal of Education* also recommended industrial education for the Spanish speaking population so that they may learn the intrinsic value of work.<sup>94</sup> In Los Angeles, garment manufacturers, the Chamber of Commerce, and public schools worked together to open a trade school in the early 1920s which businessmen hoped would meet the city's need for semi-skilled workers.<sup>95</sup> The cooperative efforts of private businesses, community organizations, and public schools working together to segregate these students and perpetuate their socioeconomic class illustrates that the inferior view of these students had infiltrated every part of society. By the 1930s in California, vocational training represented the core curriculum in Mexican schools. These students were offered courses such as woodwork, domestic science, and other subjects to properly prepare them to take their place in society. In addition to skills, Mexican schools hoped to instill in students an acceptance of industry's hierarchical order.<sup>96</sup> According to one teacher, her students were taught to be pliant, obedient, and courteous to their boss at all times. Students were indoctrinated with this message which furthered white dominance and the feeling of inferiority among these students.

Many teachers shared the same racial and cultural views and stereotypes of Mexicans and blamed their student's families for the perpetuation of ignorance and immorality. It was commonly believed among school personnel that Mexican families and their culture hindered their educational progress, and that in order to succeed they must be assimilated into American culture. Even though many schools in the Southwest were de facto segregated and enrollment was made up completely by Spanish-American students, textbooks and curriculum were the same as in the local Anglo-American schools. No classes were offered which taught English as a second language; such classes were not mandated until the late twentieth century. As a result, Latin American students fell seriously behind their English-speaking peers in most phases of the



curriculum. The loss in subject knowledge was seldom made up and, if and when the students entered high school, they were unable to keep up with their Anglo-American classmates. Thus, these schools were not only separate but unequal, as Mexican students were not receiving a quality education. The schools lack of concern about this problem illustrates the public school system's belief that immigrant children's education was unimportant, and that they were meant to work at the bottom of the labor force. The inability to keep up in school hindered them not only educationally, but also socially. Chicano students appeared and felt unintelligent which affected their self-esteem and determination, and often resulted in them dropping out of secondary school.<sup>97</sup>

In many schools throughout the Southwest, speaking Spanish is forbidden both in classrooms and on the playground.<sup>98</sup> Spanish speaking children could be punished for lapsing into their native language. Thus, not only were Mexican children subject to a strange and different set of cultural patterns, but they also were subjected to a new language and made to feel that their culture, customs, beliefs, and language were inferior. Consequently, these feelings allowed Mexicans to be socially marginalized as a race. Teachers believed that English was essential to the learning process, as well as holding that as long as Spanish remained the dominant language; Mexican children would fail to become orderly participants in society. Elma A. Neal, the director of elementary education in San Antonio, wrote in 1929 that "the first step in making a unified nation is to teach English to the non-English speaking portion of the population."<sup>99</sup> Teachers, as well as the majority of society, felt that learning English was not only important in developing patriotism, but also economically important if students were ever going to advance beyond unskilled labor positions. Thus, Mexican and Mexican American children were made to feel that as long as they held on to their culture they would be isolated and discriminated against by society.

During the earlier twentieth century, a majority of second-generation Mexicans had only recently begun to reach adolescence and early adulthood. Many of these children were no longer satisfied with some of the cultural traits of their parents and adapted many new American ways, but they were not fully received into American society. Mexican American children could not secure social recognition, attain occupation status, or escape the unjust stigma of being viewed as foreigners. Despite being told constantly that they needed to assimilate themselves in American culture in order to advance in society, students were held back simply because of their race because they were viewed as inherently different by white American society. These youth were stuck in an impossible position; they did not wish to revert back to old traditions, but they could not move forward.

### **Chapter Three: Parents of Color and Their Legal Battles to End Segregation**

According to Emory S. Bogardus, an American sociologist from California, Mexican parents may at first be opposed to the segregation of their children in school, however, soon after they come to understand its merits and support it.<sup>100</sup> In hindsight, however, support for segregation does not appear to have been a common viewpoint among parents of Chinese American, Mexican American, and African American students. Public school segregation involved an extension of the prior division, through socioeconomic and psychological conditions, of a dominant and subordinate community. Therefore, these laws created an unequal and separate education which reproduced the socioeconomic and social relationships in the community and stagnated immigrant children's position in society rather than allowing for upward mobility. It was a never ending system; because Chinese, Mexican and African American students were segregated culturally along community lines they went to separate, poorer schools, and because they went to separate, poorer schools their communities continued to remain in far worse conditions than the rest of society. In order for African Americans and Chinese- and Mexican-descent students to be allowed to attend school with Anglo children—let alone receive a fair education—there would be many years of struggle via the court system.

One such struggle was that of Ms. Tape, who although an American citizen was denied admission to the Spring Valley School because of her Chinese ancestry. In 1884, her parents sued the San Francisco Board of Education. They argued that the decision of the school board was in violation of the California Political Code, which states, “[e]very

school, unless otherwise provided by law, must be open for the admission of all children between six and twenty-one years of age residing in the district; and the board of trustees, or city board of education, have power to admit adults and children not residing in the district, whenever good reasons exist. Trustees shall have the power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases.” On January 9, 1885, Superior Court Justice McGuire handed down the decision in favor of the Tape family. On appeal, the California Supreme Court upheld the decision. He wrote that “To deny a child, born of Chinese parents in this state, entrance to the public schools would be a violation of the law of the state and the Constitution of the United States.”<sup>101</sup>



Image 3.1: Joseph, Emily, Mamie, Frank & Mary Tape circa 1884–85.  
Photo courtesy of Jack Kim and Loni Ding.  
Source: [http://berkeleyheritage.com/essays/tape\\_family.html](http://berkeleyheritage.com/essays/tape_family.html)

However, State Superintendent Weckler was very unhappy with the Court's decision. In a letter to San Francisco School Superintendent Moulder, Weckler questioned the decision inquiring, "Shall we abandon the education of our own children to provide for that of the Chinese, who are thrusting themselves upon us in spite of treaties, Federal Restriction laws, and Custom House officials?"<sup>102</sup> State Superintendent Weckler's letter demonstrates the great hostility felt by many towards the Chinese, who continued to enter the country despite restrictions, and the exclusion of Chinese American children, such as Ms. Tape, from Weckler, and likely many more

white citizens, perception of what an American child was despite their status as U.S. citizens. Moulder responded by proposing new legislation during the Supreme Court's deliberation which would create state legislation that allowed for a 'separate but equal' Chinese school. At Moulder's encouragement, Assembly Bill 268, which would repeal the law that excluded Chinese from the school count and would authorize the establishment of Chinese classes separate from the schools attended by Caucasians, was introduced to the California Assembly.<sup>103</sup> It was quickly passed by the state assembly and senate under a state of urgency. That a Chinese American girl attending a "white" school constituted a "state of urgency" shows the extent to which white citizens and politicians would go in order to prevent white children from being morally corrupted or tainted by associating with a Chinese child.

