

Revisiting Rodriguez v. Los Angeles Unified School District: A Case of Intra-district Inequities

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The educational community and the courts continue to struggle with the challenges of intradistrict resource inequality revealed by the California Supreme Court landmark case *Rodriguez v. Los Angeles Unified School District* (1992). Intra-district school resource inequality is one of the remaining bastions of major inequalities in the United States. Academic researchers and school districts have yet to develop and examine current intra-district frameworks and models for effectively implementing and monitoring equality of resources. In short, this area that affects the quality of education for our children in schools should be a priority for our nation. This is especially true in LAUSD.

The purpose of this article is to revisit not only the consent decree, but also a comprehensive timeline of the *Rodriguez* case (1980-2007). Surprisingly, very little has been published on this important case especially regarding the actual results and basis for this case. More specifically, the author examines the pre-consent decree era (1980-1986). This pre-consent section reveals that Mexican American Parents initiated the consent decree, and the Espinosa LAUSD Study (1985) results provided the research basis for the consent decree. The second section includes the timeframe between 1986 and 1992 regarding the negotiations and the agreed upon consent decree framework. The third section examines the post-consent decree era (1992-2007) with a focus on the implementation of the consent decree. The final section is a discussion on the *Rodriguez v. LAUSD* case.

Pre-Consent Decree Era (1980-86)

In the early 1980's, Mexican American parents from LAUSD initiated the *Rodriguez* case. The author received a phone call one afternoon from a Mexican American parent organization from LAUSD. The researcher was told that the Mexican American parents had a gut feeling and perception that their community schools were treated unequally and that the facilities clearly revealed part of the problem. They asked the author if he could do a study to test their perceptions since no one else would conduct such a study. The author agreed to conduct the study but many challenges were involved in such an endeavor. First, the LAUSD Office had no public studies available on resource allocations. Second, a literature review at the time also revealed no research on the facilities inequity that the parents were raising. No study had ever been done in the southwest to answer the kind of questions the Mexican American Parents were posing. Third, no major studies were found in the literature that was related to the parents' concerns on school finance resources and facilities to inform the methodology. Lastly, the parents had no funds or funding source for the study but they were hoping it could still move forward. The researcher met with the parent representatives a number of times and also conducted site visits to see what challenges they perceived. The Mexican American Legal Defense and Education Fund (MALDEF) and the Rosenberg Foundation eventually provided some financial support for the study. *Espinosa LAUSD Study (1985)*

The purpose of the Espinosa (1985) LAUSD Study was fourfold: (1) to describe and compare the distribution of fiscal resources, achievement scores, poverty, language classifications, percent and number of students, and school size using 86 randomly selected schools within the Los Angeles Unified School District during 1985-86 school year, and (2) to analyze the relationship between fiscal and school environmental resources and achievement data using a stratified sample based upon ethnicity of the student population, (3) to create, a technical research study that was required as part of the formal complaint process that included the US Justice Department and (4) to present to twenty legal organizations to determine the feasibility and legal challenges possible in LAUSD. In order for the *Rodriguez v. LAUSD* case to move forward, the legal community had to be convinced there were causes of action and that there was data to support the concerns of the parents. The

United States Justice Department had to be convinced, based on technical data results that the concerns of the parents were not only blatant, but also substantiated with systemic means results and specific examples of gross inequalities.

Most of the research focuses on all the cases, for example 375 elementary schools. Stratified samples were used to demonstrate the ethnic differences in school size, resources and facilities as well as almost all other variables. Eighty-six elementary schools (20%) were randomly selected to serve as the district sample in this study and data from these schools have provided findings illustrating district patterns and trends in the data results. Thirty-four schools were randomly selected to represent the stratified sample. The Statistical Packages for the Social Sciences (SPSS) was used to conduct the analysis. Descriptive, analytical and path analysis was conducted to summarize the results. Some key study results were the following:

Achievement

Students in predominately Hispanic schools scored significantly lower in math and reading achievement than students in predominately White schools. An analysis of the data reveals a clear positive relationship between fiscal resources, school facilities, and achievement; all favoring White schools. Higher achieving schools were also smaller and had less categorical funding and fewer Hispanic, Limited English Proficient (LEP) and poor students.

