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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 THE DISTRICT’S PROGRESS WITH RESPECT TO DISCIPLINE**

3                   This report and recommendation is basically a summary of initial analysis of the District’s  
4 progress in reducing the amount and disproportionality of discipline and related actions. It is  
5 identified as preliminary because there are some important questions that require additional  
6 information or clarification from the District that will require several days for the District to put  
7 the needed information together.

8                   The Special Master and members of the implementation committee have reviewed  
9 objections by the plaintiffs and evidence presented by the District. Members of the  
10 implementation committee have examined various aspects of the disciplinary process and how  
11 identified the need for some additional information before Special Master can recommend that the  
12 District be declared unitary with respect to discipline concerns.

13                   Evidence presented by the District shows positive trends for short and long-term out-of-  
14 school suspension with respect to both disproportionality and what the District calls the  
15 “likeliness ratio” (the difference between the number of white students in the number of African  
16 American and Latino students. Further, the data show that between 2014-15 and 2018-19 the  
17 total number of discipline actions lessened considerably. In the case of disproportionality, an  
18 issue of great concern to all of the parties, the data showed no or little disproportionality for white  
19 and Latino students and shows that the percentage of disproportionality for black students was  
20 halved. The District reports that the District’s record in this respect is considerably better than the  
21 rates and proportions of discipline in the state and nation.

22                   The District did hire a director of discipline who seems to be developing routines and  
23 ways of reporting data though there is work to be done in this regard, see below. The Mendoza  
24 plaintiffs identified some shortcomings in the section of the what works website. But the district  
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1 has made a good start and has the capability to significantly improve what they have done so far.  
2 The individuals responsible for the website have asked the Special Master to work with them and  
3 he has agreed to do so at no cost to the district.<sup>1</sup>

4           However, there are some matters that require further information. While the trends just  
5 noted are important, the number of disciplinary actions for all students increased in 2018-19  
6 coincidental with the implementation of a new code of conduct. Offenses described as  
7 aggression, which tend to be those most likely to be the types of discipline that are most heavily  
8 disproportional, went up during the first quarter of this year and the fourth quarter of the previous  
9 year. One would expect, based on the history the of most districts that the rates of discipline will  
10 vary from year to year but the reasons for the upturn just mentioned need to be explored.

11           The issue of the validity of the data as reported from school sites is of concern in most  
12 districts. It is not clear what the processes are that the District uses to assess the completeness  
13 and accuracy of the reporting. One instrument that the District uses to assess responsiveness from  
14 school principals was not fully filled out for many schools. And there are some extraordinary  
15 examples of unlikely occurrences. With respect to disorderly conduct, over a three-year period  
16 the number students charged with such offenses changed from over 986 to 30.

17           It is not clear how the District deals with “supportive action plans” (previously called  
18 corrective action plans). There is reason to believe that the District’s response to these varies as  
19 does the level of support.

20           What has the District done to ensure that the reporting of data fit the mandates of the  
21 Court. For example, where are students who participate in DAEP? What has the District done to  
22 ensure that the data can be accurately compared from year-to-year especially with respect to the

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27 <sup>1</sup> The Special Master has considerable experience developing online learning environments funded  
28 by the federal government, the National Education Association and two private foundations.



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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.

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