

Brown, Samuel

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Sent: Friday, August 29, 2014 5:08 PM
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Cc: Tolleson, Julie; Brown, Samuel; TUSD
Subject: TUSD Budget Responses
Attachments: 23E9216-Fourth Budget Responses 8.29.14.pdf

Special Master Hawley and Counsel,

Attached are TUSD's responses to the budget questions posed by the Special Master and Plaintiffs. Thank you, and have a nice holiday weekend.

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TUSD’s August 29, 2014 Response to Recommendations from the Special Master (“SM”), Fisher Plaintiffs (Fishers) and Mendoza Plaintiffs (Mendozas) related to the proposed 2014-15 USP Budget (“Budget”)

On August 8, 2014, TUSD and the Special Master identified ten recommendations for budget modification that were concerns of the SM, Fishers, or Mendozas. The District agrees to adopt all recommendations except for number six, and agrees to provide all requested justifications or explanations. Regarding recommendation number six, to eliminate LSCs, the USP provides that two years after adoption of the USP any party may request the discontinuation of an activity or expenditure that is “redundant, unnecessary, or unduly wasteful....” The District agrees with the Special Master’s recommendation to conduct a program evaluation in 2014-15 to determine the efficacy of LSCs.

Recommendation 1 - (SM/Mendozas) Professional Development [PD] [SM] Provide a \$2M “placeholder” or justify/explain how the funding for the 33 USP-required PD activities was determined; [Mendozas] Explain how funding is flowing to the USP PD requirements.

TUSD Response to Recommendation #1:

As a foundational matter, thousands of TUSD employees will receive one or more types of USP training in the SY 2014-15. It is impossible to cost out the dollar value of their time, energy, and time spent away from other duties. The same is true regarding the District’s overhead for software and programming (i.e. True North Logic), Technology Support staff to support online software and programming - it simply is impossible to provide a specific dollar amount to any one of several USP-PD opportunities supported by technology.

1.1 Magnet training

USP Language: *In creating the Plan, the District shall, at a minimum: (vi) ensure that administrators and certificated staff in magnet schools and programs have the expertise and training necessary to ensure successful implementation of the magnet. (USP § II.E.3)*

Pursuant to these considerations, the Magnet School Plan shall, at a minimum, set forth a process and schedule to....(ix) provide necessary training and resources to magnet school and program administrators and certificated staff (USP § II.E.3.ix)

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement:

The following expenditures represent investments in magnet-related PD:

- [\$910,000] Salaries for the following support positions total \$1.3M; the employees in these positions (based on the planned implementation of the CMP) devote approximately 70% of their time to developing and implementing PD in magnet schools. (This is only an estimate; certain magnet coordinators will spend more time than others developing and delivering PD.)
 - IB Coordinator
 - Magnet Coordinators
 - Magnet Department Program Coordinators
- [\$64,000] “Release Time Substitutes” - these funds provide substitutes to allow magnet teachers to participate in on-contract magnet PD.
- [\$92,000] “Temp Hourly/NonRegular” - funds teacher hourly pay to allow magnet teachers to participate in off-contract magnet PD.
- [\$50,000] “Professional/Educational Contract Services” - funds outside service providers who provide professional development to sites and to the District related to issues such as theme and curriculum development.

Although the budget does not contain a line titled “Magnet PD,” the magnet budget includes a total of approximately \$1.1M for magnet PD (approximately 12% of the total magnet budget).

1.2 Student Assignment training

USP Language: *...the District shall ensure that all administrators, certificated staff, and any other staff involved in the student assignment and/or enrollment process receive training on the new student assignment process and procedures, and other pertinent terms of this Order and their purpose. (USP § II.J.1)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: Training was developed in-house with district employees. Employees involved in the development were: Director School & Community, Director Magnet, Director Professional Development, PD Specialist Classified. Developed online course using Adobe Captivate and tracked through True North Logic. Based on SY 2013-14 costs, the total cost for development and implementation in SY 2014-15 is approximately \$6,000 (from salaries of current employees).

1.3 All USP training

USP Language: *...the District shall hire or designate a director-level employee to coordinate professional development and support efforts. This employee shall work in conjunction with the individual responsible for coordinating culturally responsive pedagogy and instruction and other District personnel as appropriate to develop and implement the professional development and support efforts contemplated in this Order. (USP § IV.B.3.)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: The District has elevated this position from a Director of Professional Development in SY 2013-14, to a Senior Director for Curriculum Deployment in SY 2014-15.

1.4 Targeted training for staff members involved in hiring and assignment (if and where disparities exist)

USP Language: *The District shall identify significant disparities (i.e., more than a 15 percentage point variance) between the percentage of African American or Latino certificated staff or administrators at an individual school and district-wide percentages for schools at the comparable grade level ...The District shall assess the reason(s) for the disparities and shall review and address ... its hiring and assignment practices, including enforcing hiring policies and providing additional targeted training to staff members involved in hiring and assignment. (USP § IV.E.2)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: This training requirement is described by the USP as a conditional requirement that is only required once disparities have been identified. If the District identifies disparities, funding is available from the contingency fund if needed (the District may find it can utilize existing allocated resources to develop and provide this training if necessary).

Training was developed in-house with district employees. Employees involved in the development were: Sr. HR Program Coordinators (4), Chief Human Resources Officer, EEO Compliance office, Director Professional Development, PD Specialist Classified. Developed online course using Adobe Captivate and tracked through True North Logic.

1.5 Targeted PD for First-Year Teachers

USP Language: *By July 1, 2013, the District shall develop a pilot plan to support first-year teachers serving in schools where student achievement is below the District*

average. This plan shall include the criteria for identifying the schools in which the program will be piloted in the 2013-2014 school year and for evaluation by the Office of Accountability and Research. The plan shall include professional development targeted toward the specific challenges these teachers face. (USP § IV.E.6)

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: Support for first year teachers at low-achieving schools was incorporated into the TUSD Induction Program. Seventeen of the 35 identified schools had first-year teachers that received additional support. Nine of the 17 identified control groups received regular mentor support. This PD was developed and implemented in-house at low to no additional cost in SY 2013-14, and will be similar in SY 2014-15.

1.6 Targeted PD for Underperforming/Struggling Teachers

USP Language: *By July 1, 2013, the District shall develop a plan for and implement strategies to support underperforming or struggling teachers regardless of their length of service. Teachers shall be referred to the program by school- or District-level administrators based on evidence (e.g., from student surveys, administrator observations, discipline referrals, and/or annual evaluations) that the teacher requires additional professional development and mentor support. The support program shall utilize research-based practices such as those embodied in Peer Assistance and Review programs. (USP § IV.I.2.)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: The plan was developed and implemented by district employees in SY 2013-14, and will continue to be implemented in SY 2014-15.

1.7 PLC Training

USP Language: *Commencing no later than October 1, 2013, the District shall provide appropriate training for all school site principals to build and foster professional learning communities (“PLCs”) among teachers at their schools so that effective teaching methods may be developed and shared. (USP § IV.I.4)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: Training was conducted in SY 2013-14, and will be conducted in SY 2014-15, via Instructional Leadership Academy (ILA), led by Dr. H. T. Sanchez and includes: Deputy Superintendent, Assistant Superintendents (3), Director Professional Development, Director Accountability & Research. Other costs include set-up for three times/month meeting Administrator Assistant (2), PD Specialist, Elementary

& Secondary Directors, A&R staff, custodial staff at Palo Verde and Duffy Student Services Center.

1.8 USP Training

USP Language: *By April 1, 2013, the District shall develop a plan to ensure that all administrators and certificated staff are provided with copies of this Order and are trained on its elements and requirements prior to the commencement of the 2013-2014 school year. (USP § IV.J.1.)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: This training was developed with existing staff (Sr. PD Director, Desegregation Director, and CIPD support staff) in SY 2013-14 and is being revised/updated for SY 2014-15 with the same/similar staff. This training is provided through True North Logic. Funding for the Sr. PD Director, CIPD support staff, True North Logic, and the Desegregation Director all support this PD requirement.

