

April 29, 2016

To: Parties

From: Bill Hawley

Re: Comments on the District's Response to My Annual Report Recommendations

In my annual report , I commented on several aspects of the District's annual report and made a number of recommendations to the District, as well as four recommendations to the Court. In making those recommendations to the District, I was hoping they would act on them but did not and do not consider them obligations for which they are specifically accountable except in so far as they relate directly to requirements of the USP. The recommendations were meant to give guidance to the District at this critical time when unitary status may depend to some extent on whether the District has done all it reasonably could have done to implement the provisions of the USP.

While it was not required that it do so, the District responded to several of the recommendations in a memorandum to the parties dated April 26. The Mendoza plaintiffs responded to the District's comments on April 27. I agree with many of the comments made by the Mendoza plaintiffs with respect to their interpretation of my meaning but it seems that it would be useful to the District if I clarify the intent of my recommendations.

Let me emphasize that it is not my intention to generate a discussion of whether the District must implement the recommendations that I made. I appreciate that the District considered these recommendations seriously although many of the steps that it proposes to take are less ambitious than those I urge them to pursue.

The remainder of this set of comments, I have copied the District's report which includes my recommendation. With respect to each of the recommendations the District has dealt with, I have added my comments where there is a substantive and difference between what the District proposes that do and my recommendation. Note that I do not comment on every one of the District's proposals.

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To: Dr. Willis Hawley, Special Master

From: Samuel E. Brown, Legal Counsel

Date: Tuesday, April 26, 2016

Re: Response to Special Master's Annual Report Recommendations to the District

This memorandum responds to the recommendations made by the Special Master to the District in his Annual Report filed on January 21, 2016 ("Report")[ECF 1890].

Section II: Student Assignment (Report pages 9-10)

1. *The effectiveness of marketing strategies for promoting integration should be studied and improved.*

The District adopts this recommendation and will include improved marketing strategies based on those shown to be effective. Several strategies have already proven effective, and the District will add or supplement these strategies with strategies specifically designed to promote the benefits of an integrated education.

SM: The District apparently misunderstands my a recommendation. I am asking the District to evaluate the effectiveness of various marketing strategies. The District says that several strategies have already proven to be effective. Which are these and how was their effectiveness determined?

2. *In marketing school options, the many benefits of learning with and from students and integrated schools should be emphasized.*

The District adopts this recommendation but notes that the terms "integrated," "integration," or related terms may not appear in marketing materials if more effective terms or phrases can be used in their place.

SM: The District is apparently reluctant to use the term integration. I would be interested to know what other term would effectively communicate that the evidence on the effects of integration suggests that all children can benefit in various ways.

3. *The District's strategic plan should include increasing the opportunities of students to attend integrated schools.*

The District is committed to increasing the opportunities for its students to attend integrated schools and is actively engaged in increasing such opportunities. However, the District's strategic plan was authored by the community after many months of

collaboration and then approved by the Governing Board on July 22, 2014. District staff will advocate for and support the addition of a formal statement in the next review and modification cycle for the strategic plan.

SM: The District is required by court order to promote and facilitate the integration of schools. This is not a matter that can be determined by the school board. If integration is not part of the strategic plan, which presumably indicates the priorities of the District, the clear message is that integration is not important.

4. *A study should be undertaken to identify additional strategies for increasing the opportunity students have for an integrated education, including substantially increasing the quality of integrated magnet schools and the creation of an additional magnet school or program near the center of the District.*

The District adopts this recommendation and is currently undertaking such study in two phases. In phase one, the District is identifying an expert(s) to specifically address issues related to new dual-language programs (which could become new magnets), to assess the quality of current magnet programs (including integrated magnets), and to make recommendations for improving integration and increasing magnet school quality. In phase two, the District is conducting its own research and collecting data from the community to ascertain parental interests – this information will in turn be shared with the expert.

SM: The urgency with which the District is pursuing this recommendation is troublesome. Clearly whatever policies and practices are determined can have no impact on integration for the 2000 1617 school year.

