

District Response to Fisher and Mendoza Plaintiffs’ Requests for Report & Recommendation and Special Master Proposal (and Mendoza Plaintiffs’ Modified Proposal) Regarding CRPI Director Selection Process

Preliminary Statement Regarding This Response

On March 11, 2014, the TUSD governing board approved the designation of Salvador A. Gabaldón, M.A. (“Gabaldón”) as the District’s Director of Culturally Responsive Pedagogy and Instruction (“CRPI Director”).

On March 31, 2014, TUSD received a request from a member of the Implementation Committee (Dr. Montano) for a meeting to discuss Gabaldón’s designation as CRPI Director. Three days later, on April 3, 2014, a member of the TUSD legal department met with Dr. Montano to discuss this matter. During that meeting, Dr. Montano was provided with Mr. Gabaldón’s CV, Steven Holmes’ (TUSD’s Assistant Superintendent for Curriculum and Instruction) narrative regarding his assessment of Mr. Gabaldón’s qualifications for the designation, the interview list, interview questions, and scoring sheets. (**Exhibit A**) This information was also provided electronically the same day to Dr. Montano and the Special Master.

The Special Master forwarded the materials provided to Dr. Montano to the Plaintiffs on April 4, 2014. The same day, the Special Master provided the parties with a memorandum regarding “Appointment of Director of Culturally Responsive Pedagogy and Instruction” (“Special Master CRPI Memo”) (**Exhibit B**). The Special Master CRPI Memo included certain background facts¹ relating to the process resulting in Gabaldón’s designation as the CRPI Director, but made no specific recommendations.

Less than a week later, before TUSD had the opportunity to respond to the Special Master CRPI Memo, the Fisher Plaintiffs submitted a request for report and recommendation regarding the designation of Gabaldón as CRPI Director (“Fisher R&R Request”) relating to the qualifications and designation process “for the reasons cited in

¹ The Special Master CRPI Memo refers to a prior dispute between the parties in relation to the required language on the job posting for the CRPI Director which does not relate to the designation issue at hand: “I urged the District to add the USP-specified qualifications or to pursue other options. The District refused saying, in effect, that the definition in the USP did not meet the needs of the District.” Given the negative light this appears to cast upon the District on a tangential issue, a full and complete memorandum of the District’s well-reasoned position on the job posting provided to both the Plaintiffs and Special Master on September 30, 2013 is attached hereto. (**Exhibit C**). After receipt of this memorandum, the Plaintiffs and Special Master dropped the issue.

[the Special Master CRPI Memo]”. **(Exhibit D)** The Mendoza Plaintiffs on April 9, 2014 also made a request for a report and recommendation regarding the designation of Gabaldón as CRPI Director (“Mendoza CRPI R&R Request”), but relating only to the designation process, not to his qualifications. **(Exhibit E)** Neither the Fisher CRPI R&R Request nor the Mendoza CRPI R&R Request has been joined by the Department of Justice. No request for information was made by any Plaintiff prior to the Fisher and Mendoza CRPI R&R Requests.

On April 15, 2014, the Special Master wrote to the parties and proposed an alternative to a report and recommendation on the appointment of the CRPI Director as follows (“Special Master CRPI Proposal”):

The committee that has interviewed those who applied would select the top four candidates of the eight they identified as potential appointees. Assuming these candidates are still interested—and they should be actively encouraged to persist in their applications –these candidates and would be interviewed by the committee. The committee would make their recommendation to the Superintendent who would, of course, make the appointment.

(Exhibit F)

The Special Master requested a response to his proposal from TUSD on Friday, April 18, 2014 (providing TUSD with only four days to respond, although April 18, 2014 is Good Friday and a District holiday). **(Exhibit F)**

On April 18, 2014, the Mendoza Plaintiffs notified the parties and the Special Master that they would agree to a modified version of the Special Master’s proposal, recommending that a new interview committee conduct the interviews (the “Mendoza Modified Proposal”). **(Exhibit G)** The same day, the Fisher Plaintiffs notified the parties and Special Master that they renewed their report and recommendation request. For the first time (and the same day as TUSD’s deadline to respond to the Plaintiffs and Special Master on this issue), the Fisher Plaintiffs complained that “Mr. Gabaldón does not appear to have any experience developing culturally relevant curriculum for African American students, certainly a critical requirement of this position.” The Fisher Plaintiffs rejected the Special Master CRPI Proposal. **(Exhibit H)**

The response herein is intended to address the Fisher CRPI R&R Request, Mendoza CRPI R&R Request, the Special Master CRPI Proposal and the Mendoza Modified Proposal.

Response

I. USP Requirements for CRPI Director

USP § V.E.4.c mandates that TUSD shall hire or designate a CRPI Director:

c. Director of Culturally Responsive Pedagogy and Instruction (“CRPI Director”). The District shall hire or designate an individual who shall supervise the implementation of courses of instruction that focus on the cultural and historical experiences and perspectives of African American and Latino communities. 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][emphasis added].

Additionally, if the District opts to hire for a required position (instead of designating a current TUSD employee), the USP describes the process for the hiring of administrators and certificated staff as follows:

1. The District shall ensure that interview committees for the hiring of administrators and certificated staff include African American and/or Latino members. For school site-level hiring, the principal shall submit to the District human resources department the names and race/ethnicity of the members of each interview panel. For District-level hiring, the individual who selects the hiring panel shall also submit this information to the District human resources department. [USP § IV.D.1]

3. Each interview committee, at both the site level and district level, shall utilize a standard interview instrument with core uniform questions to be asked of each candidate that applies for that position and a scoring rubric. [USP § IV.D.3]

Although TUSD had two procedures available to it for filling the CRPI Director position (via hiring or designation), the District chose the hiring process so that a nationwide search could be conducted to find the best candidate. Unfortunately, due to the breach in the hiring process described below, TUSD was forced to abandon it and designate a CRPI Director. Even though doing so was not TUSD’s first choice, it was a choice expressly permitted it as provided in the USP.

II. Attempted Hiring Process for CRPI Director

A. Seven Month Candidate Search, Interview & Selection Process

Tsuru Bailey-Jones (“Bailey-Jones”), the Director of Academic Equity for Asian and Pacific Student Services, was designated as the Acting CRPI Director beginning on September 1, 2013 so that the District could conduct a nationwide search for a permanent CRPI Director pursuant to the hiring process described in USP § IV.D.1. (**Exhibit I**, Affidavit of Tsuru Bailey-Jones, ¶¶ 1-3). Bailey-Jones headed the interview committee for the screening and selection process under which applicants for the CRPI Director position would be screened, ranked, interviewed and selected in compliance with the USP. *Id.* The interview committee was constituted as follows, including reference to their TUSD position and ethnicity:

- Tsuru Bailey-Jones, Director of Academic Equity for Asian and Pacific Student Services and acting CRPI Director (African American and Asian).
- Roxanne Begay-James, director of Academic Equity for Native American Students (Native American).
- Mary Carmen Cruz, Teacher-Mentor for the Department of curriculum, instruction and Professional Development (Hispanic).
- Maria Figueroa, Director of Academic Equity for Mexican-American students (Hispanic).
- Dr. Joseph Hines, Interim director for Middle Schools (African American)
- Brian Lambert, Program Manager for Student Equity and Intervention and the District’s Academic and Behavioral supports coordinator (White).

(**Exhibit I**, ¶¶ 3-8).

The search and interview process spanned seven months, and is detailed further in the attached affidavit of the committee head (Bailey-Jones), including but not limited to, the postings, application screenings, telephonic screenings, the standard questions asked to applicants, the rubric used and further telephonic interviews following the candidate ranking and scoring. (**Exhibit I**, ¶¶ 9-19).