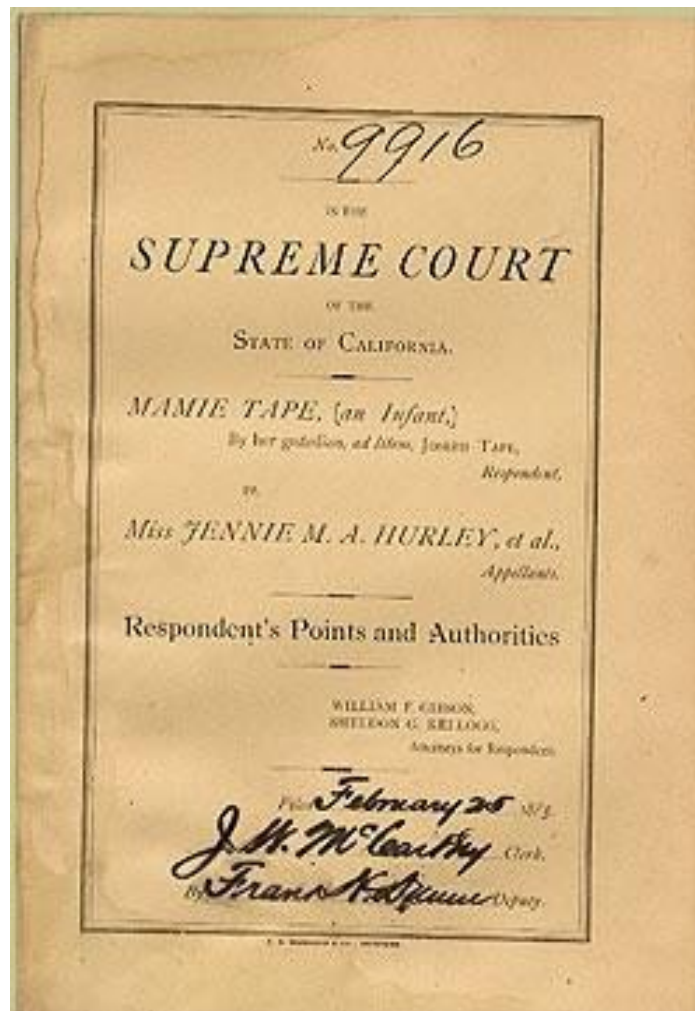


Image 3.2: “Respondent Points and Authorities”  
*Tape v. Hurley* (1885) 66 Cal. 473. California Supreme Court, WPA 18443,  
 California State Archives, Sacramento.

A new school was not immediately created; however, when victorious Ms. Tape accompanied by her lawyers and a writ of mandate issued by the judge attempted to be admitted to Spring Valley Primary School, she was refused by Principal Hurley. Hurley’s excuse was that the classes were at capacity according to the school board’s policy and Ms. Tape did not have the proper paperwork and a certificate of vaccination. Instead she offered to place Ms. Tape on a wait list. That same night the school board approved the proposal of Superintendent Moulder to

rent a building in order to provide separate classes for Chinese students. By the time Mamie had all the necessary papers to attend Spring Valley School the board had established the Chinese Primary School<sup>104</sup>. Unlike the first Chinese school established in 1859, this school was based upon legal foundation, but the Chinese were still the only racial group separated from the rest of the students in California. During the first year, only nine school age children out of 561 attended the Chinese Primary School, possibly because the location was outside the boundaries of Chinatown, the public was against the education of Chinese, and Chinese parents were suspicious of the school board. Some Chinese parents sent their children to China or private schools to be educated if they could afford it; however, a large number of Chinese students remained uneducated. As a result the Chinese children were not taught English, could not improve their social class, and remained racially segregated and isolated by the rest of American society, despite often being born here.

On April 18, 1906, an earthquake and fire devastated San Francisco. The earthquake destroyed thirty-one of the schools' seventy-six school buildings, and damage was done to the Chinese Primary School. When a temporary Chinese School was opened, it was discovered that enrollment was below expectations because so many Chinese had left the city. Thus the Japanese students who were occupying seats in the city's public schools that white parents felt belonged to their children were moved to the Chinese School, and the superintendent simply changed the name to the "Oriental School." A resolution was soon passed to bar all Chinese students from the city's public schools. However, this became a national issue and, at President Theodore Roosevelt's request, Japanese students were allowed back into the public schools, while Koreans and Chinese were still banned.<sup>105</sup> Additionally, they were reclassified as "Malayans" rather than "Mongolians". Not only were they now being racially segregated from whites, but also segregated within the Asian race, which depicts the importance of racial terms during this time



period.

In the first decade of the twentieth century, several attempts were made by Chinese families to fight the school boards' ban of Chinese children from San Francisco's public schools, but to no avail. The local business leaders of the area were closely connected with the educational authorities. Homer Craig, the chairman of the local branch of the Farmers' Educational and Cooperative Union of America, proposed aligning the schools' summer vacation with the harvest season so that white schoolchildren could be hired in place of Chinese labors. Superintendent Roncovieri agreed and there was popular support for the proposal which would give money to native-born Americans and close the floodgates to Asiatic labor.<sup>106</sup> Discrimination against Chinese did not just take place in schools. There was widespread resentment and dislike toward all Chinese people which was manifested culturally, politically, and economically. As a result, Chinese children suffered discrimination not only in school, but also in their communities as well.

Before 1915, the economic situation of many Chinese parents required that their children assist financially. Consequently, these children did not attend school for long and those Chinese children with two or three years of school were viewed with awe. Many of the parents of the first Oriental School graduates had photographs of their children's diplomas framed and copies were sent to China to be placed by relatives in the village temples.<sup>107</sup> Thus, it is clear that education was valued by Chinese immigrants and parents greatly desired for their children to receive a quality education, especially because it was such a rare accomplishment due to the economic instability of many Chinese immigrants.

Yet, even though graduation from the Oriental School was seen as a significant accomplishment in the Chinese community, in the eyes of white American citizens the school was viewed as inferior. The United States Commissioner of Education observed the San

Francisco school system in 1917. When evaluating the “Americanizing” of the foreign student, he studied the Oriental School and found a striking lack of course study adjustment to meet the special needs of the pupils. Given the racially homogeneous group of students, the commissioner felt the school had a unique opportunity to adjust the curriculum along racial lines.<sup>108</sup> Additionally, he observed that the majority of the students did not speak English yet, according to the principal, the courses they studied were the regular coursework prepared for the elementary schools of San Francisco. The education provided to Chinese students was not only segregated and isolated from all other children in the district, but also it was ineffective in instruction and not adequate for the intellectual and linguistic level which they were at. Thus, Chinese students were receiving an education which was unequal in facilities and also failed to provide them with the instruction needed to improve their lives. The education which these Chinese students were receiving did not provide them with skills or knowledge comparable to that of students at the white school, and they could not compete in the job market.<sup>109</sup> Consequently, the education they were receiving perpetuated the cycle of isolated Chinese communities, racial discrimination, and limited opportunities for generations to come.

Chinese students were able to enter their neighborhood school occasionally, rather than the Oriental School, by means of school principals who, on their own initiative, admitted Chinese, as long as white parents did not object. Additionally, some Chinese students were admitted to the local public school because it was assumed by ignorant white authorities that they were Japanese. However, if Chinese sought to enroll in a local school and were told they would only be admitted if they claimed they were Japanese, they refused. It is clear that educational authorities had very little knowledge, sensitivity, or respect for the differences in the two races. This lack of cultural sensitivity was detrimental to the psyche of immigrant children who already felt devalued and ostracized by society, and now felt inferior and stereotyped. By the end of World War I, the

imagined Chinese threat to white Americans had mostly disappeared and Chinese students who lived outside the Chinese quarter were allowed into the city's elementary schools as long as white parents did not object. However, discrimination against Chinese continued; by 1921, the California school code was expanded to once again include the segregation of Japanese, as well as Native Americans.<sup>110</sup> This amendment would remain in the state school code for the next twenty-five years.

