

August 10, 2015

To: Parties

From: Bill Hawley

Re: Draft R&R on Objections to the 2016 Budget

Introduction

Because this R&R is specifically ordered by the Court, I am submitting a preliminary draft to the parties in an effort to resolve differences and avoid the Fisher and Mendoza objections to the District's budget being submitted to the Court.

If I have misrepresented your positions or if you want clarify or object to my proposals, please let me know asap. If the District agrees with the actions I ask the Court to direct it to do, it should so stipulate so we can take the matter off the table.

The Department of Justice has filed no objections to the 2015-16 USP budget passed by the Governing Board. The Fisher and Mendoza objections were filed on July 24, 2015. Some plaintiff objections include complaints that the District did not respond to questions submitted to it by the plaintiffs and argue that this affected their ability to evaluate the budget. Since complaints do not represent objections to particular allocations, I will not address them in this R&R.

Objections by Both Plaintiffs

The District's Decision to Freeze Hiring for Positions Approved by the Court

Both plaintiffs object to the District actions during the past fiscal year that froze positions that had been approved in the 2014-15 budget approved by the Court. In freezing the hiring of people to these positions, the District impeded the implementation of agreed-upon actions related to provisions of the USP.

Comment [TUSD1]: The District did not freeze hiring for positions approved by the Court. In response to concerns about the use of long-term substitutes (previously raised by the SMP and acknowledged by the Court), the District put a temporary hold on classroom teachers applying for certain positions so they would remain in the classroom as the District worked to stabilize and address the concern. During this time, the District continued to accept applications for USP positions from outside applicants and/or retirees – many of whom were placed. The District previously clarified this inaccuracy in its May 29, 2015 Response to the Fisher RFI.

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Recommendation

While there is no indication that the District intends to freeze expenditures approved by the Governing Board in 2015-16 budget, there is also reason to believe that the District will again freeze Court-approved expenditures should it believe that financial exigencies so require. The Court should prohibit such actions in the future. The parties agreed at meetings held in March 2015 that the District could reallocate funds if it shared such proposed actions with the plaintiffs and special master thus allowing for objections prior to the action being proposed.

Comment [TUSD2]: The District did not freeze Court-approved expenditures. The District previously clarified this inaccuracy in its May 29, 2015 Response to the Fisher RFI.

Objection related to the proposed In-School Intervention (ISI) and District Alternative Education (DAE) Programs.

In response to criticisms by the plaintiffs and the special master relating to both the number of suspensions and potentially discriminatory nature of suspensions, as well as general guidance from its consultant on school dropouts, the District has modified existing policies and strategies relating to both short-term and long-term suspensions. Both plaintiffs object to the fact that the development of these new strategies were not submitted to the plaintiffs and the special master in accordance with provisions Section I.D.1 of the USP. However, the Mendoza plaintiffs do not formally object to not having been informed in a timely way reserving this concern for another time. The Fisher plaintiffs have additional objections arguing that: (1) the substance of the plans were not approved by the Governing Board so that the Governing Board had no opportunity to know of the plaintiffs objections, (2) the proposed funding substitutes 910 G funds for Management and Organization (M&O) previously used to support at least part of these new programs, (3) the DAE program will result in a racially concentrated school environment for the students involved and (4) that these programs give too little attention to the training and climate development that would prevent behavioral problems that might lead to suspensions.

Comment [TUSD3]: The District developed ISI/DAEP as part of its evaluation of discipline data and consistent with the USP mandate regarding positive alternatives to suspension. It was also developed as part of the Dropout Plan, which was submitted to the Plaintiffs and Special Master for review and comment pursuant to § I(D)(1) in March 2014, May 2014, September 2014, December 2014, January 2015, and March of 2015. Starting with the December 2014 version (which required a revision to the section on "Positive Alternatives to Suspension"), the plan included the details of both ISI and LifeSkills (aka DAE) strategies as informed by its consultant – including plans to expand both programs in 2015-16.