B. Urgency to Fill Position

In the midst of the interview process, the Acting CRPI Director joined the team working on the development and implementation of the Family Engagement Plan required by the USP which, together with the Acting CRPI Director’s existing duties as Director of Academic Equity for Asian and Pacific Student Services, required that the

CRPI Director position be filled by another person as soon as possible so that there would be no delay in fulfilling the CRPI's duties under the USP. (**Exhibit I**, ¶ 19, **Exhibit J**, Affidavit of HT Sanchez, ¶ 3)

C. Compromise of Integrity of Interview Process in Final Stages of Selection

As of March 3, 2014, the top candidates were selected from the eight finalists remaining out of the original 79 applications. **Exhibit I**, ¶¶ 16-18. At this point, TUSD learned the integrity of the interview process has been compromised by a leak to the public of the identity of the finalists. (**Exhibit I**, ¶ 18, **Exhibit J**, ¶ 2) Given this leak, the District determined that the process under which the candidate would be selected in no way could be perceived as independent and fair.

Given the compromise of the by-then lengthy interview process conducted pursuant to and in compliance with USP § IV.D.1² as described in the Affidavit of Bailey-Jones, the District found itself in an extremely difficult position. Although the USP mandated a specific hiring process, it also mandated that the District fill the CRPI Director position within a reasonable time-frame. But, engaging in another lengthy selection process undoubtedly would have delayed USP compliance significantly. **Exhibit J**, ¶ 3. Given the situation in which it found itself, the District acted swiftly to ensure the CRPI Director position was filled by the best candidate available as soon as possible. **Exhibit J**, ¶¶ 4-7. Filling the position as the District did avoided undue delay in complying with the USP requirements that the CRPI is charged with fulfilling, including that 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." USP § V.E.4.c.

Similarly, the competing and conflicting concerns raised by the Mendoza Plaintiffs regarding the hiring of the CRPI Director (as well as the unexpected integrity compromise of the process) put TUSD in the untenable position of being unable to satisfy them. On one hand, as the Mendoza Plaintiffs have acknowledged in their CRPI R&R Request, their complaints and concerns regarding the perceived delay in hiring of the CRPI Director have been expressed to TUSD since last year. On the other hand, however, they object to TUSD's solution to a situation not of its own creation, where a breach

² To date, there has been no objection or claim by the Special Master or Parties that the hiring process, prior to the compromise, was not in full compliance with the USP.

compromised a seven-month search and hiring process for a position that needed to be filled. Given that the Mendoza Plaintiffs would not be satisfied either way, TUSD simply attempted to choose the better of two non-optimal options by designating to the position a current and qualified TUSD employee as permitted by USP § IV.D.1. (**Exhibit K**)

III. Special Master's Concerns Regarding Gabaldón's Qualifications

The Special Master CRPI Memo explains the background of Gabaldón relevant to this position, but does not conclude or make any recommendations on whether Gabaldón is qualified for the CRPI Director position. (**Exhibit B**) The Mendoza CRPI R&R Request made five days later does not contend that Gabaldón is not qualified for the job, and is limited to a concern that the hiring process required by the USP was not followed. Although none of the Plaintiffs have raised an issue regarding the qualifications of Gabaldón for the CRPI Director position, the Special Master CRPI Proposal discusses the issue of Gabaldón's qualifications, but reaches no conclusion and makes no recommendations on Gabaldón's qualifications.³

Gabaldón is highly qualified for the CRPI Director position, and this was abundantly clear to the District following a lengthy interview conducted by Dr. Sanchez and Steve Holmes prior to his designation pursuant to USP § IV.D.1. (**Exhibit A, Exhibit J**) To name only a few of his qualifications⁴, Gabaldón has developed and taught multicultural literature units and presented professional development sessions for teachers. He was a classroom teacher for more than 20 years before working more recently in curriculum development and language acquisition. He has been honored for both his work as an educator and as a civil rights activist. (**Exhibit J ¶¶ 6-7**) Indeed, as demonstrated by his CV attached to the Affidavit of HT Sanchez (**Exhibit J**), he has

³ Given that no Plaintiff is objecting to Gabaldón's qualifications (save the belated and unsupported narrow objection by Fisher addressed in Footnote 5 below), nor is any of them requesting a report and recommendation on the sufficiency of his qualifications for the CRPI Director position, no report and recommendation regarding Gabaldón's qualifications would be proper under the USP. Without waiving that issue, and in a good faith effort to address the Special Master's concerns on this issue, Gabaldón's qualifications are addressed herein.

⁴ Gabaldón's qualifications are included in detail in the Affidavit of HT Sanchez (**Exhibit J**), memorandum of Steve Holmes (**Exhibit A**) and the CV attached to the Affidavit of HT Sanchez (**Exhibit J**).

significant experience in developing and teaching curriculum focused on Latino social, cultural, and historical experience at the secondary level.⁵

IV. Special Master’s Proposal (and the Mendoza Plaintiffs’ Modified Proposal) Regarding CRPI Director Position Is Not Workable in Light of Breach

The Special Master CRPI Proposal suggests that the District direct the previously-constituted search committee to consider the top four candidates from the compromised selection process and then make a recommendation from those candidates to the Superintendent. (**Exhibit F**). The problem the District perceives with this proposal (and the Mendoza Modified Proposal utilizing a new interview committee), which is the precise reason TUSD could not continue the prior process, is that the identity of the candidates on the list are public due to the leak. Specifically because of this leak, the hiring process and consideration of those candidates no longer can be an independent determination of the committee members. This is because they may now already have been, and likely will be should this process continue, lobbied by individuals or groups who support certain of the candidates. Although the District has the utmost faith in the committee members to do their best to be fair and independent, the appearance of impropriety or potential favoritism that would attend any decision made by the committee after the leak remains. Accordingly, returning to evaluation of those candidates simply is not feasible and designation of the CRPI Director as permitted by USP § IV.D.1 is the better of the options.

⁵ The Fisher Plaintiffs have raised a new objection to the qualifications of Gabaldón the same day as the deadline for this response (**Exhibit I**), and accordingly, TUSD has not been afforded an adequate opportunity to respond. However, TUSD notes preliminarily that experience in developing culturally relevant curriculum for African American students is not a requirement of the USP as the Fisher Plaintiffs suggest. The USP requires the CRPI Director to “have experience developing and teaching curriculum focused on the African American and/or Latino social, cultural, and historical experience...”. See USP § V.E.4.c (emphasis added). Gabaldón has experience in the later focus, rather than the former, as permitted in the USP by the word “or”.

EXHIBIT A

Tolleson, Julie

From: Holmes, Steven
Sent: Wednesday, April 02, 2014 1:35 PM
To: Tolleson, Julie
Cc: Sanchez, HT; Vega, Adrian
Subject: Résumé and Curriculum Vita
Attachments: Sal-Résumé-2014.pdf; Sal-CurricVita.pdf

Importance: High

Attached please find Mr. Sal Gabaldon's Curriculum Vitae and Resume. He was appointed to the position after an interview with me and with Dr. Sanchez. The process is within the established protocols for the hiring of director level positions, wherein both Dr. Sanchez and I reviewed his qualifications and conducted an in-depth interview with Mr. Gabaldon.

As stated in the Unitary Status Plan for the Director of Culturally Responsive Pedagogy and Instruction ("CRPI Director"): "The District shall hire or designate an individual who shall supervise the implementation of courses of instruction that focus on the cultural and historical experiences and perspectives of African American and Latino communities. 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 p. 36, C)."