5. *Consideration should be given to expanding opportunities for free transportation when the students involved would increase integration at the receiving school (free transportation is now provided only to students who are attending racially concentrated schools).*

The District agrees that it would be advantageous to expand opportunities for free transportation when the students involved would increase integration at the receiving school. The District is currently considering ways to provide express shuttles to expand free incentive transportation to Magee middle school and Sabino High school. The District will also analyze the potential expansion of free transportation to other students from non-racially concentrated boundary locations. The District will assess cost and efficiency, and will solicit feedback from the Special Master and Plaintiffs once the analysis is complete.

SM: See response to 4. How many options can there be that require extensive analysis?

- 6. The definition used to describe an integrated school in the USP understates the extent to which students in TUSD are attending schools that in many other Districts would be considered integrated. For example, a school could be 40% white, 40% Latino, 15% African-American and 15% students of other or mixed races and not be considered integrated. This makes no sense. The District should seek a way of expanding the definition of an integrated school so long as this does not change the definition of a racially concentrated school.*

The District adopts this recommendation by expanding its focus to include schools with high levels of diversity (schools with at least two racial/ethnic groups over 25%). In its recent submission to the Special Master and Plaintiffs, the District developed a list of schools with room to expand and that were either integrated or highly diverse. The District will focus on improving enrollment at these schools as a means of promoting integration and increasing the numbers of students attending schools that are integrated and/or highly diverse.

SM: the District cannot unilaterally provide a definition of diversity. Understandably, the District wishes to use the USP definition where it is helpful to a claim that the District is promoting integration. But to pursue the goal of integration by sustaining schools in which virtually all of the students are nonwhite and come from very low income families is not likely to lead to significant benefits for the students involved. Indeed, because student populations other than white and Latino are so low districtwide, a school with a population of more 23% of any race other than Anglo and Latino would not be integrated in any event.

Section IV: Administrators and Certified Staff (SMAR pages 19-20)

- 1. Efforts to recruit teachers should emphasize the District's commitment to equity and excellence giving greater attention to the unique opportunities to teach in the District with culturally relevant courses, support for culturally responsive pedagogy and a multicultural curriculum among other strengths. And, the District has in place policies and practices to support teachers – especially beginning teachers – that, if effectively implemented, could be seen as an important incentive to work in TUSD. Some strategies being used (some of which are mandated by the USP) are clearly unproductive and the District should ask the parties that they should be abandoned.*

The District adopts this recommendation and, if there are no objections from the Plaintiffs, will abandon some current strategies that have proven unproductive in favor of revised strategies. The USP – and by extension, the Outreach, Recruitment, and Retention (ORR) plan – includes specific recruiting strategies including recruitment trips to Historically Black Colleges and Universities (HBCUs) to recruit African American teachers. The District had implemented this strategy for several years with only marginal results. Accordingly, the District adjusted its recruitment strategy to include recruitment trips to universities with high percentages of racial/ethnic diversity. The

District strategically reevaluated its recruitment trips and identified teaching programs that with large pools of diverse student teacher applicants.

As a result, in the 2014-15 school year, the Human Resources Department issued forty-four letters of intent compared to only seven in the 2013-14 school year. All 44 letters of intent resulted in hires. The District recruitment team visited fourteen colleges and universities from the fall of 2014 through spring of 2015. Human Resources staff focused on travel destinations to market the District to racially and ethnically diverse teaching and administrator candidates as well as the critical need areas of math, science, and special education. In 2015-16, the District increased the number of HBCUs to a total of five but thus far no African American candidate has signed a letter of intent. While the hiring has not been completely evaluated for the 2015-16 school year, the multi-year trend shows that trips to HBCUs have not resulted in a significant increase of African American teachers hired in the District.

As an alternative strategy, the District will focus its efforts on finding African American and Latino teaching candidates that had either lived and/or taught in diverse areas and therefore may be more likely to want to come to a diverse community like Tucson. The District will also focus on the unique teaching opportunities in TUSD (such as the chance to teach CRCs and support for beginning teachers) as recruiting tools.