Comment [TUSD4]: The Mendoza Plaintiffs emailed the SM/Parties their objections to ISI/DAEP as a separate document, but their objections to the budget do not include an objection to ISI/DAEP.

The Mendoza objections focus on what appear to be inconsistencies or omissions in the proposed programs and inconsistencies with the approved dropout prevention plan. Because suspensions are highly correlated with dropping out

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and failing to graduate, it is important that policies and practices with respect to suspensions and dropout prevention are coherent. It is not clear that the issues raised by the Mendoza plaintiffs with respect to the ISI and DAE programs are the result of intent by the district or the consequence of the policy development processes involved because the district has not commented on either the Mendoza or Fisher objections.

Recommendations

With respect to the Fisher objections relating to the process of review, it is arguable that Section I.D.1 of the USP would not apply because the proposals could be seen as modifications of existing programs and policies, a point made by the Fisher plaintiffs when they argue that funding these programs represents supplanting rather than supplementing. In any event, the parties are and discussion about clarifying the comment and review processes pursuant to a recent order of the court. While the order encouraged the submission to the Board of comments by the plaintiffs and the special master when major policies are being considered, the procedures for implementing this order have not yet been approved. I recommend that the court not reject the expenditures for the ISI and DAE programs on procedural grounds. The fact that the Board does not require detailed explanations for expenditures (it did not review magnet school plans either) is a matter of Board policy that apparently delegates substantial autonomy to the Superintendent on budget matters. But this does not relieve the District from justifying its expenditures to the plaintiffs.

Comment [TUSD5]: Neither the Fisher nor the Mendoza budget objections allege that funding for ISI/DAEP "represents supplanting." These programs did not exist, and will not exist, absent 910(G) funding as an adjunct to our positive alternatives to suspension/dropout prevention efforts.

With respect to the argument that these expenditures represent supplanting, I believe that the Court should not reject these expenditures in their entirety on these grounds. The plaintiffs and the special master have expressed concerns that the district do more to reduce the number of suspensions and eliminate any sources of discrimination and such disciplinary actions. Clearly, this is a high priority of the USP. The District proposals, while in need of revision to deal with inconsistencies and ambiguity, are not unreasonable. Moreover, the District proposes an extensive evaluation of the efficacy of these program changes, a development that should be supported (see need for clarification of this below).

Comment [TUSD6]: Neither the Fisher nor the Mendoza budget objections allege that funding for ISI/DAEP "represents supplanting." These programs did not exist, and will not exist, absent 910(G) funding as an adjunct to our positive alternatives to suspension/dropout prevention efforts.

However, some of the funding from 910g funds proposed for these programs replace funding from M&O sources which appears to be supplanting. Just because a goal is identified in the USP does not mean that the pursuit of that goal can be funded by 910g funds. To argue that it did would mean that every effort to improve the achievement of African American and Latino students would be eligible for 910g funding. There is no easy formula to be called upon here. I recommend that the Court direct the District to identify activities embedded in the ISI and DAE activities funded from M&O funds prior to the 2013-14 budget and reduce the 910g funding accordingly. Why not simply use last year's budget as a baseline? Prior to the 2013, there was little rationale for the use of 910g funds. Since then, the District has been transitioning to a set of policies for the use of 910g funding that ties that funding directly to the provisions of the USP. This case can be seen in that light.

Comment [TUSD7]: Neither the Fisher nor the Mendoza budget objections allege that funding for ISI/DAEP "represents supplanting." These programs did not exist, and will not exist, absent 910(G) funding as an adjunct to our positive alternatives to suspension/dropout prevention efforts.

The Fisher plaintiffs object to placing students at sites where such placement would result in a racially concentrated school or school becoming more racially concentrated. This concern is predicated on the proposed plan to locate students with long-term suspensions at Project More. However, these placements are meant to be temporary and no alternative is proposed by the Fisher plaintiffs that would allow for focused service delivery being proposed in the DAE plan. Were students in need of the services to be provided were to be assigned to different schools the schools would have to be staffed appropriately. I recommend that the Court not reject the DAE plan because it may assign students to a racially concentrated school.