School Facilities

Facility resources increased and decreased according to concentrations of Hispanic and LEP students in school sites. This finding supports the claim of Hispanic parents in the district who alleged there were racially related resource disparities, which results in “separate and unequal” education for their children. The data in this study show that students in White schools consistently received more library, cafeteria, multipurpose, landscaped, garden, playground, and restroom space per pupil than did students in Hispanic schools.

Fiscal Expenditures

LAUSD spends less on a per pupil basis on schools that have concentrations of poor, Hispanic, and LEP school children, as well as larger schools, than on schools that have wealthier Non-Hispanic White children. The former receive less general, total, and instructional funds. Furthermore, these schools also receive a low level of base funding and a high level of categorical funding that may cause institutionalization of remedial curriculum and standards that work against achievement gains. Categorical funding is not supplemental in this study. These lower levels of resources provide poorer and fewer facilities in schools with concentrations of Hispanic and LEP children. The minimum total expenditures per pupil for the schools in this sample were 1,029 dollars per pupil while the maximum was 3,117 dollars per pupil, a 2,088 dollar per pupil difference between the minimum and maximum.

School Size

Hispanic schools were shown to be the most heavily populated when compared to White schools across the district. Average Daily Attendance (ADA), an indicator for school size, was revealed to have a strong negative relationship to school facility space per pupil, base funding, and achievement. These variables all impacted more heavily upon students in Hispanic schools than upon students in the White schools. To compound this disparity, Hispanic schools were built on fewer acres and planned to accommodate more students than White schools. Size had a strong negative relationship to reading achievement. For the 86 cases in the district sample, size related to third grade reading achievement at $r = -.53$ and to fifth grade reading achievement at $r = -.60$. The percent Whites was negatively related to size at $r = -.65$ respectively, while percent of Hispanics related to size at $r = .66$. Size also related positively to LEP students ($r = .71$) and with percent of poverty ($r = .63$). As disclosed by

these data, reading achievement was lowest for students in schools with a Hispanic majority and schools, which had high rates of poverty and LEP students.

Negotiated Consent Decree (1986-1992)

The Espinosa study was distributed to the United States (US) Justice Department as part of the complaint process. The study supported the plaintiffs' concerns that Mexican Americans were in fact being treated inequitably based on legal standards guided by the United States and California Constitutions. The Espinosa study found both systemic and specific examples of inequalities at the elementary, middle and high school levels. In order to verify the inequalities found in the Espinosa 1985 study, Dr. Espinosa was hired as a consultant by the United States Justice Department to disprove his own results to determine if the results were valid and reliable. Numerous studies were conducted to see if the inequalities could be dismissed based on different types of statistical analysis. Since Dr. Espinosa was the only researcher at that time with a comprehensive database on LAUSD and had developed the research methodology to conduct the original study and results, this was most likely the reason. In fact, LAUSD did not have such a database at that time.

It turns out that no matter what statistical tools were applied, the inequalities remained. In some respects, this was a turning point for the case. At this point the US Justice Department agreed that the plaintiffs had legal cause for action based on the Espinosa 1985 study. As a result, the LAUSD was required to take assertive action to address the inequalities and causes of action presented in the original 1986 consent decree filing that included a requirement for the LAUSD to develop a plan of action. For example, the US Justice Department agreed that schools in LAUSD should have caps that were substantially lower than what was standard practice for elementary schools, 20 of which were over 1,000 and built for 500.

However, the author was disappointed that the Justice Department did not support viable solutions or provide sanctions to support the intent of the case, which was to support the concerns of the growing Mexican American community. More importantly, the Justice Department ignored the larger issue, which was that inequitable fiscal resource allocation is a national problem. It remains a mystery to the author, why the US Justice Department did not intervene in a more assertive role to support and protect the 13th and 14th amendments of the US Constitution in such a high profile case.

The Rodriguez v. LAUSD Consent Decree was originally filed on July 22, 1986 in the Superior Court of the State of California for the County of Los Angeles. Basically, the Consent Decree was a complaint for injunctive and declaratory relief for violations of Article I, Section 7(a) and Article IV, Section 16 of the California Constitution. The consent decree (also referred to as a consent order) is a judicial decree expressing a voluntary agreement between the Plaintiffs, Ron Rodriguez et al. all and LAUSD parties to avoid a suit. It is also a legal document, approved by a judge that formalizes an agreement reached between the Plaintiffs Ron Rodriguez et al. al and the Responsible Parties Defendants LAUSD.