However, this did not deter the Chinese from attempting to receive a quality education and further their position in society. By 1922, the Native Sons of the Golden State had convinced the San Francisco School Board that the Oriental School needed to be expanded, rather than changed to two sets of half-day classes, in order to accommodate the almost 900 students who were attending daily classes there. When the new Oriental School re-opened in 1924, it was renamed the Commodore Stockton School in order to correct the former school name's discriminatory connotation.<sup>111</sup> While the new name was a step in the right direction it by no means repaired the damaged self-esteem and inferiority complex of Chinese students.

In the late 1920s, advocacy groups such as the Native Sons of the Golden State were also active in proposing that Chinese students in the seventh and eighth grades from the Oriental School be able to attend the local secondary school. Many white parents opposed this idea and proposed that a separate secondary school for the Chinese community be built. However, the school board, in a decision that marked a significant change from their normal stance, rejected this idea and though they limited the number of students of Chinese descent who could attend Francisco Junior High, it was a victory for the Chinese community nonetheless because plans for a separate school had been averted.

However, in Mississippi Chinese students were still being forced to attend a separate school from white students. In 1924, a nine-year old Chinese-American named Martha Lum,

daughter of Gong Lum, was prohibited from attending the Rosedale Consolidated High School in Bolivar County, Mississippi solely because she was of Chinese descent. A lower court granted the plaintiff's request of a writ of mandamus to force the members of the Board of Trustees to admit Martha Lum. Gong Lum's case was not that racial discrimination as such was illegal, but that his daughter, being Chinese, had incorrectly been classified as colored by the authorities. The Board of Trustees appealed the decision became the plaintiff in *Rice et al., v. Gong Lum, et al.*, 275 U.S. 78 (1927), which was heard in the Supreme Court of Mississippi. The state Supreme Court reversed the lower court's decision and allowed the Board of Trustees to exclude Martha Lum from the school for white children.<sup>112</sup>

Gong Lum appealed the state Supreme Court's ruling to the federal Supreme Court, who heard the case in 1927, and affirmed the Mississippi State Supreme Court's ruling, and thus the position of the Board of Trustees. In the unanimous Supreme Court opinion Chief Justice William Howard Taft argued that the petitioner had not proved that there weren't segregated schools accessible for the education of Martha Lum in Mississippi. Chief Justice Taft held that the Court must then assume that there are school districts for colored children in Bolivar County which Martha Lum may attend. Taft further stated that, given the accessibility of segregated schools, the question then became whether a person of Chinese ancestry, born in and a citizen of the United States, was denied equal protection of the law by being given the opportunity to attend a school which "receive[d] only children of the brown, yellow or black races."<sup>113</sup> Taft concluded that the right and power of the state to determine the method of providing for the education of its youth is clear. Additionally, Taft pointed to a number of federal and state court decisions, most prominently *Plessy v. Ferguson*, all of which had upheld segregation in the public sphere and particularly in the realm of public education. Accordingly, Taft concluded:

“Most of the cases cited arose, it is true, over the establishment of separate schools as between white pupils and black pupils; but we cannot think that the question is any different, or that any different result can be reached, assuming the cases above cited to be rightly decided, where the issue is as between white pupils and the pupils of the yellow races. The decision is within the discretion of the state in regulating its public schools, and does not conflict with the Fourteenth Amendment.”<sup>114</sup>

As a result, Martha Lum was not permitted to attend a school with white children, and Chinese Americans were found to be included in the “separate but equal” doctrine which pertained to African Americans. Consequently, children of Chinese descent would not have their right to an equal education recognized until the *Brown v. Board* case was heard in 1954. The 1940s were distinguished by an improved racial attitude towards Chinese by the general society. Americans were impressed with China’s heroic struggles against Japanese aggression and as a gesture to improve relations with China; Congress repealed the humiliating exclusion laws in 1943. The post-World War II image of Chinese as Americans due to their economic and patriotic aid in factories, corporations, and government agencies, led to the end of formal *de jure* segregation in public education. California’s *de jure* segregation was formally ended when Governor Earl Warren signed a repeal of the section of the California Education Code which pertained to racial segregation. However, this repeal of segregation did not mean that discrimination against Chinese had come to an end. For decades to come Chinese citizens and immigrants would have to struggle against preconceived notions about them held by whites, and would feel the need to prove themselves to society.

Likewise, the practice of school segregation for Mexican children was common and it too was challenged in the courts by frustrated parents who desired a quality and equal education for their children. In 1930, a Texas appellate court held in *Salvatierra et al v. Independent School District et al. Supreme Court of The United States* 284 U.S. 580, that school authorities in Del

Rio, or anywhere else in the state, did not have the power to segregate Chicano children “merely or solely because they are Mexican Americans.” However the school district successfully argued that the children’s language deficiencies warranted their separate schooling, even though the superintendent conceded that “generally the best way to learn a language is to be associated with the people who speak that language.”<sup>115</sup> Consequently, Mexican students were separated from their Anglo peers and received an unequal education. The most significant court case affecting the de jure segregation of Mexican children in the Southwest was *Mendez v. Westminster*. The Lemon Grove case of 1930 was also successful in desegregating schools but only had local implications. The schools in Santa Ana, California where the Mendez case originated were segregated not just on racial lines but also separated based on economic function—manual labor classes for Mexican children and academic preparation classes for white children- as well as along gender lines in separate classes.<sup>116</sup> Thus, the pattern of segregation tended to reinforce the traditional sexual division of labor within the Mexican family and to add and develop those divisions particular to the capitalist society in which these children now lived.



Image 3.3: Schoolchildren eating hot school lunches made up primarily of food from the surplus commodities program. Taken at a school, Penasco, New Mexico, December 1941. Source: United States Department of Agriculture.

In 1943, Mexican parents in the school district raised the demand for non-segregated schooling; their request was not met. Mexican children made up a quarter of the districts' population but were designated to three specific schools that were Mexican only. If a Mexican child happened to live within the district lines of an Anglo school, he or she had to be bused to the closest Mexican school; however, if an Anglo student lived within the confines of a Mexican school, they were quickly granted a transfer. On March 2, 1945, Gonzalo Mendez along with four other Mexican American fathers—Thomas Estrada, William Guzman, Frank Palomino, and Lorenzo Ramirez—filed a class action suit against Westminster, El Modena, Garden Grove, and Santa Ana school districts on behalf of their minor children and some 5,000 similarly-affected

Mexican-descent students. The three Mendez children, citizens of the United States, were denied entrance to their local elementary school because of their Mexican ancestry.