2. *Given recruitment and retention challenges, the District should consider a new compensation system that rewards teachers with exceptional ability who are undertaking leadership roles. Such compensation systems are being adopted in several urban school Districts.*

The District adopts this recommendation. Details will be included in the teacher diversity plan which is now under development.

SM: While I believe that the teacher diversity plan has considerable promise, my recommendation extends more broadly to include teachers with substantial responsibility, principals who take on particularly difficult challenges, and other professionals who demonstrate exceptional capability that contributes significantly to the effectiveness of their colleagues and to the learning outcomes of students who are in need of being taught by the District's most talented professionals.

3. *Job announcements for persons responsible for implementing provisions of the USP should include those skills and characteristics necessary to implement these provisions for which they will be held accountable.*

The District adopts this recommendation. The District has begun and will continue updating and revising several job descriptions to incorporate the skillset described in this request. Most recently, the District has revised job descriptions for the Deputy Superintendent, Assistant Superintendent for Curriculum and Instruction, the Director of ALE/Magnet Programs and the Director of Mexican American Student Services in response to this recommendation. The District will continue to review each job associated with the USP and update the skills and characteristics necessary to

implement provisions of the USP. The District will make changes to the job announcements as part of the standard operating procedure for job announcements.

4. *Announcements for key leadership positions should be advertised widely in professional publications and websites to maximize the quality and diversity of the pool of candidates.*

The District adopts this recommendation. The extensive list below demonstrates the publications and websites the District uses regularly to place announcements for key leadership positions. Since this is a standard procedure, the District will continue to place announcements in this manner and welcomes any additions not listed below.

- TUSD website
- K12jobspot.com
- Jobing.com
- Indeed. com
- Careerbuilder.com
- Teacher-teacher.com
- Topschooljobs.com
- Saludos.com
- American Association of School Administrators
- Association of Latino Administrators and Superintendents
- AZ Association of Business Officials
- AZ Department of Education
- AZ Education Jobs
- Black Collegian
- Equal Opportunity Publications
- HACU (Hispanic Colleges/Universities)
- HBCUcareers.com
- Hispanic Chamber of Commerce
- HispanicJobs.com
- National Alliance of Black School Educators
- National Association African American Studies and Affiliates
- National Society for Hispanic Professionals (LatPro)
- Phoenix Career Services
- University of Arizona
- Association of Latino Administrators and Superintendents
<http://alasedu.drupalgardens.com/>
- Arizona Education Jobs www.arizonaeducationjobs.com
- Arizona Association of Business Officials <http://www.aasbo.org/>
- NAME The National Association for Multicultural Education
Jobbank@NAMEorg.org
- <http://www.Hispanic-Jobs.com>
- Topschooljobs.com

- Teacher-Teacher

SM: The definition of key leadership positions is critical to this recommendation. The majority of positions identified in the USP are filled from within. While it is clearly desirable to provide current employees with opportunities for advancement, it is difficult to increase the diversity of professional staff without reaching out beyond the District. Moreover, surely there are highly qualified people, including principals, who would compete effectively for positions at TUSD who work in other school systems.

5. *Given that the Leadership Prep Academy yielded only one non-white appointee in 2014-15, the District should assess its selection process.*

The District will review its administrative hiring process. Of note, the current process does provide participants in the Leadership Prep Academy program to be exempt from the phone screening process and move directly to the in-person interview phase.

SM: My recommendation refers to selection of participants in the Leadership Prep Academy, not the hiring process.

6. *The District should undertake a systematic analysis of the extent to which ratings of teacher effectiveness correlate with student performance and whether principals provide sufficiently detailed feedback to teachers so as to facilitate the targeting of professional development.*

As shared with Dr. Hawley, the District is unable to implement this complex recommended analysis because multiple correlates (SES, resource allocation, parent and family support, etc.) unrelated to the impact of teacher effectiveness influence student performance and/or proficiency. The District's research has shown that Districts nationwide have been challenged methodologically when attempting to collect diverse data sets and control for these factors to identify the specific impact of teacher effectiveness.

