

MENDOZA PLAINTIFFS' RESPONSE TO TUSD'S RESPONSE TO THE SPECIAL MASTER'S ANNUAL REPORT RECOMMENDATIONS TO THE DISTRICT

April 28, 2016

The Special Master filed his Annual Report for the 2014-15 school year ("SMAR") (Doc. 1890) on January 21, 2016. On April 26, 2016, TUSD provided the plaintiffs and Special Master with its responses to the SMAR recommendations to the District ("TUSD Response"). The TUSD Response includes a number of statements that the Mendoza Plaintiffs believe are at odds with the USP and/or the SMAR, with what appears to be a District effort to modify its USP integration obligations prime among them. Accordingly, they provide this response to the TUSD response to the SMAR recommendations.

Student Assignment

Recommendation #1

Mendoza Plaintiffs believe the District has misunderstood the thrust of the SMAR recommendation. While the Special Master certainly believes that marketing strategies should emphasize the benefits of learning with and from students in integrated schools, as he says in Recommendation #2, in Recommendation #1, he was not merely saying that there should be "strategies designed to promote the benefits of an integrated education" as the District states in its response. Rather, he was recommending that the District study its marketing strategies to determine if they are **effective** in promoting integration. Mendoza Plaintiffs respectfully request the District, which has allocated significant 910(G) money to marketing, undertake the study of effectiveness recommended by the Special Master.

Recommendation #3

Mendoza Plaintiffs do not believe the District can escape the thrust of the Special Master's observation that the District's strategic plan fails to explicitly address its obligation to further integrate its schools by saying that it was "authored by the community ...and then approved by the Governing Board." The Governing Board – and the District – are under a court order requiring TUSD to pursue increased integration of its schools. It is insufficient for the District to state in its response that "District staff will advocate for and support the addition of a formal statement in the next review and modification cycle for the strategic plan." The issue is

not a “formal statement.” What is lacking and what the Special Master was addressing was the absence of a Governing Board commitment to further integration in its strategic plan.¹

Recommendation #6

The District asserts that it adopts the recommendation “by expanding its focus to include schools with high levels of diversity (schools with at least two racial/ethnic groups over 25%)... The District will focus on improving enrollment at these schools as a means of promoting integration” (TUSD Response at 2-3). Mendoza Plaintiffs do not agree that focusing on “improving” enrollment at such schools necessarily “promotes integration” and do not believe the approach being contemplated by the District is consistent with the Special Master’s statement and example in the SMAR. Further, Mendoza Plaintiffs do not understand there to be any basis for the District to unilaterally redefine an “integrated school” or to unilaterally modify its USP integration obligations.

Indeed, as Mendoza Plaintiffs pointed out during the April 21, 2016 meeting in Tucson with regard to Attachment E to TUSD’s integration initiatives (provided on April 4, 2016) which applies the same “focus” as that described above, the use of the “two racial/ethnic groups over 25%” criteria results in nonsensical categorization of some schools as “diverse.” Specifically, the District’s approach results in characterizing, for example, Lawrence 3-8 and Johnson K-2 as “diverse” schools, notwithstanding that these schools are very heavily concentrated with Native American children and with the addition of Latino students are, respectively, 95% and 93% minority. (*Compare* Attachment E (Native American student population at Lawrence and Johnson is 53% and 42%, respectively) *with* Attachment A to Integration Initiatives memo (Native American student population at Elementary and K-8 level is 4% and 5%, respectively).) It is also noteworthy that the District includes on Attachment E as a supposedly “diverse” school, Roberts-Naylor, which, as the District well knows, the Court (correctly) characterized as a racially concentrated school as that term is used in common parlance given that it is 80% minority (26% African American and 54% Latino on Attachment E.)

Mendoza Plaintiffs are particularly surprised that the District continues to use its “definition” of diversity when we generally understood the District to acknowledge the

¹ The absence of any reference to the District’s integration obligations in the strategic plan is particularly troubling given the statement in the TUSD Annual Report that the strategic plan’s “goals were designed to address both the ongoing work under the Unitary Status Plan and the systemic deficiencies identified in the curriculum and efficiency audits.... several specifically target USP priorities” (TUSD Annual Report for 2013-14 School Year (Doc. 1686) at 14).

problematic nature of the criteria as reflected on Attachment E at the April 21 meeting. In any event, Mendoza Plaintiffs vehemently object to any District effort to unilaterally redefine “integrated school” or to modify its integration obligations under the USP. Moreover, the Special Master did not recommend in his Annual Report that the District unilaterally modify its USP obligations; plainly his recommendation was directed at the initiation of a conversation about integration obligations among the parties (see Special Master’s Annual Report for 2014-15 School year (“SMAR”) (Doc. 1890 at 10).) Mendoza Plaintiffs therefore do not understand the District to have adopted the Special Master’s Recommendation #6 under Student Assignment.

Administrators and Certified Staff

Recommendation #1

Consistent with the discussion in Tucson on April 21, 2016, Mendoza Plaintiffs will agree to a modification of the USP to relieve the District of the requirement that it make recruiting trips to Historically Black Colleges and Universities (HBCUs).

Mendoza Plaintiffs cannot agree to the District’s proposal to abandon other strategies as proposed on page 3 of the TUSD Response without knowing what strategies are being referenced and what the results have been.