The Mendez's, a successful farm family, gathered the support of other similarly frustrated parents and eventually formed the educational support group Asociacion de Padres de Ninos Mexico-Americanos. The group spread the word to other parents of Mexican students, lent support to each other, and attended the trial to show unity and strength in court.<sup>117</sup> The Mendez's spent nearly a year, along with their lawyer, gathering data and supportive evidence and conducting interviews and spent over one thousand dollars on legal fees. The Mendez suit claimed that segregation of Mexican children violated the Fourteenth Amendment. The suit alleged that no legal racial status had ever been applied to Mexicans other than Caucasian and therefore they were not subject to discriminatory education codes.<sup>118</sup> Consequently, the suit argued that there were no grounds for Mexican students to be segregated in schools and that the practice should be abolished. The judge found this argument sound and, on February 18, 1946, he issued an injunction prohibiting the segregation of Mexican children. The Opinion of the Court states, "Summed up in a few words it is the burden of the petition that the State of California has denied, and is denying, the school children of Mexican descent, residing in the school districts described, the equal protection of the laws of the State of California and thereby have deprived, and are depriving, them of their liberty and property without due process of law, as guaranteed by the Fourteenth Amendment of the Constitution of the United States."<sup>119</sup> The ruling was a significant victory for Mexican American and Mexican-descent children and declared in legal terms that their rights could not be ignored. The community effort which went into the case is also significant because it provided a support system for Mexican's and their children many of who were citizens of the United States, as they fought for recognition by the government and



society. The decision of this case had widespread repercussions in Colorado, New Mexico, Arizona, Texas, and California, where segregation of Mexican students was being practiced.<sup>120</sup>

1	NATIONAL LAWYERS GUILD, LOS ANGELES CHAPTER	
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4	AMERICAN CIVIL LIBERTIES UNION	
5	SOUTHERN CALIFORNIA BRANCH	
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8	Attorneys Amici Curiae	
9	IN THE DISTRICT COURT OF THE UNITED STATES	
10	SOUTHERN DISTRICT OF CALIFORNIA	
11	CENTRAL DIVISION	
12	GONZOLO MENDEZ, et al,	
13	Plaintiff,	No. 4292 M
14	vs.	BRIEF OF
15	WESTMINSTER SCHOOL DISTRICT OF ORANGE COUNTY, et al.,	NATIONAL LAWYERS GUILD, AND
16	Defendants.	AMERICAN CIVIL LIBERTIES UNION, AMICI CURIAE
17		
18		
19	I	
20	THE FEDERAL DISTRICT COURT HAS JURISDICTION TO HEAR	
21	AND DETERMINE THE ABOVE ENTITLED ACTION.	
22	A.	The complaint on file herein alleges a cause of action and
23		the evidence introduced at the trial supported said allega-
24		tions, based upon the violation of plaintiffs' rights for
25		themselves and for all persons similarly situated, under
26		the Fourteenth Amendment to the Constitution. The speci-
27		fic clauses in question are the due process and equal
28		protection provisions. There is proof that there was
29		discrimination against persons of Mexican descent, solely
30		because thereof, through the systematic segregation of
31		pupils of such descent in separate school buildings.
32		Thus the evidence supports the plaintiffs' claim that

- 1 -

Image 3.4: Brief of National Lawyers Guild, and American Civil Liberties Union, *Amici Curiae*. From *Mendez et al. v. Westminster School District of Orange County*, 10/01/1945

While there are several notable Chinese and Mexican desegregation cases which hold significant importance in the desegregation of the country, African Americans, building on prior legal precedent established in *Mendez v. Westminster*, developed an effective legal strategy to overturn the separate but equal doctrine established by *Plessy v. Ferguson*. The *Plessy* decision had long been utilized as the justification for the formal and legalized use of segregation in many aspects of social life in the South, especially public education. In 1908, a little over a decade after *Plessy*, the Supreme Court, in *Berea College v. Kentucky*, 211 U.S. 45 (1908), upheld the right of the states to prohibit racial integration in the field of education.<sup>121</sup> The growing repression aimed at African Americans directed their reaction in a different form. Under the leadership of W.E.B. DuBois, the NAACP recognized the importance of using law to challenge segregation, and in 1915 the group hired its first lawyer. In 1930, Nathan Margold formulated a legal campaign for the NAACP which was designed to eliminate school segregation by challenging the inherent inequality of segregation in publicly funded primary and secondary schools. The goal of the NAACP suing for equal schools was to make the cost of the school system too unaffordable, serve to give courage to other African Americans to bring similar actions, cause cases to be appeal to higher courts thus covering wider territory, and draw public attention in both the North and South on the brutal discrimination facing Blacks. It is clear from these goals that the NAACP recognized the symbolic importance and value of challenging school segregation in the struggle to win equal rights. Additionally at this time the psychological effects of segregation were also being realized by blacks. Publications such as the *Journal of Negro Education* wrote about the stigmatizing effects segregation had on the African American psyche. This theme, elaborated upon by both White and Black social scientists became prominent part of the legal case against segregation.

Margold's plan was to challenge the inequality of segregation, and force southern states

to increase expenditures for Black students, which would greatly increase the cost of maintaining the segregated educational system. The NAACP Legal Defense and Educational Fund (LDF), was a new arm created by the NAACP in 1939 to implement Margold's plan. The LDF slightly modified the plan by deciding to first pursue desegregation at the highest level of education, where it was likely to provoke the least resistance and violence, and to then pursue desegregation at progressively lower stages of the education process. The need for this new found leadership and strategy was clear; before 1935, school segregation had been challenged in the state courts 44 times and had been upheld in every case.<sup>122</sup> This plan involved mobilizing civil rights plaintiffs and lawyers in local African American communities. Over time, the NAACP's Legal Defense Fund won a series of groundbreaking cases that chipped away at the edifice of segregated university education.

The first case successfully pursued under the new plan was *Murray et al. v. Maryland Supreme Court of the United States* 381 U.S. 940. Donald Gaines Murray sought admittance to the University of Maryland law school, but was rejected due to his race. Utilizing the equal protection clause of the Fourteenth Amendment Charles Hamilton Houston and Thurgood Marshall argued that the state of Maryland failed to provide Murray with a "separate but equal" education as required by the Fourteenth Amendment. Marshall further argued that since laws differ from state to state, a law school located in a different state could not prepare Murray for a future career as an attorney in Maryland. Marshall concluded that because Maryland did not provide a comparable law school for blacks Murray should be granted admittance to the white university. Houston and Marshall were successful and the circuit court judge issued a writ of mandamus instructing the president of the university to admit Murray. The case was appealed to Maryland's Court of Appeals, and the justices unanimously upheld the circuit court's ruling. Thus, began the NAACP's progressive attack on segregation in schools. While this case did not

outlaw segregation throughout Maryland, it was successful in proving that if equal facilities were not going to be provided for blacks then they must be admitted to the white facility.

Several years later the NCAAP once again pursued a case concerning law school admission, this time challenging Plessy at the Supreme Court level in *Missouri ex rel. Gaines v. Canada, Registrar of University of Missouri, et al.* Supreme Court of the United States 305 U.S. 676. The Law School at the University of Missouri refused to accept Lloyd Gaines because he was African American, but offered to pay his tuition to a law school in an adjacent state, which Gaines refused. NAACP lawyer Charles House Houston once again argued that this violated Gaines rights under the equal protection clause of the Fourteenth Amendment. The Supreme Court agreed writing for the majority Chief Justice Hughes held that when the state provides legal training, it must provide it to every qualified person to satisfy equal protection. The fact that there was no provision for African Americans' legal education in the state of Missouri was essential in the justices' decision. The Gaines decision was monumental, and breached the walls of segregation. This decision meant that every state now had to either build a separate graduate school for blacks, which would be very expensive, or integrate already existing white-only schools. The Gaines case was a major stepping stone on the road to complete desegregation of schools.

