

2020 WL 5790550

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)

Signed 03/09/2020

Filed 03/10/2020

Attorneys and Law Firms

Kristian Harrison Salter, Rubin Salter, Jr., Law Office of
Rubin Salter Jr., Tucson, AZ, for Plaintiffs Roy Fisher,
Josie Fisher.

Juan Rodriguez, Pro Hac Vice, Matthew David Stricker,
Thomas A. Saenz, Pro Hac Vice, Educational Fund
(MALDEF), Jennifer L. Roche, Lois D. Thompson,
Proskauer Rose LLP, Los Angeles, CA, for Plaintiff
Maria Mendoza.

Cynthia Valenzuela Dixon, Juan Rodriguez, Pro Hac
Vice, Matthew David Stricker, Thomas A. Saenz, Pro Hac
Vice, Educational Fund (MALDEF), Jennifer L. Roche,
Lois D. Thompson, Proskauer Rose LLP, Los Angeles,
CA, for Plaintiff Edward A. Contreras.

Rubin Salter, Jr., Law Office of Rubin Salter Jr., Tucson,
AZ, for Plaintiffs Boyd Lewis, Elizabeth Lewis, Lloyd D.
Hall, Virginia Hall, George Hutton, Joyce Brown Hutton.

Edmund D. Kahn, Law Offices of Edmund D. Kahn,
Tucson, AZ, for Defendants-Intervenors Sidney L. Sutton,
Sally J. Sutton, John R. Centeno, Mary Katherine
Centeno, Librada G. Ruiz, Sidney Taize.

James Eichner, Peter W. Beauchamp, U.S. Dept. of
Justice - Civil Rights Division, Washington, DC, for
Plaintiff-Intervenor United States of America.

P. Bruce Converse, Timothy Warren Overton, Dickinson
Wright PLLC, Phoenix, AZ, Robert S. Ross, Jr., Samuel
Emiliano Brown, Tucson Unified School District, Tucson,
AZ, for Defendant Tucson Unified School District.

SPECIAL MASTER'S REPORT AND RECOMMENDATION RELATING TO TEACHER QUALIFICATIONS

David C Bury, Senior Judge

*1 Special Master's Report and Recommendation
addresses two important questions to which the Court
requested answers (*see* ECF 2428):

1. Given that the quality of teaching that students
experience is the most important school-based
influence on student achievement and teachers who
are experienced for three or more years have been
shown to be more effective than less experienced
teachers, how does the average experience of
teachers in the transition schools compared to
teachers in the rest of the district?¹

2. If the district were to identify a cadre of master
teachers, as it proposes to do in creating the
Wakefield collaboration with University of Arizona,
would this result in moving highly effective teachers
from schools serving students who are performing
below the district average to schools where highly
effective teachers would make less of a difference?

1. Transition School Teaching Staff in Comparison to Beginning Teachers Inventory (BTI)²

There are only 19 first-year teachers at the six transition
schools out of a total of 299 teachers. There are only 13
second-year teachers at these schools. The percentages are

Fisher v. United States, Slip Copy (2020)

only slightly different than the District averages.

Transition Schools	First Year		Second Year	
	N	%	N	%
Utterback MS	6	20.7%	0	0.0%
Safford K8	3	8.1%	4	10.8%
Robison ES	3	15.0%	0	0.0%
Pueblo HS	4	3.9%	6	5.9%
Cholla HS	3	3.0%	3	3.0%
Ochoa ES	0	0.0%	0	0.0%
Transition Totals	19	6.4%	13	4.3%
District Totals	136	5.20%	174	6.60%

The Court's Order appears to require this comparison for transition schools only. However, the District also provides the following comparison for underperforming schools.

There are only 74 first year teachers at the 29 underperforming schools out of a total of 1,078 teachers.

There are only 96 second-year teachers at these schools. Again, the percentages are only slightly different than the District averages.

Underperforming Schools	First Year		Second Year	
	N	%	N	%
Booth/Fickett K-8	6	11.54%	13	25.00%
Lawrence ES	1	5.00%	5	25.00%

Fisher v. United States, Slip Copy (2020)

Doolen MS	5	10.87%	8	17.39%
Santa Rita HS	4	13.33%	4	13.33%
Catalina HS	9	17.65%	3	5.88%
Secrist MS	0	0.00%	5	21.74%
Pistor MS	4	8.16%	6	12.24%
Valencia MS	3	6.12%	7	14.29%
C. E. Rose K-8	3	6.98%	5	11.63%
Gridley MS	3	6.82%	5	11.36%
Roberts/Naylor K-8	2	5.00%	5	12.50%
McCorkle K-8	3	5.45%	6	10.91%
Davidson ES	3	15.79%	0	0.00%
Blenman ES	0	0.00%	3	14.29%
Grijalva ES	2	6.90%	2	6.90%
Pueblo Gardens K-8	2	8.33%	1	4.17%
Mary Meredith K-12	1	12.50%	0	0.00%
Roskrue K-8	2	4.88%	3	7.32%
Myers/Ganoung ES	2	7.41%	1	3.70%

Fisher v. United States, Slip Copy (2020)

Steele ES	2	11.11%	0	0.00%
Dietz K-8	1	3.70%	2	7.41%
Lynn/Urquides ES	2	6.90%	1	3.45%
Tucson Magnet HS	9	5.52%	7	4.29%
Alice Vail MS	2	4.35%	2	4.35%
Magee MS	2	5.71%	1	2.86%
Miller ES	1	3.85%	0	0.00%
Maxwell K-8	0	0.00%	1	3.85%
Cragin ES	0	0.00%	0	0.00%
Erickson ES	0	0.00%	0	0.00%
UP School Totals	74	6.86%	96	8.91%
District Totals	136	5.20%	174	6.60%

This difference is small compared to many urban districts according to researchers with whom the Special Master consulted.

2. Data re Experienced Teaching Staff Eligible for Master Teacher Status

The District has not yet determined what all of the criteria would be in order to qualify as a master teacher. For purposes here, a master teacher would have to be in the top 10% of domains two and three of the teacher

evaluation instrument (these domains deal with instruction) and have a minimum of four-years experience. Other criteria will almost certainly be added and the percentage of top rated teachers will be less than 25%.³

Sixteen percent of the teachers in the six transition schools would be eligible for master teacher status using only these two criteria (top 10% and four or more years of experience). Among teachers in the other 29 low performing schools, 15% would be eligible for master teacher status.

*2 The District has said that it will not actively recruit

master teachers in low performing schools though they, like other teachers, will be able to apply. And the District may initially designate master teachers only in grades 6 to 8. But to avoid a situation where master teachers leave schools that need them most, the District is committed to recognize teachers serving in low performing schools who would qualify as master teachers and provide them with the same benefits as teachers serving in higher performing schools (such as the Wakefield demonstration school).

first and second year teachers in transition schools as compared to the district as a whole, the difference is small and compares favorably to other urban districts. If the District were to create the position of master teacher, it is prepared to put in place policies that would significantly reduce the incentives of teachers in low performing schools to leave those schools because they would be able to receive equivalent recognition and benefits.

All Citations

Slip Copy, 2020 WL 5790550

Recommendation

While there is a small difference between the number of

Footnotes

- ¹ In a study of all the district schools, the Special Master and David Krueger found that the number of first and second year teachers was correlated with school performance.
- ² The tables presented in this report were prepared by the district.
- ³ The number of teachers who are highly rated may be a product of the willingness of some principals and assistant principals to be more generous in their ratings.