
To: Bill Hawley
From: Rubin Salter, Jr., Attorney for Fisher Plaintiffs
Date: Jan 15, 2015
Subject: Objection to CRPI Director

Dr. Hawley:

The Fisher plaintiffs hereby object to the the selection of the CRPI director by TUSD for the following reasons:

I. Hiring and Application Process was Flawed

Limited Duration of the National Search

Based upon responses from TUSD to questions asked by the Special Master it appears that the advertisement of the CRPI position was limited in its duration to such a degree as to not meet the standards of true national applicant search. When asked by the Fisher Committee to “indicate the dates on which the position was advertised in each venue the district responded by listing the venues in which the job was posted and the length of time for the job posting. It is here that we find that the District only posted the position for approximately **30** days across the various venues.

Fisher Plaintiffs contend that window for applicants to find the position, prepare and then submit the appropriate application and materials was far too short of a time period. This had the effect of limiting, from a national perspective, potentially qualified applicants who may not have seen the posting of the job due to the limited time that the job was posted across the various venues. The shorter period of time a job is advertised on a particular venue correlates directly to the number of potentially qualified applicants who see the posting and consider applying. When TUSD limited its search to around 30 days on the job advertisement venues it is likely that it had

a disparate impact on the number of potentially qualified applicants. This is corroborated by the shockingly low number of applicants for the CRPI Director position. Information that the Fisher Plaintiff's received from the District indicates that a total of **21** applicants applied for the position. Thereby creating an artificially small pool of applicants and thereby increasing the likelihood that TUSD would not have a robust, diverse pool of applicants from which to choose. Further corroboration exists upon closer examination of the 21 applicants. Based upon information provided to the Fisher Plaintiff's nearly half (**9**) of the applicants came from within TUSD. These applicants had the advantage of knowing where to look for new employment opportunities in TUSD, or may have been encouraged to apply for the position by others within the District who had knowledge of the position opening. This left only 12 "out of District" applicants for the position. Given such a low number the national search can hardly be described as effective. It is Fisher Plaintiff's belief that the limited duration of the position advertisement one of many reasons why the applicant pool was so restricted in size and diversity.

Limited Number of Prospective Venues in which Position was Advertised

In conjunction with the limited duration of the job postings, Fisher Plaintiff's also take issue with the limited number of National venues used to advertise the position. Fisher Plaintiffs contend that of the three national venues used to post the position only one of those venues dealt specifically with the recruitment of African-American educators.

Upon closer inspection of the venues provided to Fisher plaintiffs in the RFI to the District, it appears that TUSD's attempts at national recruiting of a CRPI Director were anemic at best. Diversity Recruitment Partners, one of the named venues, lists as its mission statement that they connect "“multicultural” teachers with school employers, educational organizations...committed to diversity recruitment.” Nothing in this venue pertains specifically to

african-american job seekers.

The NASBE (National Association of State Board Educators) venue did not have any particular focus on the recruitment of minorities for positions in education. In fact, Fisher Plaintiff's did not see any portal by which job seekers could post resumes and employers could post job listings. If the NASBE has a job portal, Fisher Plaintiff's were hard pressed to find it.

The most relevant venue to potential African-American candidates was the HBCU (Historically Black Colleges and Universities) career resource center. This employment recruitment website purports to connect employers with HBCU graduates, students, and fans of historically black colleges and universities.

Fisher Plaintiff's believe that due to the lack of appropriate venues in which the position was posted, very few African-American candidates applied for the CRPI Director position. According to the numbers provided by the Special Master pursuant to the RFI made by Fisher Plaintiff's, only **3** blacks applied for the CRPI Director position. That is half the number of Hispanic candidates and one third of the number of white candidates that applied for the position.

Furthermore, the use of so many statewide or local venues had a negative impact on the number of African-American applicants. Studies have shown that Arizona is not a fruitful place to recruit highly qualified African-American educators. This is a reflection of the small percentage of blacks in the State of Arizona. It appears that the District did not take the appropriate steps to mitigate this issue by posting the CRPI Director position on other venues that cast a wider net for qualified African-American applicants. TUSD's failure in finding the appropriate venues constricted the pool of potentially qualified African-American applicants. This problem was further exacerbated by the short period of time in which the CRPI Director Position was posted on the venues.

Deficient Interview Panel Composition

The Interview Panel for the CRPI Director position was composed of only administrative staff from TUSD headquarters. Given the composition of the interview panel there is a real concern that the panel could have manipulated the process to get a pre-selected candidate. This underscores the need for stakeholders to have been part of the interview panel.

Additionally, having stakeholders on the interview committee would prove advantageous in several different areas. First, the addition of stakeholders to the interview committee would provide balanced representation of the community. Advantageous stakeholder qualities could provide the with experience from previous work of the kind that the committee is working on, representational value in that the stakeholders may represent diverse constituencies or communities.

Furthermore, stakeholders could help the interview panel to identify potential problems with process or procedures at an early stage. Stakeholders can also play a vital role in the facilitation of the committee. If stakeholders are dissatisfied with a interview panel rule, practice, interpretation guideline, panel members will hear about it directly, not in the media, or in the context of a court pleading or hearing. This enhances the efficiency of the interview process while at the same time providing much needed transparency and community input.

Many of the aforementioned objections to the interview process could have been avoided or mitigated if TUSD had included stakeholders in the interview process from the beginning. Better rules, better process, better guidelines, all could come as a result of the use of stakeholders on the interview panel.

II. Selected Candidate Did Not Meet Minimum Qualifications for CRPI Director

Fisher Plaintiffs object to the selection of candidate Mr. Lorenzo Lopez, Jr. as the new

CRPI Director for the District. Fisher Plaintiffs contend Mr. Lopez, Jr., the District's selected candidate for CRPI Director, fails to meet both the minimum requirements of the position of “Director – Culturally Responsive Pedagogy” as advertisements by the District (JOB16176) and the standards set by Unitary Status Plan § (V)(D)(4)(c).