While the majority of desegregation cases originated in the South, enforced by Jim Crow segregation, racism, and discrimination, a quieter version of that same struggle also took place in the North. One of the first successful desegregation cases for African Americans not dealing with professional schools was , *Gladys Hedgepeth, Relator, v. Board of Education of the City of Trenton, Respondent; Berline Williams, Realtor, v. Board of Education of the City of Trenton, Respondent* which highlights the differences in segregation between the North and the South. Both the Hedgepeth and Williams family lived in the Wilber section of Trenton, which was an

integrated neighborhood where many African Americans lived, as well as Polish, Italian, and Jewish immigrants. In August of 1943, Berline Williams and Gladys Hedgepeth tried to enroll their twelve year old children Leon and Janet in Junior High School No. 2, the local secondary school. The situation in Trenton was unique in that both Leon and Janet had attended the integrated Cook Elementary School in their neighborhood, but were denied entrance to the junior high because they were African American. Instead the Williams and Hedgepeths were forced to enroll their children in the all-black Lincoln School.

Jim Crow principles were not enforced in New Jersey with Southern-style segregation. There were no “white only” or “colored only” signs in public places. However, racial discrimination and de facto segregation in public accommodations was a customary policy in the 1940s. Independent of one another, Mrs. Williams and Mrs. Hedgepeth appeal to the principal of Junior High School No. 2, and then together to School Superintendent, Paul Loser, to allow their children to transfer to the school in their neighborhood. They were repeatedly ignored and denied admittance because the new junior high school was “not built for Negroes” according to School Superintendent Paul Loser. As the 1943-44, school year began, Leon Williams and Janet Hedgepeth attended the black-only New Lincoln School that was approximately 3 miles away from their neighborhood. Infuriated at the discrimination their children were facing, as well as the inferior education they were receiving in the overcrowded Lincoln School, Gladys Hedgepeth and Berline Williams jointly filed a lawsuit against the school board to let their children attend the new Junior High School No. 2.<sup>123</sup>

Berline Williams and Gladys Hedgepeth were both active volunteers for the local Trenton, NJ branch of the NAACP. The NAACP took over their legal defense and the parents' lawyer, Robert Queen argued it all the way to the New Jersey Supreme Court in less than a month. The Hedgepeth-Williams suit claimed that the segregation of their children violated the

New Jersey School Law of 1881, which prohibited school boards from excluding children from public schools based on race, nationality, or creed. While this law had been established over sixty years prior it had been largely ignore, especially in southern counties of New Jersey. Two years after this law had been established the Lincoln School was built.<sup>124</sup>

Robert Queen, the NAACP lawyer who represented the two women, argued the Leon Williams and Janet Hedgepeth were being excluded from Junior High No. 2 because of their race, which violated the 1881 law. During the trial he questioned Superintendent Loser, asking him if it was true that these two children were being excluded because they were African America. Superintendent Loser responded that this was true, but only because it benefitted Black students by giving them more opportunities when they were segregated. Mr. Queen then suggested if this was the case, should separate schools not also be set up for Chinese, Italians, Poles, and Jews. Superintendent Loser was unable to respond. When the New Jersey Supreme Court rendered its decision, the justices found unanimously in favor of Mrs. Hedgepeth and Mrs. Williams. The New Jersey Supreme Court declared “it is unlawful for boards of education to exclude children from any public school on the grounds that they are of the Negro race”.<sup>125</sup> The decision was significant for African Americans in the Trenton area and throughout the North, because it brought attention to the de facto segregation which was found throughout the North, which had already been abolished by law but was still practiced due to societal forces. Through their lawsuit and with the support of the NAACP, these mothers challenged the tradition of illegally separating students based on race. Janet and Leon were immediately admitted to Junior High School No. 2, and within the school year over two hundred black students had transferred from the overcrowded New Lincoln School to several previously all-white junior high schools throughout the city. All Trenton public schools were integrated by the 1945-46 school year.

The legal strategy which the NAACP had developed was seeing success, however, it was

a gradual process which moved at a slow pace, and Blacks were still far from receiving equal education. In 1946, Ada Lois Sipuel applied to the University of Oklahoma, the only public law school in state, and was denied based on her color. Sipuel petitioned the District Court and her petition was refused. Subsequently, she appealed to the Oklahoma State Supreme Court, which upheld the lower court's ruling. The Supreme Court heard her case in 1948 and Thurgood Marshall once again used the Fourteenth Amendment to justify her admission to the University of Oklahoma. Marshall argued that the state law school must open its doors to Sipuel, because no comparable facility was offered and that the entire doctrine of "separate but equal" should be abandoned. On January 12, 1948, the Supreme Court ruled that Sipuel was entitled to a legal education provided by the state and that Oklahoma must provide instruction for blacks equal to that of whites.<sup>126</sup> In order to comply, Oklahoma officials stonewalled efforts to admit Sipuel to the University of Oklahoma by quickly constructing a makeshift black law school in the state capital building, Langston University School of Law. Further litigation was required to prove that this law school was inferior to the University of Oklahoma law school. However, before this lawsuit was resolved, the Langston University School of Law ran out of funds and closed. Consequently, the president of the University of Oklahoma law school had to admit Sipuel who enrolled on June 18, 1949, becoming the first African American woman to attend an all-white law school in the South. While the Court originally ruled that it was acceptable for Sipuel to attend a separate law school created by the state, this case was the first time that social scientists were referenced regarding the deleterious effects of segregation which Marshall employed to argue that there can be no separate equality.<sup>127</sup>

In 1950, the NAACP's Legal Defense and Educational Fund had two important Supreme Court successes. The first case *Sweatt et al. v. Painter*, 339 U.S. 629 (1950) involved an African American man Heman Marion Sweatt, who was refused admission to the School of Law at the

University of Texas, on the grounds that the Texas State Constitution prohibited integrated education. Instead of granting Sweatt a *writ of mandamus*, the state district court in Travis County continued the case for six months. This allowed the state time to create a law school only for black students, the Texas State University for Negroes. The trial court decision was affirmed by the Court of Civil Appeals and the Texas Supreme Court denied *writ of error* on further appeal. Sweatt and the NAACP sought trial in the federal courts, and the case ultimately reached the Supreme Court. The Supreme Court reversed the lower court decision, stating that the separate school failed to qualify, both because of quantitative differences in facilities and intangible factors. The court held that, when considering graduate education, intangibles must be considered as part of “substantive equality”.<sup>128</sup> *Sweatt* established the principle that intangibles such as the quality of the alumni, faculty reputation, and the experience of the administration play a role in comparing separate law schools and determining their equality. While the Court did not address the question of whether separate was inherently unequal, it did conclude that in this case the Negro law schools were unequal and Sweatt must be admitted to the University of Texas.

The second monumental case was *McLaurin v. Oklahoma State Regents* 339 U.S. 637 (1950). This decision reversed a lower court decision upholding the efforts of the state-supported University of Oklahoma to adhere to the state law requiring African Americans to be provided graduate or professional education on a segregated basis. George McLaurin, the plaintiff, already had a Master’s Degree in Education, but was denied admission to the University of Oklahoma to pursue a Doctor of Education degree. McLaurin sued the US District Court to gain admission to the institution basing his argument on the Fourteenth Amendment. While he was successful in gaining admission to the University, Oklahoma law prohibited schools from instructing blacks and whites together. The University provided separate facilities for McLaurin by constructing an alcove, called a “broom closet” by Thurgood Marshall, his lawyer; they also gave him a separate



entrance and exit to and from the hall, a separate men's room, separate table in the student union and cafeteria, and a separate library study table labeled with his name.<sup>129</sup> Neither McLaurin nor the NAACP, were satisfied with these arrangements, and legally appealed these conditions. Such on-campus segregation, they argued, hampered McLaurin's ability to study, take part in class discussion, and interact further with his peers. On June 5, 1950 the U.S. Supreme Court agreed and ordered the university to end the on-campus segregation of McLaurin. This case, as well as *Sweatt v. Painter*, were decided on the same day, and effectively ended the separate but equal doctrine of Plessy in graduate education. The slow but steady legal strategy of the NAACP had paid off. Following these victories Thurgood Marshall declared, "The complete destruction of all enforced segregation is now in sight. We are going to insist on non-segregation in American public education from top to bottom—from law school to kindergarten".<sup>130</sup> With the end of segregation in graduate and profession schools the NAACP's Legal Defense and Education Fund, led by Marshall, felt it was time to begin attacking segregation at the secondary and elementary levels of education.