1.9 General USP-Related Training Over Multiple Issues

USP Language: *The District shall ensure that all administrators, certificated staff, and paraprofessionals receive ongoing professional development, organized through the director of culturally responsive pedagogy and instruction and the coordinator of professional development, that includes the following elements: a. The District's prohibitions on discrimination or retaliation on the basis of race and ethnicity; b. Practical and research-based strategies in the areas of: (i) classroom and non-classroom expectations; (ii) changes to professional evaluations; (iii) engaging students utilizing culturally responsive pedagogy, including understanding how culturally responsive materials and lessons improve students' academic and subject matter skills by increasing the appeal of the tools of instruction and helping them build analytic capacity; (iv) proactive approaches to student access to ALEs; (v) the District's behavioral and discipline systems, including Restorative Practices, Positive Behavior Interventions and Supports, and amendments to the Guidelines for Student Rights and Responsibilities; (vi) recording, collecting, analyzing, and utilizing data to monitor student academic and behavioral progress, including specific training on the inputting, accessing, and otherwise using the District's existing and amended data system(s); (vii) working with students with diverse needs, including ELL students and developing a districtwide professional development plan for all educators working with ELL students; and (viii) providing clear, concrete, and accessible strategies for applying tools gained in professional development to classroom and school management, including methods for reaching out to network(s) of identified colleagues, mentors, and professional supporters to assist in thoughtful decision-making; and c. Any other training contemplated herein. This professional development shall be offered on a regular basis, both integrated into*

instructional days and in dedicated professional development time during the summer or school year, as appropriate. (USP § IV.J.3.)

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: The Curriculum, Instruction, and Professional Development (CIPD) department allocates over \$2 million from deseg funds, and over \$6 million from non-deseg funds to implement and/or support USP-required professional development and related opportunities. CIPD utilizes a project based approach: planned trainings are proposed to a Senior Director, who consults with the Assistant Superintendent to assess the need/priority, assess the proposal and funding capacity, and move forward with the opportunity.

1.10 Targeted PD for Administrators/Teachers in Need of Improvement

USP Language: *For administrators and certificated staff identified pursuant to their evaluations as in need of improvement, the District shall provide additional targeted professional development designed to enhance the expertise of these personnel in the identified area(s) of need. (USP § IV.J.4.)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: In SY 2013-14, this professional development was provided in-house via the TUSD Principal Induction Program.

1.11 Hiring PD

USP Language: *5. The District shall provide all personnel involved in any part of the hiring process with annual training on diversity, the competitive hiring process, the District's non-discrimination policies, state and federal non-discrimination law (including EEOC guidelines), the District's recruitment plan, and use of the District's interview protocols. Such training shall be in addition to each such employee's annual professional development requirement.*

6. Through the director of culturally responsive pedagogy and instruction, the District shall facilitate opportunities for administrators and certificated staff who consistently demonstrate best practices in their classrooms or schools to coach, mentor, and collaborate with their peers and provide opportunities for other personnel to observe these best practices. (USP § IV.J.5.)

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: Training was developed in-house with district employees. Employees involved in the development and roll-out in SY 2014-15 will include: Sr. HR Program Coordinators (4), Chief Human Resources Officer, EEO Compliance office, Director Professional Development, PD Specialist Classified. The

online course was developed Adobe Captivate and is offered and tracked through True North Logic.

1.12 CRP Best Practices PD

USP Language: *Through the director of culturally responsive pedagogy and instruction, the District shall facilitate opportunities for administrators and certificated staff who consistently demonstrate best practices in their classrooms or schools to coach, mentor, and collaborate with their peers and provide opportunities for other personnel to observe these best practices. (USP § IV.J.6)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: Project 6 includes an allocation of \$400,000 which will be used to fund the various CRC, CRPI, and Inclusive School Environments professional development opportunities. This amount was estimated based on funds requested and used in SY 2013-14. For this specific activity, funds may be used to support substitutes for teachers conducting observations during the day. Otherwise, this is a low to no-cost item that is handled exclusively in-house.

1.13 Technology PD

USP Language: *The District shall include in its professional development for all classroom personnel, as more fully addressed in Section (IV)(J)(3), training to support the use of computers, smart boards and educational software in the classroom setting. (USP § IX.B.4.)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: The District identified a need for four positions (identified in the Project 10 budget) to serve the function of providing Professional Development in areas of integrated technologies (tablet devices, interactive white boards, and student response systems). They also will serve in the capacity of application support for the various programs implemented throughout the district. These include, but are not limited to the following: Waterford, SuccessMaker, Imagine Learning, Achieve 3000, ParentLink, ATI/Galileo, Computer Based Assessment (formerly PARCC). A consultant will be utilized in the maintenance and versioning of the TCI, and stipends will be used to pay for trainings offered during off-contract hours (usually in the Summer). Finally, funds have been allocated for technology purchases to equip the lab as a testing facility for principals. The lab will be used to showcase the latest technologies to help sites make informed strategic purchases to ensure that all students have access to technology and that it is used to improve teaching in the classroom. Technologies would include interactive projectors, interactive white boards, interactive promethean table, active slates, active tablets, iPads and Apple TV, student response systems, etc.

1.14 ALE PD

USP Language: *Providing professional development to administrators and certificated staff to identify and encourage African American and Latino students, including ELL students, to enroll in ALEs (USP § V.A.2.d.iv.)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: In SY 2013-14, the professional development provided included three sessions from College Board, all of which included components to identify and encourage African American and Latino students, including ELL students, to enroll in ALEs. Two were provided at no charge. One was provided from College Board for a charge of \$3,200, paid from the ALE budget. This funding continues in SY 2014-15.

1.15 AAC Teachers Training

USP Language: *Provide professional development to train all AAC teachers using appropriate training and curricula, such as that provided by the College Board. (USP § V.A.4.iv)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: In SY 2013-14, AAC teachers were offered training at the Desert Summer Institute, a College Board-approved professional development provider, which had strands in ELA and math specifically for teachers of advanced/accelerated classes. The fee of \$625 was paid for by the District out of the ALE Budget. This funding continues in SY 2014-15.

1.16 UHS-Specific Training for Counselors and Teachers

USP Language: *In addition to the outreach required by the ALE Access and Recruitment Plan, the District shall: conduct specific UHS-related outreach to students and parents about the program's offerings; encourage school personnel, including counselors and teachers, through professional development, recognition, evaluation and other initiatives, to identify, recruit and encourage African American and Latino students, including ELL students, to apply; and provide assistance for African American and Latino students, including ELL students, to stay in and to be successful at UHS. (USP § V.A.5.d.)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: In SY 2013-14, training was conducted by in-house personnel. The District estimated that such training would be conducted primarily with in-house staff and therefore this is a low to no-cost item.

1.17 CRC/CRPI/Inclusive Environments Training (formerly SAIL)

USP Language:

The CRPI director shall also supervise, develop and implement a professional development plan for administrators, certificated staff, and paraprofessionals, as appropriate, on how best to deliver these courses of instruction and to engage African American and Latino students. The CRPI director shall have experience developing and teaching curriculum focused on the African American and/or Latino social, cultural, and historical experience at the secondary level. (USP § V.E.4.c)

The District shall provide all administrators and certificated staff, particularly those who are teaching courses of instruction centered on the experiences and perspectives of African American and/or Latino communities, with training on how to create supportive and inclusive learning environments for African American and Latino students with an emphasis on curriculum, pedagogy and cultural responsiveness. The trainings shall focus on learner-based approaches that emphasize students' cultural assets, backgrounds, and individual strengths. (USP § V.E.5.a)

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement:

Professional development in this area is divided into four main categories:

1. Culturally Responsive Pedagogy and Instruction (CRPI) Professional Development for Principals, Assistant Principals, and Curriculum Facilitators through the Instructional Leadership Academy (ILA). The District will use a "train the trainer" model whereby Principals will take the training back to their sites and provide it to certificated and (appropriate) paraprofessional staff.
2. CRPI Professional Development for Central Administrators (those who do not attend ILAs)
3. CRPI Professional Development for Learning Supports Coordinators
4. Saturday CRPI Professional Development for CRC Course teachers

The CRPI Training was, and is, developed in-house with district employees. Employees involved in the development include: Senior Director for Curriculum Development, Senior Director for Curriculum Deployment, CRPI Director, and Multicultural Curriculum Director. In addition to the funding for these four positions, the District funds other support staff, consultants who may assist in the development, and added duty pay for weekend training for CRC teachers. There is an additional amount - \$400,000 - which will be used to fund the various CRC, CRPI, and Inclusive School Environments professional development opportunities. This amount was estimated based on funds requested and used in SY 2013-14. However, trainings are being redesigned for SY 2014-15 based on feedback from the previous trainings so this final amount may be more or less than estimated and may draw from, or return funds back to, the contingency fund.

