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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 **RE STUDENT SUPPORT DEPARTMENTS**

3 **Overview**

4 The Special Master has consistently urged the Court to terminate the
5 Mexican American Student Support Department and the African American Student
6 Support Department arguing that they duplicate current functions and that there is
7 little evidence that the departments have been effective. The Court has rejected this
8 recommendation but has required the District to work with the plaintiffs to improve
9 the functioning of these departments. The District worked to develop a proposal
10 with the Mendoza plaintiffs which the Mendoza plaintiffs initially endorsed.
11 However, the District subsequently made several changes and the Mendoza
12 plaintiffs object to a number of these. Whatever discussions the District had with
13 the Fisher plaintiffs appears not to have reached a satisfactory conclusion because
14 the Fisher plaintiffs do not endorse the District’s proposal for reorganization and
15 want to start on the development of a new proposal, the fundamentals of which the
16 District appears to be opposed. Part One of this report and recommendation
17 focuses on the limitations the Special Master believes characterize MASSD. Part
18 Two addresses the proposed reorganization of the African American Student
19 Services Department (AASSD).
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26 It should be noted that there is no documented need for the MASSD or the
27 AASSD and no explanation for why the Departments will better serve students than
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1 the core departments responsible now for the work that the District's proposals
2 assign to the student support departments.

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4 Part One: MASSD

5 The MASSD proposal calls for a staff of eight program specialists (PS). The
6 department director, a coordinator and an administrative assistant. The PS are to be
7 based in separate schools but principals in other schools may request support from
8 any of these PS. Presumably, these PS will be based in schools where the need for
9 their services is greatest (though some of the PS responsibilities are not school-
10 based) and it is almost certain that the students in the schools that house the PS will
11 receive more substantial services than other students in the District. When the
12 support of services directly to students is involved, the PS are to focus their
13 attention on Mexican American/Latino students in need of tier 2 or tier 3
14 interventions. Thus, these staff members are expected to have skills that exceed
15 those of the students' teachers and counselors.

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20 *Problems with the Proposal*

21 In order to draw attention to the limitations of the proposed restructuring of
22 the student support departments, the Special Master raises several issues that are not
23 addressed by either the District or the Mendoza plaintiffs:

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25 1. Students in need of tier 2 or tier 3 interventions typically have more
26 problems than those defined by the position descriptions of individual
27 PS. For example, students performing poorly in academic matters are
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1 often truant and more likely to be involved in misbehavior that
2 requires disciplinary action. How will those needs be addressed,
3 especially when the PS are housed in different schools?
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- 5 2. Who is to address the needs of students who are having behavioral
6 problems if the PS in that school is an academically focused person?
7
- 8 3. In many cases, students struggle with particular subject matter. If the
9 students in school A are having trouble in math but the PS is a reading
10 specialist, how will the students be served?
11
- 12 4. Who will serve the needs of the 30% + TUSD students who are not
13 African American or Latino?
14
- 15 5. Who will serve the needs of Latino students who are having behavioral
16 difficulties when the PD assigned to their school is an African
17 American?
18
- 19 6. The District has recently added staff and increased its capabilities with
20 respect to some of the functions to be performed by the departments?
21 For example, staff and their functions have been increased with respect
22 to family engagement.
23
- 24 7. Virtually all of the functions of the PS are the responsibility of other
25 staff members throughout the District. Would it not be more
26 productive to devote resources to enhancing the capability of the
27 people already responsible for meeting the needs of the students with
28

