

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**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 RELATED TO THE 2019-20 BUDGET**

3 **Introduction**

4 The Special Master is making two reports to the Court with respect to (1) the District’s
5 proposed budget for 2019-20 and (2) the District’s compliance with the budget process. This
6 report deals with the former. On June 6, 2019, the Special Master prepared a draft of his report
7 and recommendation related to the 2019-2020 budget with respect to the expenditure of 910 G
8 funds.¹ The Special Master submitted this draft to the parties inviting corrections relating to facts
9 and omissions. The District (*see* Exhibit 1) and the Fisher (*see* Exhibit 3) and Mendoza (*see*
10 Exhibit 2) plaintiffs provided comments on the draft and those influenced the R&R filed with the
11 Court June 25, 2019. The District then amended its budget and the Mendoza in Fisher plaintiffs
12 filed further objections on July 13 and July 22.

14 This R&R should be substituted for the Special Master’s June 25 R&R to facilitate the
15 Court’s analysis. In this R&R, the Special Master focuses on the objections to the amended
16 budget by the plaintiffs and his own objections to elements of the budget that the District has
17 chosen not address in its final budget submitted to the Governing Board. The Special Master has
18 also read the July 26, 2019 filing by the District which involves a response the Mendoza
19 objections and those of the Special Master.

21 An assessment of the District’s budget with respect to the use of 910 G funds is inherently
22 problematic. At least two distinctive characteristics of this case complicate the budget review.
23 First, the USP covers of a much broader scope of District activity than most desegregation plans
24 so there are many more issues that affect the decisions that the District makes. Second, there is a
25

27 ¹ This budget includes expenditures from other sources of funding that affect the adequacy of
28 investments of 910 G funds.

1 sizeable amount of money involved the uses of which our debatable. The District has the legal
2 authority to allocate funds to particular priorities and the plaintiffs and the District, particularly at
3 this stage of the District's pursuit of unitary status, should be given wide berth in the decisions
4 that it makes. This means that the objections of the plaintiffs and the Special Master cannot be
5 grounded on preferences and personal experience. In making objections and recommendations,
6 the Special Master has been guided by the following decision rules with respect to objections:
7

- 8 1. Whenever possible, proposed expenditures should be justified by research. When
9 research is inadequate, expert consensus can be substituted for research.
- 10 2. A great many activities in which schools engage are not based on research but on local
11 traditions and conditions. Objections to these practices should be sustained if there is
12 evidence of feasible and more effective strategies to achieve the relevant goals.
- 13 3. Expenditures should be targeted on high priority goals that have been clearly identified by
14 the Court or the Governing Board or school leaders vested with relevant authority.
- 15 4. The beneficiaries are disproportionately African American and Latino students. This is a
16 desegregation case with a specific amount of funds meant to remedy past discrimination
17 and segregation.
- 18 5. 910 G funds should not be used to supplant M&O funds.

19
20
21 Prior to the award by the Court of unitary status, the parties should agree on the decision
22 rules with respect to the allocation of resources. These decision rules should include formula for
23 adding resources so as to minimize the conflict among the parties going forward.

24 **Funding for Completion Plans**

25 There are no funds specifically identified as resources to implement the many completion
26 plans that the District has been ordered by the Court to put in place. When asked about the
27 absence of such funding for the completion plans that must be carried out in order for the District
28

1 to receive unitary status, the District initially indicated that it would include such expenditures in
2 the third version of the budget. Subsequently, the District indicated that these funds were spread
3 throughout the budget and could not be readily specified. In general, the District appears to
4 believe that it can implement these completion plans, as well as all of the actions it is already
5 undertaking, by assigning the responsibilities for implementing completion plans to existing staff.
6 This practice by the District means that the plaintiffs and the Special Master cannot assess the
7 adequacy of the District's budget proposals for the coming year. It may be that a significant
8 number of District staff are working on tasks that no longer require their efforts or that full-time
9 staff are not, in fact, working full time. In other words, how can staff take on important new
10 responsibilities without undermining the work that they have been engaged in thus far? If either
11 of these explanations explain how existing staff responsibilities essential to the achievement of
12 unitary status, the District should undertake a reevaluation of the duties of current staff.

