

Suspensions of Disbelief

BY BEN FULTON

If 36 percent of a school's population is Hispanic, but Hispanic students represent slightly more than 51 percent of all suspensions at that same school, you might suspect something is amiss. For J. Michael Clára, president of the Utah chapter of the League of United Latin American Citizens, that suspicion is slowly turning into a conviction. It doesn't help matters when you're being stalled by the Salt Lake City School District, either.

The school in question is Glendale Middle School, which, along with Clayton Middle School, feeds students into East High School. But while Clayton suspended only 8 percent of its student body during the 2000-2001 school year, Glendale suspended 18 percent of its students during the same period. Could the disparity boil down to Glendale's much more sizable Hispanic student population? And could that disparity stem from a lower threshold of tolerance for the behavior of Hispanic students?

Clára believes there's almost no room for doubt. Suspecting otherwise means concluding that Hispanic students are somehow inherently more disruptive than their fellow classmates. That's a conclusion many would find unfair, and unsettling.

A little investigation, and advocacy, seemed in order. "Our concern is that these are the kids who can least afford to miss school, and we see a disparity in the way the district treats Latino kids within a particular school," Clára said. "We're going to start scrutinizing these suspensions to make sure they're warranted."

Clára looked into two recent suspensions at Glendale and concluded that something was indeed amiss. When a Hispanic student picked up a stray fireworks device from the floor and followed a warning from his teacher to let it go, the next day he found himself suspended for a three-day period. The charge: possession of an explosive. The student argued that the device didn't belong to him, nor did he even bring it to school.

A second Hispanic student found himself in a stickier situation. Borrowing a pencil-lead container from a friend, the student went into a nearby restroom to wash his hands after inserting the lead. But instead of lead, he found marijuana in the container. Two students and a teacher entered the restroom to find the student with the drug in hand. The student passed a drug test. The student who gave him the mistaken container admitted it was a mix-up. The student was nevertheless suspended. Clára believes wrongly. District policy, as Clára understands it, requires that a student must have "knowingly and intentionally" brought the substance inside the school.

As an advocate for the students, and in the instance that he might be able to assist in translating the proceedings for Spanish-speaking parents, Clára attended both disciplinary hearings. In the end both were suspended. The student caught with marijuana for three days, the student with the

school administrators were circling the wagons," Clára said, characterizing the hearings.

Still, Clára hopes that his presence at the hearings might make some school administrators less trigger-happy when it comes to suspensions. That is, if he gets to attend student disciplinary hearings ever again. Last week he received a hand-delivered letter from a Salt Lake City School District attorney telling him that his participation was no longer welcome. These hearings are private

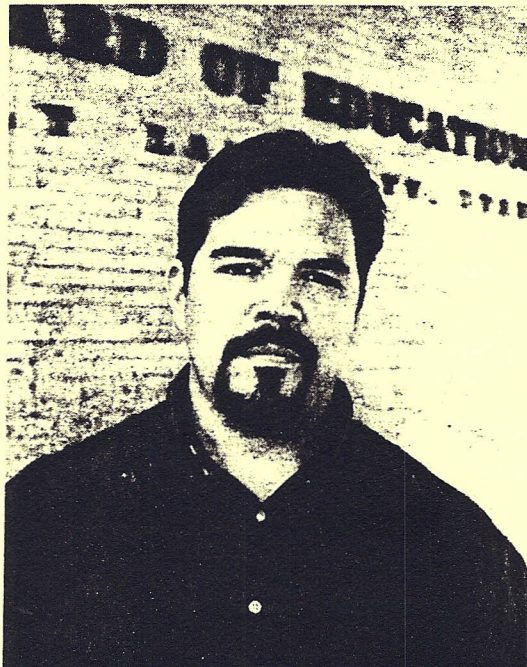


PHOTO: FRED HAYES

J. Michael Clára: "If they're suspending students for valid reasons, there should be nothing to fear from the presence of an advocate."

matter for the student, student's parent, and the school, thank you very much.

"When the District conducts any kind of hearing for a short-term suspension of 10 days or less, a student has no constitutional right to be represented by anyone other than the student's parent or legal guardian," the letter stated.

That didn't sit well with Clára. Not only does Clára disagree with the way the district's attorney reads school policy with regard to an advocate's presence at disciplinary hearings, he wants both students' suspensions struck from their records. Never mind that Clára doesn't believe the students' actions didn't fit the criteria for suspension. He also maintains that Glendale Middle School violated state and federal statutes by not first contacting the students' parents with evidence supporting the charges. On top of that, one student's Spanish-speaking parents received an English copy of school policies, which seem to differ in important ways from the translated policies.

"If they're suspending students for valid reasons, there should be nothing to fear

district's policy is very specific that the parent has the right to bring an advocate of choice to the suspension hearing. The Davis and Logan districts both allow it."

In fact, as Clára reads the policy, he sees nothing barring advocates from such disciplinary hearings.

Salt Lake City School District attorney John Robson disagrees. There is, however, a dividing line. "If discipline is going to exceed 10 days of suspension, it has always been the district's policy to give students a full hearing with witnesses and a right to legal counsel," Robson said. "When it's less than 10 days it's a matter between only the student, parents and the school. Typically, the school will provide a translator if needed."

The point past helping has already been crossed for the student charged with bringing marijuana into the school. Notice of his suspension has already entered his juvenile criminal record. His mother was horrified. "I only wish they would have called me that day before they got the police involved and made a decision as big as this," said the boy's mother, speaking in Spanish. "It's their word against ours in these meetings and they already know what they want to know. They know that he is guilty, and that is the end of the discussion."

