

1 **RUSING LOPEZ & LIZARDI, P.L.L.C.**
6363 North Swan Road, Suite 151
2 Tucson, Arizona 85718
Telephone: (520) 792-4800
3 J. William Brammer, Jr. (State Bar No. 002079)
wbrammer@rllaz.com
4 Patricia V. Waterkotte (State Bar No. 029231)
pvictory@rllaz.com
5

6 **TUCSON UNIFIED SCHOOL DISTRICT**
LEGAL DEPARTMENT
1010 E. TENTH STREET
7 TUCSON, AZ 85719
(520) 225-6040
8 Julie Tolleson (State Bar No. 012913)
Julie.Tolleson@tusd1.org
9 Samuel E. Brown (State Bar No. 027474)
Samuel.Brown@tusd1.org
10

11 *Attorneys for Tucson Unified School District No. One, et al.*

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF ARIZONA**

14 Roy and Josie Fisher, et al.,
15 Plaintiffs
v.

CV 74-90 TUC DCB
(Lead Case)

16 United States of America,
17 Plaintiff-Intervenor,
v.

**DECLARATION OF RICHARD
FOSTER**

18 Anita Lohr, et al.,
19 Defendants,
20 Sidney L. Sutton, et al.,
Defendants-Intervenors,
21

CV 74-204 TUC DCB
(Consolidated Case)

22 Maria Mendoza, et al.
23 Plaintiffs,
United States of America,
24 Plaintiff-Intervenor,
v.
25 Tucson Unified School District No. One, et al.
26 Defendants.
27
28

Rusing Lopez & Lizardi, P.L.L.C.
6363 North Swan Road, Suite 151
Tucson, Arizona 85718
Telephone: (520) 792-4800

1 I, Richard Foster, declare under penalty of perjury that the following statements are
2 true:

3 1. I am the Interim Assistant Superintendent of Curriculum and Instruction for
4 Defendant Tucson Unified School District No. One ("TUSD") and have held this position
5 since June 2015. I have been employed by TUSD in various educational roles as an
6 educator for over 25 years. During this time I have served the cause of educating children
7 in the following capacities: classroom teacher (1990-96); curriculum specialist (1996-97);
8 coordinator of desegregation summer schools (1995-2002); elementary school principal
9 (1997-2008); district recruiter, Human Resources (2008-11); director of professional
10 development (2011-15). I have personal knowledge of the facts stated herein.

11 2. I have reviewed the Court's December 22, 2016, order (ECF 1879). The
12 Order stated on page 6 regarding "recommendations of the AAAATF" that the AAAATF
13 "to date has not made any recommendations." I do not know what the source of that
14 statement is, but it is not an accurate statement. In July of 2013 the AAAATF submitted its
15 recommendations to the then Superintendent, John Pedicone. The complete
16 recommendations the AAAATF made are attached to this declaration as **Exhibit 1**. These
17 recommendations were included in the District's annual report covering the 2013-14
18 school-year, filed October 1, 2014 (ECF 1690-1, pp 81 – 88).

19 3. The District's annual report for the 2014-15 school-year, filed September 30,
20 2015, recounts the District's implementation efforts for each of those AAAATF
21 recommendations (ECF 1848, pp. 245 – 250).

22 I declare under penalty of perjury under the laws of the United States of America
23 that the foregoing is true and correct.

24
25 DATED this 14 day of January, 2016.