According to these criteria, Mr. Gabaldon does have experience developing and teaching curriculum focused on Latino social, cultural, and historical experience at the secondary level. Although he has spent much of his career advocating for and supporting instruction for English Language learners, his instructional background is in English where he was one of the first teachers in the district to introduce students to Chicano Literature. Much of his support work with teachers at the secondary level is grounded on building background with students via their cultural and linguistic assets. Additionally, he has a strong reputation for delivering high quality professional development and working successfully with teachers who are less inclined to change their practices.

Moreover, Sal has been a key member of the current Curriculum Development Team that has worked extensively to align the curriculum with the Arizona College and Career Readiness Standards (formally Common Core) and the PARCC Assessment Frameworks. This level of knowledge and understanding of these models is critical in moving the work forward in terms of academic excellence and compliance with ASR 15-112.

I am confident that Mr. Gabaldon has the necessary skills and experience to fulfill the obligations outlined in the Unitary Status Plan. I see no other language that would preclude Mr. Gabaldon's candidacy and appointment.

Regards,

Steve Holmes

CURRICULUM VITA

Salvador A. Gabaldón
Language Acquisition Specialist,
Language Acquisition Department
Tucson Unified School District
2025 E. Winsett Street
Tucson, Arizona 85719

Office Phone: (520) 225-4600
E-mail: sal.gabaldon@tusd1.org

EDUCATION

2005-2007 Doctoral program student; University of Arizona
1996-1998 M.A., Language, Reading and Culture; University of Arizona
1972-1976 B.A., English; California State University, Northridge

CREDENTIALS

Teaching Certificate, Arizona Standard Secondary Education, English
Administrative Certificate, Arizona Principal
Approved SEI Endorsement Trainer, Arizona State Board of Education
Bilingual Education Endorsement, Arizona Department of Education
Certified English-Spanish Interpreter/Translator, Agnes Haury Institute

PROFESSIONAL EXPERIENCE

2012-Present *Curriculum Writer, Culturally Relevant Courses* *
Tucson Unified School District, Tucson, AZ

2001-Present *Language Acquisition Specialist, Language Acquisition Department* #
Tucson Unified School District, Tucson, AZ

1997-2001 *Secondary Curriculum Specialist, Bilingual Educ./Hispanic Studies. Dept.* *#
Tucson Unified School District, Tucson, AZ

1994-1997 *Chair, Pueblo High School Dept. of English* *#
Tucson Unified School District, Tucson, AZ

1985-1997 *English Teacher & Basketball Coach, Pueblo High School* *
Tucson Unified School District, Tucson, AZ

1982-1985 *English Teacher & Basketball Coach, Calabasas Junior High School* *
Santa Cruz Valley Unified School District, Rio Rico, AZ

1976-1981 *English Teacher & Student Council Advisor, San Fernando High School* *
Los Angeles Unified School District, Los Angeles, CA

*--Developed and taught a variety of multicultural literature units with an emphasis on Mexican American literature.
#--Developed and presented professional development activities on an ongoing basis.

ADJUNCT POSITIONS

- 2003-2007 *SEI Instructor, Department of Language, Reading and Culture*
University of Arizona, Tucson, AZ
- 2003-2005 *Instructor, On-line SEI courses*
Northern Arizona University
- 2002-2004 *Advisor, Rockefeller Textbook Project: U.S. Heritage of Hispanic Literature*
Arte Público Press, University of Houston, Houston, TX
- 1998-2001 *Writing Consultant, Native American Writing Institute*
University of Arizona, Tucson, AZ
- 1997-2005 *Mentor, English Methods Courses*
Prescott College, Tucson, AZ
- 1990-1992 *English Instructor, Adult Education*
Pima Community College, Tucson, AZ

HONORS AND AWARDS

- 2004 *Human and Civil Rights Award*
Arizona Education Association
- 2004 *The Kenneth S. Goodman "In Defense of Good Teaching Award"*
Department of Language, Reading and Culture; College of Education, UA
- 2000 *Community Service Award*
Hispanic Professional Action Committee
- 2000 *Distinguished Service Award*
Arizona English Teachers Association
- 1999 *Superintendent's Honor Roll*
Tucson Unified School District
- 1993 *President's Award for Exemplary Service to Students*
Governing Board of the Tucson Unified School District
- 1988 *Selected to National Faculty Seminar*
St. John's College, Santa Fe, NM
- 1987 *National Endowment for the Humanities Grant*
Summer Seminar, Stanford University
- 1975 *Ford Foundation Fellowship in Education*
California State University, Northridge

Gabaldón, S. (2000). "La Voz Liberada: Writing to Learn in a Sheltered English Classroom." *Teaching Writing Across the Curriculum in Secondary Schools*. Scarborough, H. (Ed.). Prentice Hall, Inc.

Gabaldón, S. & Setliff, M. (2000). "An Argument Against Proposition 203." *Ballot Propositions and Judicial Performance Review*. Office of the Arizona Secretary of State.

Gabaldón, S. (2000). "Anaya's *Zia Summer*: Curanderismo in a Contemporary American Detective Novel." Hispanic Studies Dept., Tucson Unified School District.

Gabaldón, S. (2000). "Los Corridos: A Humanities Unit for High School Language Arts, Social Studies and Music Appreciation Classes." University of Arizona Poetry Center.

Gabaldón, S. (1999). *Literary Map of Arizona's Writers: A Multicultural Heritage*. Arizona English Teachers Association.

Gabaldón, S. (1998). "Multicultural Voices in Detective Fiction." *Arizona English Bulletin*, 40 (2), 40-43.

Gabaldón, S. (1998). "An English Teacher's Belief in Bilingual Education." *NABE News*, December 15. (Reprinted from the December 2, 1998, *Arizona Daily Star* guest editorial.)

"Distorted Data: English Proficiency Redefined." American Educational Research Association Conference, San Francisco, CA, April 10, 2006.

"Vasconcelos in Childhood: A Mexican American Education in the 1890s." Raices Book Club, Dec. 6, 2003, Tucson, AZ.

"An Introduction to Sheltered Instruction." Summer Institute for Bilingual School Psychologists, University of Arizona, June 3, 2003, Tucson, AZ.

"Addressing the Needs of English Language Learners through Structured English Immersion." Southwest Regional School Boards Association Conference, March 22, 2003, Albuquerque, NM.

"English Language Learners in the Mainstream." Commission on English Education Colloquium, "Madness in Our Methods." November 25, 2002, Atlanta, GA.

"The TUSD Plan for Implementing Proposition 203." Co-presenter with Dr. Leonard Basurto. Education Committee of the Arizona House of Representatives, July 24, 2001, Tucson, AZ.

"Effective Instruction for Language Acquisition." Co-presenter with Dr. Leonard Basurto. Arizona School Boards Assoc., May 1, 2001, Mesa, AZ.

"Debated: Should Arizona Voters Support Proposition 203?" Teamed with Jeff McSwan to argue against the proposition; Margaret Dugan and Ron Unz presented the affirmative case. Federalist Society, October 26, 2000, Arizona State University Law Library, Tempe, AZ.

"Bilingual Education in Arizona: Where Do We Go from Here?" Arizona English Teachers Association State Conference, Sept. 22, 2000, Fort Huachuca, AZ.

"A History of English-Only Education in Arizona." Co-presenter with Alejandra Sotomayor. Community Forum organized by the Office for Civil Rights, U.S. Dept. of Education, May 19, 1999, Tucson, AZ.

"The Role of Chicano Literature in Bilingual Education." Co-presenter with Maria Figueroa). California Association for Bilingual Education Conference, February 19, 1999, Los Angeles, CA.

"The Unz Initiative: An Attack on Parental Rights." Hispanic Professional Action Committee Forum, January 14, 1999, Tucson, AZ.

