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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                   **SPECIAL MASTER’S REPORT AND RECOMMENDATION**  
2                   **RELATING TO THE DIVERSITY OF SCHOOL**  
3                   **LEVEL STAFFS AND GROWN YOUR OWN PROGRAMS**

4                   **Introduction**

5                   In December 2018, the District filed a notice and report of compliance related to teacher  
6                   diversity plan and “Grow Your Own” programs. On February 19, 2019 the Special Master filed a  
7                   report and recommendation specifying actions that the Court should take in order to ensure, to the  
8                   extent practicable, that students would experience racially diverse teachers and that the GYO  
9                   programs would result in a more diverse leadership cadre in the District. On April 22, 2019, the  
10                  Court directed the District to submit a supplemental notice and report of compliance. On May 22,  
11                  2019 the District filed a supplemental notice and report of compliance. On June 5, 2019, the  
12                  Mendoza plaintiffs filed objections to the District’s proposal identifying concerns not discussed  
13                  by the Special Master’s February Report. This current R&R modifies the earlier R&R to  
14                  incorporate some of the concerns identified by the Mendoza plaintiffs and addresses some other  
15                  issues not dealt with adequately in District’s May 22 notice and report.

17                  In its December 2018 filing, the District outlined how it would address two other related  
18                  concerns: (1) retention of school staff and (2) centralizing the hiring process. No objections were  
19                  raised with respect to the District’s proposals to deal with these two matters.

21                  **Discussion**

22                  The District’s May 22 supplemental notice and report of compliance with respect to  
23                  teacher diversity and GYO programs is a substantial step forward in spelling out how the District  
24                  will enhance the effectiveness of its strategies to increase the diversity of teachers and school  
25                  administrators both at the school level and districtwide.

26                  In his February R&R, the Special Master did not include recommendations about the  
27                  diversity of administrative staffs. As the Mendoza plaintiffs point out, the District’s proposals  
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1 focus on the diversity of teachers in each school. The Special Master did not engage the issue of  
2 administrative diversity because research tells us that the instability in school level and District  
3 level leadership is a major impediment to school improvement. However, the provisions of the  
4 USP related to the diversity of school level leaders could and should apply to administrative staff  
5 while allowing the Superintendent to exempt particular schools from this requirement when it is  
6 in the interest of students to do so. For example: (1) in schools with dual language programs  
7 administrative teams might well be entirely Latino; (2) when a principal and assistant principal  
8 team that has been working well together is moved to a new school, it may be desirable to  
9 maintain that team; (3) when a principal has served in the school two years or less; and (4) and  
10 when a principalship becomes open, the District may wish to place an African American or  
11 Latino candidate in that position even if it does not affect the diversity of the administrative team.  
12 The general point here is that moving school leaders who are effectively guiding school  
13 improvement efforts could be counterproductive.

14 While the TDP has resulted in movement of a number of teachers and increased the  
15 teacher diversity in some schools, a number of schools that do not have sufficient diversity has  
16 me not changed very much (10 schools lacked proscribed diversity in 18-19) after two years of  
17 implementing the TDP. All of the teachers who agreed and to move wanted only one of the  
18 incentives, a \$5,000 stipend. Providing an incentive as large as \$5,000 runs the risk of losing  
19 teachers once the stipend is eliminated. Studies of cognitive dissonance suggest that the larger  
20 the incentive to undertake a particular task, the more likely it is that the person so incentivized  
21 will cease doing the task when the incentive is removed. Some alternatives are:

- 22 a. An initial incentive of \$5,000 with \$2,500 in the next two years.
- 23 b. Since the idea of having a senior individual with authority to negotiate a package  
24 of incentives, specifying that all teachers would receive a monetary incentive of  
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1 the same amount limits the customization referred to by the Court.

2 c. Teachers might be given additional incentives other than \$2,500 in cash.

3 Providing cash as an incentive does nothing to increase the capabilities of teachers  
4 and the human resources that the District have to improve student performance.

5 d. The size of the financial incentive might vary with the number of students  
6 achieving below the District average.  
7

8 In its proposals with respect to GYO programs, the District has focused on school administrators  
9 and not teachers. The Mendoza plaintiffs draw attention to the Court's direction to the District to  
10 increase its efforts to recruit and support the preparation of "teachers of color" (TOC). Moreover,  
11 the GYO programs have not yielded a disproportionate number of African American and Latino  
12 or administrators. Given the social context in America in which racial discrimination is common  
13 it would be surprising of African American and Latino teachers are optimistic about their chances  
14 of attaining leadership positions. The District should not wait on African I American and Latino  
15 educators to pursue leadership positions. It follows that affirmative action is required. This  
16 means that the race of potential leaders should be taken into account and African American and  
17 Latino candidates of high potential to be identified early in their careers and provided with  
18 opportunities to demonstrate their capability  
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### 21 **Recommendations**

22 1. A full time individual should be tasked with implementing the TDP and grow your  
23 own programs, at least until the plans have been proven successful.

24 2. The downside of the District's plan for implementing the TDP is that it could  
25 introduce excessive instability in staffing. For this reason and others, once the  
26 plan has been implemented there would be no need to initiate the TDP every year.

27 However, a specific time period and criteria for activating the plan should be  
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identified. Of course, if the District works to meet the provisions of the TDP in making assignments, maintaining diversity will be much easier over time.

3. The District should not limit its incentives to a single dollar amount.

4. In addition to following up on the collaborative arrangements the District has initiated with postsecondary institutions, the District should be pursuing the possibility of providing certification for uncertified staff, including paraprofessionals, a strategy other Districts have found to be effective and likely to increase the probability of retention. Another strategy that has been used in other districts is called Teacher Cadet programs. These programs – that are sometimes treated as honors courses where students learn about learning – create student chapters at high schools and students can test their interest in teaching by providing tutoring under the guidance of teachers and provided with opportunities to learn what is involved in preparing to become a teacher.

Respectfully submitted,

/s/  
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Willis D. Hawley  
Special Master

Dated: August 9, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 9, 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