26
27 
28 Richard A. Foster

EXHIBIT 1

AAAATF RECOMMENDATIONS

I. Background

TUSD's African American students still struggle with academic under-achievement after decades of court imposed desegregation actions and funding. Multi-year TUSD data analyses, summarized below, show dismal results in all academic areas, especially Math. African American students have consistently experienced low expectations from TUSD faculty and administrators, and far too many students are performing to those lowered expectations. African American students continue to disproportionately experience disciplinary action at all grade levels, particularly African American males. The disturbing national trend of "school-to-prison pipeline" for African American males is also a major cause for concern within TUSD. The lack of parent involvement and advocacy for African American students only compound the problems associated with African American student achievement. Consequently, there is a need to identify the root causes of student performance issues with affirmative steps taken with a sense of urgency to address these factors that impede sustainable academic improvement. National studies and successful nationally recognized academic programs targeting African American students have shown that the major factors in reversing under-achievement by African American students is a mix of acknowledging the importance of strong school leadership, high quality instruction, caring teachers, positive community role models, and involved parents. Other important factors included ongoing assessments and strong academic, behavioral and social interventions. Without question, African American students have the intellectual capacity to perform at the highest levels of academic achievement. It's time for TUSD to transition from episodic, short-term approaches that have minimal success to institutionalized processes and programs that foster positive and sustainable results. The following snapshot of African American student academic performance provides the framework for the Task Force recommendations:

AIMS Data by Race/Ethnicity

Area:			White	African American	Hispanic	Native American	Asian American	Multi Ethnic	Total
READ	% Mast	99-00	73.4	50.6	45.9	37.0	69.0	--	59.3
		11-12	80.3	57.6	68.6	55.1	79.4	75.7	70.5
		Change	6.9	7.0	22.7	18.1	10.4	--	11.2
WRIT	% Mast	99-00	69.8	49.3	46.2	38.1	70.4	--	57.9
		11-12	61.0	36.4	44.5	32.2	60.4	55.4	48.0
		Change	-8.8	-12.9	-1.7	-5.9	-10.0	--	-9.9
MATH	% Mast	99-00	38.6	17.4	17.6	13.6	48.2	--	28.3
		11-12	62.6	33.9	45.3	32.0	67.9	55.9	48.8
		Change	24.0	16.5	27.6	18.4	19.7	--	20.5

Reading: In twelve years (from 1999-2000 to 2011-12), the percent of TUSD students achieving reading mastery on the AIMS has risen significantly overall, and for every Racial/Ethnic group. However, the 23% gap in mastery level between White and African American students is unchanged during that time frame. Every other racial/ethnic group has closed the size of their gap during that time; the Hispanic reading gap with White students shrunk from 27% to 12%. Hispanic students started out with 5% lower reading mastery than African American students in 1999-2000; in 2011-12 they have 11% higher mastery.

Writing: In twelve years (from 1999-2000 to 2011-12), the percent of TUSD students achieving writing mastery on the AIMS has fallen significantly overall, and for every Racial/Ethnic group (this is due primarily to changes to test difficulty and delivery). African American students have seen the steepest decline in mastery over that

time frame, and a 20% gap relative to White students in 1999-2000 has grown to 25% in 2011-12. By contrast, Hispanic and Native American students both managed to decrease the size of their gap compared to White students. As with reading, Hispanic students started out with a lower writing mastery percentage than African American students in 1999-2000, but have a significantly higher mastery rate in 2011-12.

Mathematics: In twelve years (from 1999-2000 to 2011-12), the percent of TUSD students achieving mathematics mastery on the AIMS has risen significantly overall, and for every Racial/Ethnic group. However, the 21% gap in mastery level between White and African American students in 1999-2000 has risen to 28% in 2011-12. As with reading, the African American gain over those years has been the smallest of any racial or ethnic group. And as with reading and math, Hispanic students have a smaller gap in twelve years relative to White students, while African American students have a larger gap relative to White students in all three areas.

II. Recommendations

Recommendations one through eight are focused primarily on administrators, teachers, and other staff.

1. Identify and Replicate Successful National School Based Factors
2. Identify and Replicate Successful Teacher Practices
3. Enhance Teacher Evaluation
4. Monitor and Implement the Essential Elements of Instruction (EEI) and Culturally Responsive Pedagogy (CRP) (aka “Culturally Responsive Teaching Practices”)
5. Develop Focused Professional Development
6. Consider Cultural Competency in Hiring and Retention
7. Enhance the District-Wide Leadership Development Program
8. Set and Communicate High Expectations

Recommendations nine through sixteen are focused primarily on students.

