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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Roy and Josie Fisher, et al.,

Plaintiffs,

v.

United States of America,

Plaintiff-Intervenor,

v.

Anita Lohr, et al.,

Defendants,

and

Sidney L. Sutton, et al.,

Defendants-Intervenors,

CV 74-90 TUC DCB
(Lead Case)

Maria Mendoza, et al.,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

v.

Tucson Unified School District No. One, et al.,

Defendants.

CV 74-204 TUC DCB
(Consolidated Case)

1 **SPECIAL MASTER’S REPORT AND**
2 **RECOMMENDATION REGARDING ROBERTS-NAYLOR**

3 **Introduction**

4 In its March 8, 2016 order the Court directed the District as follows:

5 *TUSD shall prepare a detailed report regarding the academic and demographic*
6 *condition at Roberts-Naylor and describe the measures, if any, which have been*
7 *or could be taken by TUSD to transform Roberts-Naylor into a viable K-8*
8 *program capable of competing with the middle schools now attracting the*
9 *Borman students. TUSD should explain why or why not it is feasible to*
implement any such identified measures. TUSD should consider a time line to
accomplish a transformation at Roberts-Naylor sufficient to begin attracting
students that currently choose to go elsewhere.

10 The District was to report to the Court within 30 days. It submitted its report to the plaintiffs and
11 the Special Master on April 15 (see Exhibit A). The Court ordered that the Special Master
12 prepare a report and recommendation dealing with the District’s report within 14 days.

13 The Court required the District’s report because TUSD had proposed to add grades seven
14 and eight to the Borman Elementary School which is located on the Davis-Monthan Air Force
15 Base. This proposal by the District was objected to by the Fisher plaintiffs who are concerned,
16 in part, that this move will draw students from the Roberts-Naylor’s K-8 school which is located
17 outside the base and would have negative consequences for integration. It also possible that the
18 Borman grade configuration could negatively affect other TUSD schools. Currently Roberts-
19 Naylor is 26% African-American, 11% Anglo and 54% Latino. Borman Elementary is 53%
20 Anglo, 14 % African American and 21% Latino. The latest grade assigned to Roberts-Naylor by
21 the state of Arizona is C; Borman Elementary school is an A school.

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24 On April 27, 2016, the Commander of the Davis-Monthan Air Force Base sent a letter to
25 the District strongly supporting the District’s proposal to expand Borman to a K-8 school. That
26 letter, which was shared with the Special Master on May 3, 2016, is attached as Exhibit B.
27 Because May 4 was the day the Special Master was to file his R&R related to the District’s
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1 report on Roberts-Naylor, on May 4 the Special Master filed an unopposed request for an
2 extension to file his R&R on May 11, 2016.

3 **Analysis**

4 To answer the question posed by the Court the District presumably would have to do the
5 following:

- 6 1. Identify the schools with grades 6-8 now serving former Borman students.
- 7 2. Identify the academic programs and other learning resources the competing schools offer,
8 their demographic characteristics and indicators of student outcomes.
- 9 3. Compare what is and could be available at Roberts-Naylor that would allow it to compete
10 with the schools former Borman students now attend.

11 The District provides a relatively detailed description of academic and other activities and
12 learning resources available at Roberts-Naylor, but it does not provide any information about the
13 schools it identifies as current competition for Roberts-Naylor, namely Sonora Science Academy
14 charter school, Alice Vail Middle School (TUSD), Vail School District middle schools and
15 “Private Parochial Schools.” The one exception is that Sonora Science Academy charter school
16 is described as a C school.

17 The District concludes, “based on available evidence” – which is not described except for
18 a survey of dubious value – that the least important factors contributing to parents’ decisions
19 regarding middle school off-base attendance are proximity to work, keeping siblings together,
20 keeping students within the military community, aftercare/extended day, special academic
21 programs, accommodation for exceptional education, and ethnic and cultural diversity. (This
22 conclusion about academic programs is contradicted elsewhere in the report). The report goes on
23 to say that two of the factors identified as attractive to parents could potentially be replicated by
24 special academic programs and safety and security to make Roberts-Naylor more competitive.
25 In any event, this assumption is based on a survey conducted for the District in which the
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1 response rate was about 10%. Such a low response rate almost guarantees that the responses are
2 not representative.

