

2019 WL 10744872

Only the Westlaw citation is currently available.
United States District Court, D. 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,
Maria Mendoza, et al., Plaintiffs,
United States of America, Plaintiff-Intervenor,
v.
Tucson Unified School District No. One, et al.,
Defendants.

CV 74-90 TUC DCB (Lead Case), CV 74-204 TUC
DCB (Consolidated Case)

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Signed 11/21/2019

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SPECIAL MASTER'S AMENDED REPORT AND RECOMMENDATION RELATING TO CRC, CRP PROFESSIONAL LEARNING AND MC PLANS

Willis D. Hawley, Special Master

Overview

*1 This Amended Report and Recommendation clarifies
elements of the original Report and Recommendation and
establishes that the academic benefits of CRC have been
documented.

The District filed its completion plans with respect to
culturally relevant courses (CRC), a related professional
learning plan and multicultural curriculum (MC) on
August 23, 2019. The Mendoza plaintiffs filed their
objections to these plans on September 23, 2019 and the
Fisher plaintiffs filed their objections on September 20,
2019. There were no objections to the MC or the CRP
professional learning plan for teachers so the Special
Master is not addressing those plans. The Fisher
objections take the form of a set of questions that appear
to reflect their doubts that the benefits from CRC claimed
by the District occur. At least one of the questions they
ask is addressed by the District's filing on October 7,
2019 (Doc. #2324-1) – in which they list the CRC offered
in each of the District schools.¹

The Mendoza plaintiffs submit three objections. First, that
the District does not provide a comprehensive framework
with respect to CRC implementation. Second, that the
District fails to provide a clear description of how CRC

relate to other elements of the USP empathizing the Mexican American Student Support Department (MASSD) (and by implication the African American Student Support Department) and the family engagement plan (FACE). Third, the District's description of how it trains school administrators who evaluate teacher competency with respect to CRP is inadequate. The Special Master addresses of each of these three concerns.

The Adequacy of a Comprehensive Framework

The District response to the Mendoza criticisms objections by citing different characteristics of its report which it claims represents a comprehensive framework. The Mendoza plaintiffs assert that such a framework should include the specific strategies and timelines for implementing CRC in each of the District's schools. The Mendoza plaintiffs also expect the comprehensive framework to address the dilemma that derives from the fact that some students prefer to take CRC rather than AP courses because the CRC courses are taught by teachers "with whom they can relate better." While this last concern may seem idiosyncratic, it draws attention to the difference between CRC courses and more traditional curriculum. The CRC courses, while they substitute for certain core courses, are taught from either an African-American or Latino perspective and they seek to develop among the students a greater sense of academic self-confidence and an understanding of the barriers they may confront as students of color and how to deal with them. So, the way these courses are taught and the dispositions of the teachers who offer them are more critical to their success than are most courses. It is easy to see why these courses appeal to the students who enroll in them but, at the same time, there are limits on the numbers of teachers who can maximize the effectiveness of these courses. This is a constraint on the diffusion of CRC and represents a caution about rapid expansion, especially at the high school level². The expansion of any technology which involves considerable variation in implementation often leads to a weakening of the effects of the technology.³

*2 It would not be productive to develop a five-year plan for implementing the CRC because the wisdom of doing this depends heavily on the ability to recruit and mentor teachers who offer these courses. Moreover, the District has committed to providing an unusual amount of support for teachers at all grade levels who teach the content of

CRC meaning that offering such courses is more expensive than offering more traditional courses. The concept of the framework, as opposed to an operational plan, often has the following characteristics: the theory that explains the importance or efficacy of a given action, the essential characteristics of the program and the reasons those characteristics are fundamental, the challenges to effective implementation, and strategies for addressing those challenges. The District's plan does some of this but not all.

In an effort to address the requirements set by the court, both the Mendoza plaintiffs and the District suggests that CRP should be thought of as the more encompassing concept. Arguably the CRC is one of many elements of the USP that are dependent on the ability of staff to be culturally responsive in implementing everything from instruction to discipline to the creation of inclusive and civil environments.

Interrelationships Between Organizational Units Involved with CRC

Mendoza plaintiffs cite the Court's requirement that the District develop an executive summary of the success of its efforts to implement the USP and this would include how the various elements of the USP are dependent on one another. But this requirement by the Court is not specific to CRC. It is one thing to describe how the success of CRC depends on its relationships to particular elements of the USP, and quite another to describe all the different ways that CRC affect the overall success of the USP or how other elements of the USP might affect success of CRC courses. As noted, the Mendoza plaintiffs focus attention on how MASSD has related to the CRC but the functions and responsibilities of the MASSD are now being studied and may be importantly altered. These decisions should be made in the next several weeks at which time the District should modify this description of the relationships among organizations directly involved in the effective implementation of CRC.

Training of Administrators to Evaluate Teacher Competence with Respect to CRP

In a review of end of year evaluations of teachers

undertaken by the Special Master and a member of Implementation Committee three years ago, they found virtually no mention of specific instructional strategies much less CRP. Whether this is still the case is not known. There does not appear to be any process to measure the validity and reliability of assessments of teacher or administrator proficiency with respect to CRP. Presumably, the District assistant superintendents have this responsibility but so far as the Special Master understands, the assistant superintendents focus on the evaluation of principals and there is nothing in the principal's evaluation instrument that deals with their proficiency in evaluating their teachers with respect to CRP.

Recommendations

A rigorous study of the academic benefits of CRC courses was undertaken by established scholars and published in the leading education journal. There have in other studies that attest to the academic benefits of culturally

responsive pedagogy. An intuitive argument can be made that CRC, and especially CRP, would have the other non-academic benefits the District claims for them. But if it is to make such claims, the District should document them because this is not conventional wisdom at the moment.

When the structure and functions of the MASSD and AASSD are determined by the Court, the District should modify the description of the relationships among organizations directly involved in the effective implementation of CRC.

***3** The District should present evidence to the plaintiffs and the Special Master that the training of administrators to evaluate the CRP competencies of teachers is effective.

All Citations

Slip Copy, 2019 WL 10744872

Footnotes

¹ The Fisher plaintiffs have long opposed the offering of CRC.

² Below the high school level the content of CRC is offered as part of another course which covers both perspectives for much shorter period of time. Because CRC are part of other courses in the curriculum, when those courses are offered may vary.

³ In organizational theory jargon, such technologies are described as "intensive" and fidelity to the model is often problematic. That is the case with respect to CRC.