PAST AFFILIATIONS WITH PROFESSIONAL ORGANIZATIONS

National Association for Bilingual Education—Arizona (NABE-AZ)

Arizona English Teachers Association (AETA)

Arizona Teachers of English to Speakers of Other Languages (AZ-TESOL)

Commission on English Education (CEE)

National Council of Teachers of English (NCTE)

PROFESSIONAL GROWTH ACTIVITIES

~~The Mexican American Raza Studies Summer Institute for Teachers, July 30-August 1, 2003, Pima Community College Desert Vista Campus, Tucson, AZ.~~

The National Institute in Reading Apprenticeship, Strategic Literacy Initiative, WestEd, July 21-25, 2003, Washington Heights Conference Center, Baltimore, MD.

Specially Designed Academic Instruction in English (SDAIE) Training, June 26-28, 2000, California Department of Education, San Diego, CA.

The Bilingual Education Institute, November 4, 1999, Arizona State University-West, Phoenix, AZ.

The Fourth Annual Binational Education Conference, April 10, 1999, Northern Arizona University-Yuma and the Dept. of Education of the State of Baja California, San Luis, AZ.

The Summer Institute for Writing and Thinking across the Curriculum, July 8-26, 1996, University of Arizona, Tucson, AZ.

Arizona Writing Project, Summer 1986, University of Arizona, Tucson, AZ

UNPUBLISHED MANUSCRIPTS

Gabaldón, S.A. *Trends in Graduation Rates of Spanish-Surnamed Students Based on a Study of Selected TUSD High School Yearbooks, 1923 to 1996.*

Gabaldón, S.A. *Encouraging Autobiographical Writing among Latino Students through an Etymological Study of Surnames, Given Names and Nicknames.*

Gabaldón, S.A. *Poetry Anthologies and Books of Quotations: A Found Poetry Project for Secondary School Students.*

SERVICE TO THE COMMUNITY

- Expert witness, *Flores v. State of Arizona*, U.S. District Court
- Commencement speaker, Luz-Guerrero Early College HS Graduation
- Commencement speaker, PCC Adult Education Graduation Ceremony
- Tutor, Pima Community College—GED Program
- Proctor, Spanish Examination for High School Credit
- Arizona Professional Judgment Panel on English Language Learners
- Coordinator, *Torneo Estatal de Ortografía* (Spanish spelling bee)
- Essay Judge for the Academic Decathlon
- English Acquisition Subcommittee, ADE Certification Task Force
- State Board of Education's Flores/ELL Rules Working Group
- TEA-TUSD Underperforming Schools Task Force
- Proctor for Advanced Placement Examinations
- Volunteer with LULAC-sponsored Parent Education Program
- Volunteer football coach, Maravilla Huskies, San Gabriel Youth Football
- Volunteer basketball coach, Montebello Youth Basketball

Salvador A. Gabaldón
Language Acquisition Specialist
Tucson Unified School District
2025 E. Winsett Street; Tucson, Arizona 85719
Office Phone: (520) 225-4600; Home Phone: (520) 742-9753
E-mail: sal.gabaldon@tusd1.org

EDUCATION

2005-2007 Doctoral program student; University of Arizona
1996-1998 M.A., Language, Reading and Culture; University of Arizona
1972-1976 B.A., English; California State University, Northridge

CURRENTLY VALID CREDENTIALS

Teaching Certificate, Arizona Standard Secondary Education, English
Arizona Administrative Certificate, Principal
Approved SEI Endorsement Trainer, Arizona Department of Education
Bilingual Education Endorsement, Arizona Department of Education
Certificate of Completion, Agnese Haury Institute for Interpretation

PROFESSIONAL EXPERIENCE

2012-Present *Curriculum Writer, Culturally Relevant Courses* *
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Governing Board of the Tucson Unified School District
- 1988 *National Faculty Seminar Selection*
St. John's College, Santa Fe, NM
- 1987 *National Endowment for the Humanities Grant*
Summer Seminar (John Milton's *Paradise Lost*), Stanford University

COPY

TUSD

Department of Curriculum and Instruction
Culturally Responsive Pedagogy & Instruction
1010 E. 10th Street
Tucson, AZ 85719

Date: February 28, 2014

To: Dr. Sanchez

Fr: Tsuru Bailey-Jones *Tsuru Bailey-Jones*

Re: Results of the Feb. 27, 2014 Phone Interview for Director, Culturally Relevant Pedagogy

The following team members were approved by Dr. Vega and Mr. Holmes to participate on the interview team: Tsuru Bailey-Jones, Roxanne Begay-James, Mary Carmen Cruz, Maria Figueroa, Dr. Joseph Hines, and Brian Lambert.

Eight candidates that met the minimum threshold, in alpha order.

- | | |
|------------------|---------------------|
| 1. Sharett Brown | 5. Anna Loebe |
| 2. Jesus Celaya | 6. Clifford Moon |
| 3. Robin Dunbar | 7. Chantae Recasner |
| 4. Jimmy Hart | 8. Jesus Velasquez |

Candidates that did not meet the minimum threshold in rank order (top to bottom).

- | | |
|----------------------------|------------------------------|
| 1. Alicia Brown | 15. Halley Freitas |
| 2. Desiree Cueto | 16. Carolyn Garrison |
| 3. Javier Fuentes | 17. Lynette Harris-Scott |
| 4. Norma Gonzalez | 18. Elia Maria Villasenor |
| 5. Jonathan Levy | 19. Deborah Neff |
| 6. Deborah Jane Garza | 20. Natalie Reyes de Francis |
| 7. Stacie Emert | 21. Christine Jerla |
| 8. Lorenzo Lopez | 22. Amber Williams |
| 9. Brian Adams-Thies | 23. Renee Cox |
| 10. Camille Martinez-Yaden | 24. Patricia Moreno |
| 11. Coleen Maldonado | 25. Marietta Wasson |
| 12. Joshua Payne | 26. Thais Cunha |
| 13. Juan Rojas | 27. Luis Araiza |
| 14. Christopher Bonn | 28. Elijah Rasul |

Interview Questions

2 = Enthusiastically Support

1= Support

0 = Does Not Support

1. Please describe what a culturally responsive classroom looks like.

Communication of high expectations – High expectations influence teacher-student relations and affect student performance, motivation, and self-concept. Teachers are calling on students frequently, giving ample feedback, and praising. Schools are de-tracking, offering challenging curriculum, and providing intensive time on task. Teachers understand student behavior in light of the norms of the communities in which they are raised and respect all students as learners with knowledge and experience.

Teacher as facilitator – teachers develop learning activities that are relevant to their students' cultural experiences. At the same time, students are encouraged to stretch beyond the familiar. Teachers have a repertoire of teaching approaches to reach students in a range of culturally appropriate ways. Teachers have a knowledge about the language and culture of their students, as well as a firm understanding of the roles which language and culture play in an individual's identity.

Teachers have cultural sensitivity. This maximizes learning opportunities. Teachers gain knowledge of the cultures represented in their classrooms and translate this knowledge into instructional practice.

Teachers have positive perspectives on parents and families of culturally and linguistically diverse students. There is an ongoing participation in dialogue with students, parents, and community members on issues important to them, along with the inclusion of these individuals and issues in classroom curriculum and activities.

2. What criteria or attributes would you use to identify administrators who exhibit best practices for student academic success?

See above. The response should include what is above and also touch on exceptional education students and LGBT students.

3. Describe your experience developing curriculum focusing on the cultural and historical experiences of Latinos and/or African Americans.