SM: I am well aware of the methodological difficulties in value-added analyses. That is not what this recommendation refers to. It is not difficult to do exploratory analyses that examine the correlations between the various measures used to assess teacher performance. Vicki Balentine and I have conducted a study using a limited sample principal and teacher evaluations that demonstrates that many TUSD principals provide feedback to teachers that can best be described as superficial. When time permits, I will prepare a brief report on this admittedly limited study. One way that principal evaluations could be improved would be to reduce the number of different behaviors that principals need to assess. This might be done by undertaking factor analysis of the observational instruments.

7. *Assess the extent to which various approaches to professional development meet the District's own statement of principles for the design of effective professional development.*

On an ongoing basis, the District assesses the relative effectiveness of different approaches to professional development. Teachers who are new to the District must participate in professional development related to classroom management and instruction. All teachers must participate in other required professional development. A targeted professional development plan is put into place for teachers identified as needing additional support in identified areas.

SM: Despite my continual questions about the efficacy of professional development as it is delivered in TUSD, no District staff member has ever provided me with evidence that any approach to professional development used in TUSD is effective. I am glad to know that the District has undertaken such studies and I request that these be shared with the plaintiffs and me.

8. *The very significant differences in the number of respondents from different races to particular questions on the teacher survey dealing with working conditions warrants analysis.*

The District adopts this recommendation and it will analyze differences in response rates by ethnicity in the 2015-16 Annual Report. Where practicable, the District will recommend actions to improve any identified disparities.

9. *The District should undertake recurrent analyses of the validity and variation in the evaluation of teachers and principals.*

In the summer of 2016, the District will conduct an internal analysis of its data, survey tools, and results. Based on the analysis, the District might collaborate with stakeholders to modify the instruments as needed. This analysis and any modifications will be implemented for SY 2016-17 as practical/feasible.

10. *No first year principal should be assigned to a RC school or a school with students performing below the District average.*

The District adopts this recommendation as such is required by the USP. USP § IV(E)(5) requires the District to "avoid assigning first-year principals to Racially Concentrated schools or schools serving students who are achieving below the District average in scores on state tests or other relevant measures of academic performance" but also provides that "Exceptions to this provision may be permitted by the Superintendent on a case-by-case basis." While the District is taking steps to reduce

the number of first-year principals at the identified schools (see below), it reserves the right to make exceptions on a case-by-case basis.

The Human Resources Department works closely with Academic Leadership on the applicants referred to sites for interviews. The administrative team reviews the list of identified schools and then acts accordingly when considering principal applicants for those sites. The superintendent is consulted on all administrative recommendations and makes the final decision for recommendation to the Governing Board.

SM: A fair number of new principals have been assigned to schools where student performance is below the District average. There is persuasive evidence that first-year principals are less effective than more experienced principals, as measured by student performance. Therefore, the District should not assign people who have not served as principals before to low achieving schools unless there is compelling evidence of the potential effectiveness of the candidate. To do otherwise is to put the students in the schools at risk.

Section V: Quality of Education (SMAR page 26)

1. *Review the various formative and summative instruments used to evaluate teachers to ensure that the behaviors being described are the same across instruments.*

The District adopts this recommendation as it has assessed, and will continue to assess, these instruments to ensure alignment to the modified Danielson framework.

2. *Report attendance data by school.* The District adopts this recommendation for the 2015-16 annual report.
3. *Present data so that one can determine whether the proportion of students involved changes from year to year in absolute rather than relative numbers.*

The District adopts this recommendation for the 2015-16 annual report where reasonable; there may be instances where it does not make sense to report the data in this manner.

4. *See recommendation related to reporting on professional development in Section IV ("As the Court did with respect to the 2013-14 budget, the Court should*

require the District to describe its professional development strategies in greater detail to include the following: the core content and its relationship to provisions in the USP, the number of people in different roles receiving such professional development, mode of delivery, and the number of hours in which the learners participated.”)