Image 3.5: Thurgood Marshall  
Courtesy: The Library of Congress

During the time race relations were being reformed in the United States by African American veterans returning from World War II, increasing vocal support from white liberals such as Gunnar Myrdal who wrote *An American Dilemma*, an extensive book on race relations in the U.S., and President Truman, who desegregated the Air Force, and most importantly the activism of black communities which was furthered by the rapidly growing size of NAACP.<sup>131</sup> Black communities were spurred on by Thurgood Marshall and other NAACP leaders, who led a mounting legal campaign for civil rights, which was seeing success.<sup>132</sup> The NAACP, the largest civil rights group in the country, was giving African American citizens a support system through which they could express their thoughts, grievances, and ideas, and it would protect and guide them in their fight for equality. Race relations were still quite hostile in the South, and the NAACP gave African Americans the confidence and encouragement they needed to challenge segregation. The NAACP allowed African Americans across the country to feel connected in their struggle and each victory that the LDF had gave African Americans hope for their future and

encouraged them to keep their struggle alive.

In five different communities, African Americans from various backgrounds bravely turned to the courts to demand better educational opportunities for their children. Together with the NAACP, these communities attempted nothing less than the destruction of segregation in the United States and the transformation of American society. Of the five cases, *Brown v. Board of Education*, *Briggs v. Elliot*, *Davis v. County School Board of Prince Edward County*, *Gebhart v. Belton*, and *Bolling v Sharpe*, *Brown* was heard first, thus becoming the most well-known.<sup>133</sup> Each of the cases was different but all posed the same basic argument; that segregation itself violated the “equal protection under the laws” guaranteed by the Fourteenth Amendment.

The first case to challenge public school segregation was brought against the school system of Clarendon County, South Carolina. Reverend Joseph Albert DeLaine, an educated preacher and teacher who led the move for desegregated schools in Clarendon County, was angered by the racism in Clarendon, where he had lived since childhood. In March 1948, he persuaded Levi Pearson, to bring a suit that asked local authorities for buses to carry their children to school, a service which had long been provided for white children.<sup>134</sup> The cases was developed by Marshall and others, but Pearson was unsuccessful as it was determined he lived just across the district line from the jurisdiction where he entered the suit. As a result, Pearson was unable to find a white farmer who would allow him to use a harvester, and he was forced to watch his crop rot. DeLaine, Pearson, Marshall, and others in the black community did not give up. They believed they needed a bolder strategy and began by obtaining twenty plaintiffs—evidence of the significant local solidarity of the African American community—to support a lawsuit that went beyond desegregating bus service and focused on demanding equal treatment under the Fourteenth Amendment. The suit the people of Clarendon put forth demanded equal treatment across the board.

The plaintiffs had compelling evidence; Clarendon County spent \$149 per white child in public schools, as opposed to \$43 for each black child. Three black schools accommodated 808 students while two schools accommodated 276 white students, and the high school courses for whites included biology, typing, and bookkeeping, whereas black students were offered courses in agriculture and home economics.<sup>135</sup> Of the two colored grade schools one lacked running water; the other had no electricity. Once the class action suit was filed Briggs was fired from his job of fourteen years, his wife Liza lost her chambermaid job of six years, and he ended up moving to Florida for ten years to support his family. Similarly, Reverend DeLaine's wife and nieces lost their jobs as teachers. Reverend DeLaine had his house and church burned by angry whites, and was forced to flee the state for safety after being shot at in the night.<sup>136</sup> The suit, called *Briggs et al. v. Elliot et al. Supreme Court of the United States 342 U.S. 350 (1952)*, later became one of the five suits known collectively as *Brown v. Board of Education*.<sup>137</sup>

First petitioned in 1951, *Belton et al. v. Gebhart et al. Supreme Court of the United States 344 U.S. 891* and *Bulah et al. v. Gebhart et al. Supreme Court of the United States 344 U.S. 891*, challenged the inferior conditions of two black schools designated for African American children, in Claymont, Delaware. African American children in the area were prohibited from attending the area's local high school. Instead, they were made to ride a school bus for nearly an hour to attend Howard High School in Wilmington. Located in the state's capital, Howard High School suffered from a poor curriculum, high pupil-teacher ratio, poor teacher training, and run-down physical facility. In the rural community of Hockessin, African American students were required to attend a dilapidated one-room school house and were not provided transportation, while white students were provided both transportation and a quality facility.<sup>138</sup> Represented by Louis Redding, a local NAACP attorney, the African American plaintiffs were successful. However the State Supreme Court's decision did not apply to all schools in Delaware.

One of the few public high schools available to African Americans in Virginia was Robert Moton High School in Prince Edward County. From the time of its construction it had never been large enough to accommodate its student population. Subsequently, hastily constructed buildings covered in tar paper, which leaked in the rain, were added as classrooms. The high school had no cafeteria or auditorium, and the school had no late afternoon buses so black children could not participate in extracurricular activities. The building was heated by wood stoves that a black teacher, doubling as a bus driver, lit in the winter months. The highest paid teacher at Moton received a lower salary than the most poorly paid teacher at Farmville High, an all-white high school. In 1951 the gross inadequacies of these classrooms sparked a student strike. The students, organized by sixteen year old Barbara Johns, initially sought to acquire a new building with indoor plumbing. After two weeks of striking, they were joined in their struggle by the NAACP and challenged the inferior quality of their school facilities in court. Fearing the threat of litigation, the local school board applied for and received \$600,000 from the state to build a new high school for black students. It was slated to open, and did, within two years. However, this was too little too late for the black community. One month after the strike began *Dorothy E. Davis, et al. v. County School Board of Prince Edward County, Virginia, et al Civ. A. No 1333 United States District Court for the Eastern District of Virginia, Richmond Division*, was filed. For her own safety, Barbara was sent to live with family members out of state.<sup>139</sup> Although the U.S. District Court ordered that the plaintiffs be provided with equal school facilities, they were denied access to the white schools in their area.

Even in our nation's capital, African American students were facing discrimination and segregation in their schools. Accompanied by local parent and activist Gardner Bishop, eleven African American junior high school students were taken on a trip to the cities new modern John Phillip Sousa School which was whites-only. They requested admittance for the African

American students and were denied and ordered to return to their grossly unequal school. A suit, *Bolling et al. v. Sharpe et al. No. 8 Supreme Court v. the United States* 347 U.S. 497, was filed on their behalf by the NAACP in 1951, which challenged not inequality, but segregation itself.

