

Exhibit D



Subject: United States' Comments on TUSD's (1) Recruitment Plan; (2) First Year Teacher Pilot Plan; (3) RIF Plan; (4) Aspiring Leaders Plan; (5) USP Distribution and Training Plan; and (6) FCI	Date: August 26, 2013
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INTRODUCTION

This memorandum summarizes the United States' questions and comments on the District's proposed: (1) Recruitment Plan; (2) First Year Teacher Pilot Plan; (3) RIF Plan; (4) Aspiring Leaders Plan; (5) USP Distribution and Training Plan; and (6) FCI – specifically, on their compliance with USP §§ (IV)(C)(3), (IV)(E)(6), (IV)(G)(1), (IV)(I)(3), (IV)(J)(1), and (IX)(A)(1), respectively. This document is arranged by USP subsection for ease of reference, and is further divided by the items the District was to consider in creating the proposed plans or policies.

COMMENTS BY USP SUBSECTION

I. Section (IV)(C)(3): Recruitment Plan

A. USP Section (IV)(C)(3): Process

USP § (IV)(C)(3) requires the District to: “develop and implement a plan to recruit qualified African American and Latino candidates for open administrator and certificated staff positions. The plan shall be developed by the District recruiter with the input of a racially and ethnically diverse recruitment team comprised of school-level and district-level administrators, certificated staff and human resources personnel. The plan shall address any and all disparities identified in the Labor Market Analysis.”

The Plan generally meets these requirements. Per the Plan, the District has designated an employee to be in charge of outreach and recruitment, as well as retention. This person will, according to the Plan, work with a diverse team to implement the strategies described. And according to the information provided in the July Status Report, the process used to come up with the Plan comports with the USP's requirements. Specifically, we understand that the Plan was developed by a four-member district employee core strategy team, assisted by a larger 15-member Recruitment and Retention Advisory Committee which consisted of district personnel and outside partners, through regular meetings and incorporation of relevant data. In addition, as examined further below, the Plan appears to respond to the findings of the Labor Market Analysis. The Recruitment Plan's response to the Labor Market Analysis summary does not include data about similar Metropolitan Statistical Areas (“MSAs”) in nearby states, however. We requested that information on February 27, 2013.

Responsive Requests:

1. Please include a list of the members of the Core team and of the Committee in the Annual Report, including their positions and races.
2. Please also provide the information on similar MSAs in the Annual Report as requested in the February 27 email.

We can discuss how this information could be provided, if the District prefers to provide this information through means other than the Annual Report.

B. USP Section (IV)(C)(3)(a)(i): Nationwide recruitment strategy

USP § (IV)(C)(3)(a)(i) requires the District to: “Establish a nationwide recruiting strategy, based at minimum on the outcome of the Labor Market Analysis, which shall include specific techniques to recruit African American and Latino candidates and candidates with Spanish language bilingual certifications from across the country.”

The Plan meets this requirement in certain respects. (As noted above, we would like to evaluate the Plan in light of the additional labor market data requested, and may adjust our sense of its USP compliance based on that data.) The Plan describes: (a) using six different nationwide online or paper-based recruitment portals; (b) conducting recruiting trips to HBCUs and HACUs; (c) participation in “meet and greet” venues for potential candidates in Arizona; (d) reaching out to colleges and universities statewide, including specifically to African American Studies and Mexican American Studies program departments; (e) creating internship programs for potential teachers; and (f) developing Welcome Groups for new employees. These plans meet most of the requirements.

However, it is unclear how this strategy specifically targets candidates with Spanish language bilingual certifications, which is one of the USP’s requirements. We suggest finding additional web portals on which to post for these positions and ensuring that job descriptions list relevant language certifications and language skills as desired qualifications.

Assuming that the District adds additional bilingual-specific strategies to its Plan and that all of these strategies are implemented with fidelity, the District’s Plan should fulfill the USP requirements regarding establishing a nationwide recruitment strategy. As such, we will wait to evaluate these efforts until we receive the Annual Report, which we expect will detail the steps taken until that point to implement the Plan.

C. USP Section (IV)(C)(3)(a)(ii): Invite retired administrators and certificated staff to rejoin TUSD

USP § (IV)(C)(3)(a)(ii) requires the District to: “Create a process to invite retired African American and Latino administrators and certificated staff to be considered for open positions for which they are qualified.”