1.18 AASSD Support Staff Training

USP Language: *All African American student support services staff who are part of the academic intervention teams shall be trained, prior to working with students to implement specific academic intervention plans. All African American student support services staff shall also be trained on the use of data systems used to monitor the academic and behavioral progress of African American students. (USP § V.E.7.f)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: Funding for support staff training was carried over from SY 2013-14. If additional SY 2014-15 needs are identified, funds may be moved from contingency. AASSD staff members participate in specific site staff development that will be beneficial to their work (e.g., culturally responsive training, grade level information about English-Language Arts and Math roll out, and others pursuant to the training schedule set forth by the Curriculum, Instruction and Professional Development (CIPD) department.) This will include MTSS training, which specifically addresses identifying at-risk students, and implementing specific academic intervention plans. Training on the use of data systems/data dashboard also is provided in-house, and staff members are trained specifically on monitoring the academic and behavioral progress of African American students.

1.19 MASSD Support Staff Training

USP Language: *f. All Latino student support services staff who are part of the academic intervention teams shall be trained prior to working with students to implement specific academic intervention plans. All Latino support services staff shall also be trained on the use of data systems used to monitor the academic and behavioral progress of Latino students. (USP §V.E.8.f)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: All MASS Specialists shall receive training by school staff or district trainers, i.e. TUSD Information Technology Trainers, prior to working with students in implementing specific academic intervention plans that are being requested by the MTSS school team.

All Mexican American Student Services support staff also shall be trained on the use of data systems used to monitor the academic and behavioral progress of Latino students in Mojave and Grant Tracker, time and effort tracking programs. Training will be scheduled for all MASS specialists in data dashboard for SY 2014-15 to track each school's and students' data. The Mexican American Student Services Department Director also will coordinate the training of Student Success Specialists in monitoring out of school suspensions, in the implementation of TUSD school and district behavior initiatives such

as restorative practices and PBIS, and Guidelines for Students Rights and Responsibilities.

Student Success Specialists will receive training in working with successmaker and ALEKS software systems to support students in their school sites, at tier two.

Student Success Specialists will receive a two -our training on classroom management and writing behavior plans for students from Ms. Monique Landrum, Behavior Specialist.

Student Success Specialists will receive intensive training in Arizona College and Career Ready Standard for Language Arts and Mathematics (three one-hour sessions for mathematics and one two-hour session for Language Arts.) Educational and research articles will be read and discussed by Specialists in the topics of dropout prevention mentoring.

- The director for MASS will meet with David Rodriguez from the Metropolitan Education Center to provide training in FASFA and college application process for students. Training will be given to Student Success Specialists.
- Student Success Specialists who are new to the department will attend a full day training on how to work with parents from Ms. Selena Llamas, Outreach Coordinator from the organization Expect More Arizona.

Funding for support staff training was carried over from SY 2013-14. If additional needs are identified for SY 2014-15, funds may be moved from contingency.

1.20 RPPSC/LSC Training

USP Language: *The District shall ensure that all schools provide the necessary training and hire the requisite RPPSCs as described in (IV)(C)(2) to implement Restorative Practices and PBIS by the beginning of the 2013-2014 school year. All newly-hired RPPSCs and other relevant personnel shall complete the training by the beginning of the fall semester of the academic year subsequent to the academic year during which they were hired. (USP §VI.E.1)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: In SY 2013-14, training was conducted by in-house personnel for all new LSCs. The District has LSCs and other staff members who have received training on, and have implemented, Restorative Practices and/or PBIS. The District estimated that such training would be conducted primarily with in-house staff and therefore this is a low to no-cost item.

1.21 RP/PBIS Trainers

USP Language: *2. By July 1, 2013, the District shall hire or designate trainers to assist all administrators and certificated staff to implement Restorative Practices, PBIS and the standards established in the revised GSRR. The trainings shall take place before the commencement of the 2013-2014 school year. (USP §VI.E.2)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: In SY 2013-14, training was conducted by in-house personnel. The District has LSCs and other staff members who have received training on, and have implemented, Restorative Practices and/or PBIS. The District estimated that such training would be conducted primarily with in-house staff and therefore this is a low- to no-cost item.

1.22 EBAS Training

USP Language: *The District shall require all administrators, certificated staff, and where appropriate, paraprofessionals, to undertake the training on the EBAS required pursuant to Section (IV)(J)(3). All newly-hired District personnel for whom training is warranted under this section shall complete the training by the beginning of the fall semester of the academic year subsequent to the academic year during which they were hired. (USP §X.A.3)*

Justification/Explanation for how the funding was determined and/or how the funding flows to the USP PD requirement: As the EBAS is being developed, District staff is receiving in-house periodic trainings on the use of the data dashboard and other systems to monitor and track student academic and behavioral progress. As the EBAS is developed, appropriate staff will receive requisite training. The District estimates that such training would be conducted primarily with in-house staff, and is funding a .5 FTE to support a Senior Director for Curriculum Assessment and Evaluation that will work closely with the other Senior Directors to ensure that necessary professional development will be offered.

Recommendation 2 (SM/Mendozas): Psychologists - Describe how the District applied the funding formula to the funding allocation for Psychologists and explain how the allocation is supplementing and not supplanting.

Questions 2 – 5 Relate to “Supplement not Supplant,” and the District uses the following “Guidance for Directors and Program Coordinators” to respond.

The District uses the following test for supplanting regarding federal funds, though not directly applicable the test is instructive when “910(g) funds” is substituted for “federal funds.”

TESTING FOR SUPPLANTING: Apply the three supplement not supplant tests to determine whether you will need evidence to rebut the presumption of supplanting when deciding how to use [910(g) funds]. A “yes” response to any of the following presumes that supplanting is occurring.

1. Are the expenditures or activities required by state law?
2. Were the expenditures or activities funded in previous years by [non-910(g) funds]?
3. Would the expenditures or activities happen in the absence of [910(g) funds]?

DOCUMENTATION- the appropriate documentation to rebut (overcome the presumption of supplanting) can include:

1. Fiscal or programmatic documentation to confirm that, in the absence of [910(g) funds] the LEA would have eliminated staff or other services in question’
2. State or local legislative action;
3. Budget histories and information;
4. Evidence that the expenditure is authorized by the USP.

TUSD Response to Recommendation #2:

How the funding formula was applied: In July 2014, the Special Master commented, “*This just doesn’t make sense to me, the District would need Psychologists anyways if there was no USP.*” However, the appropriate test for “supplement not supplant” is not whether the District would need Psychologists if there was no USP, but rather how many psychologists the District would fund if there was no USP. The District’s August 1, 2014 response included, in part, the following explanation for how the District applied the funding formula to the funding allocation for Psychologists:

The District is using 910(g) funds to supplement the amount of psychologists that the District otherwise would fund. In SY 2013-14, and again in SY 2014-15, the District assigns Psychologists to schools using a base formula. An additional 0.5 FTE is allocated to sites with high mobility (at least a 40% change between school years) and/or high minority populations (85% or higher). The total of all additional FTE allocated to sites based on the “high minority population” indicator is 5.6 FTE (the District only allocates 5.0 FTE from 910(g) funds towards psychologists as most, but not all, “minority” students in the District are African American and/or Latino).

...

There are currently 49 full-time FTE for school psychologists: a Lead Psychologist plus 48 assigned to sites. As of today, there are only 4.8 FTE actually encumbered from 910(g) funds. Also, while the overall student enrollment in TUSD has declined in the past decade from over 60,000 students to approximately 50,000 students, the number of students with disabilities has remained steady at approximately 7,400 students.

How the allocation is supplementing and not supplanting:

1. Are the expenditures or activities required by state law? **No, additional psychologist FTE to support schools with high-mobility and/or high-minority populations is not required by law.**
2. Were the expenditures or activities funded in previous years by [non-910(g) funds]? **No.**
3. Would the expenditures or activities happen in the absence of [910(g) funds]? **No.**

If the USP did not exist, the District would have 45 psychologists, and schools with high mobility and high minority populations would receive no additional FTE for psychologists. The District supplements the 45 M&O-funded psychologists with an additional 5 FTE. This supplemental FTE is assigned to schools with high mobility and high minority populations. Rather than allocate the 5 FTE to five separate and additional staff members to focus on the issue in a limited number of schools, the District takes a comprehensive approach to addressing the issue of disparities in Exceptional Education.¹

Recommendation 3 (SM): CRC Teachers - Describe how the District applied the funding formula to the funding allocation for CRC Teachers and explain how the allocation is supplementing and not supplanting.

