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SPECIAL MASTER'S RESPONSE TO OBJECTIONS TO THE SPECIAL MASTER'S 2015-16 ANNUAL REPORT

Introduction

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3 4	The District and the Fisher and Mendoza plaintiffs have filed objections to the content of
- 5	the Special Master's annual report (SMAR). This memo responds briefly to these objections and
6	recommends that the Court direct the Special Master to address these in the context of the 2016-
7	17 SMAR to be submitted no later than December 1, 2017.
8	Comments on Objections
9	The District critiques the SMAR by arguing:
10	1. The District worked hard to integrate the schools, contrary to the position taken by
11	the Special Master.
12	2. The District implemented policies and practices relating to discipline for which the
13	Special Master did not give adequate credit.
14	The Mendoza plaintiffs effectively repudiated the District's arguments in a filing dated August 8,
15	2017 (Doc.2048).
16	The Fisher and Mendoza plaintiffs argue that the Special Master should have drawn more
17	definitive conclusions about the failures of the District. The Special Master took the position that
18	he should point to lack of progress – as well as progress – by the District but that, before firm
19	conclusions are drawn, it is important to have at least three years of relevant data. This is
20	particularly important because the District advises that problems of ensuring that conflict over
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22	definitions of different ethnic categories for both students and staff was not reliably resolved until
23	data reported for 2014-15. ¹ While ambiguities in data over time probably do not significantly
24	influence conclusions one might reach without adjusting for the change in definitions, it seemed
25	$\frac{1}{1}$ Early in the implementation of the USP, the plaintiffe argued that the use of relatively new government
	¹ Early in the implementation of the USP, the plaintiffs argued that the use of relatively new government

Early in the implementation of the USP, the plaintiffs argued that the use of relatively new government definitions of ethnic groups, which had been adopted by the District, resulted in inaccurate counts of African American and Latino students. After much discussion, the parties agreed to new definitions. These changes in how students were categorized – which required a survey of about a thousand families – makes it difficult to compare data from the outset of the USP to more recent years.

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1 safer to focus on more recent data. Moreover, actions needed to implement many provisions of
2 the USP were not in place until more recent years.

- 3 Implicit throughout the Fisher plaintiffs' critique of the SMAR is the charge that the 4 Special Master – and the District – lack commitment to improve outcomes for African American 5 students. It is difficult to know how to respond to this general disposition. 6 The Mendoza plaintiffs raise 15 objections to the SMAR, although they ask the Court to 7 8 direct the Special Master to revise and supplement the SMAR in nine ways. Some of these would 9 involve re-computing many of the calculations, a task that is problematic given the challenges in 10 comparing early data to the more recent three years. In other cases, the amount of work required 11 by the District and the Special Master would be excessive – such as providing the racial 12 composition of the students riding each bus from home to school.² 13 Both the Mendoza and the Fisher plaintiffs' argument that the Special Master should be 14 making more definitive conclusions with recommendations for change is understandable. Within 15 16 the next several days, data for the last three years - in some cases four years - will be available 17 and firmer conclusions can be reached. In the 2015-16 SMAR, the Special Master has made 18 several recommendations to the District that may be more appropriate to make to the Court if 19 problems have not been resolved. In some cases, however, there may not be a practicable 20 solution to the inability of the District to meet certain criteria. 21 Recommendation to the Court 22 In the District's next annual report, to be provided on October 1, the District must 23 24 undertake analyses of the extent to which it has met the provisions of the USP. The Court should 25 direct the Special Master to reexamine the issues that the plaintiffs believe that the Special Master 26 2 Not only is this task extraordinarily difficult involving thousands of students, but students who ride school buses include, but are not limited to, the students about whom the Mendoza 27
 - plaintiffs are most concerned in this request, those bussed to promote desegregation.
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1	should have addressed in the 2015-16 SMAR taking into account new information and data that
2	will serve as the bases for his 2016-17 annual report. In this report, that will be delivered to the
3	Court by no later than December 1, 2017, the Special Master is required to reach conclusions as
4	to whether the District has met its responsibilities as outlined in the USP and to make
5	recommendations as to whether the Court should release the District from supervision or require
6	further action by the District.
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8	Respectfully submitted,
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10	/s/ Willis D. Hawley
11	Special Master
12	Dated: August 11, 2017
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1	CERTIFICATE OF SERVICE
2 3	I hereby certify that on, August 11, 2017, I electronically submitted the foregoing
4	SPECIAL MASTER'S RESPONSE TO OBJECTIONS TO THE SPECIAL MASTER'S 2015-16 ANNUAL
5	REPORT for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF
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