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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                   **RELATING TO THE TEACHER DIVERSITY**  
3                   **PLAN, RETENTION, AND GROW OWN PROGRAM**

4                   Introduction

5                   There were no objections to the Special Master’s report on retention in which he  
6                   concluded that the data indicated that there was no evidence of discrimination or job  
7                   dissatisfaction related to race. Therefore, this R&R deals with teacher diversity (TDP) and grow  
8                   your own programs (GYOP).

9                   The reasons why it is necessary to grow your own teachers and administrators are clear.  
10                  There is a national teacher shortage and most administrators are drawn from the teaching corps  
11                  and the difficulty of recruiting and retaining quality staff is particularly difficult in Arizona which  
12                  is ranked at the bottom of all the states in being teacher friendly. The average teacher salary for  
13                  all teachers in Tucson is close to the starting salary of teachers in many districts. Moreover, the  
14                  problem of recruiting and retaining teachers of color is and has been a national problem.

15                  One reason for seeking teacher diversity at a school site is that teachers who share the  
16                  cultural and socioeconomic experiences of their students are in a position to better understand  
17                  what students bring with them to the classroom and this understanding facilitates effective  
18                  teaching. In addition, teachers with varied backgrounds can help each other see different ways to  
19                  solve the problems that inevitably confront virtually all schools that seek to maximize learning  
20                  opportunities and outcomes of their diverse students. And, when students see teachers who look  
21                  like them, they may be more confident that they can achieve academically and be part of a  
22                  meaningful profession.

23                  Initially, the District simply advertised internally for candidates inviting those who might  
24                  be interested to apply to both the teacher diversity plan and grow your own programs. In the  
25                  version outlined in the most recent completion plans, the District, at the direction of the Court,  
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1 will appoint a full-time director of talent acquisition who will be charged with proactively  
2 recruiting both transfer teachers and candidates for the various grow your own programs. In the  
3 job announcement for this position, the qualifications do not include any experience or  
4 professional education with respect to education. A person who understands schools and the  
5 opportunities and challenges involved in teaching and school leadership would seem to be an  
6 ideal candidate for the Director position. This does not mean that a person with a background in  
7 human resources would not be a good candidate as well.

#### 9 The Teacher Diversity Plan

10 The benefits of teacher diversity in the District as a whole are enhanced when the diversity  
11 is represented in individual schools. In most school districts, white teachers are a majority and  
12 that is true in TUSD. Percentage-wise there are roughly twice as many Latino students as there  
13 are Latino teachers in TUSD and there are fewer African American teachers in TUSD than there  
14 are schools. The first year that the results of the teacher diversity plan were available was 2016-  
15 17. Twenty-six schools were identified by the Special Master as target schools for  
16 implementation and the District was to achieve diversity in that year in at least half of those  
17 schools and would have an additional year to achieve diversity in the other schools. The District  
18 was able to meet the criteria for diverse status in about 11<sup>1</sup> of the 26 schools though the District  
19 claimed that it need only count Latino teachers in assessing its success. The plaintiffs, the Special  
20 Master and the Court disagreed with this position so that the current strategy for assessing  
21 diversity at the site level is that the number of teachers in each school must be between 15% ±  
22 of the District percentage of white and Latino teachers at each of the four levels of school  
23 structures. In 2019-20, the number of District schools that were diverse by standards established  
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27 <sup>1</sup> The exact number depends on what measure of diversity one uses but it is no more than half in  
28 any event.

1 by the USP was 10. In assessing whether a particular school did not meet the criteria for diverse  
2 status by a small amount, the Special Master took into account the total number of teachers of  
3 color on the grounds that this was consistent with the rationale for teacher diversity in 2016-17.  
4 Using that same approach for 2019-20, the number of schools that could be considered having  
5 diverse teaching staff is 12. The parties and the Court agreed that dual language schools would  
6 be exempted from the diversity provisions of the USP because the teachers need to be fluent in  
7 Spanish.  
8

9       The parties and the Court agreed that no teacher would be involuntarily transferred to a  
10 school in order to achieve diversity but that transfer policy and the placement of beginning  
11 teachers would be affected by the impact on diversity in a given school. Thus, incentives would  
12 be used to recruit transfers and a broad range of incentives were available from which a teacher  
13 could choose. In practice however, teachers chose the financial incentive which was initially  
14 \$2500 for three years. This was changed in the next year to \$5000 per teacher per year. Forty-  
15 four teachers initially transferred, 11 of whom left the school to which they had transferred the  
16 next year. Because all of the transferring teachers chose the financial incentives, the District has  
17 eliminated the other incentives while at the same time giving the director the opportunity to use  
18 additional incentives. It would seem more clear to potential candidates and to the director to keep  
19 open the broad range of incentives available in the original TDP.  
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#### 22       *Administrator Diversity*

