

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 RECOMMENDATION WITH**
2 **RESPECT TO THREE YEAR PLUS PIP AND MAGNET PLANS**

3 Overview

4 This Court and the USP establish two sets of criteria relating to (1) the creation and
5 maintenance of magnet school status and (2) school integration. Of course, magnet schools must
6 be integrated or on their way to integration and they must also meet academic standards. The
7 current definition of integration is peculiar to TUSD and needs to be changed before unitary
8 status is granted for reasons described below. In addition, academic standards for magnet schools
9 also need to be changed because the parties disagree about those standards and they cannot be
10 enforced because they include state-level data not available. The District and the Special Master
11 have been involved in developing a draft of academic criteria for consideration by the plaintiffs
12 but those deliberations are still underway.

13
14 The effort reflected in the Court’s directions to the District that are covered by this
15 completion plan is to provide the framework for strategies that move the District forward with
16 respect to integration. The District’s response to the Court is reasonable but it is constrained by
17 two limiting conditions. First, it assumes that the primary goal is to increase the number of
18 schools that are “integrated.” The second is that the definition of integration derived from the
19 USP is flawed in fundamental ways.

20
21 Defining Integration

22 The most common reason for pursuing integration is to provide as many students as
23 possible the opportunity to learn with and from people different from themselves. Most research
24 on school desegregation uses a definition that yields the likelihood that students of different races
25 will interact with one another. The Special Master assumes that the parties share this conviction
26 and does not here elaborate on the benefits of integration. The definition of integration in the
27
28

1 USP is that no school can be more than 70% of any given race, which in Tucson means Latino
2 students, and may not be more or less than 15% of each race at the four levels of school grade
3 structures (K-5/6, 6-8, K-8, and high school – with some variation in the lower grades).¹ This
4 definition of integration was opposed by the three persons named as expert consultants, one of
5 whom felt so strongly that he resigned as a consultant. However, the District insisted on the
6 definition now in the USP on the incorrect assumption that the racial demographics of the District
7 would make it very difficult to achieve integration if any other measure were used. The
8 consequence of using the USP definition as a measure of success is that students in some schools
9 would have a much greater opportunity to engage in positive interracial interactions in schools
10 *that are not integrated* than they would in some schools that are “integrated.” For example, by
11 the definition of integration in the USP, a school with 39% white students, 39% Latino students,
12 10% African American students, and 12% other races would not be integrated.
13
14

15 The District has recently been emphasizing the learning and developmental opportunities
16 that derive from attending schools that are integrated to promote integration. But using the USP
17 definition of integration would confuse parents who are likely to pass up excellent opportunities
18 for an integrated education because some exceptionally well integrated schools would not be so
19 described. Moreover, eligibility for free transportation to integrated schools would not apply to
20 many schools that are actually integrated.
21

22 Since the District’s response to the Court’s direction essentially lays out its plans going
23 forward was based on the USP’s definition of integration, the District’s consideration about
24 alternative strategies to promote integration in its consideration of different options were limited.
25

26 ¹ To make it possible for the District to integrate schools over time, the process for integrating is
27 employed at the entry grade for each level of school and must be sustained thereafter as students move
28 through the grades in that school.

1 Academic Criteria for Magnet Schools

2 The District's discussion of academic criteria in Document 2326 filed on October 7, 2019
3 implies that the Special Master and the District have agreed on the academic criteria for magnet
4 schools. That is not the case. The Mendoza plaintiffs object to the District's proposed academic
5 criteria as being insufficiently rigorous and, at the same time, are unclear. The Special Master
6 agrees with the Mendoza plaintiffs.
7

8 Recommendations

9 Because of the inappropriate and misleading definition of integration now in place, it is
10 not possible for the District to develop a sensible strategy to promote further integration. It is also
11 not possible to have a meaningful transportation plan since virtually all of the USP-related
12 transportation deals with facilitating and incentivizing integration going forward. The absence of
13 agreed-upon academic criteria that magnet schools would have to meet make it inappropriate to
14 set priorities for sustaining the magnet status of existing magnet schools much less determining
15 the potential other schools have for becoming a magnet school. The Special Master therefore
16 recommends that the Court require the District to work with the Special Master to modify its
17 plans for building on the success it has had in the last two years in promoting integration. The
18 Special Master believes that this task can be accomplished by early January. This is feasible
19 because the District has done a considerable amount of work on the proposed plan that can be
20 repurposed. And, the Special Master believes that the level of detail that the Mendoza plaintiffs
21 want to see in the plan for the future is not necessary and, indeed, could be dysfunctional.²
22
23
24
25

26 ² General of the Armies Dwight Eisenhower once observed that plans are not particularly useful
27 but planning is, by which he meant that in the midst of action, plans are almost always adapted in
28 important ways and that this is made possible by the careful planning that preceded the action involved.
The Special Master believes that is the case here.

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

Respectfully submitted,

/s/
Willis D. Hawley
Special Master

Dated: November 25, 2019

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 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