1 whom the PS would work? A particularly nonsensical notion is that
2 there is a need for another staff person to enhance culturally relevant
3 course teaching and curriculum. The CRPI department, which is
4 responsible for ensuring the integrity and quality of culturally relevant
5 courses, is extraordinarily well staffed (better than any District's
6 support for curriculum development and implementation) and can
7 provide support for numerous teachers throughout the District.
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10 8. Assigning the PS for behavioral matters to be essentially a lawyer and
11 advocate for students facing severe discipline will pit the PS against
12 teachers and the schools. This is what was happening with the African
13 American ethnic studies department prior to the implementation of the
14 USP.
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17 9. Students in families that are in the schools at which the PS are based
18 will inevitably have better access to relevant services than students
19 who are not – if the expertise of the PS in that school is relevant to the
20 problem students are having. The plan calls for principals in other
21 schools to file a request for support for particular students. How
22 comfortable will principals be in acknowledging that they or their
23 teachers cannot deal with their students effectively?
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1 10. The scope of the responsibilities of particular PS vary widely with
2 some of their tasks being much more extensive and complex than
3 others. This poses a resource allocation problem of some difficulty.
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5 The Mendoza plaintiffs identify numerous omissions and changes in the plan
6 they initially agreed to but it is not clear what the consequences of these omissions
7 and changes would be. With respect to the omissions, the District addresses some
8 of these in its response to the Mendoza objections that the District filed on October
9 7, but since it is not possible to know what effects might occur if the Mendoza
10 plaintiffs' proposed additions are not adopted, the Special Master is unable to make
11 relevant judgments and recommendations.
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14 The sheer volume of the connections, acts of coordination, and other
15 activities that the Mendoza plaintiffs want to see in the plan might be considered
16 evidence that it is not realistic to imagine that eight people can pull this off.
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18 Part Two: AASSD
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20 As noted, the Fisher plaintiffs oppose the District's proposed reorganization
21 plan. Their objections reflect doubt that the District's assertions are correct and take
22 the form of a series of questions and requests for information. The District has
23 made it clear that it will not support the Fisher proposals for reorganization, which
24 the Fisher plaintiffs seem to make with reluctance. It makes little sense to send the
25 District and the Fisher plaintiffs back to the drawing board to find yet another
26 structure for the AASSD that satisfies both parties. Instead, the AASSD, which has
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1 been moving to implement the District's proposal during this fall term, should be
2 given a chance to demonstrate its efficacy. To introduce uncertainty to the current
3 staff and to the activities in which they are now engaged, seems dysfunctional.
4

5 **Recommendations Relating to Both Departments**

6 More than 1,500,000 dollars will be invested in these departments. In most
7 cases, the staff functions of these departments duplicate the responsibilities of staff
8 in other departments of the District. One exception to this generalization is the
9 student mentors who, if they are properly trained, will provide support to students
10 they would not otherwise receive.
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12
13 If the Court believes that these departments serve vital needs otherwise
14 unmet by the District, the program specialists should be based in a single office
15 where they can learn from one another, identify needs not being met, and be
16 allocated to the schools and students most in need. A primary function of each of
17 the program specialists should be to provide professional learning opportunities for
18 teachers who need to enhance their expertise. If the departments are to provide
19 support throughout the District, it is essential that they be highly expert and they
20 should be paid accordingly. Over time, the PS should be cross-trained so that they
21 can better diagnose the sources of problems and collaboratively design strategies
22 for improvement. Some of the more expert PS could also serve the Superintendent
23 by reviewing proposals under development by the leadership team for the District.
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1 The Special Master does not recommend that the District and the Fisher
2 plaintiffs try again to agree about what action should be taken and to reorganize and
3 re-staff the AASSD for reasons cited above.
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5 District should, as the Mendoza plaintiffs request, develop a rigorous
6 evaluation plan that could be reviewed by the plaintiffs and the Special Master early
7 next term, if not before. The District should evaluate the effectiveness of both
8 departments as soon as possible following the end of the current school year so that
9 any changes in structure can be made before the beginning of the next school year.
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12 The District is suggesting that the roles of the PS transition away from the
13 provision of direct services to students. The Special Master recommends that if the
14 court sustains the existence of the service departments, that this transition occur as
15 soon as possible given activities already underway. If this is supported by the
16 Court, this would allow the consolidation or elimination of the roles of some of the
17 PS (e.g., parent and community outreach could be combined, CRC support and
18 college and career readiness could be eliminated because those functions are the
19 responsibility of core departments and there is no evidence to believe that these
20 positions are necessary. As noted, CRC courses are already very well supported.
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24 Respectfully submitted,

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 /s/
 Willis D. Hawley
 Special Master

27 Dated: October 29, 2019
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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 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