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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 **SUPPLEMENT TO THE**  
2 **SPECIAL MASTER’S ANNUAL REPORT FOR 2015-16**

3 Introduction

4 In its Order of May 17, 2017, the Court raised issues that it identified as unresolved and  
5 directed the Special Master to clarify the status of these matters in the Special Master’s Annual  
6 Report for 2015-16. The Special Master’s Annual Report maps on the District’s Annual Report.  
7 For that reason, because it was desirable to include additional data from the District, the Special  
8 Master is submitting clarification of the issues of concern to the Court in the form of this  
9 supplement.  
10

11 Status of Advanced Learning Experiences (Doc. 1895)

12 The Special Master submitted a draft of his R&R on Advanced Learning Experiences  
13 (ALE) to the parties. The Mendoza plaintiffs raised concerns about this R&R. Answers to these  
14 concerns required additional information from the District. The revised R&R dealing with ALE  
15 will be submitted to the Court and to the parties no later than July 31, 2017.  
16

17 CRC Itinerant Teachers and Beginning Teacher Mentors (Doc. 1981 and Doc. 1982)

18 The Court directed the District to develop a formula for determining allocation of mentors  
19 to first and second year teachers and first year teachers assigned to teach in schools where  
20 students are performing below the district average. In addition, the District was to develop  
21 criteria for determining how many CRC Itinerant Teachers would be budgeted and the basis for  
22 determining this expenditure. The same formula cannot apply to mentors for beginning teachers  
23 and CRC Itinerant Teachers because the latter have responsibilities in addition to mentoring. As  
24 of the date of this supplement to the Special Master’s 2015-16 report, the District has not  
25 finalized its response nor has it been reviewed and commented upon by the plaintiffs and the  
26 Special Master. It may be that resolution of differences will require action by the Court.  
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1 Guidelines for Students’ Rights and Responsibilities (Doc. 1981)

2 In the beginning of the 2015-16 school year, the District sought to clarify elements of the  
3 Guidelines for Students’ Rights and Responsibilities (GSRR). A consultant was hired and  
4 parents, students and staff were convened to discuss possible revisions. The plaintiffs and the  
5 Special Master objected to some of the proposed changes. When District staff finally submitted  
6 the proposed revisions to the GSRR – which was to be renamed the Code of Conduct – to the  
7 Governing Board in the spring of 2017, the Governing Board did not approve the revisions.  
8 Thus, the same GSRR that was in place at the start of the 2015-16 school year will be in place  
9 when school opens in August 2017.  
10

11 Diversity of Certified Staff and Administrators (Doc. 1983)

12 In its direction to the Special Master related to the Director of Culturally Responsive  
13 Pedagogy and Instruction, the Court ordered the Special Master to report on the progress being  
14 made by TUSD to increase the diversity of its certified staff and administrators. This direction  
15 could apply to two provisions of the USP: district-wide diversity and school-level diversity.  
16

17 *District-wide Diversity*

18 The Special Master’s 2015-16 Annual Report concludes that little progress has been made  
19 in increasing the diversity district-wide of certified staff and administrators. Progress is impeded  
20 by a substantial shortage of teachers, both nationally and in Arizona. While awareness of this  
21 situation is fairly recent with respect to all teachers, the shortage of African American and Latino  
22 teachers entering the profession has been known for some time. Since almost all administrators  
23 come from the ranks of teachers, the limited number of teachers entering the profession makes  
24 increasing diversity of administrators difficult. The District has employed the strategies identified  
25 in the USP and the related action plan as well as many strategies recommended by national  
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1 organizations for recruiting African American and Latino educators.<sup>1</sup> The only area of significant  
2 progress being made is increasing the number of African American school level administrators,  
3 but the number of African American administrators in TUSD remains small.

#### 4 *School-level Diversity*

5 The USP requires that school-level staff be racially and ethnically diverse, with diversity  
6 being defined as 15% ± the racial composition of faculty and staff district-wide in each of the four  
7 levels of grade structure. The parties agreed that this requirement would apply to teachers and  
8 that dual language schools would be exempted because of the importance of having bilingual  
9 staff. In consultation with the Special Master, the District developed a Teacher Diversity Plan to  
10 be implemented over a two-year period beginning in the fall 2016. The diversity of  
11 administrative staffs is covered by another provision of the USP so it is not addressed in the TDP.  
12

13 At the time the TDP was developed, 26 schools were identified as not meeting the  
14 diversity criteria. Implementation of the TDP resulted in 12 of the school of the 26 schools  
15 meeting the diversity criteria with 14 schools remaining to be integrated in 2017-18. A report on  
16 the implementation of the TDP will be submitted to the Court by the Special Master in September  
17 2017.  
18

#### 19 Magnet School Plans and Budgets

20 The District submitted magnet school plans and budgets to the plaintiffs and the Special  
21 Master for review and comment in May 2017. These were submitted to the Court during the final  
22 week in June. Some of the plaintiffs have indicated objections to particular provisions of the  
23 magnet school plans and related budget expenditures. These objections have not yet been  
24 resolved.  
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27 <sup>1</sup> Increased investments in “grow your own” programs and the development of teacher cadet  
28 programs in District high schools should be considered.

1 Culturally Responsive Pedagogy and Instruction

2 Lorenzo Lopez was appointed director of Culturally Responsive Pedagogy and Instruction  
3 in December 2014, and the Court subsequently approved this appointment. The Fisher plaintiffs  
4 had objected to his appointment arguing that Mr. Lopez lacked sufficient expertise with respect to  
5 the instruction of African American students. In response to this objection, the Special Master  
6 observed that it was highly unlikely to find a candidate with expertise with respect to both  
7 African American and Latino students. This reality remains true today. The Special Master also  
8 recommended against appointing co-directors. Pursuant to a recommendation by the Special  
9 Master, the Court required that the Director of Culturally Responsive Pedagogy and Instruction  
10 be advised on a continuing basis by an expert on the teaching of African American students. The  
11 District employed Dr. Jacqueline Jordan Irvine, who is a prominent member of the National  
12 Academy of Education, to advise Mr. Lopez. Moreover, the Office of Culturally Responsive  
13 Pedagogy and Instruction headed up by Mr. Lopez is advised by a national panel of experts.  
14 Three of the seven members of the panel are African American scholars of national prominence.  
15 Dr. Irvine has recently resigned for health reasons and will be replaced this fall.

18 It is important to recognize that the basic concepts undergirding culturally responsive  
19 pedagogy (CRP) apply to all students. There are not drastically different instructional practices  
20 that facilitate the learning of African American as compared to Latino students (or students of  
21 other races and ethnicities). The leading texts on CRP do not have separate chapters on the  
22 teaching of African-American as compared to Latino students.

24 In its order approving the appointment of Mr. Lopez, the Court directed the Special  
25 Master to “recommend how to remedy the lack of administrative expertise in the area of African  
26 American CRPI.” While the concern of the Fisher plaintiffs appears to have less to do with  
27 administrative expertise than with knowledge about curriculum and instruction, Mr. Lopez  
28



**CERTIFICATE OF SERVICE**

I hereby certify that on, July 24, 2017, I electronically submitted the foregoing  
**SUPPLEMENT TO THE SPECIAL MASTER’S ANNUAL REPORT FOR 2015-16** for filing and  
transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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Andrew H. Marks for  
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Special Master