The Plan generally meets this requirement. It includes a statement that the District will affirmatively reach out to retired African American and Hispanic administrators and certificated staff and send email announcements as positions open up. However, it does not specify whether

there will be a specific or different process for these candidates to apply – *i.e.*, whether they will receive any preferences in hiring, or whether this outreach process will include any affirmative messages from the District specifically targeting retired personnel (*e.g.*, including a paper or email cover letter which specifically invites these personnel to return to the District). We suggest that the District consider some method of affirmative invitation to or other specific process for these retired personnel. We will wait to evaluate these efforts until we receive the Annual Report, which we expect will detail the outreach steps taken in addition to sending job announcements.

D. USP Section (IV)(C)(3)(a)(iii): Local business partnerships

USP § (IV)(C)(3)(a)(i) requires the District to: “Incorporate strategies for building and utilizing partnerships with local employers that recruit nationally to promote TUSD employment opportunities to their prospective employees and their families.”

The Plan may meet this requirement. It includes a statement that TUSD will establish or reestablish partnerships with local organizations, including Raytheon, the Chambers of Commerce, and other groups. Because these efforts are prospective and only generally described, we will wait to evaluate whether they have been implemented with fidelity until we receive the Annual Report, which we expect will provide additional detail about the steps taken to develop these partnerships.

E. USP Section (IV)(C)(3)(a)(iv): Local school partnerships

USP § (IV)(C)(3)(a)(i) requires the District to: “Develop local programs to identify and support local high school, college and university students to interest them in teaching careers, including, for college and university students, exploring and promoting opportunities for teaching in the District.”

The Plan generally meets this requirement. It describes efforts that TUSD will undertake to: (a) create high school forums for interested students; (b) visit local colleges and universities; (c) look into paraprofessional development programs; and (d) reach out to military spouses through an established program. Because these efforts are prospective and only generally described, we will wait to evaluate whether they have been implemented with fidelity until we receive the Annual Report, which we expect will provide additional detail about the steps taken to develop these partnerships.

F. USP Section (IV)(C)(3)(a)(v): Encourage and support certification

USP § (IV)(C)(3)(a)(i) requires the District to: “Encourage and provide support for African American and Latino non-certificated staff (*e.g.*, paraprofessionals) who are interested in pursuing certification.”

The Plan may meet this requirement, although it is not clear from the information available. The Plan mentions that the recruiter is “researching the development of paraprofessional programs to provide support for African American and Latino non-certified staff who are interested in pursuing certification.” Thus, until that research is complete and the District uses that research

to develop a plan, the United States will withhold comment about whether the Plan meets this USP requirement.

II. Section (IV)(E)(6): First Year Teacher Pilot Plan

USP § (IV)(E)(6) requires the District to: “develop a pilot plan to support first-year teachers serving in schools where student achievement is below the District average . . . includ[ing] 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 . . . [and] includ[ing] professional development targeted toward the specific challenges these teachers face.”

The Plan generally meets this requirement. Because it is broadly incorporated into the New Teacher Induction Program (*see* July Status Report at 24), it would be helpful to receive a more detailed outline of how that Program works, in addition to the broad categories of programming identified on page two of the Plan.

First, it sets forth a process for identifying which district schools should be selected as pilot sites. This process requires the Office of Accountability and Research (“OAR”) to determine which schools are performing below the District average on both the specific and composite AIMS tests. Further, OAR is then required to determine: (a) which schools of those identified as below average have first-year teachers; and (b) which teachers in those schools can serve as a control group. Please see below for a confirmation request (“3.A”) related to this part of the Plan. Second, it identifies several types of additional training that teachers in the pilot program will receive. Third, it identifies that the teachers in the pilot will receive additional professional development (“PD”) embedded into their mentoring relationships. Fourth, it confirms that the District will be tracking data on the pilot group.

Because these efforts are prospective, we will wait to evaluate whether they have been implemented with fidelity until we receive the Annual Report, which we expect will provide additional detail about the data and process, as well as the information discussed below.

Responsive Requests:

- A. Please confirm that of all first-year teachers in the district at low-performing schools, approximately one half will be in the pilot group, and one half will be in the control group. (If another method is being used to select and group teachers, please explain this method.)
- B. Please confirm that the pilot and control groups will be as demographically and geographically matched as possible to reduce third variable problems.
- C. Please confirm that the District will develop some method to track the PD provided to the teachers in the pilot to ensure that successful PD strategies can be institutionalized and brought to scale.
- D. Please confirm that the District will track data on the control group in the same manner as the pilot group.

We can discuss how this information could be provided, if the District prefers to provide this information through means other than the Annual Report.