9. Monitor ALE Placement Actions
10. Monitor Recommendations for Placement to Career and Technical Education (CTE)
11. Monitor Recommendations for Placement to Remedial and/or Exceptional Education Programs
12. Evaluate Support Programs
13. Fund Adequately African American Student Services
14. Monitor Disciplinary Actions
15. Enhance the Parent Engagement Program
16. Develop and Implement Extended Learning Opportunities

III. Recommendation Description

Recommendations one through eight are focused primarily on administrators, teachers, and other staff. Recommendations nine through sixteen are focused primarily on students.

RECOMMENDATION	Step 1	Step 2
<p>1. Identify and Replicate Successful National School Based Factors</p>	<p>Examine the national school-based success factors that accounted for improved African American student achievement, academic performance, and graduation rates.</p>	<p>Discern if these school-based factors can be replicated for TUSD schools. Thus, the factors should be codified, verified for their impact, and efforts should be made to insure that the valid factor types identified become more widely present throughout the school district.</p> <p>Conduct “drop in” principal evaluations that provide formative feedback to teachers. Examine the potential for investing in the use of “instructional rounds” or learning walkthroughs to ascertain the level of teaching and learning in all classrooms and to disseminate best practices as they are found.</p>
<p>2. Identify and Replicate Successful Teacher Practices</p>	<p>Identify school-based educators, teachers and/or teacher leaders who have achieved success with African American student performance in their schools, and capture the classroom methods or best practices they’ve utilized to get these results.</p>	<p>Embrace and utilize innovative teaching methods to better connect with and reach each student’s learning needs. These practices should be codified, vetted for their impact, and these practice types should be systematically turned into targets of professional development for instructional staff. This effort should include preparation of structured lesson plans with periodic AAAATF monitoring of overall teacher performance and results. Care should be given to insure that the identified practices are/will be integrated with Common Core Standards, so that these practices are not viewed as burdensome add-ons to what teachers are now expected to do to implement these Standards.</p>
<p>3. Enhance Teacher Evaluation</p>	<p>Introduce educator performance accountability metrics to address school-based staff members who consistently fall short in key areas of African American student academic achievement.</p>	<p>Evaluate to ensure that teachers demonstrate an observable commitment to treat all students with dignity and respect. Add a cultural component to teacher evaluations. In evaluating teachers, consideration should also be given to <i>the extent of student engagement</i> as an important proximal outcome.</p>
<p>4. Monitor and Implement the Essential Elements of Instruction (EEI) and Culturally Responsive Pedagogy (CRP)</p>	<p>Implement fully EEI and CRP into teaching. EEI should be completed with fidelity; culturally responsive teaching would increase the opportunity for positive relationships between students of color and faculty members.</p>	<p>Utilize ongoing and specific professional development to provide school and district personnel with continuous training to improve student engagement. In addition to student engagement and implementing diverse teaching strategies, including in ALE courses.</p>