She said her husband wasn't allowed to accompany their son on the day of his disciplinary hearing. "It is just so hard when they [school administrators] think they know exactly what happened," she said.

Glendale Middle School Principal David Roberts did not return phone calls for this story.

In a way, Clára explains, the entire cycle of school suspensions for Hispanic students feeds into a self-fulfilling prophecy of sorts. If Hispanic students are more often treated as wrongdoers and criminals, then they might well end up as such, especially if they aren't granted the same access to an education due to more frequent and severe sentences of suspension. If Latino resistance to certain school suspensions seems the least bit uppity, keep in mind that most white parents would fight the suspension of their children from school just as aggressively—perhaps even more so.

"Educators wouldn't get away with some of these types of suspensions at Clayton Middle School. A lot of those parents are doctors and lawyers. You bet they're going to question the suspension of their children if something goes wrong," Clára said. "But over here they think we're all stupid and that somehow we're just going to stand for this kind of treatment." ♦



League of United Latin American Citizens

J. Michael Clára - President, Salt Lake City Council of LULAC

19 November 2001

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Dear Mr. Robson,

I am in receipt of your letter dated November 13, 2001. You state that you are representing the Salt Lake School District in responding to a letter that I wrote to Glendale Principal David Roberts on November 10, 2001 (that is one of the stated purposes of your letter). I view your letter as nothing more than a continuation of the intimidation tactics that the district practices upon red-brown people. Harassment is all about intimidation and power, and in this case, cheap tactics. I mis-spoke, I am certain that there is nothing cheap about the district spending tax payer dollars only to have you write a letter on "Attorneys at Law" letterhead. I believe that disagreements can be resolved without confrontational tactics. However, the current conventional wisdom, of the Salt Lake School District, often devalues less confrontational methods even if they work well, favoring strategies that are more aggressive even if they get less favorable results. This type of ethic seems to be the fuel that the district operates on. Rest assured that in spite of your letter, LULAC will continue the struggle of ensuring that Latino children have equal access to the educational programs of the district. "Defense of human rights, equality, and freedom is not only a matter of policy. It's a matter of policy rooted in gospel" - El Salvadoran Archbishop Oscar Romero - Jan 8, 1978.

The intent of my letter to the Principal, was to insist that he stop harassing students about their affiliation with LULAC. It was a simple request. Instead of honoring the request, the Principal's stance is to deny that he questioned the students and then accuse me of "encouraging students to break disciplinary rules." I will now take the appropriate legal action to correct the misconduct of the Principal.

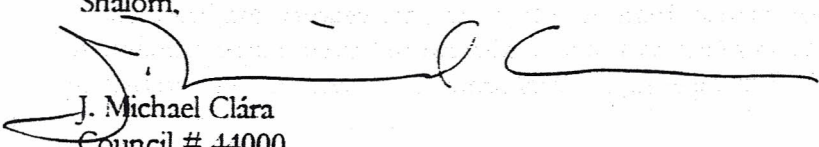
You also state that I am no longer to attend suspension hearings, even if it is at the request of the parents. Your reasoning is based on your opinion that the student has no constitutional rights. I suggest that you acquaint yourself with the Salt Lake School District's policy JFA titled, Student Due Process Rights. The first paragraph reads in part, "...action must comply with the "Due Process" provision of the Fourteenth Amendment of the United States Constitution." You also, erroneously state that a parent may not have legal counsel present if the suspension is under ten days and not required for suspensions over ten days. You might want to take a peak at School Board Policy JFA-R 4.03, which clearly states that the "student, parent or guardian may exercise the right to be represented by legal counsel at the hearing." Need I remind you, the Constitution of Utah, Article X, section 3 gives the Board of Education the authority to make policy. The Board makes policy, not Fabian & Clendenin.

It is almost laughable that you would quote *Goss v Lopez*, 419 U.S. 565 (1975), to support your position of denying parents the right to have an advocate present when they are appealing a suspension hearing. Many of the principles set forth in that case are being violated by the district. Furthermore, in *Goss v. Lopez*, the Supreme Court said a "student's legitimate entitlement to a public education is a property interest which is protected by the Due Process Clause and .. may not be taken away for misconduct without adherence to the minimum procedures required by that Clause." The Court went on to say that "the Due Process Clause also forbids arbitrary deprivations of liberty. 'Where a person's good name, reputation, honor or integrity is at stake because of what the government is doing to him,' the minimal requirements of the Clause must be satisfied."

This pervasive pattern of disdain towards children of color is not often broached in "polite company," though it is acceptable to manifest itself in the way we educate them. We who have red-brown skin are looked down upon because we are seen primarily as descendants from parents, grandparents and ancestors who lived as beasts of burden. Institutionalized racism, no stranger to academia, insist that our labor backgrounds indicate mental deficiency, physical inferiority, or at the very least a cultural tendency toward lack of ambition. Glendale Middle School perpetuates this pattern and practice of institutional racism. Consider the fact that Latino children are being suspended disproportionately compared to the overall make up of the student population. Why would the district try to deny a parent their freedom of association? What is it, that the district fears in a parent bringing an advocate of their choosing to a suspension appeal hearing? What is the district trying to hide? Realize that the district brings advocates of their choosing to appeal hearings, why deny the parents that same right?

The sign states, "No Dogs, Negroes, Mexicans." It hung outside a Texas restaurant in 1942. Although decades have passed, and laws have changed, the quest for acceptance, respect and understanding still continues for many red-brown children in the Salt Lake School District.

Shalom,


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