15 In defense of position, the District makes some interesting arguments about budgeting,
16 arguments that the Special Master, who teaches courses on strategic budgeting, finds untenable.
17 The District argues, for example, that there is no relationship between programmatic change and
18 program costs. Further, throughout its critique of the positions taken by the Mendoza plaintiffs
19 and the Special Master, the District implies that it can develop implementation plans without
20 identifying how many people in what positions will be needed.

22 Recommendation

23 The Court should require the District to submit budgets for the implementation of the
24 completion plans that remain in play. In those cases where the tasks are performed by current
25 employees, the District should identify those tasks that these individual employees will no longer
26 be performing. The Fisher and Mendoza plaintiffs agree with the Special Master's objection and
27 his recommendation.
28

1 **Funding for Consultants**

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

19 Recommendation

20 The Special Master believes that the allocation in the proposed budget for consultants is
21 satisfactory assuming that the District intends, as it professes to do, to use consultants to build
22 internal capacity for those practices that prove to be effective. He strongly recommends that the
23 District examine the alignment of the various instruments used to assess teacher and administrator
24 behaviors and that it hire consultants who share the District's commitment to culturally
25 responsive and equity practices. Since it is unlikely that most of the consultants available have
26 relevant expertise, the District should ensure that consultants reinforce rather than undermine the
27
28

1 District's efforts to ensure that culturally responsive and equity practices are implemented by all
2 staff. In addition, the District should undertake a review of various instruments used to assess the
3 effectiveness of teachers and administrators to ensure coherence and consistency.

4 **Out-of-state Travel for Recruitment**

5 The USP specifies that the District should make efforts to recruit African American and
6 Latinx professional staff from throughout the country and especially in historically black colleges
7 and universities. These efforts are costly and they have been unproductive. This is not
8 surprising. Arizona's funding for public schools and teacher salaries are among the lowest of all
9 the states in the union. This means that TUSD is competing for teachers and administrators,
10 especially African American professionals, with Districts that not only pay more but are more
11 likely to have larger African American populations and the social infrastructure that affects the
12 quality of life of African Americans.
13
14

15 Recommendation

16 The Court should advise the District that out-of-state travel for recruitment of professional
17 staff is henceforth discretionary.

18 **Reduction in the Number of Mentors Servings Beginning Teachers in Underperforming** 19 **Schools**

20 Research in other Districts shows that beginning teachers who are teaching in
21 underperforming schools are more likely to leave the profession if they are not provided extra
22 support. The USP reflects that reality. However, the District had reduced the number of teacher
23 mentors. It justified this action by saying that there are fewer beginning teachers being hired and
24 fewer still being assigned to low performing schools and that Curriculum Service Providers can
25 undertake the responsibilities once performed by mentor teachers. The District has since agreed
26 not to use CSPs this way. However, the formula for allocation of mentors remains opaque and is
27
28

1 misstated by the District in its July 26 and would need to be amended clarified if the Court were
2 to act on the following recommendation by the Special Master.

3 Recommendation

4 The Court should require the District to identify the number of mentors serving first-year
5 teachers, second-year teachers, and first-year teachers serving in underperforming schools in
6 accordance with the established or amended formulas. The District should be required to fill
7 those positions. The Mendoza plaintiffs agree with this recommendation. The USP requires that
8 extra support be provided to beginning teachers serving in underperforming schools **and** racially
9 constituted schools. There is nothing about a student's race that complicates a teacher's task. To
10 assume that there is to presume that African American and Latino students are inherently
11 deficient in their capacity to learn. The District should not be required to provide support to
12 beginning teachers in racially concentrated schools when African American and Latino students
13 in those schools are achieving above the District average or median, whichever is highest, for two
14 years. The Special Master has made a similar recommendation previously and it was opposed by
15 the Mendoza plaintiffs.

16 **Reading Recovery**

17 Reading Recovery it is one of the most effective strategies for enhancing the academic
18 achievement of students who have fallen behind their peers in reading. It is an expensive
19 program though research has found that it can any be cost-effective in the long run. When this
20 program was initially funded, there was agreement among the parties that the program could be
21 expanded if it proved to be effective in TUSD. The District is critical of the Special Master for
22 not reminding it of this agreement.

23 Internal research has found the program to be effective in TUSD. Moreover, Reading
24 Recovery can be targeted on African American students better than most other academic
25
26
27
28

1 interventions.² In response to the Special Master's recommendation in his June 25 R&R, the
2 District agreed to add one additional reading recovery teacher. The Special Master believes this
3 is inadequate. The District's own research demonstrates the efficacy of this program may be the
4 most promising intervention the District could implement to enhance the academic achievement
5 of African American students.