Comment [TUSD8]: The USP addresses "student assignment" not temporary "student placement." The DAEP does not "assign" students to a different school, the students remain "assigned" to their home school.

The Fisher plaintiffs argue correctly that the ISI and DAE plans do not deal with the prevention of student behaviors that result in suspension except in so far as the strategies to be employed affect the students suspended. This concern of the Fisher plaintiffs was addressed in a report I made to the Court as a result of earlier objections by the Fisher plaintiffs about the inadequacy of discipline related professional development. This led to a revision of the district plan for professional development and an appropriate action would be to monitor the implementation of this revised plan. A member of the Implementation Committee has been engaged in such monitoring and a report from the special master will be

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forthcoming that concludes, among other things, that additional work by the district with respect to professional development that would reduce student misbehavior is warranted.

I recommend that the Court direct the District to address the following concerns of the Mendoza plaintiffs:

1. Specify the alternatives to suspension that apply to students who are suspended between 10 and 20 days.

ISI is a positive alternative to short-term suspension for Level 3 offenses where grounds would otherwise exist to suspend (ongoing and escalating behavior, failed interventions, etc.). Generally, DAEP will be used as an alternative to long term suspension (or even expulsion). Abeyance Contracts, another positive alternative to suspension, will be used in conjunction with each to prevent students from being suspended for any number of days.

Students who would otherwise be suspended for 10 days or less will typically be in ISI for five days or less. Students facing long-term suspension or expulsion days) will typically be in ISI for a short period of time (combined with an abeyance), or in DAEP for a longer period of time (say, 20 days). These goals should not be conflated with the “length of suspension.” Still, there is a gap between students in ISI, and those who are in DAEP for 20 days or more. The District will utilize abeyance contracts as the positive alternative to suspension for these students – they will remain at their home school, placed on abeyance, and the District will intervene to attempt to address the root cause of the behavior. For example, a student who might otherwise be facing a 15-day, long-term suspension, might be permitted to stay at his/her home school in ISI for five days, and be put on an abeyance for the remaining ten days.

2. Identify an approach to Social Emotional Learning other than The Seven Habits of Highly Effective Teams or provide an evidence-based rationale for the use of the proposed the “7 Habits” program for character development.

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Comment [TUSD9]: The District's responses have been included in **bold** within the body of the Draft R&R.

However, the District objects to the proposed request for responses to Mendoza Concerns on ISI/DAEP in the context of an R&R on Budget Objections where the Mendoza Plaintiffs' budget objections do not contain an objection to ISI/DAEP. Neither this request, nor the District's responses, belong in the Draft R&R and should be removed.

The “7 Habits” program was recommended by Dr. Payton and was adopted by the District based on his experience utilizing the approach with great success. The District has further identified the Casel Guide, Effective Social and Emotional Learning Programs. The District will work to match the 7 Habits mentioned by Stephen Covey to the five interrelated sets of cognitive, affective, and behavioral competencies from the Casel Guide.

3. Clarify the role of social workers in the ISI program that is consistent with the proposed role of social workers in the dropout prevention plan.

The Dropout Prevention and Graduation (DPG) plan, at page 13, provides that the District will provide social workers at targeted schools with high populations of at-risk students using an integrated service model¹.

In 2015-16, the District will attempt to utilize the five non-ExEd, 910(G) funded social workers to provide services at their home schools, and to students in ISI/DAEP on an as-needed basis. As they would have through the integrated model described on page 13 of the DPG plan, the 910(G) funded social workers will provide services to ISI/DAEP students including, but not limited to, “individual and group counseling with students and families, community resource and referral for students and families, coordination of community services and school services, crisis intervention for students and families, supporting school staff in understanding and providing mental health services, seeking and coordinating community mental health services to be provided in schools, conferencing with school staff regarding student needs, follow up social

¹ The integrated service model utilized Exceptional Education (ExEd) social workers and non-ExEd social workers in a combined effort to maximize the provision of services to at-risk students at multiple schools (ExEd and non-ExEd). Based on the Court’s Order of 10/22/14, the District eliminated 910(G) funding for a portion of the cost for ExEd social workers. As a result, the total number of ExEd social workers was reduced from 26 FTE in 2014-15 to 24 FTE in 2015-16. ExEd social workers will no longer be utilized in the manner sought by the District in prior years under an integrated service model. In other words, their focus has necessarily shifted to serve primarily ExEd students.

work services for issues raised at restorative circles or other student and/or parent administrative interactions, parenting education, and support of school wide PBIS programs.”

