

May 23, 2014

To: Honorable David C. Bury

From: Willis Hawley, Special Master

Re: Partial Withdrawal of Recommendations in the April 29, 2014 Report and Recommendation Relating to the Appointment of the Director of Culturally Responsive Pedagogy and Instruction

In my April 29, 2014 report and recommendation related to the appointment of a Director of Culturally Responsive pedagogy and instruction, I made these proposals:

1. That the current incumbent of that position be identified as Acting Director and that the district undertake a search for his replacement to be completed by December 2014.
2. That the district develop a position description and a plan for conducting a search for a director within 15 days of the court's order relating to this matter.
3. That the district share its plan with the plaintiffs and the special master so that input could be provided.

The District has objected to the second and third of these proposals (doc 1584). Since I submitted this report and recommendation, I have reached a stipulation with the Superintendent of Tucson Unified School District and, as a result, I am withdrawing the second and third recommendations (identified above) made within my April 29, 2014 report and recommendation. The Superintendent has agreed that:

- That the CRPI Director search process is to be initiated no later than June 30, 2014. I note that this date is not acceptable to the Mendoza plaintiffs. See their objection to my R&R (doc 1583, p.8).
- The search committee would be comprised of senior district officers (the District anticipates this will include the Deputy Superintendent for teaching and Learning, Assistant Superintendent for C&I, Chief Human Resource Officer and Executive Director for Exceptional Education). The search

committee will include both African American and Latino members (as required when utilizing the hiring process set forth in the USP).

- By June 13, 2014, the Special Master shall refer two experts on culturally responsive pedagogy to the District (one with respect to African Americans and one with respect to Latinos) (“CRPI Experts”) to provide feedback both on the creation of questions for the candidates and a rubric or matrix by which to evaluate responses. The CRPI Experts will also suggest venues for recruitment. The expert suggested by the Fisher Plaintiffs, (Dr. Jacqueline Jordan Irvine, Professor of Urban Education in the Division of Educational studies at Emory University) shall be the non-Latino CRPI Expert if Dr. Irvine agrees. All feedback and suggestions provided by the CRPI Experts (1) will be carefully considered by the District, but will not be binding on the District, and (2) will be provided at no cost to the District.

- The committee will review resumes, conduct interviews and recommend finalists to the Superintendent who will make the appointment.

- The availability of this position will be advertised nationally.

In view of these commitments, I believe that there is no need for the Court act on the second and third of the proposals in my report and recommendation and I therefore request the court consider withdrawn the second and third recommendations (identified above) made within my April 29, 2014 report and recommendation.

I have discussed this with the Mendoza plaintiffs and they do not object to my withdrawal of the provisions referenced above from my R&R. However, the Fisher and Mendoza plaintiffs and the District also have objected to other aspects of my report and recommendation.

Specifically, the Mendoza plaintiffs want the search process expedited (doc 1583, p.8), a concern I address in the R&R (pp. 3-4). The Fisher plaintiffs want the Court to require the District to engage a nationally recognized expert to advise the incumbent on culturally responsive pedagogy and curriculum for African American students to “compensate for the interim appointee’s lack of experience in curriculum development related to African American students” (doc 1585, p.2).

Moreover, the District has other objections to my proposal. With respect to the recommendations it objects to, the District says in its May 5, 2014 objection to elements of my R&R (doc 1584) that it does not want the title changed to Acting Director and that the title of Director be retained. I indicated in the R&R that the District agreed to the change in title and I shared that with the parties shortly after the meeting with the Superintendent. No one objected so I included my understanding that this was part of the agreement reached. This is not a trivial matter because it relates to the fact that the procedures used to appoint the current incumbent did not follow the provisions for making appointments provided for in the USP, a central issue of concern to the private plaintiffs and to me. The procedural problems with this appointment are identified in the Mendoza objection to the R&R and in the R&R itself. These problems should not go unrecognized and I urge the Court to sustain my recommendation about the title and the search schedule.