7 Recommendation

8 The Court should require the District to increase the number of schools that provide
9 Reading Recovery to their students. The number of RR teachers to be added should be
10 determined by analysis of student need but should involve at least two additional RR teachers in
11 the coming year. These teachers should be assigned to work in schools with the largest number
12 of African American students. The focus on African American students was part of the original
13 rationale for the use of RR because, as noted, this intervention lends itself to meeting the needs of
14 a relatively small number of students in different schools. The Fisher and Mendoza plaintiffs
15 support the greater use of RR by TUSD.

17 **Funding for Integration and "Transition" Schools**

18 The District notes that \$2 million was freed up from former (transition) magnet schools.
19 This money, however, has not been allocated to strategies to promote integration despite the fact
20 that Court has required the District to develop a comprehensive desegregation plan as part of its
21 pursuit of unitary status. Moreover, the purpose of these transition monies was primarily to
22 ensure that the students being served in the schools do not fall further behind. Some of the
23 schools involved are among the schools performing below the District average – Utterback and
24 Safford, for example. How will the continuing needs of students in the so-called transition

27 ² Targeting interventions on African American students is difficult in TUSD because there are
28 small numbers of African American students in most schools.

1 schools be met without resources beyond those assured by formula? In its July 25 filing, the
2 District notes that it is added almost \$1 million to the budgets of these transition schools but does
3 not explain what needs will be addressed with what strategies In its response to the Special
4 Master's draft of his R&R on the 19-20 budget, the District identified \$45,000 of the two million
5 dollars that had been allocated to transition schools as costs for the selection process and for
6 magnet schools. The District identified \$632,000 as expenditures for related to magnet
7 transportation and incentive transportation but this is not a new initiative. This, however,
8 accounts for a little more than one-third of the transition funding and is not connected to any
9 estimates of increased numbers of students riding buses for purposes of integration. The District
10 is apparently substituting this funding for transportation for expenditures that in the past have
11 been derived from unspent funding.
12

13
14 In its response to the Special Master's proposal for a set aside to support the
15 implementation of strategies for furthering integration, the District asserted that there is not
16 enough funds and that if the Special Master or the plaintiffs think this is an important addition to
17 the budget they should identify decreases of an equivalent amount of money from the 19-20
18 budget. This proposal is, of course, facetious. The District is not prepared to give the Special
19 Master or the plaintiffs' authority to allocate 910 G funds, though they would have no difficulty
20 in doing so. In their objections to the budget, the Mendoza plaintiffs provide suggestions and the
21 Special Master has proposed elimination of the student support departments that would cover the
22 cost of a set aside. However, since it is unlikely that the District would be able to implement
23 anything of consequence in the coming year, the Special Master now recommends that \$1 million
24 be set aside should there be opportunities or necessary funding for planning and training. Finding
25 the money is not difficult, the District already proposes to over spend revenue by more than \$1
26 million because the District knows that it will not come close to spending all the money budgeted
27
28

1 because of unforeseen circumstances such as the inability to fill certain positions. Since the
2 unspent funds have been at least 4 million a year in the past, the District might be asked to
3 identify a priority greater than integration.

4 Recommendation

5 First, the Court should require the District to explain why some of the transition funds are
6 no longer needed in former magnet schools achieving below the District average. Second, it
7 seems reasonable to withhold some significant amount of this \$2 million as an “integration
8 contingency fund” until the desegregation plan is developed and its costs are identified.³ The
9 Court should require the creation of such a contingency fund.
10

11 **Discipline**

12 The completion plan ordered by the Court with respect to discipline calls for the District
13 to develop a process to regularly assess that teachers have an understanding of District
14 disciplinary practices and policies. The District proposes to assess teacher knowledge with an
15 online quiz about the particular provisions of the Code of Conduct and the content of PBIS and
16 Restorative Practices. Such knowledge is important but more important is how teachers and
17 administrators react when students exhibit behavior that is unacceptable. It appears that there is
18 little professional development related to discipline that deals with behaviors of teachers and
19 administrators when they confront what they perceive as inappropriate student behavior.
20 Moreover, the evaluation of teachers and administrators seems more direct when the data related
21 to the implementation of practices and policies relating to discipline are analyzed.
22
23
24
25

26
27 ³ For example, the District says that it’s integration plan will include procedures for implementing
28 a new magnet school. It is highly unlikely that this could be done without cost.