4. Identify the elements of the “success plan” for students leaving the ISI program that includes the components set forth in the dropout prevention plan.

The focus of socio-emotional support for students assigned to ISI will be utilization of the strategies from the Casel Guide and Covey’s 7 Habits. More specifically, the ISI teacher, the LSC and/or the counselor will make efforts to identify the root cause of the behavior that led to the student being placed in ISI. This will include, where applicable, the involvement of Social Workers and/or analysis of the student’s social/family situation, character-building, grade/transcript analysis, and parental/family engagement. If the relationship with the student is engaging and we are successful in identifying the cause of the violation that led them to be assigned to ISI, the Success Plan will be formulated by the LSC or the Lead Counselor, along with input from the student. This will include giving the students strategies in how to deal with stressful situations, how to manage school related issues and/or ways to work with authority figures. The strategies in the success plan will be tailored to addressing the initial root cause(s). The plan will include tips for the student’s teachers, the administrators, and our monitors, regarding how best to work with this individual student.

5. Clarify that out of school suspensions will not be used for Level 1 or 2 offenses under any circumstance.

We agree that the GSRR is clear on this point.

6. If a comprehensive evaluation of the DAE program is not being called for, such an evaluation should be undertaken.

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The District will conduct an evaluation of the DAE program to determine whether it helps to reduce the number, frequency, and/or length of out of school suspensions.

7. Clarify that students assigned to the DAE program (a) will not have their suspensions extended as a result and (b) how students who are not suspended for the specific days identified in the DAE will be treated.

The District will honor the length of the suspension issued by the hearing officer for level 4 or 5 violations. If a student engages in a level 3 violation while assigned to DAEP, then it is conceivable that the student may have the length of the suspension extended by no more than five days (but not for level one or level two violations). If a student had another level 4 or level 5 violation while assigned to DAEP, the principal at DAEP would commit to a long term hearing on the new violation. If a student was found to have violated at a level 4 or 5 while at DAEP then that suspension would be served out of school. If a student exhibits model behavior and the sessions on socio-emotional support for the student are successful while at DAEP, the principal and staff may recommend the student be returned to their home school early and have the student serve the remainder of their suspension on abeyance.

8. Clarify that a Level I violation may not be the cause of out of class suspensions under any circumstances and that Level one through three violations may not be elevated to level 4.

The GSRR is clear that a Level I violation will not be the cause of out of class suspensions. Level one and two violations may not be elevated to level four, but the GSRR clearly outlines the circumstances under which a level three violation may be elevated one level to a level 4 through the elevation form and process that was developed in direct response to concerns from the Special Master and Plaintiffs.

Funding for Magnet Schools

Both the Fisher and Mendoza plaintiffs object to specific funding decisions for particular magnet schools but the nature of their objections are quite different.

The Fisher plaintiffs object to the funding of magnet coordinators at Ochoa and Cragin on the grounds that they will lose their magnet status in 2016-17. The Mendoza plaintiffs are concerned that some magnet schools who are at risk of losing their magnet status are underfunded.

While Ochoa may well lose magnet status if it cannot integrate its entry class, that decision has not been made. The District made a commitment to Cragin's families and staff in 2014-15 to implement a new magnet school at the site. The District now feels that this decision, which was opposed by the plaintiffs, should be withdrawn but this commitment is reflected in the hiring of personnel that should be honored for the current budget year.