TUSD Response to Recommendation #3:

How the funding formula was applied

The Governing Board-approved funding formula for High School classes is 1:33 students. The initiative to lower class sizes across the District for SY 2014-15 aimed for a target class size of 1:27. This initiative allowed the District to lower class sizes with

¹ See “*The Supplement Not Supplant Conundrum*” Junge, Melissa and Krvaric, Sheara available at www.blogs.edweek.org/edweek/rick_hess_straight_up/2011/10/the_supplement_not_supplant_conundrum.html “The mindset encouraged by supplement not supplant can have a substantial effect on state and local funds as well. This is because the easiest way to show that something is “extra” is to build a budget in layers; in other words, to first budget costs supported by state and local funds, and then budget federal costs. The problem with this is that it encourages a fragmented approach to spending decisions, where costs for each funding source are considered and budgeted for in separate “silos” in order to head off compliance violations with supplement not supplant. It would be more educationally effective if a state or district could comprehensively plan how to spend their funds depending on district and school needs - not the origin of the funding source. In practice, however, the supplement not supplant rule discourages that type of comprehensive planning.”

non-M&O funds like Title I, Impact Aid, Instructional Improvement, Desegregation (where appropriate), and other funding sources without the risk of supplanting. As it did last year, unless the student enrollment in a CRC section was extremely low (determined on a case-by-case basis), the District permitted the class to proceed.

How the allocation is supplementing and not supplanting

1. Are the expenditures or activities required by state law? **No**
2. Were the expenditures or activities funded in previous years by [non-910(g) funds]? **No**
3. Would the expenditures or activities happen in the absence of [910(g) funds]? **No**

The prohibition against supplanting means that the District may not use 910(g) funds to pay for services that, in the absence of 910(g) funds, would be necessary to be provided by other funds. CRC courses would not be necessary in the absence of the USP. The District is not required to provide CRC courses by any other authority other than the USP. Likewise, the District is not required to provide students with a 1:27 ratio, and is particularly not required to provide courses with students from 15-26, even under its own standard.

Recommendation 4 (SM/Mendozas): Dual-Language Teachers - Describe how the District applied the funding formula to the funding allocation for Dual-Language Teachers and explain how the allocation is supplementing and not supplanting.

TUSD Response to Recommendation #4:

How the funding formula was applied

The Governing Board-approved funding formulas are as follows: Elementary K-1 (1:24); Elementary grades 2nd and 3rd (1:29), Elementary grades 4th and 5th (1:30), grades 6th – 8th (1:32), and grades 9th – 12th (1:33). The initiative to reduce class sizes across the District for SY 2014-15 aimed for a target class size of 1:27. This initiative allowed the District to lower class sizes with non-M&O funds like Title I, Impact Aid, Instructional Improvement, Desegregation (where appropriate), and other funding sources without the risk of supplanting. In the case of Dual Language periods, more than 75% of the classes are “low threshold,” meaning they have fewer than the target of 27 students (except in the case of kindergarten and first grade). In theory, the District could argue that up to 75% of the cost of Dual-Language courses should be funded from 910(g) funds since up to 75% of those courses do not meet the funding formula threshold.

Elementary periods with fewer than 27 students: 94 of 133 = 71% (avg. class size 22)

Grades 6-12 periods with fewer than 27 students: 67 of 82 = 82% (avg. class size 20)

How the allocation is supplementing and not supplanting

1. Are the expenditures or activities required by state law? **No**
2. Were the expenditures or activities funded in previous years by [non-910(g) funds]? **Yes**
3. Would the expenditures or activities happen in the absence of [910(g) funds]? **No**

The District rebuts the presumption of supplanting as follows:

1. The District would likely fund approximately half of its current Dual-Language programs but for the existence of 910(g) funds.
2. In the absence of 910(g) funds, the District would have eliminated Dual-Language programs.
3. Dual-Language programs are authorized, and required, by the USP.

Dual Language programs would not be required in the absence of the USP. USP section II *mandates* that the District consider increasing, and develop a process and schedule to increase, the number of Dual Language programs². USP section V *mandates that* the District build and expand Dual Language programs³. The District is not required to provide Dual-Language courses by any other authority other than the USP. Likewise, the District is not required to provide students with a 1:27 ratio, and is particularly not required to provide courses with an average size of 20-22 students.

Recommendation 5 (SM/Mendozas) Portables at UHS [SM] - Justify the use of 910(g) funds to pay for at UHS; needs to be specifically linked; [Mendozas] Eliminate funding to move portables to UHS to make room for additional students.

TUSD Response to Recommendation #5: The District is accepting the Special Master's recommendation and will provide a justification for the use of 910(g) funds to pay for portables at UHS.

The eight additional classrooms at UHS/Rincon increase the capacity of the school by 200 students. This increase allows the school to accept additional students to increase diversity through new testing procedures. Specifically, ninth grade enrollments are projected to increase from an average of less than 270 in the last four years to 330. As

² "In creating the [Magnet] Plan, the District shall, at a minimum: (i) consider how, whether, and where to add new sites to replicate successful programs and/or add new magnet themes and additional dual language programs" USP §§ II(E)(3)(i) and (E)(3)(viii)

³ "The District shall build and expand its Dual Language programs in order to provide more students throughout the District with opportunities to enroll in these programs..." USP § V(C)(1)

these additional students transition to higher grades UHS is expected to grow from 1000 students to over 1200 within three years.

The new testing procedures are designed to provide greater opportunities for African American and Latino students to attend the school. The table below shows the students admitted through the previous testing approach and the students admitted through the additional questions.

9th Grade Pre-Enrollment for SY2014-15 by Testing Approach							
Grades	Anglo	Afr Am	Hisp	Nat Am	Asian-PI	Multi	Total
Previous Approach	149	11	83	0	21	10	275
	54%	4%	30%	0%	8%	4%	
Additional Questions	20	11	25	0	2	5	55
	36%	11%	45%	0%	2%	5%	

As can be seen, over 30 additional African American and Latino students were provided the opportunity to attend UHS as a result of the new testing procedures. If this trend continues, this would mean an additional 120 African American and Latino students in four years. And the additional testing procedures, while operating to admit greater percentages of African American and Latino students, also operates to qualifying non African American and Latino students. Therefore, the increase to enrollment at UHS is not limited to the 120 additional African American and Latino students and will result in over 200 additional students over the next four years. The addition of the portable classrooms therefore is due wholly to the new testing procedure, which was implemented to meet USP requirements.

Recommendation 6 (Fishers) Learning Supports Coordinators (LSCs) - Eliminate LSCs from this year's budget.

TUSD Response to Recommendation #6: The District is unable to follow this recommendation for SY 2014-15. However, as indicated in the conference call with the Plaintiffs, the District will conduct a programmatic evaluation of LSCs during SY 2014-15. Depending on the results of the evaluation, the District will determine whether or not to maintain the current role of the LSCs, alter their role, or move away from the LSC model altogether. If the District determines to move away from the LSC model, the District will explore other options to continue to provide the services to students and staff that are currently provided by LSCs.

Recommendation 7 (Fishers) African American Student Services Dep't (AASSD) - Keep AASSD separate with a separate budget.

TUSD Response to Recommendation #7: As explained in previous responses, the AASSD is being kept separate with a separate budget. The District will provide a separate budget no later than September 20, 2014.

Recommendation 8 (Fishers) Set-Aside for AfAm/Latino Students in ES and MS - Provide a set-aside to fund activities to support increased academic achievement of African American and Latino elementary and middle school students

TUSD Response to Recommendation #8: The District agrees to set aside \$250,000 specifically for *additional funding* for activities to support increased academic achievement of African American and Latino elementary and middle school students. The District's 910(g) budget includes millions of dollars dedicated towards this purpose (Dropout Plan \$500,000; AAAATF Plan \$500,000, Family Engagement \$500,000, ALE \$1.2M, Student Engagement \$7.7M, CRPI Training \$400,000, other professional development, etc.). The District's general budget includes similar investments (data dashboard, MTSS, curriculum development, professional development). A large portion of these funds are focused on supporting increased academic achievement of African American and Latino elementary and middle school students, but these identified funds would be used solely for additional activities (like weekend academies, extended day opportunities, and/or summer programs) to support increased academic achievement of African American and Latino elementary and middle school students.

