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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

NOAH GONZALEZ; JESUS GONZALEZ, his
father and next friend; MANUEL BARCELO;
and JULIAN BARCELO, his father and next
friend,

Plaintiffs,

vs.

DIANE DOUGLAS, Arizona Superintendent of
Public Instruction, in her Official Capacity;
ARIZONA STATE BOARD OF EDUCATION;
TIM CARTER; JARED TAYLOR; RITA
CHENG; CALVIN BAKER*; DANIEL CORR;
MICHELE KAYE; JANICE MOK; LUCAS
NARDUCCI; CHRISTINE BURTON; and
PATRICIA WELBORN, each in his or her
Official Capacity as a Member of the Arizona
State Board of Education,

Defendants.

No. CV 10-623 TUC AWT

**FINAL JUDGMENT,
DECLARATION, AND
PERMANENT INJUNCTION**

After trial of this cause to the Court, the Memorandum of Decision, which serves as
the Court's Findings of Fact and Conclusions of Law, the remedy phase hearing, held on
July 17, 2017, and the legal and factual submissions made at and in connection with said

* Mr. Baker and each of the six Members named after him is substituted for his or her
respective predecessor in office pursuant to Fed. R. Civ. P. 25(d).

1 hearing, and based on the record as a whole, the Court now makes and enters its Final
2 Judgment:

3 **IT IS ADJUDGED:**

4 **1.** Defendant DIANE DOUGLAS, in her official capacity as Arizona
5 Superintendent of Public Instruction (hereinafter the “Superintendent”), and her
6 predecessors in office THOMAS C. HORNE and JOHN HUPPENTHAL, acted contrary to
7 the First and Fourteenth Amendments to the Constitution of the United States and thereby
8 violated Plaintiff students’ constitutional rights when the Superintendent found the Tucson
9 Unified School District (“TUSD”) in violation of Arizona Revised Statutes §§ 15-111 and
10 15-112 (together “§ 15-112”) and caused the TUSD to shut down the Mexican American
11 Studies (“MAS”) Program by assessing a penalty of 10 percent of TUSD’s state funding if
12 the MAS Program were not eliminated.

13 **2.** The State of Arizona, acting through its Legislature and Governor, acted
14 contrary to the First and Fourteenth Amendments to the Constitution of the United States in
15 enacting § 15-112.

16 **IT IS DECLARED**, pursuant to 28 U.S.C. § 2201(a), that because § 15-112 was
17 enacted and enforced, not for a legitimate educational purpose, but for (i) an invidious
18 discriminatory racial purpose, and (ii) a politically partisan purpose – to shut down the
19 TUSD MAS Program – in violation of the First and Fourteenth Amendments to the
20 Constitution, § 15-112 cannot be enforced.

21 **TO EFFECTUATE ITS JUDGMENT AND DECLARATION, THE COURT**
22 **ISSUES THE FOLLOWING PERMANENT INJUNCTION:**

23 **A.** The Superintendent and the Arizona State Board of Education (hereinafter the
24 “State Board”) are hereby permanently restrained, enjoined and prohibited from enforcing
25 § 15-112 of the Arizona Revised Statutes, including, but not limited to, the following:

26 **(1)** The Superintendent is enjoined from requiring TUSD to prepare or file
27 any reports regarding whether any program, curriculum or course is in compliance
28

1 with § 15-112 or its objectives.

2 (2) The Superintendent is enjoined from conducting any inspections or
3 audits of any program, curriculum or course of the TUSD with respect to or for the
4 purpose of determining whether TUSD is in compliance with § 15-112 or its
5 objectives.

6 (3) The Superintendent is enjoined from withholding or authorizing the
7 withholding of, or threatening to withhold or authorize the withholding of, any state
8 funds from TUSD for the latter's failure or threatened or purported failure to comply
9 with § 15-112.

10 **B.** This permanent injunction shall be binding on all of the following persons, in
11 addition to named defendants, the Superintendent, the State Board, and all Members of the
12 State Board, who receive actual notice of this injunction by personal service or otherwise:

13 (1) All successors and assigns of the Superintendent, the State Board, and
14 Members of the State Board.

15 (2) Any and all officers, agents, servants, employees, and attorneys of the
16 Superintendent and the State Board.

17 (3) All other persons who are in active concert or participation with the
18 Superintendent, the State Board, or any person or entity described in Paragraphs
19 **B(1) & (2)**, immediately above.

20 **C.** The Superintendent and the State Board may move to dissolve this
21 permanent injunction anytime after the expiration of seven (7) years from the date of its
22 entry.

23 **IT IS ORDERED** that plaintiffs shall recover their costs of suit from defendants in
24 the sum of \$ _____.

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The issue of attorneys' fees and expenses shall be subject to and settled by post-judgment proceedings.

The Clerk is directed to enter this Final Judgment forthwith.

DATED: December 26, 2017.



A. Wallace Tashima
United States Circuit Judge
Sitting by Designation