III. Section (IV)(G)(1): RIF Plan

USP § (IV)(G)(1) requires the District to: “develop a plan (“RIF Plan”) which takes into account the District’s desegregation obligations for any reductions in force (“RIF”) or other employment actions requiring the dismissal of administrators and/or certificated staff members who have been hired to fulfill a need specifically identified in this Order. The RIF Plan, and any future modifications, shall be communicated to all personnel in writing and posted on the District’s website. No reductions in force may take place sooner than 30 days after the RIF Plan is communicated to all personnel. If reductions in force are necessary before February 1, 2013, due to school closures or other significant changes in schools’ capacities, the District shall communicate informally regarding the substance of the new RIF Plan to administrators and certificated staff members before any such RIFs take place.”

The Plan does not appear to meet these requirements, although without seeing how Board Policies related to RIF will be amended to specifically operationalize the stated intent to take into account the District’s desegregation obligations in deciding on RIFs, it is difficult to determine whether the Plan will meet these requirements in practice.

Specifically, section (2) of the Plan states that in identifying certificated staff for RIF (as part of the “RIF Profile”), the District cannot take into account, among other things, race. This is in contravention of the USP’s requirement to retain and avoid RIF of individuals hired to fulfill the USP’s requirements, which includes recruitment and retention of African American and Latino certificated staff. We suggest that the RIF Profile be reworked to indicate that the District will take all of its desegregation obligations into account in identifying employees to be RIF’ed. In addition, the list of positive qualities that the District will take into account in determining RIF does not include bilingual certification, which it should.

Responsive Requests

- A. Please provide a draft of the relevant Board Policy or Policies for Plaintiffs’ review when the policies are ready for such review.
- B. Please reconsider the District’s RIF Profile as noted above as required by the USP.

We can discuss how this information could be provided, if the District prefers to provide this information through means other than the Annual Report.

IV. Section (IV)(I)(3): Aspiring Leaders Plan

USP § (IV)(I)(3) requires the District to: “develop and implement a plan for the identification and development of prospective administrative leaders, specifically designed to increase the number of African American and Latino principals, assistant principals, and District Office administrators . . . [including] propos[ing] methods for “growing your own,” including the possibility of financial support to enable current African American and Latino employees to receive the required certifications and educational degrees needed for such promotions.”

The Plan meets part of this requirement. According to the July Report, the District amended its existing Aspiring Leaders program to recruit more African American and Latino certificated staff to apply for and participate in this program. The Aspiring Leaders Plan provided on July 27

includes an explanation of several different processes that the District has or will have in place to identify, select, and train District personnel interested in participating in this program. Because these efforts are prospective, we will wait to evaluate whether they have been implemented with fidelity until we receive the Annual Report, which we expect will provide additional detail about the process, as well as the information discussed below.

Separately, the Plan does not meet one requirement from the USP: that the District explore a “grow your own” program that would include potential financial support. The Plan does not mention this requirement. If the District has explored this possibility and has determined that doing so is genuinely financially unfeasible or otherwise so burdensome as to be impracticable, the Plan may indeed comply with the USP, but it is currently silent on that issue.

Finally, the plan to evaluate and track data on the program’s effectiveness may not be adequate. We suggest increasing the data points being tracked to include relevant demographic information and other richer data, such as annual employee evaluations.

- A. Please provide sample copies of the documents that District personnel will use in this program (*i.e.*, a sample application packet, a copy of the rubric used to determine whether a staff member is selected).
- B. Please provide information regarding whether the District considered a “grow your own” program, and what determinations were made, if any, regarding the feasibility of such a program.
- C. Please respond to the suggestions regarding improving the data tracking for this program.

We can discuss how this information could be provided, if the District prefers to provide this information through means other than the Annual Report.

V. Section (IV)(J)(1): USP Distribution and Training Plan

USP § (IV)(J)(1) requires the District to: “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.”

The Plan meets this requirement. According to the July Report (*see* Report at 20), the District provided all administrators and certificated staff with a copy of the report by August 1, and is requiring in-person and/or interactive online training during the first quarter. We expect that sample copies of the training Power Point will be available in the Annual Report.

VI. Section (IX)(A)(1): FCI

USP § (IX)(A)(1) requires the District to: “amend its FCI to include, at minimum, the following: (i) location, number and condition of portable classrooms, and (ii) existence and repair status of heating and cooling system (identifying evaporative or air conditioning).”

The Plan meets this requirement. The FCI now includes these categories.