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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 AMENDED REPORT AND**
 2 **RECOMMENDATION RELATING TO**
 3 **CRC, CRP PROFESSIONAL LEARNING AND MC PLANS**

4 Overview

5 This Amended Report and Recommendation clarifies elements of the original Report and
 6 Recommendation and establishes that the academic benefits of CRC have been documented.

7 The District filed its completion plans with respect to culturally relevant courses (CRC), a
 8 related professional learning plan and multicultural curriculum (MC) on August 23, 2019. The
 9 Mendoza plaintiffs filed their objections to these plans on September 23, 2019 and the Fisher
 10 plaintiffs filed their objections on September 20, 2019. There were no objections to the MC or
 11 the CRP professional learning plan for teachers so the Special Master is not addressing those
 12 plans. The Fisher objections take the form of a set of questions that appear to reflect their doubts
 13 that the benefits from CRC claimed by the District occur. At least one of the questions they ask is
 14 addressed by the District’s filing on October 7, 2019 (Doc. #2324-1) – in which they list the CRC
 15 offered in each of the District schools.¹

17 The Mendoza plaintiffs submit three objections. First, that the District does not provide a
 18 comprehensive framework with respect to CRC implementation. Second, that the District fails to
 19 provide a clear description of how CRC relate to other elements of the USP empathizing the
 20 Mexican American Student Support Department (MASSD) (and by implication the African
 21 American Student Support Department) and the family engagement plan (FACE). Third, the
 22 District’s description of how it trains school administrators who evaluate teacher competency
 23 with respect to CRP is inadequate. The Special Master addresses of each of these three concerns.

27 ¹ The Fisher plaintiffs have long opposed the offering of CRC.
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1 The Adequacy of a Comprehensive Framework

2 The District response to the Mendoza criticisms objections by citing different
3 characteristics of its report which it claims represents a comprehensive framework. The Mendoza
4 plaintiffs assert that such a framework should include the specific strategies and timelines for
5 implementing CRC in each of the District's schools. The Mendoza plaintiffs also expect the
6 comprehensive framework to address the dilemma that derives from the fact that some students
7 prefer to take CRC rather than AP courses because the CRC courses are taught by teachers "with
8 whom they can relate better." While this last concern may seem idiosyncratic, it draws attention
9 to the difference between CRC courses and more traditional curriculum. The CRC courses, while
10 they substitute for certain core courses, are taught from either an African-American or Latino
11 perspective and they seek to develop among the students a greater sense of academic self-
12 confidence and an understanding of the barriers they may confront as students of color and how
13 to deal with them. So, the way these courses are taught and the dispositions of the teachers who
14 offer them are more critical to their success than are most courses. It is easy to see why these
15 courses appeal to the students who enroll in them but, at the same time, there are limits on the
16 numbers of teachers who can maximize the effectiveness of these courses. This is a constraint on
17 the diffusion of CRC and represents a caution about rapid expansion, especially at the high school
18 level². The expansion of any technology which involves considerable variation in implementation
19 often leads to a weakening of the effects of the technology.³
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25 ² Below the high school level the content of CRC is offered as part of another course
26 which covers both perspectives for much shorter period of time. Because CRC are part of other
27 courses in the curriculum, when those courses are offered may vary.

28 ³ In organizational theory jargon, such technologies are described as "intensive" and
fidelity to the model is often problematic. That is the case with respect to CRC.

1 It would not be productive to develop a five-year plan for implementing the CRC because
2 the wisdom of doing this depends heavily on the ability to recruit and mentor teachers who offer
3 these courses. Moreover, the District has committed to providing an unusual amount of support
4 for teachers at all grade levels who teach the content of CRC meaning that offering such courses
5 is more expensive than offering more traditional courses. The concept of the framework, as
6 opposed to an operational plan, often has the following characteristics: the theory that explains
7 the importance or efficacy of a given action, the essential characteristics of the program and the
8 reasons those characteristics are fundamental, the challenges to effective implementation, and
9 strategies for addressing those challenges. The District's plan does some of this but not all.

11 In an effort to address the requirements set by the court, both the Mendoza plaintiffs and
12 the District suggests that CRP should be thought of as the more encompassing concept. Arguably
13 the CRC is one of many elements of the USP that are dependent on the ability of staff to be
14 culturally responsive in implementing everything from instruction to discipline to the creation of
15 inclusive and civil environments.

17 Interrelationships Between Organizational Units Involved with CRC

18 Mendoza plaintiffs cite the Court's requirement that the District develop an executive
19 summary of the success of its efforts to implement the USP and this would include how the
20 various elements of the USP are dependent on one another. But this requirement by the Court is
21 not specific to CRC. It is one thing to describe how the success of CRC depends on its
22 relationships to particular elements of the USP, and quite another to describe all the different
23 ways that CRC affect the overall success of the USP or how other elements of the USP might
24 affect success of CRC courses. As noted, the Mendoza plaintiffs focus attention on how MASSD
25 has related to the CRC but the functions and responsibilities of the MASSD are now being
26 studied and may be importantly altered. These decisions should be made in the next several
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1 weeks at which time the District should modify this description of the relationships among
2 organizations directly involved in the effective implementation of CRC.

3 Training of Administrators to Evaluate Teacher Competence with Respect to CRP

4 In a review of end of year evaluations of teachers undertaken by the Special Master and a
5 member of Implementation Committee three years ago, they found virtually no mention of
6 specific instructional strategies much less CRP. Whether this is still the case is not known. There
7 does not appear to be any process to measure the validity and reliability of assessments of teacher
8 or administrator proficiency with respect to CRP. Presumably, the District assistant
9 superintendents have this responsibility but so far as the Special Master understands, the assistant
10 superintendents focus on the evaluation of principals and there is nothing in the principal's
11 evaluation instrument that deals with their proficiency in evaluating their teachers with respect to
12 CRP.
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15 Recommendations

16 A rigorous study of the academic benefits of CRC courses was undertaken by established
17 scholars and published in the leading education journal. There have in other studies that attest to
18 the academic benefits of culturally responsive pedagogy. An intuitive argument can be made that
19 CRC, and especially CRP, would have the other non-academic benefits the District claims for
20 them. But if it is to make such claims, the District should document them because this is not
21 conventional wisdom at the moment.
22

23 When the structure and functions of the MASSD and AASSD are determined by the
24 Court, the District should modify the description of the relationships among organizations directly
25 involved in the effective implementation of CRC.

26 The District should present evidence to the plaintiffs and the Special Master that the
27 training of administrators to evaluate the CRP competencies of teachers is effective.
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Respectfully submitted,

/s/

Willis D. Hawley
Special Master

Dated: November 21, 2019

CERTIFICATE OF SERVICE

I hereby certify that on November 21, 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

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