With respect to the schools that the Mendoza plaintiffs have identified as vulnerable--Ochoa, Robison, Utterback and Holladay—they argue that these need additional funding. It should be noted that all of these schools have more funding in the current year than they did in the previous year. It is not unreasonable to argue that even more funds would help these schools but the District confronts a difficult dilemma. If it assumes, based on a careful analysis of past experiences with respect to both integration and student achievement, that these schools are likely to lose magnet status, a heavy investment in those schools without revised plans seems problematic. If some schools do lose magnet status, and the special master may make such a recommendation based on enrollment data within the next few weeks, the District should engage in a plan to meet the academic performance needs of the students in those schools and not invest further in either futile efforts to attract more integrated student population or the development of the themes that putatively differentiate them as magnets. Moreover, if magnet status is withdrawn, funds aimed at recruitment of diverse student populations for the current year can be reallocated to enhancing academic achievement.

While the district should be given wide latitude in developing school level magnet plans, virtually every comprehensive approach to improving the achievement in schools where students are performing well below standards, especially if the students are from low income communities, places an emphasis on family engagement. In general, the school level plans for magnet schools and programs serving underperforming students appear to give inadequate attention to enhancing family engagement in ways that are consistent with the essential elements of culturally responsive pedagogy.

The Mendoza plaintiffs also object to the lack of transparency in school level budgets and asks the court to direct the District to provide the expenditures budgeted for each magnet school and program and file such information with the Court and post such information on the District website as provided for in section X.B.6 of the USP.

Recommendations

I recommend that the Court not require the District to alter its 910g budget for magnet schools as requested by the Fisher and Mendoza plaintiffs. However, it is difficult to know exactly what the budget calls for because the budget provisions do not reconcile well with the expenditures listed in the school level plans submitted by the District to the Court. Therefore, the Court should require the District to:

1. Fully fund the activities identified in the school level plans embodied in the comprehensive magnet plan submitted to the court whether these funds come from 910 G or other sources.
2. Direct the school to identify the expenditures budgeted for each magnet school program in sufficient detail to allow the public to understand how the activities in the plan will be supported. This information shall be posted on the district website as provided for in the USP.
3. Ensure that activities needed to implement the academic improvement plans in schools now identified as C and D schools include family

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engagement. These family engagement activities may be funded from other sources that 910 G and may be part of the District's overall family engagement plan.

Additional Objections by the Fisher Plaintiffs

The Fisher plaintiffs object to fully funding the position of Director of Planning Services from 910 G funds. They also object to funding a portion of the salary of Richard Foster (who serves as Interim Assistant Superintendent for Curriculum and Instruction) and ask the Court to direct the District to revise its budget show that it has eliminated all instances of salary supplanting and exemplified by this particular instance.

Comment [TUSD10]: Mr. Foster's salary is funded entirely from M&O.

Recommendation

In response to a question from the special master, the District indicated on July 7, 2015 that 50% of the Director of Planning's Work involves the implementation of the USP. Therefore, the Court should limit 910g funding to 50% of the Director of Planning's salary and benefits. The Fisher plaintiffs proposal that the District be required to identify in detail the role that each administrator or professional educator, or other employee play in implementing the USP does not seem feasible. The activities required by the USP are embedded in the day-to-day work of the vast majority of employees in the District. We have established collaboratively some guidelines for determining when funding involves supplanting rather than supplementing-- such as the so-called formula plus rule. In Dr. Foster's case, the District proposes to fund one fourth of his salary. No doubt at least one fourth of his work is directly related to the implementation of the USP but to specify the exact amount would be very difficult. I recommend that the Court not require the District to specify the particular time that each employee allocates to implement the USP. However, I also recommend that the District pay all of Dr. Foster's salary from M&O, as it has in the past and as it did for Assistant Superintendent for Curriculum and Instruction. The implicit understanding among the parties has been that positions the District would have

Comment [TUSD11]: Mr. Foster's salary is funded entirely from M&O.

absent a USP (such as a Director for Professional Development), would be funded by M&O funds. If this were not the case, 910g funds would be supporting almost every employees in the District because almost all employees have some role to play in implementing the USP.