RECOMMENDATION	Step 1	Step 2
<p>5. Develop Focused Professional Development</p>	<p>Identify (1) research-based, high-quality teacher professional development activities, with proven success particularly with African American students, and (2) the subset of schools with the highest concentration of African American students</p>	<p>Implement the identified PD at the subset of schools with the highest concentration of African American students. Trainings should be tailored to specific schools' needs and modes of operation. These efforts should lead to narrowing the achievement gap at these schools, and should focus on culturally-relevant pedagogy (CRP). The instructional core - teaching and learning - in regular classrooms must be a priority in the pursuit of raising achievement outcomes for African American students. The model cannot center on one-shot workshops or information sharing activities per se, but should involve continuous improvement such that there are several cycles of "training," with each cycle to include a workshop and follow up support in the form of classroom observations with constructive feedback, common planning time, and the operation of professional learning communities. These efforts may include, but are not limited to, using a train-the-trainer model to:</p> <ul style="list-style-type: none"> • Hold school administrators, counselors, and teachers accountable for completion of comprehensive cultural sensitivity training to address both conscious and unconscious bias against African American students, especially African American males. (Biannually) • Train on the culture of the district regarding achievement, student engagement, self-esteem, and promoting self efficacy among students of color. (see 6th recommendation) <p>The model should integrate these new practices with the demands teachers face in implementing the new Common Core Standards.</p>
<p>6. Consider Cultural Competency in Hiring</p>	<p>Identify and develop well-established teacher recruitment and hiring process that promotes hiring of teachers with strong cultural sensitivity in addition to other required competencies.</p>	<p>Implement well-established teacher recruitment and hiring processes that promote the hiring of teachers with strong cultural sensitivity in addition to other required competencies. Continue to stress the importance of teacher and administrator recruitment and retention; both aspects are challenges and more must be done to retain great Principals and teachers.</p>
<p>7. Enhance the District-Wide Leadership Development Program</p>	<p>Explore the addition of accountability for more positive outcomes for African American students to the evaluation of school and district leaders. Examples of such models can be found in Santa Fe, and until recently, Philadelphia.</p>	<p>Enhance the District-wide leadership development program to ensure that all schools include accountability mechanisms in support of the success of African American students. Provide opportunities for African American educators to participate in leadership development programs</p>

RECOMMENDATION	Step 1	Step 2
8. Set and Communicate High Expectations	Identify and set high standards. This could include a focus on creating a viable curriculum guide for the district with learning outcomes so that teachers are clear as to what is expected from students each quarter.	Administrators should set high standards for all students and not just those students enrolled in ALEs or dubbed as “smart.” Counselors should demonstrate high expectations for all students. Teachers should demonstrate an observable commitment to high expectations for attainment by all students. There are specific classroom practices that convey differential achievement expectations for students. Such occur for example: <ul style="list-style-type: none"> • <i>When teachers provide briefer and less informative responses to questions raised by low than high expectation students</i> • <i>When teachers show comparatively less acceptance and use of ideas put forth by low expectation students</i> • <i>When teachers, after posing a question, display less wait time before providing the answers for low expectation in comparison to high expectation students</i>
9. Monitor ALE Placement Actions and Supports	Monitor the demographics of students that each counselor places in advanced, college prep courses.	Take action. Tutors/Supports for students within the first semester of an ALE. May include periodic audits to ensure placements are being made appropriately.
10. Monitor Recommendations for Placement to Career and Technical Education (CTE)	Monitor the demographics of students that counselors refer to technical education courses.	Take action. May include periodic audits to ensure placements are being made appropriately.
11. Monitor Recommendations for Placement to Remedial and/or ExEd programs	Monitor the demographics of students placed (or recommended for placement) in remedial and/or Special Education programs.	Initiate appropriate follow-up for staff members who routinely place students of color in remedial and/or Special Education programs. May include periodic audits to ensure placements are being made appropriately.
12. Evaluate Support Programs	Conduct data audits of programs now funded to support achievement outcomes for African American students to determine if they are producing the outcomes expected.	Those programs that are leading to the desired outcomes for African American students should receive increased funding. Those, for which the intended outcomes have not been obtained, should receive decreased funding or discontinued.

RECOMMENDATION	Step 1	Step 2
<p>13. Fund Adequately African American Student Services</p>	<p>Identify additional resources needed to adequately provide African American Student Services</p>	<p>Provide adequate resources (e.g., funding, human capital, facilities, etc.) to support African American Student Services, including properly certified and high performing staff.</p> <ol style="list-style-type: none"> a. Hire competent, certified professionals for this department to ensure that African American students receive strong academic and personal support with a foundation of high expectations. b. Do not allow the AASSD to be used as a respite for lower performing administrators, teachers and other staff. c. Provide self-esteem/leadership development seminars for African American students, promoting positive images and stressing that being smart and high academic achievement are positive attributes. Include positive African American community role models. d. Assign the highest performing staffers to the most underperforming schools or grade levels. e. Establish an effective student peer-to-peer mentoring program. f. Monitor all aspects of African American student education, including disciplinary actions, recognition and awards, academic excellence and poor performance, absenteeism, teacher performance, etc. g. Conduct focus groups at the end of academic year 2013/2014 with those students that participated in the academic year 2012/2013 focus groups to assess any gains/changes as a result of their feedback. h. Create a district-wide plan of communication to both inform and communicate with the AA community, but to also encourage collaboration. i. Create more multi-cultural classes that encourage a learning of past heritage and achievement. j. Create a four-year mentor program for AA students to enroll in. k. Organize more celebratory events to honor the success of AA students. l. Create more multicultural clubs and organizations (other than sports) for AA students to engage in.
<p>14. Monitor Disciplinary Actions</p>	<p>Monitor schools and teachers who consistently show high levels of disciplinary action against African American students</p>	<p>Assemble behavior/discipline task force</p>