Recommendation 9 (Mendozas) CRC Courses - Provide funding to supplement CRC courses that have less than 27 students.

TUSD Response to Recommendation #9: The District is currently provides, and will continue to provide, funding to supplement CRC courses that have fewer than 27 students. Current class sizes enroll as few as 18-19 students.

Recommendation 10 (Mendozas) Fine Arts - Provide funding only for the portion of Fine Arts directly related to the USP.

TUSD Response to Recommendation #10: The District is providing funding only for the portion of Fine Arts directly related to the USP. Current allocations support student engagement and increased academic achievement, multicultural curriculum, and extracurricular activities.

Brown, Samuel

From: Willis D. Hawley <wdh@umd.edu>
Sent: Sunday, August 31, 2014 5:52 PM
To: TUSD; Brown, Samuel; Tolleson, Julie
Cc: Rubin Salter Jr. (Rsjr3@aol.com); Juan Rodriguez; Thompson, Lois D.; Anurima Bhargava (Anurima.Bhargava@usdoj.gov); Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov)
Subject: Budget Comments
Attachments: USP Budget Response to 8-29 TUSD Justification.docx

Here is my response to the District's response to the 10 concerns expressed by plaintiffs and me. Bill

Willis D. Hawley
Professor of Education and Public Policy
University of Maryland
Director, Teaching Diverse Student Initiative
Southern Poverty Law Center

September 1, 2014

To: Parties

From: Bill Hawley

Re: Comments of District's Response to Recommendations Regarding the 2014-15 TUSD Budget

I appreciate the District's August 29, 2014 response to recommendations relating to the 2014-15 TUSD budget. Let me comment on each of the 10 recommendations the District addresses.

Expenditures on Professional Development

The District's response enhances understanding of how the District will go about responding to the provisions of the USP with respect to professional development. However, the response provides little information about the adequacy of the professional development to be undertaken. In my memorandum to the parties on August 1, 2014, I laid out a way of determining adequacy which the District chose not to use. That is, of course, its privilege. The District does not describe the extent of training that people will receive. For example, while the District notes that it will train administrators with respect to discipline issues, it appears that the extent of that training in 2013-14 was limited--at best—to a couple of hours and we were told that many principals felt that this was inadequate given the complexity and difficulty of administering discipline.

No one can know for sure the exact amount of time needed for professional development of people playing particular roles because, at its best, professional development is targeted on needs for learning new skills or improving performance of individuals. But there is research it takes to learn instructional practices. And, it is not too hard to estimate what the costs of professional development might be and to identify the assumptions that underlie the estimates. For example, virtually all professional staff must be trained on culturally responsive pedagogy and inclusive practices. When what is to be learned, assessed and relearned are identified, one can indicate a number of hours this might reasonably take to learn a new skill (e.g.,

40 hours) and multiply that number of hours by the number of people in different roles who must learn particular capabilities. If specific training is planned during the normal work day, these hours can be subtracted from the amount that would otherwise need to be compensated.

When the District does explain how it arrived at the numbers it did, its most common response appears to be that the 2013-14 budget was used as a baseline. But that baseline had no basis (that has been explained) so it is hardly a justification for proposed expenditures.

In the absence of systematic analyses that provides the basis for proposed expenditures on professional development, I will recommend that the District be required to set aside a significant amount of funds for professional development until a reasonable explanation for how these funds will be used as provided. If the calculations justify the proposed budget, then the set-asides can be reallocated.

Funding of Psychologists and Other Support Personnel

Here the District introduces a new criterion for determining whether funding is being supplanted; were expenditures or activities funded in previous years from non-910 G funds? I have no idea why this makes sense given that there appears to be wide agreement that expenditures in previous years were not always appropriate. But I do not think that this criteria criterion warrants debate now.

The District's explanation for why it is supporting the equivalent of about 5 FTE from 910 G funds is basically that services are being provided that would not otherwise be provided if not for the USP. If one could link services to needs related to actions required by the USP, this would be a reasonable argument. Perhaps that case could be made for the high levels of mobility among African-American and Latino students but it is not clear why African-American and Latino students, per se, have need of psychological services beyond those that will be provided to other students. Does being black or Latino result in psychological problems and, if so, what are those problems? There are student characteristics that might be linked to the need for psychological services and many of these, including mobility, can be linked to low family income.

If there are particular needs that should be addressed by psychologists that are related to provisions of the USP, then the psychologists serving those needs should be at the schools where such needs are greatest. But the budget itself and the remarkable citation of an opinion by a political blogger suggests that this is not how these expenditures are allocated. The District should clarify how the psychologists funded from 910G funds are deployed.

So while the logic here makes sense-- that the 910 G funds can be used to address problems and undermine the learning opportunities and outcomes of African-American and Latino students, what is missing here is a specification of the needs to be addressed. This, in turn, would suggest whether those needs are best addressed by psychologists or by other professionals (e.g., reading specialists). It is encouraging that the District did not argue that the use of 910 G funds was appropriate in order to avoid misassignment to special education but I do not believe the District makes the case for spending 910 G funds to support psychologists, especially in the ways that it appears the District proposes to allocate these funds. The same conclusion would apply to other support personnel funded from 910 G funds.

Funding CRC Teachers

The District argues that it would not be offering CRC courses in the absence of the USP. Given the evidence about the effectiveness of such courses, that is disappointing but I accept it as a reasonable argument. Since the CRC courses for the most part substitute for required history and social studies courses, those conventional courses would have to be offered in the absence of the USP. If class sizes in CRC courses must be smaller than their non-CRC equivalents, the difference in class size as it translates to additional teachers can be justified as a 910 G expenditure. But the District provides no such analysis.

I note that the District cannot meet the requirements of the USP by arguing that demand for the courses is not adequate to justify offering them. This does not mean that the District must offer such courses to a handful of students but it's definition of what a reasonable number of students is, especially when the courses are initially offered, should be generous and the number should be provided..

Dual Language Teachers

The District argues that more than 75% of the dual language classes offered are “low threshold”—meaning that they have fewer than the target number of 27 students. This low threshold would justify the use of 910 G funds but not the way the District proposes, at least as I understand it. The calculation is straight forward. Assuming that the average teacher teach five sections and using the District’s numbers of low threshold courses, the number of additional teachers needed would be 32. The budget provides for 40 910G-funded teachers in dual language classes. If teachers teach only four sections, 40 teachers would be needed. So, what is the typical teaching load?

While the discussion related to extra funding for dual language instruction has focused on teachers. The USP budget includes 26 teaching assistants. Cost-benefit analyses of teaching assistants suggests that the investment would be best made in reducing class size and/or incentivizing highly effective teachers. This is especially likely given the low pay of these assistants (\$19,000—which I think makes one eligible for food subsidies). While it is too late to change this practice this year, at least for those already hired, the District should consider whether this sizable investment would yield more student learning if it was alternatively used. As the District notes, it has trouble recruiting teachers with dual certification. Incentives could be financial, reduced class size, or lighter teaching loads. This is a suggestion, not a requirement.

Portables at UHS

The District’s position is that the increase in enrollment among African-American and Latino students is directly related to a USP-related court order. This seems a legitimate argument for the use of 910G funds. However, the District points out that there was a 30 student increase related to the revised criteria for admission which would appear to justify the addition of two portables this year with additional portables being added as needed because of additional enrollment in future years.

Learning Support Coordinators

I recommended that before funds are cut from learning support coordinators, a systematic analysis of the contributions these support people make to student outcomes be undertaken. The District agrees with this position but does not describe how such an evaluation will take place.

African-American Student Support Services Department

The District asserts that the department has not been eliminated and that it will provide a separate budget for the department. This is a concern expressed by the Fisher plaintiffs.

Programs to Address the Needs of African-American and Latino Elementary and Middle School Students

The District proposes to set aside \$250,000 to support increased academic achievement for African-American and Latino elementary and middle school students. It is hard to imagine that meaningful programs can be initiated affecting a significant number of students with this amount of money. It appears that this additional funding is simply a palliative. I take no position on this.

