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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 responsibilities without undermining the work that they have been engaged in thus far? If either  
2 of these explanations describe how existing staff responsibilities essential to the achievement of  
3 unitary status can be performed, the District should undertake a reevaluation of the duties of  
4 current staff.

5  
6 Recommendation

7 The Court should require the District to submit budgets for the implementation of the  
8 completion plans that remain uncompleted. In those cases where the tasks are performed by  
9 current employees, the District should identify those tasks that these individual employees will no  
10 longer be performing.

11 **Funding for Consultants**

12 The Special Master and the Fisher and Mendoza Plaintiffs have raised questions about the  
13 hiring of consultants to carry out tasks that could in the future be the responsibility of District  
14 staff. The Special Master has consulted with researchers familiar with district budgets and  
15 determined that the amount invested by the District is not unusual. However, the District is  
16 poised to become a national leader in the implementation of culturally responsive and equity  
17 focused practices. In almost all cases where consultants are hired to undertake professional  
18 development, they bring with them and share with District staff their particular take on whatever  
19 the task is they are asked to facilitate. This means that the repertoire of knowledge and skills that  
20 the consultants seek to train District staff to undertake are unlikely to emphasize the importance  
21 of culturally responsive pedagogy and equity practices. When this is the case, District staff are  
22 likely to be confused about what the District's priorities are. District staff is almost certainly  
23 confused already about priorities when they are evaluated by a number of different instruments  
24 that emphasize different priorities and use different language for assessing teacher and  
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1 administrators' behavior. A senior member of the District leadership indicated to the Special  
2 Master that there were 11 different instruments in in TUSD used to assess staff practices.

3 Recommendation

4 The Special Master believes that the allocation in the proposed budget for consultants is  
5 satisfactory. He strongly recommends that the District examine the alignment of the various  
6 instruments used to assess teacher and administrator behaviors and that it hire consultants who  
7 share the District's commitment to culturally responsive and equity practices. Since it is unlikely  
8 that most of the consultants available have relevant expertise, the District should ensure that  
9 consultants reinforce rather than undermine the District's efforts to ensure that culturally  
10 responsive and equity practices are implemented by all staff. In addition, the District should  
11 undertake a review of the various instruments used to assess the effectiveness of teachers and  
12 administrators to ensure coherence and consistency. These actions do not require Court action.

13 **Out-of-State Travel for Recruitment**

14  
15 The USP specifies that the District should make efforts to recruit African American and  
16 Latino professional staff from throughout the country and especially in historically black colleges  
17 and universities. These efforts are costly and they have been unproductive. This is not  
18 surprising. Arizona's funding for public schools and teacher salaries is among the lowest of all  
19 the states in the union. This means that TUSD is competing for teachers and administrators,  
20 especially African American professionals, with districts that not only pay more but are more  
21 likely to have larger African American populations and the social infrastructure that affects the  
22 quality of life for African Americans.  
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25 Recommendation

26 The Court should advise the District that out-of-state travel for recruitment of professional  
27 staff is henceforth discretionary.  
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## 1 **Reduction in the Number of Mentors Servings Beginning Teachers in Underperforming** 2 **Schools**

3 Beginning teachers who are teaching in underperforming schools are more likely to leave  
4 the profession if they are not provided extra support. The USP reflects that reality. However, the  
5 District has reduced the number of teacher mentors. It justifies this action by saying that there are  
6 fewer beginning teachers being hired and fewer still being assigned to low performing schools  
7 and that Curriculum Service Providers can undertake the responsibilities once performed by  
8 mentor teachers. As is the case with a number of budget proposals, the District is adding the role  
9 of existing staff to provide essential tasks. The District has expanded the number of Curriculum  
10 Service Providers based on internal research that the District concludes has resulted in the  
11 improvement of student achievement. The job announcement for Curriculum Service Providers  
12 identifies dozens of activities for which they are responsible. Adding the tasks of mentoring  
13 beginning teachers to an already extensive list of responsibilities is likely to have two negative  
14 consequences: (1) a reduction in the effectiveness of Curriculum Service Providers to enhance  
15 instruction (their primary role), and (2) a reduction in the support of beginning teachers serving in  
16 underperforming schools. The District acknowledges that the formula for determining the  
17 number of mentors to support beginning teachers calls for the 34 mentors. The proposed budget  
18 calls for the appointment of 28 mentors.<sup>2</sup>

### 21 Recommendation

22 The Court should require the District to identify the number of mentors serving first-year  
23 teachers, second-year teachers, and first-year teachers serving in underperforming schools in  
24 accordance with the established formulas. The District should be required to fill those positions.  
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27 <sup>2</sup> Research undertaken at the direction of the Special Master indicates that in TUSD being taught  
28 by a teacher with less than four years experience accounts for significant variance in student achievement.