23       The initial TDP did not adequately address the issue of administrator diversity at the  
24 school site level as required by the USP. The new plan proposed by the District addresses that  
25 issue and the completion plan submitted by the District provides a bare-bones description of the  
26 approach it will take to recruit administrators to transfer schools or to make appointments to  
27 school level positions. The modal number of administrators in schools is one since there is only  
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1 one administrator in elementary schools. The criteria for determining diversity that the District  
2 seems to endorse is the 15%  $\pm$  rule, the same as the criteria for teachers. However, it seems more  
3 sensible to actually provide target numbers of administrators when all but a small number of  
4 schools have more than three administrators. For example, schools with two or three school site  
5 administrators would be expected to have at least one administrator of color and that person  
6 should be Latino or African-American while schools with four or more site administrators should  
7 have at least two administrators of color, at least two of whom should be Latino or African-  
8 American.  
9

10 The District has four different grow your own programs one of which also has four  
11 different tracks. The District has undertaken a seemingly extensive search of grow your own  
12 program that the other districts and has engaged in a review of the literature. However, the  
13 plaintiffs have drawn attention to the fact that the majority of the candidates in grow your own  
14 programs for administrators have been and are white. The Court has a directed the District to  
15 remedy that problem as well as the grow your own teacher programs that do not involve  
16 requirements for Spanish proficiency. The District has pledged to increase the numbers of  
17 teachers and administrators of color in these GYOP. Since one might assume that because the  
18 primary purpose of grow your own programs is to enhance diversity and the District fell well  
19 short of meeting the goals set by the Court, it is important that the District have a plan for how it  
20 will actually identify and recruit promising candidates and prepare them for different roles so that  
21 there is a pool of well-prepared candidates to assume positions when the openings occur.  
22 Presumably, some form of an affirmative action program cutting across all of these GYOP would  
23 be appropriate but this could be controversial and affect morale among District teachers who are  
24 white and who make up the substantial majority of teachers in the District. This might even be  
25 contested as racially discriminatory.  
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1 Recommendations

2 White teachers and administrators shall be counted in assessing the diversity of schools.

3 Schools may be considered racially diverse if: (a) the percentage of white and Latino teachers are  
4 within two percentage points of the plus or minus 15% criterion or (b) the percentage of the  
5 second largest number of teachers of any given race is at least 50% of the percentage of teachers  
6 who are either white or Latino<sup>2</sup>.

7  
8 In large schools, the teaching staff in these schools may be considered diverse if the  
9 number of Latino and white teachers fall outside the targets but there are a significant number of  
10 other teachers of color.

11 The range of incentives available to motivate teachers and administrators to transfer  
12 should be similar to those incentives that were authorized in the initial TDP. The director need  
13 only use those incentives that are effective in individual cases.

14  
15 The original 26 schools targeted for increasing diversity should be targeted as the goal for  
16 2020-2021. Thereafter, starting with staffing for the school year 2021-2002, the District shall,  
17 every three years, identify the schools that need more diverse teaching and administrative staffs.

18 The District shall diversify its administrative teams in schools with more than one  
19 administrator for the 2020-2021 school year using these guidelines: schools with two or three  
20 school site administrators would be expected to have at least one administrator of color and that  
21 person should be Latino or African American while schools with four or more site administrators  
22 should have at least two administrators of color at least two of whom should be Latino or African  
23 American.  
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25 \_\_\_\_\_  
26 <sup>2</sup> This would be a new policy based on the fact that in some schools that do not meet the 15%  
27 requirement, needed because some schools with significant diversity among teachers (e.g., white and  
28 Latino teachers are virtually equal in number).

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The District shall develop a proactive plan for prioritizing the recruitment and selection of teachers and administrators of color through GYOPs. The plaintiffs may review this plan and submit their comments to the Special Master. When the Special Master approves this plan and changes in the provisions of the TDP related to the recommendations above (henceforth to be called the diversity plan<sup>3</sup>), the District shall be awarded unitary status for the related provisions in the USP.

Respectfully submitted,

\_\_\_\_\_  
/s/  
Willis D. Hawley  
Special Master

Dated: December 13, 2019

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<sup>3</sup> The District has changed the name of the program because it encompasses administrators as well as teachers.

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 13, 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