

PACIFIC JUSTICE INSTITUTE – Center for Public Policy

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ASSEMBLY EDUCATION COMMITTEE
State Capitol, Room 111
1020 N Street
Sacramento, California 95814

Re: Assembly Bill 101 – Oppose

Dear Honorable Members of the Assembly Education Committee:

Please accept this as the statement in opposition to Assembly Bill 101 on behalf of Pacific Justice Institute – Center for Public Policy.

The Bill purports to advance a laudable goal—acknowledgement and understanding of California’s multicultural heritage. Like most Californians, we are proud to live in such a culturally diverse part of the country. We embrace and benefit from the contributions of our neighbors from every part of the globe. Unfortunately, the ethnic studies adoption process at the State Board of Education (SBE) has been plagued from the outset by intractable controversies and irreconcilable conflicts. From early concerns about anti-Semitism,¹ to further concerns about the absence of Middle Eastern representation, to the demand just a few weeks ago from original contributors that their names be removed from the project since it had so far departed from their original vision²— it has become clear that ethnic studies cannot achieve the inclusivity and respect toward all cultures that is essential to any such endeavor.

To these daunting problems, the newly adopted model curriculum has now added chants to ancient Aztec gods that will be egregiously unconstitutional if presented in classrooms as the SBE recommends. This approach would be out-of-bounds even if the ethnic studies courses remained voluntary, as an endorsement of particular religious practices; it will be all the more so if AB 101 mandates such practices.

Since our expertise is in the First Amendment and related constitutional provisions, we will focus our concerns here on the aspects of the newly adopted model curriculum that most implicate the Establishment Clause, Free Exercise Clause, the Free Speech Clause, and the corollary provisions of Article I, Sections 2 and 4 of the California Constitution. We will leave it to others to expound on other absurdities of the model curriculum, such as the attempted “intentional respelling” of “history” to “herstory” or “hxstory.”³

¹ <https://www.timesofisrael.com/the-controversy-over-californias-ethnic-studies-curriculum/>.

² <https://www.sacbee.com/news/local/education/article248987155.html>.

³ Ethnic Studies Model Curriculum, Ch. 1, P. 20, Lines 442-443 and n. 28.

Most Californians will undoubtedly react in disbelief when they realize that their State is encouraging students to chant not just to deities, but to deities associated with human sacrifice. There appears to be at least five distinct deities for whom chants have been approved by the State in the model curriculum accessed directly from the CDE's website:⁴ Tezkatlipoka, Quetzalcoatl, Huitzilopochtli, Xipe Totek, and Hunab Ku.

The first chant is as follows:

Tezkatlipoka, Tezkatlipoka, x2
smoking mirror, self-reflection
We must vigorously search within ourselves be reflective, introspective by silencing
distractions and extensive comprehensive obstacles in our lives, (in our lives),
in order to be warriors of love, of love,
for our gente representin' justice, (justice)
local to global global to local eco-logical, & social, (social), justice (justice).

Chapter 5, P. 10, Lines 197-203. It is far from clear what students are to be told about the deity to whom they are chanting, though it would make little sense unless students understood that "smoking mirror" is a translation of the deity's name. Tezkatlipoka is commonly associated with many things, including sorcery, divination, enmity, discord, temptation, strife, as well as the night sky, night wind, the earth, hurricanes, and jaguars.⁵ It is far from clear which of these attributes the authors are expecting students to praise or emulate. His festival, in the month of May, was marked by the human sacrifice of a young man who had been impersonating the deity for a year.⁶

The second chant in the model curriculum includes the following:

Quetzalkoatl, Quetzalcoatl, x2
the morning & evening star of venus double helix of human beings
fearless here it's, precious blessed
beautiful knowledge, gaining perspective,
on events & experiences our ancestors endured,
allows us to become more realized human beings learn
ing to be listening to each other's hearts and our elders with humility, dignity, indigenous
brilliance & wisdom in our hearts and our energies, remembering... ancestral memories, planning,
future trajectories,
la cultura cura, with remedies of knowledge,
healing epistemologies, ecologies
in life, home, streets, school, work, & life, fueled by . . .

Chapter 5, Pp. 10-11, Lines 204-215. Quetzalcoatl can refer either to the ancient deity to whom human sacrifices were offered, or a later ruler. The chant certainly appears to be the former. The god is represented most typically as a plumed serpent, which many believers of other faiths associate with the devil.⁷

The references in the model curriculum to Huitzilopochtli, Xipe Totek, and Hunab Ku are even more enigmatic, as follows:

⁴ <https://www.cde.ca.gov/ci/cr/cf/cdereceditsesmc.asp>.

⁵ <https://www.britannica.com/topic/Tezcatlipoca>; <https://en.wikipedia.org/wiki/Tezcatlipoca>.

⁶ <https://www.britannica.com/topic/Tezcatlipoca>.

⁷ <https://www.britannica.com/topic/Quetzalcoatl>; <https://en.wikipedia.org/wiki/Quetzalcoatl>.

Huitzilopochtli, huitzilopochtli, x2
hummingbird to the left, yollotl,
corazon, heart, ganas, the will to action as we grow in,
consciousness must be willing to be proactive,
not just thinkin' and talkin' but makin' things happen,
with agency, resiliency, & a revolutionary spirit
that's positive, progressive, creative, native,
Passion everlasting work hard in action,
tap in, to the spark of our universal heart,
pulsating creation huitzilopochtli cause like sunlight, the light inside of us, in will to action's
what brings . . .