No later than October 1, 2016, as part of the 2015-16 annual report, the District will describe its professional development strategies for the current school year (2015-16) in greater detail to include the specific content areas identified above. This explanation will include the following headings for specific USP-related professional development:

- Title
- Content (including training objective and core content)
- USP References (including relationship and/or reference to relevant USP provision(s))
- Attendees (including the number of people in different roles receiving the PD, and identifying their various roles)
- Mode (including the mode of delivery: in-person, online, etc.)
- Duration (including the number of hours in which learners participated)

SM: the work required by this recommendation should be provided before the third version of the 2016-17 budget is considered by parties as required by the Court. The District has indicated that it will do so

Section VI: Discipline (SMAR page 29)

1. *Data should be reported so that it is possible to know when disciplinary problems in a given school are the result of a relatively small number of students or whether there is inappropriate behavior by large numbers of students.*

For the 2015-16 annual report, the District will report the data in a manner that makes it possible to identify the number of 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.

2. *The District should identify and report on the effects of the interventions aimed at reducing student discipline problems.*

For the 2015-16 annual report, the District will identify a set of specific interventions and will report on recidivism rates for students who received these interventions.

- 3. The District should more systematically identify effective practices for reducing discipline problems, including behaviors by teachers were able to create learning environments in classrooms. These practices should be easily accessible to all District personnel through an online inventory brief tutorials by teachers and administrators would effective in minimizing discipline problems.*

Beginning with school year 2016-17, the District will incorporate the sharing of best practices at every weekly Instructional Leadership Academy (ILA) with principals. Identified teachers and principals will share best practices with all principals. These presentations will be videotaped and stored online as a resource for future viewing.

SM: as I've indicated before, when the District made a similar proposal, I believe this falls short of the intent of the provisions of the USP. What the District proposes will not be easily accessible and should be available to us all staff, not just principals. Is it not seen that onerous. If it not possible to link effective practices to the provisions of the GSRR so that when a violation occurs and an appropriate response is not clear, teachers and principals could readily refer to practices that colleagues and other schools have found to be successful. Indeed, if the source of the report of effective practice is provided, principals teachers and other staff could consult with these individuals. What is needed here is a districtwide professional learning community related to effective disciplinary practices that is facilitated by technology.

Section VII: Family Engagement (SMAR page 30)

- 1. The District should improve its reporting of family and community engagement activities organizing these by types of activities reporting how many families of different racial backgrounds were served and what the purposes of these services were. One widely used typology for categorizing family and community engagement activities is available from the Center for Family and Community Partnerships at Johns Hopkins University (www.csos.jhu.edu/P2000/htm)*. *the updated link is www.csos.jhu.edu/p2000/nnps_model/school/sixtypes.htm*

For the 2016-17 school year the District will modify its data collection mechanisms to capture the race and ethnicity of the student participating in the activity (or that of the student related to the parent or guardian participating in the activity. For the 2016-17 school year, the District will categorize family engagement activities by the six types identified at the link above. In the 2016-17 annual report, the District will report participation by the race and ethnicity of the student or related student.

- 2. The District should identify the role of specific partnerships and the provision of the services that these partners provide.*

The District will include this information in the 2015-16 annual report.

Section VIII: Extracurricular Activities (SMAR pages 31-32)

1. *The District should significantly increase opportunities for participation in clubs, especially at the high school level and clubs that would complement in-school learning.*

The District has met with Dr. Hawley to demonstrate increases in participation for the current year. The District will analyze current utilization of activity buses that support extracurricular activities to determine whether additional resources are necessary to support increased participation.

2. *Data on participation in clubs and other activities should be reported by type of activity with yearly comparison data. If aggregates for types of activities are reported, individual students should be counted only once (if possible).*

It is not practically feasible to count students only once. However, the District can report by type of activity with yearly comparison data.

SM: I would like to know more about why it is not feasible to count students who participate in clubs and other extracurricular activities. Participants may change from time to time but it seems unlikely that members of particular activities change dramatically during the academic year. If the individuals providing leadership for particular activities do not know who is participating on a more or less regular basis, this seems to call into question the probable effectiveness of these activities since one of their important virtues is that they provide students with a sense of belonging and community.

3. *Efforts should be made to significantly increase the proportion of respondents to relevant surveys.*

These efforts are already in progress and the District has shared with Dr. Hawley its efforts to increase survey participation through a variety of strategies (parent link, online tools, etc.).