CRPI Director Fails to Meet Qualifications for Position as Described By TUSD Job Description Classification Title

According to the District Job Description JOB16176 (herein JOB16176), a candidate must have a “Master's degree in instruction and culturally responsive pedagogy, as well as related areas in curriculum and ethnic/cultural studies.” Mr. Lopez received his Masters in Education with an emphasis in Educational Leadership – K12. This Master's degree does not meet the requirements, as the emphasis in educational instruction is in *educational leadership* as opposed to *instruction* and *culturally responsive pedagogy*. During his tenure as a social studies instructor at Cholla Magnet High School, Mr. Lopez Jr. indicated he taught US History – Chicano Perspective, Social Justice and Government Courses. There is no mention of courses specializing in the African-American experience or courses specializing in any other cultures or ethnicities, requirements of the minimum qualifies as specified by JOB16176 and USP § (V)(D)(4)(c) [“The District shall hire 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.” Emphasis added.] The applicant's experience in education related to cultural communities was limited to Latino and Chicano cultures.

Moreover, the Director does not meet the *preferred qualification* of a Doctorate degree in instruction and cultural responsive pedagogy. This too is a reflection of the flawed applicant process which did not provide the District a qualified body of applicant from which to select an

appropriately qualified candidate for this position.

Additionally, there is no indication of “administrative or supervision experience in relation to cultural or multicultural experiences inclusive of the African-American history.” A minimum requirement for the CRPI Director is to have “[t]hree (3) years program management and/or supervisory experience” Applicant Lopez Jr. spent one year, from 2013-2014 as the CAP Program Program Coordinator with the 21st Century CCLC Federal Grant Program at Cholla Magnet High School. At this same time, during the Fall 2013 semester, he participated in an administrative internship at Cholla Magnet High School. Collectively, this one year program leadership falls far below the three-year minimum requirement as established by the job description of Job Description JOB16176.

CRPI Director Lacks Adequate Program Management Experience

USP § (V)(D)(4)(c) requires the CRPI Director to “supervise the implementation of courses that focus on the cultural and historical experiences and perspectives of African-American *and* Latino communities.” An inspection of the candidates curriculum vitae reveals a significant lack of experience in the implementation of courses of instruction focusing on the cultural and historical perspectives of African-Americans. This is specifically contrary to the standards set forth in USP § (V)(D)(4)(c). Selecting Mr. Lopez Jr. over another candidate who could have met the qualifications of the USP and had significant experience with the African-American community places those TUSD African-American students and teachers at a disadvantage. It deprives the African-American students and teachers of the benefits that could come along with a Director who is experienced in both African-American and Latino pedagogy. creating another disparate impact on their learning experience.

Furthermore, USP § (V)(D)(4)(c), “[t]he CRPI Director shall have experience developing

and teaching curriculum focused on the the African-American and/or Latino social, cultural, and historical experience at the secondary level.” Again, CRPI Director Lopez Jr. has extremely little experience in program and supervisory management. Without even the minimum management and supervisory experience, the selection of CRPI Director Lopez Jr. is a detriment to both the African-American and Latino communities. It is imperative that the CRPI Director have sufficient experience in working with the staff outlined in USP, so he may “supervise, develop and implement a professional development plan for administrators, certified staff, and paraprofessionals, as appropriate on how to best deliver [those] courses of instructions and to engage African-American and Latino Students. [USP § (V)(D)(4)(c).] Fisher Plaintiffs' concern is that with such limited management experience may impact the successful supervision, development, and implementation of the professional developmental plan for the parties working under the CRPI Director. Without strong and experienced management, this CRPI Director would be unable to determine the quality and strength of any implementation of African-American pedagogy. As a result, African-American students could suffer.

CRPI Director is Singularly Focused on Success and Achievement of Latino Student Population

CRPI Director Lopez Jr.'s philosophy and direction, stated succinctly in his October 29, 2014 letter to the Curriculum, Instruction, and Professional Development Department, indicates a clear bias in favor of Latino students, perhaps at the disadvantage of students in other populations. One need look no further than the CRPI Director's own words wherein he states: *“Considering the demographics of our district, our success and/or failure hinges on the academic performance of Latino students. This critical point in time qualifies as an educational crisis that demands we find innovative ways in which we reach our students.”*

[Paragraph 6] Given this statement, Fisher Plaintiffs have serious concerns. Director Lopez's stated philosophy legitimizes those concerns.

III. Fisher Plaintiffs Request for Report and Recommendation

The data that TUSD provided to the Fisher Plaintiffs demonstrates the selected applicant does not meet any of the USP requirements as related to African-American students. With the limited choice of applicants for the advertised position, and due to the extremely limited time limited the district allowed (30 days) for interested candidates to submit applications for this position, the pool of applicants was extremely limited. As such, there was only three (3) African-American candidates from which the District was able to select. The Fisher Plaintiffs believe it is necessary for the District to have the opportunity to examine the true number of qualified African-American candidates nationwide.

The Fisher Plaintiffs hereby request a Report and Recommendation as to the selection of Mr. Lopez, Jr. as the CRPI Director as follows:

1. The Selection of Mr. Lopez, Jr. as the CRPI shall be set aside;
2. A national search for a new CRPI Director shall be instituted;
3. Any national search shall be left open for a minimum of ninety (90) days, and shall be posted to more expanded venues in which more qualified African-American candidates may apply; and
4. Tucson Unified School District must strengthen their local search for qualified African-American candidates at locales, including, but not limited to the Black Chamber of Commerce, Urban League, and the local chapter of the NAACP.