

2021 WL 5534852

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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 06/22/2021

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, 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, 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.

James Eichner, Peter W. Beauchamp, US Dept. of Justice,
Washington, DC, for Plaintiff-Intervenor.

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.

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 RE TO A POST-UNITARY STATUS PLAN

Willis D. Hawley, Special Master

*1 On April 19, 2021, the Federal Court for the District of
Arizona ended Court supervision of the TUSD
desegregation case initially brought in 1974. The
resolution of this case involved substantially more than
increasing the opportunities that students have to learn
with and from students of different races and ethnicities
other than themselves. The District and the plaintiffs
came together in 2012 to develop a Unitary Status Plan
(USP) that, in addition to promoting and facilitating racial
integration, sought to improve student opportunities to
experience and be successful learning a richer and more
rigorous curriculum, as well as developing the motivation
and capabilities to be part of a learning community both
in school and thereafter.

This Post Unitary Status Plan (PUSP) will provide the
community with information about the continuing
progress of the district over the next three or more school
years with respect to each of the major goals and
strategies embedded in the USP.

These goals are to:

- Enhance integration of students and staff;
- Improve student academic achievement; and
- Develop the dispositions and skills students need to
be successful in school and in their homes and
communities.

These goals are not new but many of the strategies

implementing the provisions of the USP build-on and enhance the effectiveness of existing practices in TUSD.

This post unitary status report, coupled with a yearly public meeting to review the report and receive citizen input, will describe the current status of the major initiatives taken in response to the USP. Each succeeding year will provide information so that readers of the report can compare improvements in the district going forward. The public hearing will allow individuals to express their views. This report is part of the commitment to transparency that is embedded in the USP.

In its April 29th order, the court spelled out in some detail the content, and expected to see a post unitary status plan and charged the District to collaborate with the Special Master and consult with the plaintiffs in preparing such a plan.

While the District Court was developing its plan, the Special Master was developing his. This resulted in two very different approaches to what a plan should entail. As noted, the District sought to develop a plan that met the specifics of the Court order. The Special Master's plan was more of a narrative that would have included all of the elements of the Court's direction but made the assumption that the average reader of the post unitary status report would require background information along with any changes made in the policies or practices affecting the major goals of the USP identified above.

The Special Master and the District then discussed the differences in the two approaches being proposed and concluded that the two strategies should somehow be merged.

The Special Master submitted his proposal to the plaintiffs for their consideration. The Mendoza plaintiffs responded to the request by the Special Master looking only at his proposal but not that of the District as per the Special Master's request. In their critique, the Mendoza objection dealt with to themes:

*2 1. Considerably more detail should be provided in any plan (though the Special Master's Outline was nine pages long).

2. The budget should be submitted to the public until such time as the special funding for desegregation authorized by the state was terminated, should termination occur. This suggestion is joined by the Fisher plaintiffs.

The Fisher plaintiffs evaluated both the District plan and that of the Special Master. In effect, the Fisher plaintiffs rejected the Special Master's proposal arguing that it lacks specificity and would not result in holding the District accountable.

Note that the comments of the Mendoza plaintiffs were limited, as requested, to the Special Master's proposal. Based on reaction of the Mendoza plaintiffs to the District budgets in the past that they will be asking for additional information in the PUSP. In any event, Mendoza plaintiffs should have the opportunity to comment on the post unitary status plan submitted by the District.

Recommendations

One Plan

There should be only one post unitary status plan. Such plan should be renamed so that it not be confused with the post unitary status plan that was replaced by the USP. ("Report" might be substituted for plan).

A merged version of the Special Master's plan with that of the District will be confusing to the residents of Tucson.

If there is one PUSP, the foundation of that plan should be the one that the District has developed and will subsequently amend given input from plaintiffs and the Special Master.

Disaggregated by Race

Ensure that all data are reported by race, whenever feasible.

Procedures for Providing Input

The Fisher plaintiffs believe there should be a formal procedure that clarifies procedures mechanisms by which

students, staff and TUSD residents can provide input regarding the implementation of the USP.

Duration of the District's responsibility for a Post Unitary Report

The first year the District will not be formally overseen by the Court will be the 21-22 school year. The District should, therefore, provide the post unitary report for three years starting with the 21-22 school year absent any action by the Court to the contrary.

Reporting on the Budget

The Mendoza and Fisher plaintiffs both wish to sustain the budget reporting so long as 910G funding is in place. The Special Master does not approve of this proposal. But represent policy and as long as they are being formally reviewed so are all the policies affected by the budget

open to critique by plaintiffs and the rest of the community and are likely to end up in the court for resolution. In other words, ing creating an expectation that specific aspects of the budget subject to review rather than the policies that will, in effect, keep the case open.

Provisions for Improving the Post Unitary Report and Promoting Accountability

It is impossible to predict how a post unitary report will be used by the community. Therefore, a process for the providing input, assessing how the post unitary report is received and whether improvements in the format and content of the report are needed in years two and beyond.

All Citations

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