Finally there was the unique situation regarding segregation in Topeka, Kansas, which would become the most recognized case in the struggle to abolish segregated schools. Race relations here were considerably different from those that had given rise to previous four cases described. Cities with populations of 15,000 or more were permitted by Kansas law to segregate their elementary schools. Topeka was a city with over 100,000 people, 7.5 percent of whom were black, and all twenty-two of its elementary schools were segregated. However, in other areas of public life Jim Crow had less strength than in the South. The city did not impose a color divide in the waiting rooms of its bus and train stations or on its buses.<sup>140</sup> Yet, five of the seven movie theaters were white-only, the park swimming pool was close to blacks except for one day a year, and the non-segregated high school had racially separate sports teams. The segregated elementary schools were by all accounts equal in facilities, and bus transportation was offered to blacks, but not to whites, who generally attended schools within walking distance of their homes. The local citizens who opposed the city's segregated school system, mostly leaders of the NAACP, agreed that the school facilities were not the central issue. The system, they argued, did deprive some black children, access to schools nearest their homes. Linda Brown, for instance, the eldest children of the first-listed plaintiff in Brown, had to walk six blocks to catch the school bus that drove her to a school a mile from her home. When local activists in the NAACP sought out plaintiffs for their case, they turned to Oliver Brown and other similar black parents. Oliver Brown was a lifelong resident of Topeka, who worked as a welder in the shops of the Santa Fe Railroad, served as an assistant pastor, and was a World War II veteran. There was no way segregationists could paint Oliver Brown as a dangerous radical. On February 28, 1951 the local

NAACP filed suit on behalf of thirteen plaintiffs, in federal district court. The case presented before to a panel of three federal judges, argued that segregated schools violated the Fourteenth Amendment and harmed the psyche of black students. While the judges conceded the damage caused by segregated education, they ruled that white and black schools in Topeka were comparable and that segregation was consistent with the laws of Kansas and the Supreme Court's ruling in *Plessy v. Ferguson*.<sup>141</sup>

This case held significance for the NAACP Legal Defense and Educational Fund, because they had high hopes of a win in a border state where race relations were less contentious than in the Deep South. Robert Carter and Jack Greenberg, two of Marshall's top assistants, were sent to Topeka. Carter was among the most politically aggressive of the top attorneys around Marshall, and he was eager to make a headlong assault on segregation.<sup>142</sup> Over the next few months of research and development, Carter, Greenberg, and others, did not focus on arguments concerning the time travel to school or unequal facilities. What was intolerable, they argued, was that the system of segregation in Topeka was legally required, and that it was enforced. Consequently, children who were part of the sanctioned school system, were made to feel inferior, and therefore would lose motivation to learn. Drawn from psychological research and testimony of social scientists, this argument was the core of the NAACP's case in Topeka, Kansas

Up until this point African American parents, the NAACP, and their allies demanded educational equality, not desegregation: a separate-but-equal system of schools was tolerable if it was truly equal. It was only when parents became convinced that whites would never allow true equality that they began working toward the dismantling of Jim Crow in schools. However, they had to proceed slowly as there were many concerns and difficulties which Marshall and his team faced. For instance, *Gong Lum v. Rice*, cited earlier, was a major concern for Marshall because in

this decision Chief Justice Taft ruled that it was within the constitutional power of the state to make the decision regarding racial status of their students. Additionally, Marshall and other NAACP leaders were concerned with what desegregation would look like if it was achieved in the court. When these cases were finally argued before the Supreme Court the lawyers for the NAACP cited three basic reasons why the court should eliminate segregated education. The first reason, based on the previous argument in *Sweatt* and *McLaurin*, argued that segregation in the public schools was similar to segregation at the graduate level. In both instances segregation denied students the equal protection of the laws because it was injurious to the students. The second reason they argued was the classifying students by race was not justifiable. For a classification between two groups to be justified it must be shown “(1) that there is a difference between the two, (2) that the difference has significance with the subject matter being legislated”.<sup>143</sup> To corroborate this argument, Thurgood Marshall cited Robert Redfield’s testimony that there were no differences between the races in regard to learning ability.<sup>144</sup> The third point in Marshall’s words “was the broader point, that racial distinctions in and of themselves are invidious. I consider it as a three pronged attack. Any of the three would be sufficient for reversal.”

In 1954, the Supreme Court struck down the “separate but equal” concept in public education. The decision, written by Chief Justice Earl Warren, read in part:

“Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other “tangible” factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does...to separate Negro school children from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone....We conclude that in the field of public education the doctrine “separate



but equal” has no place. Separate educational facilities are inherently unequal.”<sup>145</sup>

While this was a major achievement for the United States as a country, the NAACP, and minorities throughout the country who had long struggled for educational equality the change was not immediately apparent. It was not until a year later that the Court made its implementation decision known as Brown II. The Court gave local district authorities and state officials the responsibility for implementation and called for the district courts to monitor their progress. The Court specified that district courts should enter such orders and verdicts consistent with this opinion as they were necessary to admit to public schools on a racially nondiscriminatory basis with all deliberate speed those people whom these cases applied to. The Court, however, did not state guidelines for such actions and did not set a specific date or timeframe in which desegregation must occur. The Court had established a framework for state and local officials to implement their decision but had left much of the decision of how and when it was to be done to the discretion of southern officials and judges who faced strong public pressure to resist any measures that would substantially alter the schools.

## **Conclusion: The Desegregation of Schools**

As a result a decade of massive resistance followed from 1955 to 1964. Pupil placement laws made sure that African American students who tried to attend the local white school, formally available under freedom-of-choice plans, would be unable to meet the psychological and educational criteria necessary for admission. Permission was granted to local authorities to close their public schools if desegregation was the only alternative. Politicians encouraged their constituents' anger, and on March 12, 1956, over one hundred southern congressmen signed the Southern Manifesto, denouncing the Brown decisions as a clear abuse of judicial power. White citizens councils, the middle class equivalent to the Ku Klux Klan, were formed in many southern states. While they forswore violence, they did harass the NAACP and those individuals who challenged segregation, and promoted propaganda to fight the end of segregation.

The most publicly visible defiance of the Supreme Court's decision occurred in Little Rock, Arkansas. After the 1954 *Brown* decision the city's board of education declared it would comply. A year later the board approved a desegregation that was to begin in the fall of 1957. Nine students decided to attend the all-white Central High School despite an advertisement placed in local newspapers by white citizens discouraging them. Governor Orval Faubus appeared on television the night before the school year was to begin and announced that he had called in the National Guard to avoid bloodshed. A white mob greeted the African American students as they arrived at the school and Faubus' National Guard turned the students away. Nine days later the students were again turned away. In response President Eisenhower nationalized 10,000 members of Arkansas National Guard and sent 1,000 combat-ready paratroopers of the 101<sup>st</sup> Airborne Division to ensure that the students could enter the high school.<sup>146</sup> While border states were more compliant by a decade after Brown only two percent of African American children in the Old Confederacy were attending desegregated schools.<sup>147</sup> Progress in federal

courts was slow, and without their own police force, the federal courts were making little progress in implementing Brown. The principal of nondiscrimination had been established, dual systems had been declared unconstitutional and the principle of equity had been affirmed, but few African American children in the South were attending schools with whites.