1st choice = 30-36
Selection

Director- Culturally Relevant Pedagogy
14-1244

TIME	NAME	PHONE	Refer to District Leadership Interviews Y or N	COMMENTS													
1	8:15	Wasson, Marietta 731-7658		2	2	3	3	2	2	2	14						
2	8:25	Villasenor, Elia Maria (520) 409-0496		2	4	3	4	4	1	18							
3	8:35	Velasquez, Jesus (520) 461.2260		5	5	5	5	4	6	30							
4	8:45	Vadnais, Ashley NJR		1	2	3	3	2	2	13							
5	8:55	Rojas, Juan (520) 982-6901, 515-3702		4	3	4	3	4	2	20							
6	9:15	Recasner, Chantae (504) 914-6765		5	6	6	6	5	6	34							
7	9:25	Rasul, Elijah (520) 338-6781 (520) 499-3529 or 480-280-7265		1	1	0	1	1	2	6							
8	9:35	Payne, Joshua (520) 301-9842		3	3	5	3	3	4	21							
9	9:45	Neff, Deborah (520) 612-7044		2	3	2	3	4	3	17							
10	9:55	Moreno, Patricia (480) 209-2369		2	3	3	3	2	1	14							
10	10:05	Moon, Clifford (480) 641-0749		6	6	5	6	6	4	33							

Director- Culturally Relevant Pedagogy
14-1244

TIME	NAME	PHONE	Refer to District Leadership Interviews Y or N	COMMENTS												
35	3:55 PM	eyesdeFrancis, Natali	928 607 0655		3	2	3	3	3	3	3	3	3	3	3	17
36	4:05 PM	Gonzales, Norma	520 869-4903		5	4	4	5	5	5	5	5	5	5	5	28
37	4:15 PM	Araiza, Luis	NR		1	2	2	3	3	3	3	3	3	3	3	12
38																
5																
6																
7																
8																
9																
10																
11																

EXHIBIT B

From: Willis D. Hawley
Sent: Friday, April 04, 2014 3:34 PM
To: Rubin Salter, Jr.; Nancy Ramirez; 'Thompson, Lois D.';
Anurima.Bhargava@usdoj.gov; Zoe.Savitsky@usdoj.gov; Samuel.Brown@tusd1.org;
Tolleson, Julie; Brammer@rlaz.com
Subject: Appointment of CRPI Director

April 4, 2014

To: Parties
From: Bill Hawley
Re: Appointment of Director of Culturally Responsive Pedagogy and Instruction

This memo is triggered by concerns express by one or more plaintiffs and is intended to report on events and information related to the appointment of Sal Galbadon as CRPI Director. It is not a criticism of Galbadon, who is a very well-regarded expert on English Language Learning, particularly bilingual education for students whose home language is Spanish. This memo may serve to provide the plaintiffs with information they need to decide their response to the appointment and will allow the District to elaborate on the appointment.

In September, 2013, the District posted a job announcement for this position. The USP identifies specific qualifications for the position, some of which were not included in the job announcement. The Mendoza plaintiffs and I raised concern about this and, on September 26, I urged the District to add the USP-specified qualifications or to pursue other options. The District refused saying, in effect, that the definition in the USP did not meet the needs of the District. After an exchange of emails and phone calls, the District said that while it would not change the job announcement but would not appoint someone who did not meet the requirements in the USP. My response was that of the qualifications asked for in a job announcement do not include the capabilities you need, the chances of finding a qualified candidate are not great. I also noted that if the selected candidate did not meet the qualifications specified the USP, I would have no option but to recommend to the Court that the person not be appointed.

A current employee was appointed as interim director for CRPI while the search went forward. Almost 40 people applied (Galbadon did not). A six person racially diverse team was identified as the interview team. It interviewed 37 candidates with the modal time being 10 minutes. Eight candidates, who appear to include persons of different racial and ethnic backgrounds, were seen to have "met the minimum threshold". This process was "compromised" when a leak to the public from the panel regarding the selection occurred. The district thought about starting the process again, but felt the need for the position was urgent. None of the finalists were considered further.

On March 13, 2014, the District announced that Galbadon, who had retired full time from the District in 2012, had been appointed CRPI Director. Galbadon was not interviewed by the interview committee but was interviewed by the Superintendent and Steve Holmes, to whom he would report in his new position.

Galbadon has served in many roles in the District (see attached vita) and has impressive credentials as an expert on bilingual education. In his vita, he identifies himself as a Language Acquisition Specialist. In the letter from Steve Holmes, Assistant Superintendent for Curriculum and Instruction, describes Galbadon's experience as a "career advocating for and supporting instruction for English Language learners.." Of his several writings and presentations, none deal with culturally responsive pedagogy. CRP does, of course, deal with the appropriate selection of culturally relevant curriculum and Galbadon has experience in developing curriculum for Latino students and has been an advisor to the District in its development of culturally relevant courses. From the record, one cannot tell if Galbadon has experience in teaching and curriculum development related to African American students, as required by the USP. It is important to note that the position has the somewhat redundant title of *Culturally Responsive Pedagogy and Instruction* presumably to emphasize the teaching dimensions of the task. Experts on CRP would almost certainly rank facilitation of culturally responsive teaching as more complex than curriculum development.

Willis D. Hawley
Professor of Education and Public Policy
University of Maryland

Director, Teaching Diverse Student Initiative
Southern Poverty Law Center

EXHIBIT C

DECONCINI McDONALD YETWIN & LACY

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
2525 EAST BROADWAY BLVD. • SUITE 200 • TUCSON, ARIZONA 85716-5300
(520) 322-5000 • (520) 322-5585 (Fax)

MEMORANDUM

TO: Parties, Dr. Hawley
FROM: Lisa Anne Smith
DATE: September 30, 2013
RE: Mendoza Request for Intervention Regarding the Job Description for CRPI Director

We agree with and appreciate the Special Master's conclusion that he does not have grounds to intervene to require the District to change the CRPI job description. As both Sam and I have explained previously, the USP includes requirements regarding who can fill the position, but it does not dictate how the District should go about finding a qualified individual.

The District is committed to finding the best qualified person for the CRPI position and believes that the current, on-going process, with the job description as is, will achieve that goal. The District has not arrived at any conclusion that the USP should be amended so it would be premature to ask the parties to change or waive any of the USP requirements.

It is the District's intention to hire a person who meets the USP requirements. The District has confirmed, and reiterates here, that it will not hire a person who does not meet the criteria stated in the USP without the consent of the parties. However, if it appears that the best qualified applicant meets most but not all of the USP requirements, the District may ask the Parties to stipulate to amending or waiving a requirement in light of the qualifications of the applicant. If that happens, the USP may be changed by consensus, but because that may never happen, and because there is no way of knowing what specific requirement the District may ask the Parties to waive, there is no reason to discuss changing the USP at this time.

The District has not ignored, and has no intention to ignore, the requirements of the USP. It has made a decision that is within its discretion as to how to attract the best possible candidate pool for this important position.

For these reasons, the District declines to change the job description or to request any amendment of the USP regarding the CPRI position requirements at this time.

EXHIBIT D

From: Rubin Salter, Jr. [mailto:rsjr3@aol.com]
Sent: Tuesday, April 08, 2014 5:28 PM
To: wdh@umd.edu; nramirez@MALDEF.org; lthompson@proskauer.com; Anurima.Bhargava@usdoj.gov; Zoe.Savitsky@usdoj.gov; Samuel.Brown@tusd1.org; Julie.Tolleson@tusd1.org; William Brammer
Subject: Re: Appointment of CRPI Director

Special Master Hawley:

The Fisher Plaintiffs, for the reasons cited in your 04/04/14 email, respectfully object to the appointment of Sal Galbadon as Director of Culturally Responsive Pedagogy and Instruction (CRPI Director). However well-regarded and qualified Mr. Galbadon may be in the field of English Language Learning (ELL), he does not appear to meet the minimum qualifications set forth in the Unitary Status Plan for the CRPI Director. The Fisher Plaintiffs are also concerned by the apparent anomalies in the hiring process. On the basis of these objections, the Fisher Plaintiffs ask that you make a report and recommendation to the Court.

