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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.)

ORDER

CV 74-204 TUC DCB
(consolidated case)

1 On June 20, 2013, the Special Master submitted a request for Court appointment of
2 the Implementation Committee (IC), which was revised from his April submittal to
3 accommodate input from the parties regarding the role and scope of the committee. After
4 meeting with the parties, the Special Master proposes the IC assist him in monitoring
5 implementation of the Unitary Status Plan (USP) in three ways: 1) monitoring
6 implementation of “assurances” relating to school closings and boundary changes, including
7 the District’s development of review and consultation guidelines and procedures for Plaintiffs
8 and the Special Master; 2) monitoring the Districts’ development of and compliance with
9 procedural benchmarks for implementing USP programs and provisions, and 3) with respect
10 to programs that are in the implementation phase, on-going monitoring of program
11 implementation to make annual review of program effectiveness more meaningful. The
12 Special Master proposes that the three IC members will work approximately one day a week
13 at a rate of \$75.00 per hour.

14 The three candidates proposed for appointment are outstanding members of the
15 Tucson community. Dr. Balentine and Dr. Montano have both worked with the Tucson
16 Unified School District, and Dr. Thompson, holds a Ph.D in Political Science and has a
17 wealth of administrative experience.

18 There is no objection to the credentials of the applicants or to the compensation
19 requested for them. Instead, the District objects that the role of the IC and scope of the work
20 proposed for the IC exceeds the authority of the Special Master. The Plaintiffs did not file
21 objections to the Special Master’s proposed appointments, but he noted they wanted an even
22 broader role for the IC. The Plaintiffs have filed responses to the Districts’ second,
23 supplemental objection filed in reply to the Special Master’s response to their objection. The
24 Plaintiffs note again that unnecessary time and attorney fees have been incurred addressing
25 the Defendant’s objections which went beyond objections to credentials or rate of pay, which
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1 were the only objections authorized by the USP. The pertinent provision in the USO is as
2 follows:

3 Pursuant to the authority of the January 6 Order of Appointment, the
4 Special Master may select an Implementation Committee of three
5 independent expert advisors *to aid him in monitoring and overseeing*
6 *implementation of this Order*. The Committee, which shall be chaired by
7 the Special Master and be ethnically and racially diverse, shall act only
8 through the Special Master and not as an independent entity. The
9 Committee's members will be compensated on a per diem basis in an
10 amount approved by the Court. The Special Master shall designate the
11 Committee by April 1, 2013, and submit the names of individuals to the
12 Court for approval. The parties may file objections with the Court to the
13 appointment of individual Committee members or to proposed
14 compensation rates.

15 (see Section X (E) (2) of the USP filed 02/20/13).

16 The District relies on provisions in the USP which require it to monitor its
17 activities and progress implementing the USP and argues that it should be trusted to
18 monitor implementation, until such time as it fails in this task. The same standard should
19 apply to the Special Master's monitoring duties regarding implementation of the USP.
20 The District should trust the Special Master to perform this task in compliance with the
21 USP, until he fails to do so. The task of selecting the IC members for appointment has
22 been assigned to the Special Master, and it is for him to determine how the IC will aid
23 him in monitoring and overseeing implementation of the USP.

24 It appears to be the intent of the Special Master to use the IC to reduce the
25 amount of time he will spend, which should reduce costs to the District. There is no
26 suggestion that the Special Master will overstep his role or move beyond his monitoring
27 responsibilities authorized pursuant to the USP. Given the bumpy take-off the USP has
28 experienced in respect to school closures, boundary changes and the magnet plan
proposal, the Court finds the IC's assistance, as proposed by the Special Master, to be a
necessary component of the USP.

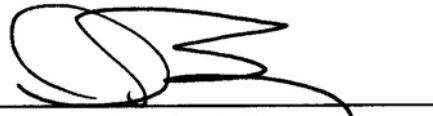
There being no objections to the proposed IC members' credentials or requested
compensation, the Court approves their appointments.

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Accordingly,

IT IS ORDERED that Vicki Balentine, Ph. D., Rebecca Montano, Ed. D., and Edward Thompson, III, Ph. D. are appointed to the Implementation Committee and shall be compensated at a rate of \$75.00 per hour.

DATED this 15th day of July, 2013.



David C. Bury
United States District Judge