Recommendation #3

With regard to the publications and websites in which the District advertises key leadership positions (listed on pages 4-5 of the TUSD Response), the District indicates that it “welcomes any additions not listed below” (TUSD Response at 4). Mendoza Plaintiffs suggest that the District seriously consider advertising key leadership positions in the national publications listed in the Outreach, Recruitment, and Retention Plan (see Doc. 1673 at 4; Doc. 1672, Appendix B) which the District revised to include national publications as a result of Mendoza Plaintiffs’ objection to the omission of such publications, and which the District indicated then included “the national publications in which it plans to advertise administrator and certificated staff positions.” (Doc. 1673 at 4.) These publications are not among the publications listed in the TUSD Response, and Mendoza Plaintiffs have no recollection of the District having advertised TUSD positions in those publications, but they believe these publications have significant potential to reach a greater number of qualified candidates for TUSD leadership positions.

Recommendation #5

Mendoza Plaintiffs believe that the District has misunderstood the recommendation. As they understand it, the Special Master has suggested that the District review the process by which participants are selected for the Leadership Prep Academy, not the District's hiring process. Mendoza Plaintiffs also note that while not an express recommendation, in the same section of the SMAR in which he discussed the Leadership Prep Academy (SMAR at 12), the Special Master indicated that the District's early experience with a master's degree cohort program in collaboration with the University of Arizona College of Education appeared promising in terms of increasing the diversity of the District's leadership cadre. Mendoza Plaintiffs therefore encourage the District to continue with that program and to continue reporting on its outcomes

Recommendation #7

Mendoza Plaintiffs continue to question whether the District is devoting adequate resources to professional development, particularly in the area of classroom management which the District expressly references in its response to the SMAR recommendation.

Quality of Education

Recommendation #4

Mendoza Plaintiffs believe that the District should provide the referenced description in relation to the professional development strategies it is proposing for the 2016-17 school year, consistent with the approach taken by the Court for the 2013-14 budget and referenced in the TUSD Response at 7.

Discipline

Recommendation #3

Mendoza Plaintiffs understand that the District is not adopting the Special Master's recommendation related to the sharing of best practices. In his Annual Report, the Special Master observed that the sharing of best practices by two principals at an unspecified event, and during the one-on-ones with principals that occurred in 2014-15 "do not seem to meet the requirements of the USP" (SMAR at 28). He thus recommended that the District "more systematically identify effective practices for reducing discipline problems... [which] should be *easily accessible to all district personnel* through an *online inventory* [of] brief tutorials by

teachers and administrators... ." (Id. at 29 (emphasis added).) The District indicates that in 2015-16 it will incorporate best practices at Instructional Leadership Academy (ILA) meetings to share them with principals, and that presentations will be videotaped and stored online as a resource. (TUSD Response at 8.) Mendoza Plaintiffs therefore understand that the District is limiting access to best practices to principals who attend ILA meetings and not providing that access to "all district personnel." Notably, there is no indication that teachers will have access to best practice strategies, notwithstanding that their ability to manage their classroom is of central importance to the District's efforts to address discipline issues. Thus, the approach the District reports it will take in 2015-16 appears to much more closely reflect an approach that the Special Master found to be inadequate rather than his recommendation to address the inadequacy.

In addition, Mendoza Plaintiffs have significant concern that best practices will not be easily accessible if the video recordings containing them are in actuality full recordings of ILA meetings as those accessing such videos would presumably be required to seek out the portions of the ILA meetings relating to best practices. If Mendoza Plaintiffs are correct in their understanding, then they also are concerned that the District would have difficulty cataloguing the best practices recordings in a manner that facilitates staff members' easy access to best practices in the areas in which they seek to improve. Mendoza Plaintiffs therefore also do not understand the TUSD Response to contemplate the creation of an "easily accessible" "online inventory."

Extracurricular Activities

Recommendation #2

Mendoza Plaintiffs are having trouble understanding the District's assertion that "It is not practically feasible to count students only once" in presenting data on participation in clubs and other activities (TUSD Response at 9), when it apparently is able to do so and will present data to reflect that with respect to discipline (id. at 8 ("District will report the data in a manner that makes it possible to identify the number of [discipline] incidents and the numbers of students responsible for those incidents. The District currently analyzes whether those incidents are the result of a relatively small number of students.")) Indeed, because there are significantly more discipline incidents than there is participation in clubs, Mendoza Plaintiffs would expect it to be significantly easier to count students only once for purposes of reporting participation in extracurricular clubs. Mendoza Plaintiffs therefore request an explanation of why it is not practically feasible to count students only once for purposes of reporting club participation, or, if they are mistaken in their understanding, clarification from the District.

Recommendation #4

Mendoza Plaintiffs are concerned that the TUSD response does not address the portion of the recommendation that states that “Tutoring should be aligned with what students are learning in school and focused on the particular challenges that impede each individual student’s learning.” Mendoza Plaintiffs therefore seek confirmation that that part of the recommendation has been adopted and that the District has processes in place to ensure that it occurs.

Facilities and Technology

Recommendation #1

As stated at the meetings in Tucson on April 21, 2016, Mendoza Plaintiffs have serious concerns about whether the 2016-17 budget contains sufficient allocations to accomplish the necessary technology training. They therefore again ask that Draft #3 of the proposed 2016-17 910(G) budget provide the funds necessary for the District to implement the recommendation in the way described in the TUSD Response at 10.