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. The Mendoza plaintiffs concur in this recommendation.
8

9 **The Teacher Diversity Plan and Grow Your Own Programs**

10 In December 2018, the District filed a notice and report of compliance related to teacher
11 diversity plan and “Grow Your Own” programs. The Special Master responded to this filing
12 indicating that the District had made little progress in increasing the number of schools with a
13 racially diverse staff.
14

15 In his R&R, the Special Master did not include recommendations about the diversity of
16 administrative staffs as required by the USP. As the Mendoza plaintiffs point out, the District’s
17 proposals focus on the diversity of teachers in particular schools. The Special Master did not
18 engage the issue of administrative diversity because research tells us that the instability in school
19 level and District level leadership is a major impediment to school improvement. However, the
20 provisions of the USP related to the diversity of school level leaders could and should apply to
21 administrative staff while allowing the superintendent to exempt particular schools from this
22 requirement when it is in the interest of students to do so. For example: (1) in schools with dual
23 language programs administrative teams might well be entirely Latino, (2) when a principal and
24 assistant principal team that has been working well together is moved to a new school it may be
25 desirable to maintain that team and(3) when a principalship becomes open, the District may wish
26 to place an African American or Latino candidate in that position even if it does not affect the
27
28

1 diversity of the administrative team.

2 In its proposals with respect to GYO programs, the District focused on school
3 administrators. The Mendoza plaintiffs draw attention to the Court’s direction that the District
4 should increase its efforts to recruit and support the preparation of “teachers of color” (TOC).
5

6 The Mendoza plaintiffs point out that the District has provided the Special Master and the
7 plaintiffs with two different numbers for the number of first-year teachers teaching in racially
8 concentrated and underperforming schools. The District should reconcile this inconsistency and
9 differentiate among second year teachers, first-year teachers, and first-year teachers teaching in
10 racially concentrated and underperforming schools. As he has in earlier filings, the Special
11 Master urges that the extensive mentoring of new teachers in racially concentrated schools be
12 eliminated as a requirement for the District. There is nothing about the race of students that
13 complicates teaching or affects their ability to learn. To assert otherwise implies that students of
14 color are inherently poor students relatively speaking. Of course, teachers who employ culturally
15 responsive pedagogy for all their students will be more effective but this is true regardless of their
16 students’ race.
17

18 The Mendoza plaintiffs asked the Court to require that the District include a statement of
19 efforts made to fill the position before hiring a first-year teacher who is not African American or
20 Latino. This seems unnecessary. If the District does not make a sincere effort to recruit teachers
21 of color, it is unlikely to say that it did not make such an effort. The Mendoza plaintiffs also want
22 the Court to require that the District receive additional support and assistance for those beginning
23 teachers or found to the performing and unsatisfactory ways. This practice is already part of the
24 District’s policies and there seems no reason for the Court to require what the District already
25 does.
26
27
28

1 The Mendoza plaintiffs want the District to include in the initial paperwork the particular
2 customized support strategies (mitigation) it would provide to new teachers in low performing
3 schools. This seems like a reasonable request and would certainly facilitate monitoring of the
4 implementation of this requirement of the USP.

5
6 Recommendations

7 The Court should eliminate the requirement for exceptional support for beginning teachers
8 who serve in racially concentrated schools where students perform above the District average.
9 The Court should require the District to identify the mitigation strategies for beginning teachers
10 serving in schools performing below the District average. The District should be directed to
11 develop grow your own programs for teachers of color.⁴

12 **Student Services Departments**

13
14 The Mendoza plaintiffs object to the District's budget for the Mexican American student
15 services Department. The Fisher plaintiffs do not support the plans submitted by the District for
16 the African American Student Services Department. They implicitly argue that the activities
17 funded are not highly productive but they do not identify alternative investments addressed to
18 meet the needs of African American students.

19 The Special Master has consistently opposed the continuation of the student services
20 departments primarily because the work of these departments should be the responsibility of the
21 core activities with District. Therefore, he believes it is inappropriate for him to be
22 recommending funding for these departments, regardless of the amount.
23

24
25
26
27

⁴ There growing evidence that being taught by an African American teacher has a positive
28 influence on the achievement of black students.