RECOMMENDATION	Step 1	Step 2
<p>15. Enhance the Parent Engagement Program</p>	<p>In implementing this program, efforts should be made to identify an organization that has a successful, documented track record of fostering these intended outcomes with African American students.</p>	<p>a. Consistent Student/Parent Focus Groups</p> <p>b. Launching a parent engagement program aimed at, but not limited to, African American families. This program would have as its primary focus the fostering of effective voice and informed advocacy of parents, on behalf of their children's academic and social well-being inside schools.</p> <p>c. (Administrators) Promote and welcome parent involvement and give them timely access to information that enables them to advocate for and support their students' learning both in the classroom and at home.</p> <p>d. (Teachers) Reach out to African American parents and build a welcoming and collaborative positive relationship versus a negative relationship with only negative communication.</p> <p>e. (District) Support the efforts of teachers and administrators to reach out to the AA community.</p> <p>f. (Parents)</p> <ul style="list-style-type: none"> • Take responsibility to participate in their students' education. • Provide opportunities for active engagement in student learning process. • Offer training modules for parents that equip them to be positive contributors and advocates for their students' achievement • A key part of the training would require parents to spend a certain amount of time volunteering in their students' classrooms to achieve certification of completion. • Implement a parent outreach program across the district to foster a more welcoming environment for parents • Develop and implement an aggressive parent outreach program, utilizing the talents of top community leaders. <p>* Miami-Dade Schools had a Parent Academy that did much of this work. Their goal was to create "Demand" parents, those who had the expertise, knowledge and social capital to advocate for their children in all forums, and support their learning. Parent engagement should be in support of student outcomes, not in the number of parents volunteering.</p>

RECOMMENDATION	Step 1	Step 2
<p>16. Develop and Implement Extended-Learning Opportunities</p>	<p>Develop a clear budget in advance for each activity</p>	<p><u>Summer:</u> Establishing extended-learning summer opportunities for, but not limited to, African American students. These opportunities should focus not just on remediation activities, but on acceleration and enrichment activities as well. What is offered should be seen as enticements, and not as "punishment" for performing poorly during the school year. A focus should also be on educating the whole student. Therefore, along with conventional academic outcomes, attention should be given to promoting socio-emotional competence, to fostering students' self efficacy and positive attitudes toward learning, and to the broadening of students' cultural horizons.</p> <p><u>Out of School:</u> Provide out of school and extended learning time opportunities for students that operate with stigmas:</p> <ul style="list-style-type: none"> • Develop more after-school tutoring sessions for AA students to seek any academic assistance that they may need. Consider peer assistance tutorial groups whereby older students help younger students. Evidence suggests both older and younger students will benefit. • Establish an effective tutoring program for students that are struggling. • Provide out of school and extended learning time opportunities for struggling African American students, with strong parent involvement. <p><u>Credit Recovery</u> These opportunities should consist of credit recovery as well as credit advancement. Intersessions are a great time to provide additional support and curricular advancement for students.</p>

IV. Cost Estimates

Unknown at this time

V. Monitoring & Evaluation Plan

Unknown at this time. One suggestion is for the District to include in its periodic status updates a separate section outlining the status of the task force implementation.