Xipe Totek, Xipe Totek, x2
transformation, liberation, education, emancipation. imagination revitalization, liberation,
transformation, decolonization, liberation, education, emancipation,
changin' our situation in this human transformation,
the source of strength that allows us to transform and renew.
We must have the strength to shed naive or self-sabotaging views,
which may hinder us hold us back more than we ever knew,
amazing when embracing emanating r new & improved, critical compassionate creative
consciousness
we're here to transform the world we're spiraling, rotating & revolving in,
giving thanks daily, tlazokamati, giving thanks daily, tlazokamati,
healing & transforming as we're evolving in this universe, universe, of

Hunab Ku, Hunab Ku, x2
Nahui Ollin Lak Ech - Panche Beh, Ethnic Studies For All, Represent!!

Chapter 5, Pp. 11-12, Lines 216-241. Huitzilopochtli is a god of war, sun, and human sacrifice. The name means hummingbird, which explains that reference in the chant. According to one origin story, he defended his mother by beheading his sister, and he is at perpetual war with his siblings. Human blood—through human sacrifice—was deemed essential to his sustenance, so he was offered much blood of slaves and captives.⁸

As to Xipe Totek, students are apparently not told that the festivals of this god to whom they are directing adoration were marked by cutting out the heart of a human sacrifice, flaying the skin, and then wearing the victim's skin.⁹

The inclusion of the chant to Hunab Ku is an oddity, since it can connote an Aztec phrase for the Christian God, a syncretistic blend of Catholic and Aztec spirituality, or a New Age concept.¹⁰

From the foregoing and attached, it is abundantly clear that the State's model curriculum for ethnic studies is not aimed at neutrally teaching students about what ancient Aztecs believed. Indeed, esoteric references to the gods'

⁸ <https://www.britannica.com/topic/Huitzilopochtli>.

⁹ <https://www.britannica.com/topic/Xipe-Totek>;

https://en.wikipedia.org/wiki/Xipe_Totek#:~:text=In%20Aztec%20mythology%20and%20religion,%2C%20liberation%2C%20and%20the%20seasons.

¹⁰[https://en.wikipedia.org/wiki/Hunab_Ku#:~:text=Hunab%20Ku%20\(Mayan%20pronunciation%3A%20%5B,refer%20to%20the%20Christian%20God](https://en.wikipedia.org/wiki/Hunab_Ku#:~:text=Hunab%20Ku%20(Mayan%20pronunciation%3A%20%5B,refer%20to%20the%20Christian%20God).

characteristics are not explained. Rather, the chants are in praise of and in appeal to the gods. This is plainly impermissible. More than half a century ago, the Supreme Court made clear that prayer in schools would not be tolerated when initiated by teachers or other state actors. *Engel v. Vitale*, 370 U.S. 421 (1962). Attempts by school officials to compose or guide the composition of supposedly non-sectarian prayers have also been unavailing. *Lee v. Weisman*, 505 U.S. 577 (1992). Even a moment of silence was invalidated when the Court suspected that it was in the nature of encouraging prayer. *Wallace v. Jaffree*, 472 U.S. 38 (1985). Attempts to shift the delivery of prayers to students have likewise been struck down when the program was initially state-sponsored. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000).

The constitutional analysis does not change when the religion is something other than Christianity, or the verbiage is in another tongue. *Engel, supra* (rejecting even prayers to a generic god); *County of Allegheny v. ACLU*, 492 U.S. 573 (1989) (Latin phrase “In Excelsis Deo” deemed impermissible in praise of deity). If there is a primary Establishment Clause objective, it is that religions must be treated alike, and religion and non-religion must be treated equally as well. See, e.g., *Town of Greece v. Galloway*, 572 U.S. 565 (2014) (upholding legislative prayers at city council meetings offered by adherents of different faiths).

It almost goes without saying that the courts have more zealously guarded schoolchildren from possible religious influence than adults. See, e.g., *Freedom from Religion Foundation v. Chino Hills U.S.D.*, 910 F.3d 1297 (9th Cir. 2018) (distinguishing prayer at school board meetings, where children were sometimes present, from city council meetings). Government may utilize historical monuments and public art with religious connotations. *Amer. Legion v. Amer. Humanist Ass’n*, 588 U.S. ____ (2019). Such public displays have, ironically, even included public art depicting Quetzalcoatl.¹¹ *Alvarado v. City of San Jose*, 94 F.3d 1223 (9th Cir. 1996). But there is a world of difference between static art or monuments, on the one hand, and recitation of prayers or chants to deities, on the other. *Alvarado*, 94 F.3d at 1228 (discussing *Malnak v. Yogi*, 440 F. Supp. 1284, 1305-10 (D. N.J. 1977), which rejected a school course in transcendental meditation that required participation in Hindu ceremonies and prayers).

The State-approved chants to Aztec gods represent just one facet of the many troubling sides of ethnic studies, as it has been developed and officially adopted. We have noted that the SBE is pushing to change the very mention of “history.” Moreover, the neo-Marxist rhetoric of revolution and class struggle that runs throughout the model curriculum is appalling to the millions of California who fled to our shores after escaping the throes of Communism. Suffice it to say that the model curriculum which the Legislature mandated to be created by March 31, 2021, has abjectly failed to live up to its high ideals of inclusivity, tolerance and respect for all. This is a faulty foundation on which to erect the additional mandates of AB 101. We therefore urge you to oppose the pending legislation.

Respectfully submitted,



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¹¹ The spelling of this deity differs in the case and curriculum.