4. *Tutoring should be provided by certified personnel whenever possible. When this is not possible because of the availability of tutors, significant training of tutors should be provided. Tutoring should be aligned with what students are learning in school and focused on the particular challenges that impede each individual student's learning.*

Most formal tutoring services are provided through Title I and 21st Century and require certified teachers. Formal tutoring services account for roughly 90% of all tutoring services. In SY 2016-17, the District will provide bi-annual training for people

who provide informal tutoring services (community members, college students, and/or paraprofessionals).

- 5. Participation rates in extracurricular activities and tutoring should be reported by school and by race.*

The District adopts this recommendation, participation rates will be aggregated by school and/or tutoring program (with the caveat that informal, direct tutoring between students and teachers happens frequently, is not captured, and would be impractical to capture systematically).

Section IX: Facilities and Technology (SMAR page 33)

- 1. The needs teachers and administrators have to learn more about how to effectively utilize technology should be identified. This needs assessment should drive professional development at the school and individual level.*

The District adopts this recommendation. The 2015-16 school year is the first year of full implementation of the Multi-Year Technology Plan (MYTP). One of the primary objectives of the MYTP is to increase technology proficiency for teachers and administrators. The District has gathered the initial teacher and administrator technology proficiency baseline data via teacher/administrator surveys to develop the professional development needs for each teacher and to provide feedback to administrators to track progress of staff members. For 2016-17, the District will continue to implement the MYTP to increase technology proficiency across the District and, in conjunction with the Teacher Technology Liaisons, will be infusing technology (document cameras, smart boards projectors, COWS) into lesson plans with alignment to the curriculum.

- 2. The next DAR should provide information about the support Teacher Technology Liaisons provide and how much time they give to providing such support.*

The District adopts the first part of this recommendation. TTLs currently use their discretion and are making their best effort to record their time based on estimates. TTLs are also teachers and they do not spend a significant amount of their time tracking their time. Thus, the District will provide its best estimate for school year 2015-16 and will work to improve the collection of this information for school year 2016-17.

SM: this information should be available in the District's report on professional development mentioned earlier

Section X: Accountability and Transparency (SMAR pages 36-37)

1. *The District should decide on common definitions. For example, it is difficult to understand who is included in "Leadership." Teachers and certified staff are sometimes the same and in other cases different.* The District recognizes that clarity is important. Where possible the District will use common definitions, but in other cases the District will be more specific when common terms (such as "Leadership") are used.
2. *When personnel and student data are provided, Anglos should be included in all tables and analyses.* The District adopts this recommendation whenever possible.
3. *Whenever possible, data should be provided from the 2012-13 school year to the year of the current report.* The District adopts this recommendation whenever possible.
4. *When goals have been set for particular outcomes, the goals should be included along with the results of the efforts to implement those goals.* The District adopts this recommendation for instances where goals have already been set.
5. *In calculating progress and participation, it seems important to know not only the percentage of teachers or students or administrators participating in a given activity/program, but whether the proportion of individuals of different races who are participating is changing.* The District adopts this recommendation, and will report this information in its next annual report whenever possible.
6. *When students are double-counted, this should be made clear (e.g., in disciplinary actions and extracurricular activities).* The District adopts this recommendation whenever possible.
7. *When data are presented for K-8 schools but not middle schools, what grades are included and are equivalent middle school students in such data?*

For K-8 schools, all grades from Kindergarten to 8th grade are included whenever possible.

8. *The report itself should provide all of the information the reader needs in order to understand what progress is being made. It should not be necessary to go to the appendices unless one wants information in addition to that needed to respond to the requirements of the USP.*

The District adopts this recommendation and will seek to implement it to the extent practical without overwhelming the narrative section of the report. Appendices are necessary and valuable because they provide more detailed and comprehensive information.

9. *The District uses a format that provides different sections on strength, commitment, and experience for each part of the USP. This unusual format results in some redundancy but, more important, it results in invitations to challenge the assertions that sometimes represent the District's interpretation of events rather than evidence about progress.*

The District is changing the format for the 2015-16 annual report.