The Use of 910 G Funds at University High School

The Fisher plaintiffs are concerned about 910 G funds are used to support the 30% of the UHS students who do not live in the District.

Recommendation

On July 17, 2015, the District provided me with an explanation of how 910 G funds were used at UHS. It appears that much of this funding is focused on recruitment of resident African-American and Latino students and the provision of services to these students to ensure their success at UHS. I recommend that the Court ask the special master to examine whether 910g funds are used to support students who do not reside in TUSD and to make a report to the Fisher plaintiffs accordingly no later than October 15, 2015. Should they wish at that point to object to these expenditures, the Fisher plaintiffs could then do so. It may be that some nonresident students who are struggling at UHS would receive services concomitantly with TUSD resident students and if this were the case it would not seem inappropriate. This conclusion would make a general stipulation that no 910g funds could be used to facilitate the learning of nonresident students impractical as might other examples of how 910g funds are used at UHS.

Objection to the Extent of 910 G Funding for Gifted and Talented Education (GATE)

The Fisher plaintiffs assert that the District intends to fund 60% of the cost of GATE classes from 910 G funds and 40% of its GATE classes from the M&O budget. On the face of it, this ratio does not seem justifiable but in the absence of a careful analysis, it would be difficult to specify the percentage of funding for GATE programs that should come from M&O funding. Clearly, the USP calls for increased recruitment enrollment and retention of African-American and Latino

Comment [TUSD12]: In 2014-15, and in 2015-16, the GATE funding "split" is 45% M&O and 55% 910(G) – not 40/60.

students in such classes. And, the District has agreed that the formula plus rule should apply.

Comment [TUSD13]: The District has not agreed that the formula plus rule should apply to all GATE expenditures. The current split started in the 2010-11 school year as the District increased its efforts to expand access to GATE under the PUSP – and it resulted in a dramatic expansion of GATE programming (from approx. 43 FTE to approx. 76 FTE). To that extent, 910(G) GATE funding at the current ratio supplements M&O GATE funding.

M&O-funded GATE teachers have remained constant between 26-29 FTE since the 2010-11 school year. Because GATE was expanded using 910(G) funds several school years ago (before the USP), it is not a program readily susceptible to a “formula plus” analysis as that concept is being used in connection with other programs.

As the M&O-funded portion of GATE has remained relatively constant at 26-29 FTE, and only the 910(G) portion has increased as part of efforts to expand GATE, any reduction in the amount of 910(G) GATE funding will likely result in the reduction of GATE teachers and programs thereby operating to limit access to GATE programs.

Recommendation

The Court should direct the District to undertake a careful analysis of the rationale for the use of 910 G funding for GATE classes and to do so in collaboration with the special master with a preliminary report being submitted to the plaintiffs in January, 2016.

910 G funding for the Pan- Asian Student Services Department

The Fisher plaintiffs assert that because Asian students are not covered by the USP, the department providing services to such students should not be funded from 910G. The District argues that this department also is responsible for supporting refugee students, a significant number of whom are from Africa and such students are classified as African-American. Fisher plaintiffs argue that the African-American Student Service Department, provides services to African refugees.

Recommendation

To my knowledge, this is the first time this issue has been raised in the context of budget considerations. Moreover, the District is involved in a study of the roles being played by the African-American Student Services Department and the Mexican American Student Services Department. These studies could lead to a significant restructuring of student services provision. I recommend that the Court direct the District to conduct a study of how the needs of refugee Africans students are being met and should be met in the future and what the budget implications of such a study should be for both the Pan- Asian Studies department and the African-American student department.

Comment [TUSD14]: The issue of 910(G) funding for the Asian Pacific American and Refugee Student Services (APASS) department has been raised before in the context of budget considerations. In 2012-13, the department was fully funded from 910(G).