It was not until President JFK's assassination in 1963 that the turning point for progress in desegregation occurred. In the period of national mourning that followed Lyndon Johnson was able to maneuver JFK's comprehensive civil rights bill through Congress despite a southern filibuster. The bill guaranteed equal access to public accommodations such as hotels, motels, restaurants, and places of amusement, and prohibited a number of means that the South employed to limit African American voting. While Title II, the public accommodations component, had drawn the most controversy, Title VI proved to be the most influential. Under Title VI, the federal government was allowed to cut off federal funds where discrimination was shown.<sup>148</sup> The bill also required the U.S. Office of Education to provide technical assistance to school districts developing school desegregation plans through desegregation assistance centers and increased the authority of the U.S. Commission on Civil Rights. The passage of both the Civil Rights Act of 1964 and the Elementary and Secondary Education Act of 1965 were incredibly influential on furthering desegregation in the South.<sup>149</sup> The U.S Commission on Civil Rights played an active role in describing and investigation the problems of school segregation and how they were affecting students. Additionally, the Commission was able to use its finding to focus the public's attention on segregated schools. The passage of ESEA granted over \$1.5 billion for local school district expenditures on disadvantaged children.<sup>150</sup> Consequently, the removal of federal aid could now serve as a threat to force compliance with desegregation practices.

The question of what this compliance would look like was answered by *Green et al. v. County School Board of New Kent County et al* No. 695 Supreme Court of the United States 391

*U.S. 430*. This case involved a small, rural school district in eastern Virginia with two schools, one serving whites from elementary through high school, the other serving African American students. The threat of losing funds under the enforcement of the Civil Rights Act led the school district to finally comply with the 1954 *Brown* decision by adopting a freedom-of-choice plan. No whites applied to attend the African American school, but 115 black children, or 16% of the black student population, applied to attend the white school. However, the schools remained racially identifiable in every facet of school operations. Thus, the Court decided that this plan had no promise of desegregating the schools and the district had a duty to take whatever steps necessary to ensure that the school was converted to a system in which racial discrimination would be eliminated root and branch. With the *Green* decision the freedom-of-choice plan was overruled, and racial balance had replaced nondiscrimination as the legal standard. However, the question remained of how to achieve racial balance. Three years later, a second court decision, *Swann et al. v. Charlotte-Mecklenburg Board of Education et al.* 402 U.S. 1. Supreme Court of the United States 404 U.S. 811, went even further by setting numerical targets for racial balance. It also affirmed the use of bussing, the mandatory transportation of students out of their neighborhoods attendance area or previously assigned school, as a method for achieving racial balance.



Image 3.6: Nettie Hunt and daughter Nickie sit on the steps of the Supreme Court building on May 18, 1954, the day following the Court's historic decision in *Brown v. Board of Education*. Source: [http://www.pbs.org/wnet/supremecourt/rights/landmark\\_brown.htm](http://www.pbs.org/wnet/supremecourt/rights/landmark_brown.htm)

However, although these cases made it illegal to segregate students, discrimination against Chinese, Mexicans, and African Americans did not end. Many schools throughout the country remained segregated for decades to come, and they had to be brought before courts as well in order to enforce change. Additionally, the poor quality and unequal education which Chinese and Mexican students had been receiving for generations had continued a cycle of economic inferiority. By preventing Chinese and Mexicans from entering the country through restrictive immigrant legislation, and disenfranchising and segregating African Americans through Jim Crow laws and *de facto* practices the government designated those already within the United States to racial discrimination and isolation, which would have powerful authority over their opportunities. Education is the main means to social mobility in the United States, and is the reason America is often touted as offering an equal opportunity for all. However, education is not equal within the United States, and a quality education was not provided to every student, rather a

quality education was something that which society believed should only be offered to white children.

By not allowing Chinese, Mexican, and African American students to obtain a quality education society was creating the conditions which would cause them to remain at the bottom of the labor force. Subsequently, their social status perpetuated the stigmatization of immigrants as uneducated, poor, morally corrupt, and culturally different. Unequal education has resulted in the social marginality of Chinese, Mexicans, and African Americans and created racialized identities which society has employed to discriminate against and challenge them in all aspects of their lives. Without an equal, quality education Chinese, Mexicans, and African Americans will never be able to advance in society and break through the discrimination which has hindered them for over a century.

African American, Chinese-descent, and Mexican-descent students were legally excluded from attending U.S. public schools with white students from the late-nineteenth century through the late-twentieth century. Through the examination of the Chinese Exclusion Law, National Origins Act, and Jim Crow laws it is evident that these historical forces were enacted and manipulated to justify the “separate but equal” doctrine established by the 1896 Supreme Court decision, *Plessy v. Ferguson*. Consequently, African American, Mexican American, and Chinese American communities worked with one another to mount legal campaigns against *de facto* and *de jure* segregation in American public schools. The gradual battle to achieve educational equality was not a chain of isolated legal achievements, but rather, it was a consummation of collective, multi-ethnic alliances and grass-roots organizing that set the stage to end legal segregation in public schools. The *Mendez* and *Lemon-Grove* cases exhibit the community organizations formed to offer financial and moral support during legal battles, as does the NAACP, which was able to mount a legal campaign against school segregation spanning over

twenty years through expansive community efforts. As a result of these multi-ethnic community and legal efforts, *de jure* and *de facto* segregation was successfully dismantled in U.S. public schools, with the landmark Supreme Court case, *Brown v. Board of Education* (1954). However, the question of how to successfully desegregate U.S. public schools became a controversial issue which beset school districts for decades and has reemerged today with the re-segregation of schools.

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Schreyer Honors College  
B.S., Education Secondary Social Studies, 2013  
B.A., History, 2013

## **Honors and Awards**

Academic Excellence Scholarship, Annually  
Dean's List, All semesters

## **Activities**

### **Atlas Benefitting THON** 2009 – 2013

- Contributed to raising over \$800,000 for the Four Diamonds Fund for pediatric cancer through various fundraising events
- Generated and helped maintain relationships with three sponsored girls and their families
- Attended bi-weekly meetings to develop fundraising ideas and facilitate relationships with corporate and alumni sponsors

### **Student Pennsylvania State Education Association** 2009 – 2013

- Planned and executed different holiday activities and crafts for local State College children at Schlow Library
- Attended bi-monthly meetings listening to and speaking with distinguished professors and educational professionals

### **Penn State Life Link** 2009 – 2013

#### *Mentor*

- Attended Penn State classes with Life Link special needs student and helped her with the skills needed for the class
- Participated in activities and games with students in the Life Link classroom

### **Penn State Dance Marathon Rules and Regulations Committee** 2010 – 2011

#### *Security Leader*

- Created, collected, and organized mail for children and dancers
- Oversaw safety of the thousands of spectators and participants at THON 2011
- Ran the PASS computerized system for checking organization and family members on and off the dance floor and oversaw 32 members

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**Penn State Dance Marathon Communications Committee**

2011 – 2012

*Sleep Shift Captain*

- Organized and facilitated sleep shifts for over 300 captains during THON weekend and oversaw fifteen committee members
- Operated communication booths during THON weekend to inform students, parents, Four Diamonds families, and faculty about THON
- Attended weekly meetings to develop, plan, and organize methods for communicating THON's mission to the public

**Teach for America**

2012-2013

*Campus Ambassador*

- Planned and facilitated recruitment activities and information sessions for prospective applicants
- Created marketing opportunities for the organization through social media

**Experience****Student Teaching**, Newtown Middle School, CRSD, Newtown, PA, January-April 2013

- Designed and implemented instruction for five classes over a 4 month period.
- Kept systematic and analytic data of student progress and patterns in student assessment.
- Provided accommodated materials for students with IEP's and other learning needs.
- Participated in running school activities such as the school play and a cappella club.

**Pre- Practicum**, Clearfield Middle School, CASD, Clearfield, PA, September-November 2012

- Developed and taught lessons for four classes over a six week period
- Responsible for recording grades and tracking student progress.