The original consent decree filing during 1986 and the 1992 final version evolved substantially. The 1986 version focused on defining and clarifying the legal causes of action, which were nine areas. The nine areas focused on allocation of resources based on race, ethnicity, wealth, and general disparities; allocation of facilities by ethnicity and wealth disparities; allocation of instructional staff by race, ethnicity and wealth; allocation of instructional staff general disparities; finally illegal use of public funds. The LAUSD was required to develop a master plan to alleviate the gross inequalities. The systemic inequalities found in Espinosa 1985 turned out to be the tip of the iceberg. In the beginning, the gross inequalities were great in scope and challenge. However, the closer one looked there were more and more inequalities. The inequalities were so gross and systemic that this remains an unprecedented challenge, especially once politics enter into the equation. The small elementary schools around 300 are primarily White, while all of the schools over a 1,000 are Mexican American or Hispanic. The schools without credentialed teachers were Mexican American. Mexican Americans and English Learners

shared the lowest achieving schools. Most of the Mexican American high schools had no Advanced Placement (AP) classes programs or prerequisites for AP. Very few Mexican Americans were eligible for entrance to local universities. There was as much as 2,000 dollars per pupil difference between fiscal resources for Mexican Americans at a school when compared to a high spending white school. The low base funds represented lower average teacher salaries or less experienced teachers. Originally, it was thought that per pupil costs could be reallocated to make the system fairer.

Once the Justice Department was supportive of the complaint, LAUSD was required to make a good faith effort to address the parent complaint. As a result, the negotiations were focused on clarifying the definitions, setting the standards, requesting a plan, requesting reports, and requiring infrastructure support to comply with the on going monitoring proposed. According to the LAUSD legal department, there was no requirement to keep the LAUSD school board updated with progress or monitoring of the Rodriguez case. As a result no reports were provided and as a result none are available to the public. There appears to be an informal policy that separates the legal issues from the board in terms of legal documents and district progress. This is really quite an amazing informal policy where the people in charge do not know what is going on in their own district and community. Interestingly, LAUSD has increased their legal department dramatically since the beginning of the consent decree. However, the focus appears to be on protecting the district from legal liabilities versus addressing the educational needs of the children.

The court officially accepted the Rodriguez v. LAUSD Consent Decree in 1992. The Consent Decree is an agreement by the LAUSD to implement a court ordered directive to evaluate and implement short and long term plans for intra-district violations. The LAUSD through the Consent Decree agreed to find relief to the plaintiff's legal concerns, which are summarized below. It is important to note that each of these areas were supported by the original Espinosa 1985 study and that the major results have never been disputed by LAUSD, the courts or other researchers.

Some salient excerpts from the 1992 Consent Decree are the following:

1. Resources – One of the major goals of the Consent Decree focused on fiscal resources to Equalize Norm Resources, teacher experience, and teacher training among schools operated by the district. A related goal was to provide all students with maxim access to teachers with experience and training. A third goal related to resources was to mitigate the consequences of limited teacher experience and training wherever equalization cannot be achieved. Equality was defined to exist at any school where the actual expenditures of basic norm resources differs from the allocation figure calculated for that school by less than \$100 per enrolled student.
2. Facilities—One of the major goals was to provide a classroom seat for all students in their local resident schools, consistent with sound educational policy for school size and density and recognizing that the total number of students to be served by the district may increase by as many as 200,000 students by the year 2000. Another related goal was to further the construction and maintenance of schools with smaller enrollments, again recognizing that the district's total enrollment is increasing.
3. Density standards were created to support elementary, middle and high schools. For elementary schools— 1.4 playground acres for up to 500 students, 1.7 playground acres for up to 750 students, 2.0 playground acres for up to 1000 students. For middle schools— 2.3 playground acres for up to 1,250 students. For high schools— Six playground acres for up to 2,400 students and 9 playground acres for up to 3,600 students. Of course, there was an escape clause that allowed a school to opt out of the standard.

