

2021 WL 5534881

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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 08/03/2021

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 United States of
America.

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 910G BUDGET DEVELOPMENT AND EXPENDITURES FOR 2021-22

Willis D. Hawley, Special Master

*1 As all will acknowledge, budget process actions to
plan and implement the budget for this next
fiscal/academic year have and are complicated by
problems derived from the pandemic and the uncertainty
of federal policies relating to additional support dollars
from the government. Although many of the District's
new proposals are debatable, they are already being
implemented.

Many of the District's proposals to which the Mendoza's
object are debatable as to whether 910G funds and past
action can be used to justify the new expenditures. For
some items within the 910G budget, one can tell what the
new expenditure is intended to achieve, however, one
cannot tell from where the funds were previously
expended or if this is a new program. Further, the
District's responses to the Mendoza objections have been
sometimes vague and/or non-responsive.

My goal, after consulting with the budget expert is to
make recommendations that are doable at this late date,
and also serve as direction for future action that is
consistent with agreements previously approved by the
parties, both implicitly or explicitly.

The recommendations do the following:

1. Further clarify the eligibility for use of 910G
funds,

2. Provide clarification of supplementing vs. supplanting of 910G funds,
3. Define SY21-22 910G Budget Issues, and
4. Provide specific recommendations for needed revisions of School Plans.

Eligibility for 910G funding

910G funds should not be used for expenditures in which there is no requirement in the USP.

Supplanting vs. Supplementing of 910G Funds

Supplanting means expending 910G funds for purposes that should be within the M & O budget. Supplementing is providing funding (910G in this case) beyond those within the M & O budget. District examples of potential supplanting action is sometimes difficult to determine. Over time some of these budget specifics have been resolved by the parties, topic by topic.

For example, the District classrooms are allocated staffing based on a formula that is M & O funded. As a result, in the case of Dual Language classrooms, the M & O formula is used to fund basic classroom staffing that would be present in a regular classroom and 910G funding is then used to fund supplemental program components that ensure the Dual Language Program requirements are met. Thus, if any USP required program requires staffing or other resources that would otherwise not be needed, 910G can be used only for these additional expenditures.

SY21-22 910G Budget Issues

Based upon the above discussion, the following positions or allocations would be categorized as supplanting and/or not eligible for 910G funding.

- **Director of Alternative Education – This position is not required by the USP and, at the least, should be split funded from 910G and**

another budget source.

- **Coordinator for Inclusivity – This position not required by the USP and, at the least, should be split funded from 910G and another budget source.**

- **Media Specialist – This position not required by the USP and, at the least, should be split funded from 910G and another budget source.**

- *2 • Korean Ambassador Program – This program is not required by the USP and therefore should be funded from another budget source.**

Development of School Plans

The District School Plans are the foundation of the Districtwide agenda for school improvement. The parties have spent considerable time working on a process that is evidence based and consistent with textbook versions of best practice for continuous improvement.

The District developed a model that is complex. So far as one can tell, the school plans submitted by the District do not reflect the District model.

Rather than hold up the achievement of Unitary Status, I recommend that the District be authorized to proceed with the plans with the understanding that a revision is required. This will give principals and their supervisors (assistant superintendents) time to show the rationale for revision, and build consensus among faculty and other staff who in many cases are implementing the plans.

Doing this for all District schools is a lot and at any time would be difficult, but at the current time and under the current conditions this is even more difficult. **Therefore, the court should allow the District to develop revised school plans consistent with the Smiley Process to be submitted by November 1, 2021.**

Specifically, these plans should be revised for all “C” and “D” magnet schools and at least fifteen (15) of the lowest performing Racially Concentrated schools taking into account the value added for each of the schools.

All Citations