Funding to Supplement CRC Courses with Less than 27 students

See earlier discussion of the use of 910 G funds to support CRC teachers.

Funding for Fine Arts

In my August 4 comments on funding for the fine arts, I suggested that the District undertake a systematic analysis such support from 910G funds for 2015-16. The District's response does not indicate that it intends to do so. Without such an analysis, this issue will be almost certainly be revisited in the 2015-16 budget discussions.

Final Comment

Should the District wish to respond to these comments, it should do so immediately. The plaintiffs and I have 10 days from August 29 to submit objections to the District's proposed budget for 2014-15. I believe that any

objections should be made prior to the end of that ten day period and that the ten day period should not be extended.

Brown, Samuel

From: Sarah J. Stanton <Sstanton@rllaz.com>
Sent: Friday, September 05, 2014 4:20 PM
To: Willis D. Hawley (wdh@umd.edu) (wdh@umd.edu); lthompson@proskauer.com; Juan Rodriguez (jrodriguez@MALDEF.org); Rubin Salter Jr. (Rsjr3@aol.com) (Rsjr3@aol.com); Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov) (Zoe.Savitsky@usdoj.gov); Anurima Bhargava (Anurima.Bhargava@usdoj.gov) (Anurima.Bhargava@usdoj.gov)
Cc: Tolleson, Julie; TUSD; Brown, Samuel
Subject: TUSD's Responses to SM's Aug 31 Budget Comments
Attachments: 23F3487-Budget Responses 9.5.14.pdf

Special Master Hawley and Counsel,

Attached please find TUSD's responses to the budget comments submitted by the Special Master on August 31, 2014. Thank you.

Sarah Stanton
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Responses to Special Master Requests from August 31, 2014

1. Expenditures on Professional Development

The District's response enhances understanding of how the District will go about responding to the provisions of the USP with respect to professional development. However, the response provides little information about the adequacy of the professional development to be undertaken. In my memorandum to the parties on August 1, 2014, I laid out a way of determining adequacy which the District chose not to use. That is, of course, it's privilege. The District does not describe the extent of training that people will receive. For example, while the District notes that it will train administrators with respect to discipline issues, it appears that the extent of that training in 2013-14 was limited--at best—to a couple of hours and we were told that many principals felt that this was inadequate given the complexity and difficulty of administering discipline.

No one can know for sure the exact amount of time needed for professional development of people playing particular roles because, at its best, professional development is targeted on needs for learning new skills or improving performance of individuals. But there is research it takes to learn instructional practices. And, it is not too hard to estimate what the costs of professional development might be and to identify the assumptions that underlie the estimates. For example, virtually all professional staff must be trained on culturally responsive pedagogy and inclusive practices. When what is to be learned, assessed and relearned are identified, one can indicate a number of hours this might reasonably take to learn a new skill (e.g., 40 hours) and multiply that number of hours by the number of people in different roles who must learn particular capabilities. If specific training is planned during the normal work day, these hours can be subtracted from the amount that would otherwise need to be compensated.

When the District does explain how it arrived at the numbers it did, its most common response appears to be that the 2013-14 budget was used as a baseline. But that baseline had no basis (that has been explained) so it is hardly a justification for proposed expenditures.

In the absence of systematic analyses that provides the basis for proposed expenditures on professional development, I will recommend that the District be required to set aside a significant amount of funds for professional development until a reasonable explanation for how these funds will be used as provided. If the calculations justify the proposed budget, then the set-asides can be reallocated.

Response to #1:

During a conference call between TUSD, the Plaintiffs and the Special Master on August 8, 2014, the Special Master asked the District to "...justify/explain how the funding for the 33 USP-required PD was determined." See Email from Samuel Brown to Dr. Hawley

dated August 12, 2014, attached hereto as Exhibit A. The District confirmed this request, in writing, with the Special Master to be certain that, before embarking on gathering information responsive to this request, the request was made clear. The Special Master did not indicate that the District's understanding of the information sought was incorrect, nor did the Special Master indicate that he expected or was requesting that the District describe "the adequacy of the professional development to be undertaken" or "the extent of training that people will receive." Neither did the Special Master indicate that he was requesting a "systematic analyses that provides the basis for proposed expenditures." But the absence of this information from the response is now cited by the Special Master as a deficiency warranting a set-aside for professional development. The Special Master's latest comments regarding professional development go far beyond budgetary concerns and into the substance and adequacy of the District's professional development efforts. It is not practical or productive, nor required by the USP, for the District to completely reevaluate its professional development efforts when it creates its budget.

Nevertheless, the District will continue to plan and implement professional development for SY 2014-15, will continue to share its plans with the Implementation Committee and, where available, to include cost estimates for certain activities so the Special Master and IC members can determine whether the PD investment informs the activity at issue.

2. Funding of Psychologists and Other Support Personnel

Here the District introduces a new criterion for determining whether funding is being supplanted; were expenditures or activities funded in previous years from non-910 G funds? I have no idea why this makes sense given that there appears to be wide agreement that expenditures in previous years were not always appropriate. But I do not think that this criteria criterion warrants debate now.

The District's explanation for why it is supporting the equivalent of about 5 FTE from 910 G funds is basically that services are being provided that would not otherwise be provided if not for the USP. If one could link services to needs related to actions required by the USP, this would be a reasonable argument. Perhaps that case could be made for the high levels of mobility among African-American and Latino students but it is not clear why African-American and Latino students, per se, have need of psychological services beyond those that will be provided to other students. Does being black or Latino result in psychological problems and, if so, what are those problems? There are student characteristics that might be linked to the need for psychological services and many of these, including mobility, can be linked to low family income.

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of an opinion by a political blogger suggests that this is not how these expenditures are allocated. The District should clarify how the psychologists funded from 910G funds are deployed.

So while the logic here makes sense-- that the 910 G funds can be used to address problems and undermine the learning opportunities and outcomes of African-American and Latino students, what is missing here is a specification of the needs to be addressed. This, in turn, would suggest whether those needs are best addressed by psychologists or by other professionals (e.g., reading specialists). It is encouraging that the District did not argue that the use of 910 G funds was appropriate in order to avoid misassignment to special education but I do not believe the District makes the case for spending 910 G funds to support psychologists, especially in the ways that it appears the District proposes to allocate these funds. The same conclusion would apply to other support personnel funded from 910 G funds.

Response to #2:

The Special Master requests that the District clarify how the psychologists funded from 910G funds are deployed.

The current unadjusted staffing formula for psychologists is 1,000 students to 1 psychologist. The Lead Psychologist uses a matrix that considers schools' academic achievement level, past number of referrals, the number of special programs and other factors such as race and mobility. Based on this data, the staffing is adjusted to provide increased support to schools. The benefit to African American and Latino students is that it allows for support from the psychologist to begin earlier in the process. Typically, based on the 1:1000 standard ratio, the psychologist would not become involved in the process of evaluation and support until the formal Multidisciplinary Evaluation Team ("MET") meeting to determine if enough data exist to begin a special education evaluation. By increasing the support, the psychologist can begin working with the team earlier in the process. In the early stages of the process, the focus is on developing interventions and proactively finding solutions before the formal MET process begins. This level of support, particularly to address the needs of African American and Latino students who have not yet been identified for exceptional education services, is made possible by the supplemental 910(g) funding. In many ways, although this expenditure is listed under Project 6, it also supports Project 5, Students Engagement and Support, in that this is another critical piece to providing support to identified students who may face obstacles that may not rise to the formal level of creating an IEP.

3. Funding CRC Teachers

The District argues that it would not be offering CRC courses in the absence of the USP. Given the evidence about the effectiveness of such courses, that is disappointing but I

accept it as a reasonable argument. Since the CRC courses for the most part substitute for required history and social studies courses, those conventional courses would have to be offered in the absence of the USP. If class sizes in CRC courses must be smaller than their non-CRC equivalents, the difference in class size as it translates to additional teachers can be justified as a 910 G expenditure. But the District provides no such analysis.

I note that the District cannot meet the requirements of the USP by arguing that demand for the courses is not adequate to justify offering them. This does not mean that the District must offer such courses to a handful of students but it's definition of what a reasonable number of students is, especially when the courses are initially offered, should be generous and the number should be provided.