**Reading Recovery**

Reading Recovery it is one of the most effective strategies for enhancing the academic achievement of students who have fallen behind their peers in reading. It is an expensive program though some research has found it to be cost-effective in the long run. When this program was initially funded, there was agreement among the parties that the program could be expanded if it proved to be effective in TUSD. Internal research has found the program to be effective in TUSD. Moreover, Reading Recovery can be targeted on African American students better than most other academic interventions.<sup>3</sup>

**Recommendation**

The Court should require the District to increase the number of schools that provide Reading Recovery to their students. The number of RR teachers to be added should be determined by analysis of student need but should involve at least two additional RR teachers in the coming year.

**Staff Support for Family Engagement**

The Special Master, after consulting with the relevant member of Implementation Committee, has recommended that the District increase staffing to support the implementation of an extensive increase in strategies for engaging families in the education of their children. In the teleconference on the budget held on May 15, the District indicated that it would hire three such professionals. However, the budget does not appear to reflect this commitment. Moreover, the reorganization of student support programs for Latino students that was endorsed by the District calls for increased family engagement. In his recommendations, the Special Master suggested that these employees who would be supporting principals in the implementation of the new

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<sup>3</sup> Targeting interventions on African American students is difficult in TUSD because there are small numbers of African American students in most schools.

1 family engagement initiative might, with appropriate training, be current employees involved –  
2 for example – in the family centers, if funding was not otherwise unavailable.

3 Recommendation

4           The Court should direct the District to identify the sources of funding for the three new  
5 FTE that it says it will be added to support family engagement. If it plans to fill these positions  
6 from existing staff, the current responsibilities of these particular staff members should be  
7 identified. This is important because Plaintiffs have not had the opportunity to weigh in on the  
8 effects of strategies to implement the family engagement initiative should this involve a  
9 repurposing of existing personnel and, therefore, of existing functions.

11 **Funding for Integration**

12           The District notes that \$2 million was freed up from former (transition) magnet schools.  
13 This money, however, has not been allocated to strategies to promote integration despite the fact  
14 that Court has required the District to develop a comprehensive desegregation plan as part of its  
15 pursuit of unitary status. Moreover, the purpose of these transition monies was primarily to  
16 ensure that the students being served in the schools do not fall further behind. Some of the  
17 schools involved are among the schools performing below the District average – Utterback and  
18 Safford, for example. How will the continuing needs of students in the so-called transition  
19 schools be met without resources beyond those assured by formula? In its response to the Special  
20 Master’s draft of his Report and Recommendation on the 2019-20 budget, the District identified  
21 \$45,000 of the \$2 million that had been allocated to transition schools as costs for the selection  
22 process and for magnet schools. The District identified \$632,000 as expenditures related to  
23 magnet transportation and incentive transportation. This, however, accounts for a little more than  
24 one-third of the transition funding and is not connected to any estimates of increased numbers of  
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1 students riding buses for purposes of integration. The District is apparently substituting this  
2 transportation funding for expenditures that in the past have been derived from unspent funding.

3 Recommendation

4 First, the Court should require the District to explain why some of the transition funds are  
5 no longer needed in former magnet schools achieving below the District average. Second, it  
6 seems reasonable to withhold some significant amount of this \$2 million as an “integration  
7 contingency fund” until the desegregation plan is developed and its costs are identified. The  
8 Court should require the creation of such a contingency fund.  
9

10 **Issues Raised by the Mendoza Plaintiffs not Dealt with in the Special Master’s Draft R&R**

11 On June 13, the Mendoza Plaintiffs identified issues they felt the Special Master should  
12 have addressed in his Report and Recommendation draft. The following deals with the Mendoza  
13 Plaintiffs’ concerns.