Thank you,

Rubin Salter, Jr.

Rubin Salter, Jr.
Attorney
The Law Office of Rubin Salter, Jr.
177 N. Church Avenue
Suite 903
Tucson, AZ 85701
(520) 623-5706
(520) 623-1716 fax
rsjr3@aol.com

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-----Original Message-----

From: Willis D. Hawley <wdh@umd.edu>
To: Willis D. Hawley <wdh@umd.edu>; Rubin Salter, Jr. <rsjr3@aol.com>; Nancy Ramirez <nramirez@MALDEF.org>; Thompson, Lois D. <lthompson@proskauer.com>; Anurima.Bhargava <Anurima.Bhargava@usdoj.gov>; Zoe.Savitsky <Zoe.Savitsky@usdoj.gov>; Samuel.Brown <Samuel.Brown@tusd1.org>; Tolleson, Julie <Julie.Tolleson@tusd1.org>; Brammer <Brammer@rllaz.com>
Sent: Fri, Apr 4, 2014 12:35 pm
Subject: RE: Appointment of CRPI Director

I erred on the date of Galbadon's appointment in the memo I sent a few moments ago. It was approved by the GB on March 11, not the 13th

From: Willis D. Hawley
Sent: Friday, April 04, 2014 3:34 PM
To: Rubin Salter, Jr.; Nancy Ramirez; 'Thompson, Lois D.'; Anurima.Bhargava@usdoj.gov; Zoe.Savitsky@usdoj.gov; Samuel.Brown@tusd1.org; Tolleson, Julie; Brammer@rllaz.com
Subject: Appointment of CRPI Director

April 4, 2014

To: Parties
From: Bill Hawley
Re: Appointment of Director of Culturally Responsive Pedagogy and Instruction

This memo is triggered by concerns express by one or more plaintiffs and is intended to report on events and information related to the appointment of Sal Galbadon as CRPI Director. It is not a criticism of Galbadon, who is a very well-regarded expert on English Language Learning, particularly bilingual education for students whose home language is Spanish. This memo may serve to provide the plaintiffs with information they need to decide their response to the appointment and will allow the District to elaborate on the appointment.

In September, 2013, the District posted a job announcement for this position. The USP identifies specific qualifications for the position, some of which were not included in the job announcement. The Mendoza plaintiffs and I raised concern about this and, on September 26, I urged the District to add the USP-specified qualifications or to pursue other options. The District refused saying, in effect, that the definition in the USP did not meet the needs of the District. After an exchange of emails and phone calls, the District said that while it would not change the job announcement but would not appoint someone who did not meet the requirements in the USP. My response was that of the qualifications asked for in a job announcement do not include the capabilities you need, the chances of finding a qualified candidate are not great. I also noted that if the selected candidate did not meet the qualifications specified the USP, I would have no option but to recommend to the Court that the person not be appointed.

A current employee was appointed as interim director for CRPI while the search went forward. Almost 40 people applied (Galbadon did not). A six person racially diverse team was identified as the interview team. It interviewed 37 candidates with the modal time being 10 minutes. Eight candidates, who appear to include persons of different racial and ethnic backgrounds, were seen to have "met the minimum threshold". This process was "compromised" when a leak to the public

from the panel regarding the selection occurred. The district thought about starting the process again, but felt the need for the position was urgent. None of the finalists were considered further.

On March 13, 2014, the District announced that Galbadon, who had retired full time from the District in 2012, had been appointed CRPI Director. Galbadon was not interviewed by the interview committee but was interviewed by the Superintendent and Steve Holmes, to whom he would report in his new position.

Galbadon has served in many roles in the District (see attached vita) and has impressive credentials as an expert on bilingual education. In his vita, he identifies himself as a Language Acquisition Specialist. In the letter from Steve Holmes, Assistant Superintendent for Curriculum and Instruction, describes Galbadon's experience as a "career advocating for and supporting instruction for English Language learners.." Of his several writings and presentations, none deal with culturally responsive pedagogy. CRP does, of course, deal with the appropriate selection of culturally relevant curriculum and Galbadon has experience in developing curriculum for Latino students and has been an advisor to the District in its development of culturally relevant courses. From the record, one cannot tell if Galbadon has experience in teaching and curriculum development related to African American students, as required by the USP. It is important to note that the position has the somewhat redundant title of *Culturally Responsive Pedagogy and Instruction* presumably to emphasize the teaching dimensions of the task. Experts on CRP would almost certainly rank facilitation of culturally responsive teaching as more complex than curriculum development.

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

EXHIBIT E

From: Nancy Ramirez [<mailto:nramirez@MALDEF.org>]

Sent: Wednesday, April 09, 2014 10:31 AM

To: Willis Hawley (wdh@umd.edu)

Cc: Lois Thompson (lthompson@proskauer.com); Rubin Salter, Jr. (rsjr3@aol.com); Anurima.Bhargava@usdoj.gov; Zoe.Savitsky@usdoj.gov; Brown, Samuel; brammer@rllaz.com; Tolleson, Julie

Subject: Mendoza Plaintiffs' Request for R&R Re CRPI Director Selection Process

Dear Dr. Hawley,

Mendoza Plaintiffs request a Report & Recommendation for the District's failure to follow the hiring process set forth in the USP for hiring the Culturally Relevant Pedagogy and Instruction Director, Salvador Gabaldón. The USP requires an interview committee including African American and Latino members for the hiring of administrators and that the committee is to "utilize a standard interview instrument with core uniform questions to be asked of each candidate that applies for that position and a scoring rubric." (USP IV, D, 1; USP IV, D, 3.) According to documents provided by the District, Mr. Gabaldón was not interviewed by the USP-required interview committee and was instead interviewed by Steven Holmes and Superintendent Sanchez. According to an email from the Special Master dated April 4, 2014, the interview committee interviewed 37 candidates and eight candidates met the minimum threshold. However, according to the same email from the Special Master, none of the eight was considered for the position because the process was "compromised" as a result of a "leak to the public from the panel." Mr. Gabaldón did not apply for the position and therefore apparently never responded in the manner of all other candidates to the "core uniform questions."

While the Special Master reported that the District "thought about starting the process again, but felt the need for the position was urgent," Mendoza Plaintiffs do not believe that this was an acceptable reason to bypass the process set forth in the USP. In fact, in so far as they are able to determine, the need to fill the position was no more urgent when the process was "compromised" than it has been for months. While Mendoza Plaintiffs have been concerned about the extensive delay in filling this position and while they have tremendous respect for Mr. Gabaldón, they are also concerned about how quickly the selection process was aborted based on it being "compromised." The District could have assembled a new interview team and re-interviewed all eight candidates; it could have rescreened all 37 candidates and gone through interviewing the top eight candidates or done a myriad of other things to execute some damage control in dealing with the "compromise." Instead, the District simply abandoned all applicants and top candidates and "resolved" the "compromise" by imposing yet another compromising employment practice by recruiting a single non-applicant to meet or be interviewed by Mr. Holmes and Supt. Sanchez. Last year when Mendoza Plaintiffs expressed concern over the length of time to fill this position they were informed that the District was undertaking a national search in order to hire the best person for the job. It is therefore of concern to them that regardless of the respect they have for Mr. Gabaldón the District abandoned the national search for the best possible candidate and hired Mr. Gabaldón outside the mandated process.

Mendoza Plaintiffs object to the District's failure to follow the process set forth in the USP for hiring the CRPI Director.

