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**UNITED STATES DISTRICT COURT
FOR THE 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)

CV 74-204 TUC DCB
(Consolidated Case)

**FISHER PLAINTIFFS'
OBJECTIONS AND
OBSERVATIONS TO THE
SPECIAL MASTER'S ANNUAL
REPORT**

Maria Mendoza, et al.
Plaintiffs,

United States of America,
Plaintiff-Intervenor,

v.
Tucson Unified School District No. One, et
al.

Defendants.

Introduction

After carefully reviewing the Special Master’s Annual Report (Document 2026, filed on 06/15/2017, hereby SMAR) that the Special Master indicates primarily references the 2015-2016 fiscal year, the Fisher Plaintiffs address the highlights of a report that affects the African-American students in TUSD. The Fisher Plaintiffs reviewed the content of the SMAR objectively, with the glaring issues facing the African-American students in TUSD in mind. It is most disheartening to the Fisher Plaintiffs that the SMAR contains an overall sense of inconclusiveness generated by a failure to recommend solutions to issues that are integral to the heart and soul of the Fisher Plaintiffs’ lawsuit. The Order Appointing the Special Master (Document 1350, filed on 01/06/2012) states that, at a minimum, the SMAR is to include “evaluation of the effectiveness of programs and provisions established in the USP and recommendations for further review or revisions to these programs and provisions;” (Page 8, Section C). The Fisher Plaintiffs contend that the SMAR fails to appropriately accomplish this minimum requirement. Instead, the Special Master routinely offers only a report of the issues facing the District and is notably silent when it comes to recommendations or revisions that would presumably confront these issues. In addition, the SMAR contradicts previous positions on certain issues held by the Special Master which generates a sense of confusion for the Fisher Plaintiffs. Third, The Fisher Plaintiffs are deeply disappointed that the Special Master draws no conclusions from the data supplied by the District or prior Requests for Information in order to determine what degree, if any, the District has made towards attaining

1 Unitary Status. Again, this is a failure of the SMAR to fulfill the minimum requirements outlined in
2 the Order Appointing the Special Master that states the SMAR must include “findings of fact as to
3 whether the District is on schedule for completion of the USP within the time frames established
4 therein,” (Document 1350, page 8, Section D). Thus, the Fisher Plaintiffs express their concerns
5 and complaints with the SMAR, specifically the failed minimum requirements of the report and the
6 Special Master’s silence on issues vital to the Fisher Plaintiffs.
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8 **Academic Achievement**

9 The Special Master writes **on page 2** of the SMAR (Document 2026) that the report “seeks
10 to focus on the challenges most in need of attention in the District’s pursuit of unitary status” yet
11 does not, in a matter deemed meaningful by the Fisher Plaintiffs, address the achievement gap that
12 exists between African-American students and Anglo students in TUSD. It is discouraging to the
13 Fisher Plaintiffs that the Special Master does not meaningfully include the issue of the achievement
14 gap in his report that apparently “focuses on work that remains to be done” (**page 2**). It appears
15 contradictory to the Fisher Plaintiffs that the Special Master refrains from discussion in regard to
16 the achievement gap while still noting the purpose of the desegregation case to “eliminate or reduce
17 significantly the vestiges of past segregation and discrimination” (page 2), of which the
18 achievement gap is an obvious one. Perhaps, the Special Master’s exclusion of discussion regarding
19 the achievement gap is because there is no credible evidence of closing of the achievement gap
20 between Anglo and African-American students throughout the duration of this case. The Special
21 Master has previously indicated, in correspondence with the Fisher Plaintiffs, that the District has
22 paid too little attention to the plight of the struggling African-American children in the District but
23 then falls silent on the achievement gap in the SMAR. Academic achievement is not only a “green”
24 factor it is the heart and soul of the Fisher’s lawsuit and the exclusion of this issue in the SMAR
25 questions the priority of this case to remove the vestiges of prior segregation and discrimination.
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1 **Diversity, Effectiveness, and Development of Administrators**

2 In regard to the diversity and effectiveness of administrators, the Special Master is capable
3 of reporting the current situation but offers no recommendations, which is a minimum requirement
4 for the annual report. On **pages 14 and 15 of the SMAR**, the Special Master identifies the two
5 programs aimed at increasing the number of African American school administrators: the
6 Leadership Prep Academy and the University of Arizona Masters in School Administration
7 collaboration program. Between the total of fifty (50) participants across the two programs (thirty-
8 six (36) from LPA and fourteen (14) from the University of Arizona), only one of the participants
9 was African American. In addition, no African-American principals or assistant principals were
10 hired or appointed for the 2017-2018 school year. These statistics do not demonstrate an adequate
11 effort to meet the requirements of the USP, but the Special Master offers no critiques of this failure
12 or recommendations on how to improve this disparity, he simply reports the harsh reality. The
13 SMAR does not create a sense of urgency for the District since the reality is simply stated instead
14 of directly evaluated and actively addressed with recommended solutions or improvements.
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17 In discussing the professional development for administrators, the Special Master states
18 "there are no systematic studies undertaken by the District to determine whether these experiences
19 result in improved leadership." The Fisher Plaintiffs contend that the continued lack of academic
20 achievement by African American students is a clear indicator that professional development in the
21 District at all levels has not been effective. Nowhere in the report, however, does the Special
22 Master address the continued achievement gap.
23

