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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 **ON INCLUSIVE SCHOOL ENVIRONMENT AND CIVILITY**

3 Overview

4 The Mendoza plaintiffs object to the District’s completion plan for inclusive school
5 environments on the grounds that the District failed to collaborate with the Special Master as
6 ordered by the Court. This collaboration was to take place with respect to the assessment of the
7 efficacy of the strategies to achieve greater inclusive and civil school environments and the
8 professional learning plan for these matters. The Fisher plaintiffs object to granting unitary status
9 to the District on the grounds that the disproportionality in the administration of discipline for
10 African-American students is increasing. However, both the incidence of discipline and the rates
11 of disproportionality declined, except for the 18-19 school year when the trends for all racial
12 groups increased somewhat. The reductions in disproportionality for African-American students
13 were significantly greater than any changes in the disproportionality for other races.

14 Efficacy of Strategies

15 The District conducted two empirical studies, one dealing with an analysis of student
16 survey data and the other of a pilot program of implementation for restorative practices. The
17 District and the Special Master collaborated on the design of the studies and both were conducted
18 with appropriate statistical analysis. The Court directed the District to study the relative
19 effectiveness of the major strategies used to promote inclusiveness and civility in TUSD. The
20 Special Master advised the District that such a study was not possible because all of the tools that
21 were being used to promote the outcomes desired by the Court and the parties were being
22 implemented simultaneously and it would not be possible, without an elaborate experimental
23 design that would likely be resisted by families, to separate the effects of these different strategies
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1 not only because they overlapped but because they were employed at different times for different
2 purposes in each school in the District.

3 In lieu of that study, the District conducted a review of relevant literature and an inquiry
4 about the practices used in other districts. The District collaborated with the Special Master to the
5 extent that the Special Master approved the approach. The Special Master did not indicate what
6 research should be examined. He did urge the District to look into various approaches to social
7 and emotional learning (SEL), which the District did. The purpose of this literature review and
8 the survey of other Districts was to identify strategies that might be used if it was determined that
9 the strategies being used by the District needed to be augmented. While reaching no firm
10 conclusions about a particular practice, the District indicated that should it need additional
11 practices, SEL would be the context in which those practices would be developed and
12 implemented.
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15 While an empirical study of the efficacy of particular strategies would be extremely
16 difficult methodologically, one strategy that the Special Master suggested that the District
17 undertake is what is called an outlier analysis. A common way to conduct such an analysis is to
18 identify those schools that are particularly effective in minimizing the extent of disciplinary and
19 civility problems as well as those that appear at the other end of the scale of effectiveness. The
20 District's study of the pilot implementation of a particular restorative practices program has some
21 of the characteristics of an outlier study but only five schools were involved and they were not
22 selected because of the range of the extent of their effectiveness in dealing with discipline and
23 civility. One of the advantages of an outlier study is, as the small study of restorative practices
24 showed, that variation in efficacy is often related to a number of factors with respect to
25 implementation itself rather than the practice. By looking at commonalities among successful
26 and unsuccessful schools, the District can develop an understanding of the challenges that it needs
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1 to anticipate if it expects positive outcomes from any particular intervention or set of
2 interventions. Another advantage is that it identifies schools that can serve as models for other
3 schools and school administrators and teachers and they can facilitate professional development
4 among their peers. Such a study is also relatively easy to do.

5 Professional Learning Plan

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7 When one looks at the studies and practices reviewed, it is clear that the majority of
8 studies and the policies and practices in other districts deal with prevention including the
9 development and maintenance of positive school cultures. Several of the studies also deal with
10 remedies in the form of strategies to respond to misbehavior in ways that develop a positive
11 school culture. The content of the professional learning plan focuses on those policies and
12 practices. What is missing from the literature and therefore from the District's analysis of how to
13 improve discipline practices is how teachers and administrators can productively engage
14 offenders in real time – immediately following the events. This is particularly important for those
15 disciplinary actions that are categorized as disorder or aggression which are often administered
16 disproportionately in other districts, especially with respect to African American boys. Of course,
17 prevention of inappropriate behavior and the development of positive school cultures should be a
18 first priority. But the next step for the District is to identify promising practices by teachers and
19 administrators, especially within TUSD, for reducing tension and resolving conflict at the
20 moment incidents occur. In the absence of such effective behaviors, discipline problems can
21 worsen. Using role-playing and other interactive strategies will facilitate the learning of these
22 techniques.

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25 The District's interest in SEL is a positive development that should be nurtured. Project
26 MORE, which is one of the sites in which students are allowed to participate rather than being
27 suspended from school for relatively long terms, has used SEL with positive results including
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1 reduction in the degree of recidivism. Evidence about the efficacy of SEL indicate that it has
2 many benefits, not just with respect to school cultures and the development among students of so-
3 called executive functions (e.g. self-control), but with respect to student achievement. Because
4 SEL has significant benefits for most students, the District should be encouraged to develop an
5 approach that it believes, on the basis of research reviewed, would have positive consequences.
6 Having a cadre of teachers and administrators who have implemented SEL will allow the District
7 to move quickly to implement SEL more broadly should this be desirable in schools in which the
8 major strategies underway are not effective. SEL is not a particular action that can be
9 implemented in a few days because different aspects of SEL fit nicely with other discipline and
10 civility strategies the District is already implementing. That should make it easy to implement
11 but it is important that its elements are applied with intention and to recognize that different
12 strategies may be more productive for some problems than others.

15 A close reading of the professional learning plans for this year and the last indicate
16 significant redundancy. The Special Master asked the District about this and was told that: the
17 schedule for the current year should be seen as a placeholder and that the content is changed as
18 formal and informal assessments are undertaken to determine the training needed in more or less
19 real-time. The strategy of continuing assessment of the need for professional learning relating to
20 discipline and civility is intended to be partially job-embedded and the closer the training is to the
21 identification of the need for improvement, the more effective the training will be. Some of the
22 training is a continuation of prior training and some is for persons new to the District.

24 Recommendations

25 Given the socioeconomic and racial diversity in the District, the positive evidence about
26 student dispositions and their perceptions about the schools in which they are enrolled suggest
27 that the District has built a good foundation upon which further progress can be made. There is
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CERTIFICATE OF SERVICE

I hereby certify that on November 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.

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