Response to #3:

The Special Master requests the District to provide a definition of what a reasonable number of students is (to offer low-threshold classes), and suggests that the number should be generous.

The District set a standard of 1:20 (an in some cases made exceptions to that standard to allow classes of 15-19 to move forward). The general formula for HS classes is 1:32; the District has sought to reduce class sizes to 1:27. Accordingly, 20 is a reasonable number of students to use as a standard. Of the 32 sections, only three have 32 or more students, and the District has made exceptions for five of the sections to proceed with less than 20 students. In total, 29 out of 32 CRC courses are proceeding as "low-threshold" classes per the formula (approximately 90%).

4. Dual Language Teachers

The District argues that more than 75% of the dual language classes offered are "low threshold"--meaning that they have fewer than the target number of 27 students. This low threshold would justify the use of 910 G funds but not the way the District proposes, at least as I understand it. The calculation is straight forward. Assuming that the average teacher teach five sections and using the District's numbers of low threshold courses, the number of additional teachers needed would be 32. The budget provides for 40 910G-funded teachers in dual language classes. If teachers teach only four sections, 40 teachers would be needed. So, what is the typical teaching load?

While the discussion related to extra funding for dual language instruction has focused on teachers. The USP budget includes 26 teaching assistants. Cost-benefit analyses of teaching assistants suggests that the investment would be best made in reducing class size and/or incentivizing highly effective teachers. This is especially likely given the low pay of these assistants (\$19,000—which I think makes one eligible for food subsidies).

While it is too late to change this practice this year, at least for those already hired, the District should consider whether this sizable investment would yield mores student learning if it was alternatively used. As the District notes, it has trouble recruiting teachers with dual certification. Incentives could be financial, reduced class size, or lighter teaching loads. This is a suggestion, not a requirement.

Response to #4:

Although Dual-Language teachers in grades 6-12 generally teach five sections, Dual-Language teachers in grades K-5 only teach one section, all day and in all content areas. The typical teaching load is either 1 section (grades K-5), or five sections (grades 6-8).

There are 67 Dual-Language teachers in grades K-5, and 26 Dual-Language teachers in grades 6-12. The 67 Dual-Language teachers in grades K-5 teach the equivalent of 67 sections (individual classes); approximately 47 of these sections have class sizes below 27 students (approximately 71%). The 26 Dual-Language teachers in grades 6-12 teach 69 sections (individual classes). Fifty-two of those 69 sections have class sizes below 27 students (approximately 75%)

5. Portables at UHS

The District's position is that the increase in enrollment among African-American and Latino students is directly related to a USP-related court order. This seems a legitimate argument for the use of 910G funds. However, the District points out that there was a 30 student increase related to the revised criteria for admission which would appear to justify the addition of two portables this year with additional portables being added as needed because of additional enrollment in future years.

Response to #5: The District proposes to split the cost for moving the portables to UHS to utilize half M&O funds and half 910(g) funds.

6. Learning Support Coordinators

I recommended that before funds are cut from learning support coordinators, a systematic analysis of the contributions these support people make to student outcomes be undertaken. The District agrees with this position but does not describe how such an evaluation will take place.

Response to #6: The District will conduct a systematic analysis of the contributions of LSCs.

7. African-American Student Support Services Department

The District asserts that the department has not been eliminated and that it will provide a separate budget for the department. This is a concern expressed by the Fisher plaintiffs.

Response to #7: The District will provide a separate budget no later than September 15, 2014.

8. Programs to Address the Needs of African-American and Latino Elementary and Middle School Students

The District proposes to set aside \$250,000 to support increased academic achievement for African-American and Latino elementary and middle school students. It is hard to imagine that meaningful programs can be initiated affecting a significant number of students with this amount of money. It appears that this additional funding is simply a palliative. I take no position on this.

Response to #8: TUSD has no further response to this comment.

9. Funding to Supplement CRC Courses with Less than 27 students

See earlier discussion of the use of 910 G funds to support CRC teachers.

Response to #9: See above response to #3. The District provides funding to supplement CRC courses with fewer than 27 students.

10. Funding for Fine Arts

In my August 4 comments on funding for the fine arts, I suggested that the District undertake a systematic analysis such support from 910G funds for 2015-16. The District's response does not indicate that it intends to do so. Without such an analysis, this issue will be almost certainly be revisited in the 2015-16 budget discussions.

Response to #10: TUSD has no further response to this comment.

From: Willis D. Hawley [<mailto:wdh@umd.edu>]

Sent: Sunday, September 07, 2014 11:33 AM

To: Rubin Salter, Jr.; Thompson, Lois D.; Juan Rodriguez; Anurima Bhargava (Anurima.Bhargava@usdoj.gov); Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov); TUSD; Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov); Julie Tolleson (Julie.Tolleson@tusd1.org)

Subject: Objections to the TUSD 2014-15 Budget

Counsel,

Attached is my objection to the 2014-15 budget. I will file it tomorrow, which I understand to be the deadline. It may be that after more discussion we could have clarified some of these concerns. In its August 29 response to a memo from me identifying these and other issues, the District agreed to adopt all of the recommendations I made, except one, and these covered the four issues in my objection attached. However, in that same response and in its later comments on my August 31 effort to clarify, the District seems to back away from its agreement—or, perhaps, to have a different understanding of my concerns and to then disagree with these proposals in light of the new understanding. One of the key findings of research on learning and communication is that the things we hear, see and read gets sorted into the bins in our brain where we think they best fit given the connotation we assign to what we hear, read and see. So what seems like a clear A to me is a B to you and you think we are, as they say, on the same page. That may have happened

here, at least that is suggested by the District's apparent surprise at my proposals. In any event, I share these with you now before the formal submission, for whatever help that might be.

Bill

Willis D. Hawley
Professor of Education and Public Policy
University of Maryland
Director, Teaching Diverse Student Initiative
Southern Poverty Law Center

September 8, 2014

To: Honorable David C. Bury

From: Willis Hawley

Re: Comments of District's Response to Recommendations Regarding the 2014-15 TUSD Budget

Section X. B.5 of the USP states, "Within 10 days of the USP budget's approval by the Governing Board, if any of the plaintiffs or the special master disagrees the budget, they may file objections to the Court to resolve the objections on expedited basis". The District Governing Board passed a budget for 2014-15 on August 12, 2014, and the District submitted this budget on August 14 with a request for further consultation. Following the identification of issues raised by the plaintiffs and the special master, the District agreed to provide further information on August 25 and suggested that the ten day period for objections being submitted to the Court, if any, would commence when the promised information was received. There were no objections to this proposal. The information from the District was submitted on August 29, 2014.

There been numerous exchanges among the District, the plaintiffs and the special master related to the 2014-15 TUSD budget. Since this is not an R&R, I reference only three of these communications that involve my recommendations here: (1) memos from me to the parties on August 1 and 4, 2014 (Attachment A) and (b) September 5, 2014 comments by the District on a draft of the comments I proposed to send to the Court which was shared with the parties on August 31, 2014 (this comment from the District—Attachment B--includes my August 31 comments).

While there are many concerns expressed by the plaintiffs and me over the last several weeks, including concerns about the process itself, I focus my recommendations to the Court on only four issues to both draw attention to particular proposals for change and clarification and to establish certain principles for process and analysis.

Expenditures on Professional Development

Successful implementation of the USP depends fundamentally on the effectiveness of the people doing the work. That is why the USP places so much emphasis on professional development; no one can read the USP without knowing that professional development is of central importance. It follows that the District should make the necessary investments in professional development to ensure the effectiveness of those implementing the USP and that a rational analysis is employed to determine what the level of that investment should be. However, the District did not use a systematic approach to determine the costs of professional development, a reality that is manifest in its initial explanation for how it determined the professional development budget and the follow-up in response to my proposal that funds for professional development be set aside until the District provides the justification for its proposal (see Attachment B).

The District argues that my request for information that would determine the adequacy of the investment professional development is new to them. The purpose of my requests for responses from the District with respect to professional development budget have always been to understand whether the investment proposed adequate . Why would I request that the District explain the allocation of professional development funds if not understand the rationale for its proposals? Moreover, this intent is made abundantly clear in the memo submitted to the parties in the first week of August (see Attachment A). In its response to my request for a systematic analysis of why it is investing the amounts it is in professional development the District says it has no obligation to “completely reevaluate” its professional development efforts. I did not and do not request such “reevaluation”. I requested that the District use conventional analytical processes to explain how its proposals addressed provisions of the USP. However, it appears that the District does not use a systematic process that identifies specific goals of professional development, who will be involved in professional development, what it will take for desired outcomes to be achieved, and how much should be invested accordingly.