1 **Magnet School Budgets**

2 The Mendoza plaintiffs object to the continuation of funding for the coming school year
3 based on funding for the 2018-19 school year. As the Mendoza plaintiffs point out, magnet
4 schools vary in their successfulness and this implies that the District did not consider any
5 differences in need for these schools in assessing the funding they needed for the coming year.
6 However, there are variations in the extent to which 19-20 proposals or influenced by each
7 school's 18-19 allocations. Among the reasons for this is that the District is using actual teacher
8 salaries rather than average teacher salaries for the 19-20 budget and is basing its proposals on the
9 actual expenditures rather than budgeted amounts. The 2nd of these reasons may be that be school
10 was unable to hire personnel and therefore was unable to undertake activities that were seen as
11 essential when the budget was approved. In any event, it is difficult for the Special Master and
12 the plaintiffs to assess whether the budgets represent appropriate responses to student needs.
13
14

15 The Special Master acknowledges that he is confused by the District's response to the
16 Mendoza plaintiffs. On the one hand, the District implies that the funding in each school
17 remained the same in the aggregate and in the context of the same argument the District says that
18 it adapted funding to meet the needs of individual schools. It then describes what seems a unique
19 approach to budgeting by saying that..." sites adjust how resources are used but work to remain
20 within their existing budget amounts." In the example they give for Holladay Elementary school,
21 the District eliminated three master teachers, three instructional specialists and one magnet
22 teachers. They replaced these individuals with a data intervention specialist, in 2.5 teaching
23 assistants and notes that the budgeted amount for the school is exactly the same for the past year
24 and the next. I seems quite an achievement given that the District was using actual salaries and
25 actual expenditures in projecting costs for the coming year but not the last. While the Special
26 Master does not know what the problems are that the District was seeking to solve but the
27
28

1 research is very clear that investing in teaching assistants is a low payoff strategy. In his visit to
2 the school, the Special Master learned from the school principal that the master teachers in her
3 school and made a significant difference in the school's high-performance on the District
4 benchmark goals.

5
6 Recommendation

7 The District should be required to explain the basis for its decision not to allocate funding
8 based on differences in the performance of the students in each of the magnet schools. If
9 positions in the 18-19 budget were terminated, the District should explain why those positions are
10 no longer needed.

11 **Reliance on Outside Vendors, Particularly with Respect to Tutoring Services**

12 The District's decision to use private companies to provide tutoring services has been
13 challenged in previous budgets and yet the District continues to want to invest in companies that
14 have no solid evidence that they are effective. Moreover, the parties have consistently agreed that
15 tutoring must be provided by certified staff or by small groups of tutors who are closely
16 supervised by certified teachers. The District now employs a tutoring practice that has been quite
17 successful at Cholla High School affecting the success of students taking International
18 Baccalaureate courses. In that model, teachers who teach the courses to students who need
19 tutoring provide the support. There is an abundance of literature on effective tutoring.

20
21
22 Recommendation

23 The Court should require the District to identify research-based characteristics of effective
24 tutoring. The District should be required, should it decide to employ external providers of
25 tutoring, to hire a company that uses these research-based practices and can provide empirical
26 evidence of the efficacy of its services.

1 **Implementing Family Engagement at School Level**

2 The District initially proposed to allocate equivalent of three FTEs to the support of
3 school sites in effectively implementing new school level provisions for family engagement. The
4 District did name the current employees who would assume these responsibilities. Two new
5 positions were added. Since the 3 existing staff members who will now be carrying out new
6 functions,⁵ this means that the family engagement activities of the District will be carried out by
7 one less person but the District does not explain what activities will not be carried out.
8

9 The District asserts that the Special Master recommended that the District hire three
10 additional employees to support the implementation of school level family engagement
11 initiatives. But he did not. In his recommendations, the Special Master suggested that these
12 employees who would be supporting principals in the implementation of the new family
13 engagement initiative might, with appropriate training, be current employees involved – for
14 example – in the family centers, if funding was not otherwise unavailable.
15

16 Recommendation

17 The District should be required to explain to the plaintiffs and the Special Master what
18 activities currently performed by the persons who will be facilitators of school level family
19 engagement will no longer be provided. This is important because plaintiffs have not had the
20 opportunity to weigh in on the effects of strategies to implement the family engagement initiative
21 should this involve a repurposing of existing personnel and, therefore, existing functions. This is
22 not a recommendation, necessarily, for increasing the number of FTE to be added to the family
23 engagement responsibilities of the District.
24

25
26 ⁵ The decision to provide staff support to schools implementing new school level engagement
27 practices is based on research at Johns Hopkins University with which the District is partnering, that
28 concludes that the support person can serve up to 30 schools. The District has 85 schools that will be
served.