Beginning in 1992-93 annual reports to the board of education would focus on the following:

- Need for new construction
- Status of pending construction
- Plans for future construction
- Funds available to addressing immediate needs
- The district will recognize the agreed upon density enrollment goals
- Enrollment reports are to be made available to all parents with attending schools at the time of the report
- Internal Transparency Requirements—A minimum of 13 annual reports were agreed upon and two biannual reports, to document progress and documentation for the main focus of the consent decree as listed above.
- Infrastructure Goal Changes—The district shall retain an independent accountant who shall examine whether the district is making allocations of basic norm resources as required by this agreement. The accountant shall prepare annual reports for school years 1997-98 and 1998-99, and biannual reports for school year 2000-02 and 2002-004. None of these reports as well as other required reports is available to the public. A computer system was to be fully operational in 1995-96 to provide each school with an accounting of actual expenditures of base norm resources compared with average expenditures of basic norm resources.
- Independent account to be hired to examine allocations and prepare annual reports.
- Supplanting of Categorical Funds—The basic norm resources shall not be supplanted by any categorical funds allocated to the district's schools.
- Annual Reports—Annual reports are to be made of basic norm resources, categorical funds, schools exceeded the norm expenditures, schools unable to use their full allocation of basic norm resources, those schools with additional basic norm resources, number of teachers and administrators by step, schools identified and directed to take interim steps toward reducing their expenditures of basic norm resources, standards and criteria for implementing teacher assignment provisions, racial and ethnic enrollments, currently approved construction projects.
- Process for Disagreement—In disputes regarding application, implementation or interpretation or compliance parties will first attempt to resolve dispute within before submitted dispute to the court.

Lack of Implementation (1992-2007)

The consent decree provided a seemingly workable framework to collaborate on change that could support the joint goal of equal opportunity for Mexican American students. According to Roos (2000), Sugarman (2002), and Bradley (1994), progress has been made regarding the equalization of fiscal resources in LAUSD. According to Roos (2000), the Rodriguez v. LAUSD consent decree did not impose forced teacher transfers. However, the LAUSD district provided each school with a dollar budget with which to hire teachers. The Decree also forced cuts in schools with per-pupil spending well above the district average. Sugarman (2002) reports that the district has substantially equalized spending across schools, though high poverty schools continue to have lower proportions of more experienced teachers and additional money for non-teacher spending. According to Bradley (1994) as part of the consent decree, the LAUSD agreed to equalize non-categorical per-pupil spending in 90 percent of schools to within \$100 of the district average.

However, no transparency or accountability exists regarding progress made by LAUSD in published reports or research documents for public consumption. As a result, there is no verification that there has been any progress. The issue of transparency and accountability remains a LAUSD and national legal issue that is troubling to concerned taxpayers, parent advocates and educational organizations. While the plaintiffs provided an equitable plan, the district receives an “F” for transparency and implementation of effective changes for supporting the 14th amendment of the US and equal opportunity rights of Mexican Americans.

The largest escape clause turns out to be pitting teaching equity against student equity. The teacher union focus on teacher equity provided the ideal escape clause for the district by arguing that fiscal equity is not possible since 80% of the funds required for equity are related to teacher costs, and the majority of teachers have no interest in being forced to equalize expenditures by moving to overcrowded Mexican American schools. While there was a most inspiring plan and hope for a growing Mexican American Community, it was short lived and progress was basically lost in the implementation and escape clauses. The additional 200,000 students in the growing Mexican American community contributed to the reality of trying to fix a system that had systemic problems when the consent decree started. In 2005-06 during the consent decree, Miles Elementary, a Mexican American school, was identified in an article as being the 2nd largest elementary school in the nation. Related to density and size, the district is now ignoring the original caps. The cap for elementary schools was set at 1,200. Miles Elementary was originally at 2,400, the web site as of today reports 2,700 for 2005-06 during the consent decree. For a school that was originally built for 500, this is truly a new level of inequity. Most disconcerting is that Ed-Data a national database, reports 1,772 students for 2008-09. The school is currently on 4 tracks and is ranked at the 3rd percentile, one of the lowest in the state. This means that 97% of schools in California are above this school in average achievement. Yet, this school has been identified as exemplary. How is this possible to receive such a high rating with such inequitable and poor results by any standard?