How would the plaintiffs and special master assess the adequacy of proposed expenditures for professional development without knowing the reasons for the proposed expenditures? The District claims, as it did in 2013, that budget concerns

of the plaintiffs and the special master should not deal with substance or adequacy. If not substance and adequacy, what should budget evaluation involve? The Court addressed this issue quite clearly in its June 6, 2013 Order (Doc. 1477) that dealt with proposals of the special master that would require the District to alter some of its 2013-14 budget provisions:

“In the same way it would make little sense to examine program efficacy without considering budgetary restraints, ‘it makes little sense to examine and make recommendations regarding provisions of the budget without examining proposed expenditures and the demonstrated or likely efficacy of activity or action to be implemented’”. (p.4)

This theme is as elaborated upon further in the Order.

In my memorandum to the parties on August 1, 2014, I identified a common approach for determining adequacy of the proposed budget for professional development which the District chose not to use. A basic problem with the proposal expenditure for professional development is that the District does not describe the extent of training that people will receive. For example, while the District notes that it will train administrators with respect to discipline issues but provides no indication of the depth of such training. This tells us little and it appears, based on interviews with District staff, that the extent of that training in 2013-14 was limited--at best—to a couple of hours and we were told that many principals felt that this was inadequate given the complexity and difficulty of administering discipline.

No one can know for sure the exact amount of time needed for professional development of people playing particular roles because, at its best, professional development is targeted on needs for learning new skills or improving performance of individuals. But there is research about what it typically takes to learn instructional practices. And, it is not too hard to estimate what the costs of such professional development might be and to identify the assumptions that underlie the estimates. For example, virtually all professional staff must be trained on culturally responsive pedagogy and inclusive practices. When what is to be learned, assessed and relearned are identified, one can indicate a number of hours

this might reasonably take to learn a new skill (e.g., 40 hours) and multiply that number of hours by the number of people in different roles who must learn particular capabilities. If specific training is planned during the normal work day, these hours can be subtracted from the amount that would otherwise need to be compensated.

When the District does explain how it arrived at the numbers it did, its most common response appears to be that the 2013-14 budget was used as a baseline. But that baseline had no basis (that has been explained) so it is hardly a justification for proposed expenditures.

In the absence of systematic analyses that provides the basis for proposed expenditures on professional development, I recommend that the District be required to set aside a \$2,000,000 for professional development (in addition to that now in the budget) until a reasonable explanation for how these funds will be used is provided. For a process for doing this, see Attachment A. If the calculations justify the proposed budget, then the set-asides can be reallocated.

Funding of Psychologists and Other Support Personnel

My comments here focus on psychologists but the same principles apply for the use of 910G funds for social workers in college and career coordinators. The principle is simple: 910G funds can be used to support activities and needs identified in the USP that are in excess of what the District would fund in the absence of the USP requirements.

The District's explanation for why it is supporting the equivalent of about 5 FTE from 910G funds is basically that services are being provided that would not otherwise be provided if not for the USP. If one could link services to needs related to actions required by the USP, this would be a reasonable argument. Perhaps that case could be made for the District's connection of need to high levels of mobility among African-American and Latino students but it is not clear why African-American and Latino students, per se, have need of psychological services beyond those that will be provided to other students. Does being black or Latino result in psychological problems and, if so, what are those problems? There are student characteristics that might be linked to the need for psychological services and many of these, including mobility, can be linked to low family income.

If there are particular needs that should be addressed by psychologists that are related to provisions of the USP, then the time of the psychologists serving those needs should be allocated to the schools where such needs are greatest. But the budget itself and the remarkable citation of an opinion by a blogger to presumably justify its approach suggests that this is not how these expenditures are allocated. The District should clarify how the psychologists funded from 910G funds are deployed that is, at what schools these extra psychologists funded through 910G funds do their primary work?

A justification that the District has used in the past for using 910 G funds to support psychologists is that these individuals can reduce inappropriate assignments to special education. This is an important concern but it is the job of psychologists to work with special educators to make such assessments as a matter of course. Moreover, there are other personnel funded from 910G funds whose job it is to focus attention on such mis-assignment possibilities.

I recommend that before 910 G funds are approved to support psychologists, social workers and college and career coordinators over and above funds that would be allocated by the District's regular funding formulas, that the District answer the following questions:

1. Why is a student's race in and of itself an indicator of potential need for these services?
2. If there are student needs related to race and ethnicity that justify the use of 910G funds for psychologists, social workers and college and career coordinators, do these specialists serve in the schools with the highest number of students with those particular needs?

Funding Teachers of Culturally Relevant Courses (CRC)

The District argues that it would not be offering CRC in the absence of the USP. Given the evidence about the effectiveness of such courses, that is disappointing but I accept it as a reasonable argument. Since the CRC courses for the most part substitute for required "core" courses, those conventional courses would have to be offered in the absence of the USP. If class sizes in CRC courses must be smaller

than their non-CRC equivalents, the difference in class size as it translates to additional teachers can be justified as a 910G expenditure. But the District provides no such analysis. The District does not challenge my analysis but provides additional data on class size in culturally relevant courses.

Using the most recent data provided by the District, I come to a different conclusion than that I originally calculated. The District says that 90% of the CRCs are low threshold--meaning that they have less than 32 students. The District asserts that 20 students might be the threshold for offering a CRC and it allows that some exceptions made. So let's assume that the 29 low threshold courses averaged 22 students. This would mean that 10 students would need to be funded from 910G funds. This means that one additional class would need to be offered for every three low threshold periods, or 10 additional periods. Since teachers the high school level typically teach five courses this would mean that the District can justify the support of two additional teachers from 910G funds because of its responsibility to offer CRCs. In fact, the District budget proposes to support six teachers because of the USP provision relating to offering culturally relevant courses.

I realize that this analysis is simplistic Teachers teach different subjects and are assigned to different schools although some may teach in more than one school., as was the case in previous years. If there is a better way to calculate the increase costs for teachers because of the obligation to teach culturally relevant courses, the District should provide it. Until it does, the District should be allowed to expend only enough funds to support the salaries and benefits of two additional teachers.

The point being made here is that the District consistently refuses to provide the analysis needed by this plaintiffs and the special master to evaluate its budget proposals.

Dual Language Teachers

The District argues that more than 75% of the dual language classes offered are "low threshold"--meaning that they have fewer than the target number of 27 students. This low threshold would justify the use of 910G funds but not the way the District proposes.

As with its response to my request for additional analysis relating to the rationale for the use of 910 G funds to support CRC teachers, the District provides no analysis justifying its proposed budget expenditures for dual language teachers. Instead, it simply describes how many teachers teach at different levels in dual language courses and classrooms.

Using the data that the District provides in its September 5, 2014 response to my August 31 memo regarding the budget (Attachment B), it appears that the District is funding significantly more dual language teachers from 910 G funds than can be justified. The District says there are 47 K-5 classes below threshold. Let me estimate that the average number of students in such classes is 10 below threshold. This means that for each three classes under threshold, an additional teacher would be needed. This comes out to 18 additional K-5 teachers being needed who could be supported from 910 G funds. The District says there are 52 below-threshold sections in 6-12 schools. If we say again that the average number of students under the threshold is 10, we would need an additional teacher for every three low threshold sections. Given that teachers teach five sections, this justifies the support of three additional dual language teachers from 910 G funds.

This admittedly simplistic calculation suggests that 21 additional dual language teachers could be supported from 910 G funds whereas the District proposes to support 40 dual language teachers from 910 G funds. So, I recommend that until the District provides analysis that would justify the expenditure of 910G funds for dual language teachers, the District should be allowed to spend the amount needed to support 21 dual language teachers.

Summary

A fundamental theme of the commentary on all of the issues addressed in this objection is that the District has a responsibility to spell out how and why it arrived at the decisions it makes to invest 910G funds to implement the provisions of the USP.

Until the District accepts this responsibility, there will continue to be conflict over the budget among the District, the plaintiffs, and the special master. It is important that the Court send this message.