1 **Librarians and Seventh Period Days**

2 The Fisher plaintiffs object to the funding for additional librarians and additional funding
3 for seventh period days to the extent that 910 G funds are being used. Only two librarians are
4 funded from 910 G monies. These are dual language schools and are not new.

5 The Fisher plaintiffs also object to using 910 G funds to create 7th period days at particular
6 schools arguing that the criteria for determining where these quite costly restructuring of the
7 school day should be located are unclear and do not appear to focus on schools serving African
8 American and Latino students. The District's response is that more than a majority of students in
9 the school are African-American and Latino. There are 2 issues here. First, if this expensive
10 strategy for school improvement is to be sustained, the District should provide evidence that this
11 is relatively cost-effective. Second, if the 7th. Day – the main justifications for this is that it will
12 facilitate teacher problem-solving and professional development – is shown to be cost-effective,
13 should the cost be funded from M&O or 910 G funds?
14

15
16 Recommendations

17 The Court should require the District to undertake an analysis of the cost-effectiveness of
18 7th period days. The USP requires District staff at all levels to learn new practices and effectively
19 implement them. Arguably, having the extra time for staff learn how to effectively implement the
20 many elements of the USP is essential to the effectiveness of the policies and practices embedded
21 in the USP. The Special Master believes that 2 more years of investing in seventh period days is
22 a reasonable expenditure of 910 G funds. This issue should be revisited in budgeting for the 21-
23 22 school year. In summary, the Court should not require the District's alter its budget for
24 librarians and 7th period days.
25
26
27
28

EBAS

The Fisher and Mendoza plaintiffs both argue that the evidence based accountability system (EBAS) should not be wholly funded from 910 G. The District argues that the funding for EBAS from 910 G funds has been consistent. What it does not say is that 910 G funding has accounted for about half of the cost of EBAS in previous years. This means, of course, that the funding for this essential element of the USP is being cut significantly.

All Districts have some version of student information systems. TUSD's EBAS is substantially more robust than those in most Districts and it plays a fundamental role in guiding decision-making from the classroom to the board level. Moreover, once the District is awarded unitary status by the Court, the role of EBAS will not diminish but will actually increase in importance. Therefore, it is essential that if there to be effective resolution of this case, that EBAS continue to develop and become an integral part of the school system's ability to engage in continuous improvement. This means not only that the technology continue to improve,⁶ but that the training of staff with respect to its utilization also continue.

Recommendation

Arguably, EBAS may be the most important element of the USP in the long run. The Special Master recommends that EBAS be funded with a combination of 910 G funds and M&O funds at past ratios. If costs incurred in the development of EBAS are not recurring, the District should explain why this it is so and the total budget can be adjusted accordingly.”

Transportation

The Fisher plaintiffs express concern regarding the District's 910 G funding for transportation. The District asserts that transportation expectations within the USP result in a

⁶ For example, one would expect that developments in the field of artificial intelligence will allow school Districts to make much more effective use of their resources and provide teachers with the level of support and guidance not now possible.

1 50/50 cost breakdown between 910 G and M &O.

2 Recommendation

3 The District should submit an analysis of transportation expenses that explains this 50/50
4 delineation.

5 **Audit**

6 As they have in past years, the Fisher plaintiffs object to the use of the company that
7 performs the audit required by the USP. They argue that this firm, because of its ongoing
8 relationship with the District, may be biased and does not conduct a sufficiently thorough audit.
9 The Mendoza plaintiffs and the Special Master do not share the concern of the Fisher plaintiffs.
10 The Department of Justice has not formally engaged this matter.

11 **Clarification**

12 On page 12 of the District's recent filing, the District lists a number of increased
13 expenditures, "as described by the Special Master." The Special Master is unaware of any report
14 that he has made that lists the funding cited here. This is noted to be clear that there is no
15 endorsement nor objection by the Special Master to these items. His objections are those noted in
16 this Report and Recommendation.
17
18
19

20 Respectfully submitted,

21 _____
22 /s/
23 Willis D. Hawley
24 Special Master

25 Dated: July 30, 2019
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 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.

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