In March 2013, the Fisher and Mendoza Plaintiffs raised this issue (see, for example, Nancy Ramirez email from 3.18.13 re Mendoza Questions/Comments for 3/20 Meeting “What do Pan Asian student support services have to do with USP V., E 7a-f (Services to support AA student achievement)?”). At the meeting on March 20, 2013, both the Mendoza and Fisher Plaintiffs reiterated their objections to fully-funding the department with 910(G) funds.

In direct response to objections from the Plaintiffs to the draft 2013-14 USP Budget, the District moved a substantial portion of APASS funding to M&O in the final 2013-14 USP Budget. The budget for 2014-15 and 2015-16 reflects a proportional budget that resulted from previous collaboration/litigation on this issue.

Proposed Allocation to Implement Recommendations of the African-American Academic Achievement Task Force (AAAATF)

During the budget process for the 2014-15 budget,, the district agreed to set aside \$500,000 for implementing the recommendations of the AAAATF. Draft three of the 15-16 budget, lists an allocation of \$1,105,230 for Activity 514: AAAATF Recommendations. In the final budget, the amount listed is \$724,702 and almost all of these funds are to be used by the African-American Student services Department leaving no funds to implement the AAAATF assuming they propose additional strategies for meeting the academic needs of African American students. Thus far, there are been no recommendations from the task force and thus no expenditures.

Recommendation

It makes little sense to have a task force that was established to address a serious problem--the underachievement of African-American students--and provide no funding for its proposals. I recommend that the District provide a set aside of \$500,000, as previously promised in the last budget year to permit (not require) implementation of the AAAATF report scheduled for submission to the District this fall.

Additional Objection from the Mendoza Plaintiffs

Mendoza plaintiffs draw attention to the absence in the 2015-16 budget of funding to expand your language programs as provided for in the USP. They note that there are actually fewer students now in dual language programs that when the USP was approved in 2013. In my R&R dealing with the Comprehensive Magnet Plan, I recommended that the District not be required to create an additional dual language magnet program because the existing programs have failed to attract an integrated student population. However, that conclusion does not excuse the District from aggressively pursuing the establishment of dual language programs. Other districts have found dual language programs to promote integration and, as important, such programs have been found to enhance language skills AND to promote cognitive development generally. In

Comment [TUSD15]: The Budget includes allocations (approximated) of \$500,000 to implement the AAAATF, \$113,000 as a portion of the African American Student Services Department that supports the work of the Task Force, and approximately \$110,000 as a portion of the Mexican American Student Services Department (MASSD) that was mistakenly allocated to this activity, but should not have been. This mistake was merely a function of cross-walking that was used to approximate a proportion of various department budgets that support multiple USP activities.

The District will make the adjustment to the budget to remove the MASSD funding for this activity through the modification process so that the total funding for this activity is accurately reflected as approximately \$623,000 (\$500k for implementation activities; \$123k as a portion of AASSD funding)

short, the case for dual language programs is substantial. It does not appear that the District has engaged in an in-depth study of what makes for effective dual language programs for integration purposes nor has it examined whether locating dual language programs in other sections of the District and in schools that do not have Latino student populations in excess of 85% (the case for Davis and Roskruge) would not attract students of all racial and ethnic backgrounds. The District argues that it is difficult to sustain dual language programs because of the difficulty of recruiting bilingual teachers. However, the USP provides for financial incentives for to recruit and retain teachers in hard to staff subject areas. Such incentives have not been used recently to recruit bilingual teachers in TUSD.

Comment [TUSD16]: The District has engaged in various efforts throughout SY 2014-15, and into 2015-16, to recruit and retain bilingual teachers – including the promotion of financial and non-financial incentives.

Recommendation

The Court should direct the District undertake a significant study to identify what it would take to implement one or more additional dual language programs. This study, as have other studies undertaken by the District, should engage a nationally recognized consultant to assist in the study. Study design should be submitted to the plaintiffs and the special master within 30 days of the Court’s order and a report on the results of the study submitted to the plaintiffs and the special master no later than January 2016 so that one or more new programs could be initiated should the study suggests that such action is feasible.