24 **Magnet Schools**

25 **Page 6 of the SMAR** begins with the Special Master identifying magnet schools as a
26 "primary tool for integration." Thirteen (13) of the nineteen (19) magnet schools, however, remain
27 "remain racially concentrated" as of fiscal year 2015-2016. Clearly, the magnet tool has not
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1 assisted with the District's court-ordered obligation to integrate, which the Special Master indicates
2 the District has failed to do. The Special Master's critique of the current magnet schools in the
3 District contradicts his prior support for a magnet program, specifically an open-access GATE
4 program, at Roberts-Naylor K-8 school which is currently a "racially concentrated" school already.

5 **Disproportionality**

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7 The Special Master mentions but does not address concerns about nor propose any
8 legitimate recommendations for the current disproportionality issue in school discipline. The Fisher
9 Plaintiffs are concerned about the complacent nature in with this issue is discussed in the SMAR.
10 The Special Master indicates that disproportional discipline towards African-American students
11 "remains a substantial reality" but concludes discussion by simply stating that the decrease in
12 disciplinary action regarding African American students was greater than those of white and Latino
13 students. There is no "evaluation of the effectiveness of the programs" in place or any
14 "recommendations for further review or revisions to these programs." Both the evaluation and the
15 recommendations are minimum required tasks of the SMAR as outlined in the Order Appointing
16 the Special Master (Document 1350, page 8, part C). In 2016, the African-American Academic
17 Achievement Task Force attempted to combat the disproportionality in the District with the
18 implementation of Courageous Conversations About Race, a national program aimed at helping
19 reduce racial bias. The Special Master, however, denied the District's decision to implement this
20 program. This action serves as an example of contradiction or complacency since the Special
21 Master admits the reality of disproportionality but is silent when asked to propose
22 recommendations and denied a program that, at the very least, attempted to confront the issue.

23 **"Pioneering Work"**

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25 The Special Master, on **page 21** of the SMAR seems to compliment the District on their
26 efforts: "Perhaps more than any other urban school system, TUSD is engaged in pioneering work to
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1 make concerns about equity integral to every policy and practice that shapes the learning
2 opportunities and outcomes of all students, regardless of their race, cultural background or English
3 language capability". The Fisher Plaintiffs disagree with this statement based on the continued
4 plight of African American students in the District. The District's "pioneering work" as described
5 by the Special Master disregards the achievement gap that is a fundamental vestige of prior
6 segregation that must be eliminated and, as stated previously, is not mentioned significantly
7 throughout the entirety of the SMAR.
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10 **Conclusion**

11 The Fisher Plaintiffs had hoped that the Special Master would have indicated whether the
12 District would be able to become unitary by the completion of the 2017-2018 School Year. The
13 Special Master is required to inform the audience of the SMAR "whether the District is on schedule
14 for completion of the USP within the time frames established therein," (Document 1350, page 8,
15 section D). Again, the Special Master fails to fulfill the aforementioned minimum requirement.
16 This failure, due to the lack of specific conclusions throughout the report, withholds important
17 information from the parties involved as to the progression of the District towards Unitary Status
18 and how Unitary Status would be specifically manifested in TUSD. Due to a lack of information
19 that the Special Master should have provided in the SMAR, the Fisher Plaintiffs are fearful that the
20 District and the Special Master will rush to the judgement in order to meet the first time line the
21 District has to seek total Unitary Status without having adequately addressed the problems facing
22 African-American students in the District. Without an informative SMAR that meets all minimum
23 requirements, the Fisher Plaintiffs cannot be adequately prepared for a District motion for total
24 Unitary Status, should that motion come about. There are still vestiges remaining that must be
25 eliminated before the District can make the claim of unitary status and it is extremely disheartening
26 that these issues are not mentioned or actively addressed in the SMAR.
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Respectfully submitted,

Rubin Salter, Jr.

Rubin Salter, Jr.
Attorney for the Fisher Plaintiffs

Dated: July 17, 2017

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2017, I electronically submitted the foregoing **FISHER PLAINTIFFS' OBJECTIONS AND OBSERVATIONS TO THE SPECIAL MASTER'S ANNUAL REPORT** for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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