Mendoza Plaintiffs further request that the Special Master and/or the Implementation Committee determine whether the District has been following the USP-required process for hiring other administrative positions given Mr. Holmes' troubling statement that the hiring process for Mr. Gabaldón "is within the established protocols for the hiring of director level positions, wherein both Dr. Sanchez and [he] reviewed ... qualifications and conducted an in-depth interview..." and that if it has not been doing so, that the Plaintiffs immediately be informed so that they may seek whatever further relief may be appropriate.

Nancy Ramirez
Western Regional Counsel
Mexican American Legal Defense and Educational Fund
634 S. Spring St., 11th Floor
Los Angeles, CA 90014
(213) 629-2512, ext. 121
fax: (213) 629-0266
www.maldef.org

EXHIBIT F

From: Willis D. Hawley [<mailto:wdh@umd.edu>]
Sent: Tuesday, April 15, 2014 7:14 AM
To: Rubin Salter, Jr.; nramirez@MALDEF.org; Thompson, Lois D.; Anurima.Bhargava@usdoj.gov; Zoe.Savitsky@usdoj.gov; Brown, Samuel; Tolleson, Julie; Brammer@rflaz.com
Subject: CRPI Director R&R

I would like to avoid going to an R&R on the appointment of the CRPI Director asked for by the Fisher and Mendoza Plaintiffs. So I offer this proposal for your consideration. This proposal is motivated by (1) a desire to avoid a confrontation that would be harmful to the candidate and to the District, (2) realization that a limited number of people have all of the qualifications identified in the USP, (3) it is important to fill this position and (4) starting from scratch will take months and the outcome will be uncertain.

First, the situation as I see it. Sal Galbadon has many of the qualifications identified in the USP. However, the position is fundamentally about culturally responsive "instruction". On this aspect of the required qualifications he appears to fall short. But, how does he compare with other candidates? We don't know. What is unambiguous is that the process by which he was selected does not meet the requirements of the USP.

Here is my proposal. The committee that interviewed those who applied would select the top four candidates of the eight they identified as potential appointees. Assuming these candidates are still interested—and they should be actively encouraged to persist in their applications—these candidates and Galbadon would be interviewed by the committee. The committee would make their recommendation to the Superintendent who would, of course, make the appointment.

This is a difficult position to fill. It is unlikely that any candidate will be excellent on every dimension of the qualifications. The relative strengths and the vita of the top three candidates would be shared with the Special Master prior to the Superintendent's appointment. This is for monitoring purposes only. The Special Master has no authority to veto (or for that matter, recommend) a particular candidate.

Please let me know your views on this proposal as soon as possible. If this proposal, or something like it, cannot be agreed upon by Friday, I will prepare the requested R&R.

Willis D. Hawley
Professor of Education and Public Policy
University of Maryland

Director, Teaching Diverse Student Initiative
Southern Poverty Law Center

EXHIBIT G

From: Nancy Ramirez [<mailto:nramirez@MALDEF.org>]
Sent: Thursday, April 17, 2014 5:54 PM
To: 'Willis D. Hawley'; Rubin Salter, Jr.; Thompson, Lois D.;
Anurima.Bhargava@usdoj.gov; Zoe.Savitsky@usdoj.gov; Brown, Samuel; Tolleson, Julie;
William Brammer
Subject: RE: CRPI Director R&R

Dear Dr. Hawley,

Mendoza Plaintiffs are in agreement with your proposal with one modification. Because the process was “compromised” last time as a result of a “leak to the public from the panel,” we recommend that a new interview committee conduct the interviews pursuant to the process you outline below.

Thank you.

EXHIBIT H

From: Rubin Salter, Jr. [mailto:rsjr3@aol.com]
Sent: Friday, April 18, 2014 1:58 PM
To: wdh@umd.edu; nramirez@MALDEF.org; lthompson@proskauer.com; Anurima.Bhargava@usdoj.gov; Zoe.Savitsky@usdoj.gov; Samuel.Brown@tusd1.org; Julie.Tolleson@tusd1.org; William Brammer
Subject: Re: CRPI Director R&R

Special Master Hawley:

The Fisher Plaintiffs, for the reasons set forth in your 04/04/14 and 04/15/14 emails, respectfully renew their 04/08/14 objection to the appointment of Sal Galbadon as Director of Culturally Responsive Pedagogy and Instruction (CRPI Director). Notwithstanding Mr. Galbadon's acknowledged expertise working with English Language Learners and long years of service as a District employee, the Fisher Plaintiffs remain categorically opposed to his appointment as CRPI Director because, as you have acknowledged, "[it] is unambiguous [...] that the process by which [Mr. Galbadon] was selected does not meet the requirements of the USP [and] the [CRPI] position is fundamentally about culturally responsive 'instruction' [and] [o]n this aspect of the required qualifications [Mr. Galbadon] appears to fall short" (see Hawley 04/15/14 email). Additionally, the Fisher Plaintiffs are especially concerned that Mr. Galbadon does not appear to have any experience developing culturally relevant curriculum for African American students, certainly a critical requirement of the position. Finally, the Fisher Plaintiffs believe that acquiescing to the obvious anomalies in the hiring process would set a worrisome precedent for future

appointments. The proposal set forth in your 04/15/14 email, unfortunately, would only lead the parties down a slippery slope of acquiescing to the District's evident willingness to circumvent its own hiring requirements and those of the USP. On the basis of these objections, the Fisher Plaintiffs renew their 04/08/14 request for a report and recommendation to the Court.

Thank you,

Rubin Salter, Jr.

Rubin Salter, Jr.
Attorney
The Law Office of Rubin Salter, Jr.
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Tucson, AZ 85701
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(520) 623-1716 fax
rsjr3@aol.com

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EXHIBIT I

State of Arizona)
)
Pima County) ss.

Tsuru Bailey-Jones, being duly sworn upon her oath, deposes and states as follows:

1. My name is Tsuru Bailey-Jones. I headed the interview committee for the screening and selection process under which applicants for the Director of Culturally Relevant Pedagogy ("CRPI Director") would be screened and interviewed for referral to District leadership.

2. The Interview Committee was comprised of Tsuru Bailey-Jones, Roxanne Begay-James, Mary Carmen Cruz, Maria Figueroa, Dr. Joseph Hines, and Brian Lambert.

3. I am the Director of Academic Equity for Asian and Pacific Student Services. I have also been serving as the Acting CRPI Director by designation since September 1, 2013. I am African American and Asian.

4. Roxanne Begay-James is the Director of Academic Equity for Native American Students. She is Native American.

5. Mary Carmen Cruz is a Teacher-Mentor for the Department of Curriculum, Instruction, and Professional Development. She is Hispanic.

6. Maria Figueroa is the Director of Academic Equity for Mexican-American students. She is Hispanic.

7. Dr. Joseph Hines is the Interim Director for Middle Schools. He is African American.

8. Brian Lambert is a Program Manager for Student Equity and Intervention and is also the District's Academic and Behavioral Supports Coordinator. He is white.

9. As of February 7, 2014, the District received 79 applications for this position. Thirteen applicants were screened out at the paper review stage as lacking the minimum qualifications required for the position. This review was conducted by personnel in the District's Human Resources department. Twenty-five other applicants were not advanced because they failed to submit required documentation.

10. Because the position had been open for well over six months, I sent an email to every applicant who met minimum qualifications to ensure that each was still interested in moving forward to the interview stage. I asked them to respond by a certain date to confirm their status. I received thirty-three positive responses. I then sent an additional reminder email to the remaining pool, and received four more responses. One applicant who had replied to the initial email regarding interest in the interview decided to withdraw as a candidate approximately one week before the telephonic screening interviews.