Base funds remain inequitable since experienced and more competent teachers do not wish to work in the high density Mexican American city schools. In fact, teachers continue to leave because of the issues related to overcrowding and density as well as facilities. Miles elementary in 2005-06 was still on 4 tracks and at 2,700 students with an increase of 300 since the 1986 consent decree started. Currently Miles Elementary is at 1,700 and is identified as exemplary though it is at the 3rd percentile in student achievement. On July 11, 2007, a legal Appeal was filed in the 2nd Appellate District, Div. 2, by Law Office of Lew Hollman, Lew Hollman; Peter Roos; et. al. By its own terms the Consent Decree expired in 2006. The Appeal was a request for an extension of 5 years to implement the Consent Decree goals of reducing the inequalities in school funding. The trial court denied the plaintiffs' request for an extension. The appeal supports the assertion that the consent decree goals were never met and as results an extension was requested. How much progress was made is speculative since the facts are not available to the public. Supposedly millions were reallocated and spent on implementing the consent decree goals.

Discussion

The 1992 consent decree version focused on a good faith master plan with assumptions about transparency and implementation of change, which would turn out to be the major weaknesses. The allocation of resources was operationalized and defined in a manner that could allow identification, tracking and research as well as discussion. A standard taken from the Serrano v. Priest cases of \$100 per pupil difference was used to gage implementation of the different fiscal resources, such as base and instructional funds. Ethnic schools as well as poverty and wealthy schools were also operationalized including over enrolled schools. What are missing are yearly studies to monitor the progress in the key areas identified in the consent decree to determine school change and systemic change.

The advocate legal approach was flawed in approach for the following reasons:

- The major components of an effective program should have been defined and identified to determine the cost by resource type to close the achievement gap at the beginning. This would have allowed for implementation of change with potential for positive goals.
- Schools and district should have run simulations for the entire district with current and proposed changes to determine exact negotiations.
- Expert researchers and school finance experts should have been used as consultants to conduct the simulations for exact costs and estimates and yearly studies monitoring progress.
- Projections should have been included in the simulations using the projected 200,000 district projections

to project demographic growth and impact of facilities.

- Major changes in resource allocations, staff development and training cannot be assumed.
- Sanctions were not applied as is evident since the district has not honored the school density caps.
- Issues with the teacher union need to be addressed early since this could affect feasible solutions.

The findings of this article raise a number of equity issues that go beyond the scope of *Serrano v. Priest* that focused on inter-district disparities. According to the findings in this research study, it is of little use for the state legislature to distribute funds equitably among districts if the districts do not distribute their funds in a like manner among schools. Eventually a new finance formula must be devised in the state which will equalize the distribution of base funds, instructional dollars, and total expenditures between schools. In addition, it is recommended that a more advanced monitoring system be used by the state on a regular basis to see that an equal distribution of resources does occur. Lack of Transparency of fiscal resources at the school site level belittles any accountability.

In accordance with the Fourteenth and Fifteenth Amendments, every person is entitled to equal protection of the laws regardless of race or color. The ruling *Lau* decision and statements made in the equal opportunity Act of 1974 declare that states have a responsibility to provide a meaningful and fair education to children. Los Angeles appears to be in non-compliance with these statutes and decisions through its fiscally unsound practices and unfair distribution of resources. The high likelihood of supplanting, coupled with the above mentioned resource disparities, lead to the conclusion that the district's policies have been ineffective in promoting equity.

The persistence of inequality in the distribution of resources stands as a paradox to America's egalitarian philosophy and principles. The continued tolerance of this discrimination by leaders, stakeholders and political leaders is a shameful reflection of social institutions' lack of commitment in providing equal education opportunity. It is time for change to occur before another generation of students is lost.

One of the most important lessons the author has learned is that even when gross inequality problems are well documented, this does not encourage any stakeholders, such as, the 30% of legislative districts cutting across LA to support the constitutional equal education rights of Mexican Americans. The implementation practices by the city planning and LAUSD district are so inequitable that the problems they have created cannot be resolved as agreed upon in negotiations. Thousands of inequitable leadership decisions have been made to get us to the current policies and practices as well as inequitable resources.

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