14 Discipline

15 The completion plan ordered by the Court with respect to discipline calls for the District  
16 to develop a process to regularly assess that teachers have an understanding of District  
17 disciplinary practices and policies. The District proposes to assess teacher knowledge with an  
18 online quiz about the particular provisions of the Code of Conduct and the content of PBIS and  
19 Restorative Practices. Such knowledge is important, but more important is how teachers and  
20 administrators react when students exhibit behavior that is unacceptable. It appears that there is  
21 little professional development related to discipline that deals with behaviors of teachers and  
22 administrators when they confront what they perceive as inappropriate student behavior.  
23 Moreover, the evaluation of teachers and administrators seems more direct when the data related  
24 to the implementation of practices and policies relating to discipline are analyzed.  
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1 Recommendation

2 In addition to the assessment of whether teachers and administrators know the content of  
3 policies and practices relating to discipline, the District should be required to systematically  
4 analyze data on actions taken by District staff related to discipline. The Special Master  
5 understands that the District already does such analysis. Making this a specific requirement and  
6 linking it to necessary professional development should be incorporated in written District  
7 policies.  
8

9 Mexican American Student Services Department

10 The Special Master has consistently opposed the continuation of the student services  
11 departments. Therefore, he believes it is inappropriate for him to be recommending funding for  
12 these departments regardless of the amount.

13 Magnet School Budgets

14 The Mendoza Plaintiffs object to the continuation of funding for the coming school year  
15 based on funding for the 2018-19 school year. As the Mendoza Plaintiffs point out, magnet  
16 schools vary in their effectiveness and this implies that the District did not consider any  
17 differences in need for these schools in assessing the funding they needed for the coming year.  
18

19 Recommendation

20 The District should be required to explain the basis for its decision not to reallocate  
21 funding based on differences in the performance of the students in each of the magnet schools.

22 Reliance on Outside Vendors, Particularly with Respect to Tutoring Services

23 The District's decision to use private companies to provide tutoring services has been  
24 challenged in previous budgets and yet the District continues to want to invest in companies that  
25 have no solid evidence that they are effective. Moreover, the parties have consistently agreed that  
26 tutoring must be provided by certified staff or by small groups of tutors who are closely  
27 supervised by certified teachers. The District now employs a tutoring practice that has been quite  
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1 successful at Cholla High School affecting the success of students taking International  
2 Baccalaureate courses. In that model, teachers who teach the courses to students who need  
3 tutoring provide the support. There is an abundance of literature on effective tutoring. The  
4 District should be asked to identify the characteristics of effective tutoring identified in that  
5 research and that it be required, should it decide to utilize external providers of tutoring, to hire a  
6 company that uses these research-based practices and can provide empirical evidence of the  
7 efficacy of its services.  
8

9 **Issues Raised by the Fisher Plaintiffs**

10 On June 14, 2019, the Fisher Plaintiffs sent comments to the Special Master on his draft  
11 Report and Recommendation (*See* Exhibit 3). Some of these represent additional objections to  
12 the District's budget proposals and some request additional information. The Special Master will  
13 refer those questions to the District.  
14

15 The Fisher Plaintiffs generally agree with the proposals of the Mendoza plaintiffs and the  
16 Special Master. In addition, the Fisher Plaintiffs object to the funding for additional librarians  
17 and additional funding for seventh period days to the extent that 910-G funds are being used. As  
18 they have in past years, the Fisher plaintiffs object to the use of the company that performs the  
19 audit required by the USP. They argue that this firm, because of its ongoing relationship with the  
20 District, may be biased and does not conduct a sufficiently thorough audit. The Mendoza  
21 Plaintiffs and the Special Master do not share the concern of the Fisher Plaintiffs. The  
22 Department of Justice has not formally taken a position on this issue.  
23

24 Respectfully submitted,

25 \_\_\_\_\_  
26 /s/  
27 Willis D. Hawley  
28 Special Master

27 Dated: June 25, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 25, 2019, I electronically submitted the foregoing via the CM/ECF Electronic Notification System and transmittal of a Notice of Electronic Filing provided to all parties that have filed a notice of appearance in the District Court Case.

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Andrew H. Marks for  
Dr. Willis D. Hawley,  
Special Master