11. On February 27, 2014, the interview committee conducted telephone interviews with all of the 36 candidates who had the minimum qualifications as reflected in their application materials. From this pool, a smaller number of finalists would have been passed on for more in-depth interviews with Assistant Superintendent Steve Holmes and other members of the leadership team.

12. Each candidate was interviewed for 10 minutes in a strictly structured format involving three questions. These questions were approved by Steve Holmes. This system of telephone screening to narrow the pool is a common protocol within the District. The questions posed were:

1. Please describe what a culturally responsive classroom looks like.
2. What criteria or attributes would you use to identify administrators who exhibit best practices for student academic success?
3. Describe your experience developing curriculum focusing on the cultural and historical experiences of Latinos and/or African Americans.

13. After listening to applicant responses, each committee member would then score the candidate as "Enthusiastically Support" (2 points); "Support" (1 point); "Does not Support" (0 points) for each question. Each panel member filled in a sheet with short notations accompanying his or her scoring for each candidate.

14. Aggregated point totals would then result in a candidate ranking, with 6 being the maximum number of points an applicant could receive from any one panel member. All interviewees were ranked and scored. Before interviews began, the committee set a minimum score of 30 points for candidate advancement.

15. The telephone interviews began promptly at 8:15 a.m. on February 27, 2014 and ended at approximately 4:30 p.m. At the close of telephone interviews, panel members remained in the room to discuss the candidates, aggregate scores, and determine the candidates who scored 30 to 36 points which would refer them for further interview.

16. On my drive home, I received a phone call from Steve Holmes inquiring about the results of the interview. I provided the names of the eight candidates with scores 30-36.

17. On Friday, February 28, 2014, I produced a memo for the Superintendent listing both the eight highest scoring candidates alphabetically listed and then numerically listed, from 1 through 28, the other applicants in descending order by their cumulative scores. I personally hand delivered it to his executive assistant, Karen Bynum.

18. On Monday, March 3, 2014, I learned that several of the names of the finalists whom the panel had identified for moving on to the next step were known out into the public. No one but the members of the interview committee, Steve Holmes, and the Superintendent had that information. The Superintendent expressed concern that the selection process had been compromised or at the very least, the leak created an appearance of impropriety. It was decided that we could not move forward as we had planned because of this problem. At this

point, the Superintendent suggested replacing me with an interim person to allow me more time to focus on the family engagement plan and give the District time to conduct an investigation on the interview process.

19. In the beginning of February, I joined the team working on the development and implementation of the USP Family Engagement Plan. The Superintendent did not want to overwhelm me with the responsibility of my main job as Director of Academic Equity for Asian Pacific American Student Services and Refugee Services, with the continued responsibility as CRPI Director and the added responsibility of working with the USP Family Engagement Plan team. Therefore, the Superintendent suggested to put a person in as CRPI Director to focus on the CRPI work. My understanding is once the interview investigation was completed, the position would repost. However, there was no time limit delineated for the investigation and reposting process.

20. Each of the interviewed candidates was then forwarded the following by email:

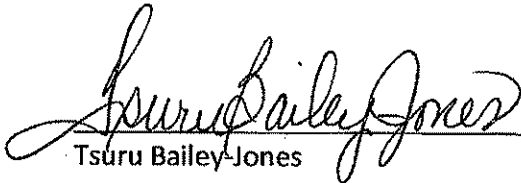
"It was brought to our attention that the confidentiality of the interview process conducted on February 27, 2014 has been compromised. The Director of Culturally Relevant Pedagogy is a high profile position. At this time, our Human Resources department is investigating this situation. It is important for the interview process and section of the director to be conducted with fidelity. As a result, the posting will be pulled and a new process will begin after the Human Resources investigation is completed."

21. Shortly thereafter, Sal Gabaldón was named the CRPI Director by the Superintendent and the selection approved by the Governing Board.

22. The compromise of the interview process was very frustrating to those of us who are committed to the work which the CRPI director oversees. Having both served as the CRPI Director on an acting basis for the last 7 months and as chair of the selection committee, Mr. Gabaldón meets the minimum requirements as outlined in the job announcement for the CRPI Director. He has experience as a Hispanic Studies Curriculum Specialist and earned a Master's degree in Language, Reading and Culture.

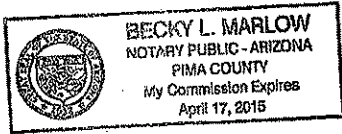
FURTHER AFFIANT SAYETH NOT.

Dated this 17th day of April, 2014


Tsuru Bailey-Jones

[SEAL]

Sworn to before me this 17 day of April, 2014, by Tsuru Bailey-Jones.



Becky L. Marlow

Notary Public

EXHIBIT J

State of Arizona)
)
Pima County)ss.

Heliodoro T. Sánchez, being duly sworn upon his oath, deposes and states as follows:

1. My name is H. T. Sánchez. I am the Superintendent of Tucson Unified School District No. 1 and it was upon my recommendation that Sal Gabaldón was selected to fill the CRPI Director position.

2. No one was more frustrated than I by the compromise of the competitive interview process in which we were seeking a permanent CRPI Director. Once I learned that information from the telephone interview process had rapidly made its way to the public, it was my firm belief that the integrity of the process was compromised. In fact, within hours of the end of the panel interviews, I received a call from a Governing Board member reporting that highly confidential candidate name and ranking information was already circulating in the community. I received another call from a different board member the next morning, likewise having received confidential information about the interview screening process of the day before.

3. We had limited options available to us at that point. We could continue in a process which had been plainly compromised, we could re-post the position and have applicants reapply (with an associated delay), or we could fill the position by direct appointment. The current CRPI Director, Tsuru Bailey-Jones, could not continue because of the demands of her schedule in connection with her duties as Director of Student Services for our Pan-Asian students.

4. I met with Steve Holmes, the Assistant Superintendent for Curriculum and Instruction, to whom the CRPI Director reports. Among other things, we discussed the prospects for appointing a quality internal candidate to fill the position and ensure that our work around culturally responsive pedagogy moves forward aggressively into the 14-15 school year.

5. We decided to broach the issue with Sal Gabaldón, a longtime educator and activist around multicultural education, the teaching and curriculum of Mexican American Studies, and the rights and needs of English Language Learners. At that time he was working for the District as a Language Acquisition Specialist. He had not applied for the CRPI Director position, and thus we would avoid the objections associated with selecting a director from the applicant pool.

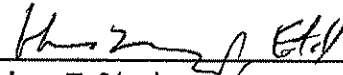
6. We interviewed Mr. Gabaldón for perhaps three hours. His *curriculum vitae* is attached. As you can see, he has developed and taught multicultural literature units and presented professional development sessions for teachers. He was a classroom teacher for

over 20 years before working more recently in curriculum development and language acquisition. He has been honored for both his work as an educator and as a civil rights activist.

7. In comparing Mr. Gabaldón's background (both as reflected on his C.V. and as gleaned in the interview) to the position description, it is my firm belief that Mr. Gabaldón is fully qualified to serve as our CRPI Director and he is my personal choice for moving this important work forward. The position description is attached.

FURTHER AFFIANT SAYETH NOT

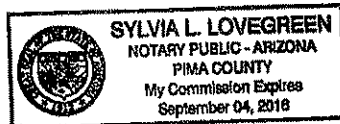
Dated this 17th day of April, 2014

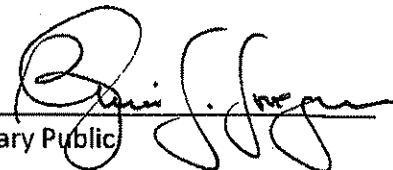


Heliodoro T. Sánchez

[SEAL]

Sworn to before me this 17th day of April, 2014, by H. T. Sánchez.





Notary Public