3 With respect to safety and security, it seems safe to conclude that virtually all parents
4 value this school characteristic. Using student and parental surveys conducted by the District at
5 Roberts-Naylor the District concludes that parents who send their children to Roberts-Naylor feel
6 that safety is not an issue. However 39% of parents at Roberts-Naylor disagree with the
7 statement, “I rarely hear that students will you harass others;” 42% of students disagree with the
8 statement that, “This year I have rarely been the victim of bullying;” more than 50% disagree
9 with the statement, “Students behave during class;” and more than one in five say they do not
10 feel safe at school. Perhaps parents at Roberts-Naylor have a high tolerance for unsafe
11 conditions, but if these TUSD surveys are relatively valid and students and parents shared the
12 views cited above with prospective attendees, it seems reasonable to conclude this would
13 discourage attendance at Roberts-Naylor. The District does have data on the incidence of
14 various types of disciplinary problems in all of its schools but it does not cite that evidence in its
15 report.
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18 At one point in its report, the District says that special academic programs are not likely
19 to be important to parents in the schools that they select for their students. Despite such a
20 statement, the District then lists possible programs to consider adding to Roberts-Naylor. This is
21 guesswork. Some of these programs might work and the District has had experience with some
22 of them at other schools, but it does not cite that evidence. One of the “possible” programs
23 identified is self-contained gifted and talented education (GATE). However, there are existing
24 self-contained GATE programs at a TUSD elementary school and a TUSD middle school that
25 are in close proximity to the base and to Roberts-Naylor. The TUSD middle school is rated more
26 highly than Roberts-Naylor and is difficult to understand why former Borman students would
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1 choose to attend Roberts-Naylor rather than the other District schools.

2 The District concludes that while the addition of new programs to Roberts-Naylor could
3 improve the education the children at that school,” it is unlikely that such changes would result
4 in attracting significant numbers of students from the base to attend Roberts-Naylor.” Despite
5 the weaknesses in the District’s analysis, I agree with this conclusion. Military communities
6 tend to have a strong commitment to on-base schools. And, there is no reason to believe that
7 adding new programs at this time to Roberts-Naylor would significantly alter the current patterns
8 of attendance among students from Borman Elementary School. The only thing that might
9 change family decisions is if Roberts-Naylor were one of TUSD’s top schools.

11 **Recommendations**

12 As is true for the majority of TUSD schools, it would be desirable to strengthen Roberts-
13 Naylor. But this is not likely to foster integration. The fact that Roberts-Naylor serves a
14 relatively large number of African-American students makes it a candidate for additional
15 investment. However, in light of limited resources, whether it is more urgent to strengthen
16 Roberts-Naylor than other schools with weaker student performance should be carefully
17 considered.

18
19 If a decision is made to prioritize further investments in improving the learning
20 opportunities for students at Roberts-Naylor, the addition of “special academic programs” does
21 not seem the place to start. The most important determinants of student learning are the
22 effectiveness of teachers and school principals. First things first; strengthen teaching and
23 leadership in the school. Then identify programs that are responsive to particular needs of
24 Roberts-Naylor students based on evidence of their performance and behavior. For example,
25 English-Language Arts is a particular challenge for Roberts-Naylor students, probably because
26 of the large number of students from other countries for whom English is not their native
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1 language. In any event, the Court should not order additional investments in Roberts-Naylor.
2 This decision should be made by the District.

3 The Court should approve the District's proposal to expand Borman Elementary School
4 to a K-8 school. As noted above, the Fisher plaintiffs objected because of the potential effect
5 that adding middle grades to Borman might have on District schools, particularly Roberts-
6 Naylor. However, because the only students living off-base who would attend Borman K-8
7 School are members of military families or children of civilian employees who work on the base,
8 the likelihood that this would involve many students is low. Only eight middle school students
9 who formerly attended Borman now attend grades 7-8 at Roberts-Naylor and Vail Middle School
10 (three Anglo, four Latino and one African American); two of these students attend Roberts-
11 Naylor. As the base commander notes in his letter, most families connected with the military
12 prefer to send their children to on-base education; in this case, it is a mediocre Sonora Science
13 Academy.
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16 While adding middle school grades to Borman is not likely to affect levels of integration
17 in TUSD schools one way or the other, the District is not proposing to use 910G funds to
18 implement the Borman proposal.

19 Creating a K-8 school at Borman will increase the quality of education available to the
20 children of military families. Borman is an A school; the on-base charter school is a C school.
21 This support for the military can be achieved without financial cost to the District even when the
22 one-time remodeling costs about \$60,000 are taken into account. Per-pupil state funds allocated
23 to the District will exceed the costs of staffing, materials and upkeep. In out years, the District
24 estimates that revenue will exceed costs by about \$120,000 a year.
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26 Finally, expanding the Borman Elementary will be evidence of commitment of the larger
27 Tucson community to the Base. This evidence can be used when recurrent assessments by the
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1 Department of Defense of potential base the closings are considered.

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Respectfully submitted,

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/s/

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Willis D. Hawley
Special Master

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10 Dated: May 11, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on, May 11, 2016, I electronically submitted the foregoing SPECIAL MASTER'S REPORT AND RECOMMENDATION REGARDING ROBERTS-NAYLOR for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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