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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Roy and Josie Fisher, et al.,

Plaintiffs

CV 74-90 TUC DCB
(Lead Case)

v.

United States of America,

Plaintiff-Intervenor,

**DECLARATION OF BRYANT
NODINE RE: OBJECTION TO
REPORT AND
RECOMMENDATION ON
BOUNDARY REVIEW PROCESS
(ECF 1601)**

v.

Anita Lohr, et al.,

Defendants,

CV 74-204 TUC DCB
(Consolidated Case)

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.

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1 I, Bryant Nodine, declare under penalty of perjury that the following statements are
2 true:

3 1. I am above the age of 18 and am competent to make this Declaration.

4 2. I am the Acting Director of Planning and Student Assignment for Defendant
5 Tucson Unified School District No. One (“TUSD” or “District”) in this action and have
6 personal knowledge of the facts herein. This declaration is based upon my personal
7 knowledge, information and belief.

8 3. The USP requires that TUSD review its current attendance boundaries and
9 feeder patterns and, as appropriate, amend such boundaries and patterns and/or provide for
10 the pairing and/or clustering of schools to promote integration of the affected schools. *See*
11 ECF 1450 at 9, USP § II.D.3. When the District draws attendance boundaries, it shall
12 consider the following criteria: (i) current and projected enrollment; (ii) capacity; (iii)
13 compactness of the attendance area; (iv) physical barriers; (v) demographics (*i.e.*, race,
14 ethnicity, growth projections, socioeconomic status); and (vi) effects on school integration.
15 *See* ECF 1450 at 9, USP § II.D.2. In applying these criteria, the District shall propose and
16 evaluate various scenarios with, at minimum, the Plaintiffs and the Special Master in an
17 effort to increase the integration of its schools. *See Id.*

18 4. TUSD developed a boundary review process (“BRP”) for it to follow in order
19 to facilitate compliance with the above USP provisions. *See* ECF 1601 at 63-70. The
20 boundary review committee (“BRC”) was created as part of a TUSD effort to solicit fresh
21 input and ideas on potential ways to modify the boundaries of TUSD’s schools to promote
22 integration.

23 5. In the BRP, TUSD suggested forming a racially/ethnically diverse boundary
24 review committee made up of TUSD parents, staff and interested members of the
25 community. I have overseen the boundary review process thus far, from the application
26 process for those wanting to be a member of the boundary review committee, including
27 selecting the committee members from the applicants, through the many meetings of the
28 boundary review committee, as well as the meetings specially scheduled with the Special

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1 Master and plaintiffs’ counsel to share the materials being provided to and utilized by the
2 boundary review committee in its work, and discuss the committee’s process, work, and any
3 other matter they brought to the table. In addition, TUSD is working with an outside
4 consultant, the DLR Group which is an economics consulting firm that specializes in
5 demographics. DLR has assisted in facilitating the various meetings, both those of the
6 boundary committee and with the Special Master and plaintiffs’ counsel, including
7 preparation of data and materials for the BRC members, Special Master and plaintiffs’
8 counsel.

9 6. In February 2014, I sent applications for service on the boundary review
10 committee to email lists of members of and applicants for previous boundary committees, to
11 various advisory committee contacts including the School Community Partnership Council
12 and to directors of the ethnic studies programs for distribution to their contact lists. I also
13 provided a press release for distribution by TUSD Communications and posted the
14 applications on the District’s website. An overview of the project and applications were
15 provided in English and Spanish; they were available approximately two weeks until the
16 application period closed. In addition, I specifically attempted to recruit interested Hispanic
17 and African American parents, staff and community members in order to provide the
18 committee racial and ethnic diversity, including by offering to provide transportation and
19 child care. For example, I contacted the District Advisory Council to see if there were any
20 Hispanic parents that would be interested in joining the committee. We also sought to
21 recruit African American participants by soliciting applications from Jimmy Hart, Director
22 of African American Student Services. We included on the committee six representatives
23 of the Plaintiffs’ classes they nominated. When the application period closed it was clear
24 that there was a high proportion of white applicants, so I kept the application period open
25 for another week and reiterated my requests for applicants from groups and individual
26 contacts that could improve diversity. We received about three more applications through
27 this period. As part of the effort to increase the BRC’s racial/ethnic diversity, only white
28 applicants were placed on the “alternates” list and all African American and/or Latino

1 persons who applied to be members on the committee were permitted a spot. The selection
2 process also favored parents and sought representation from all geographic areas of the
3 district.

4 7. The BRC is made up of 30 members. A true and correct copy of a list of the
5 appointed members and the BRC's racial composition is attached hereto as **Exhibit 25**
6 ("BRC Member List"). Of the 30 appointed members, 12 identified as Hispanic, 5 as
7 African American and the remaining as White (8), American Indian (4) and Asian (1).
8 Sylvia Campoy and Rosalva Meza serve as representatives of the Mendoza Plaintiffs and
9 Gloria Copeland, Taren Ellis Langford, Lorraine Richardson and James Schelble serve as
10 representatives for the Fisher Plaintiffs.

11 8. Thus far, the BRC has met on seven occasions: March 26, 2014, April 2,
12 2014, April 9, 2014, April 16, 2014, April 30, 2014, May 14, 2014 and May 28, 2014. The
13 first meeting provided orientation to the BRC members.¹ The USP criteria for boundary
14 review decisions was provided to the BRC at each of these meetings. The "Frequently
15 Asked Questions" resource available to BRC members also states that proposed boundary
16 changes will be reviewed using USP criteria. *See*
17 <http://tusd1.org/contents/distinfo/boundaryreview/faq.asp>. Additionally, the forms BRC
18 members utilize to analyze boundary options include all USP criteria. The April 9 and
19 April 16 meetings allowed the BRC to review and revise options for boundary changes.
20 The April 16 meeting was dedicated to answering questions and assisting the members with
21 understanding data, statistics, census data, materials and other tools available to them to
22 analyze options for boundary modifications. The April 30 and May 14 meetings were
23 dedicated to the BRC members developing new boundary amendment options. The May 21
24 meeting was to review the Magnet Plan, which also is in development, and which informs
25 the boundary review process leading to any plan the BRC may propose. On May 28, 2014,
26 the BRC met to revise and evaluate options to amend boundaries. They will have additional
27

28 ¹ The Fisher Plaintiffs class representatives attended BRC meetings on March 26, April 2, 9,
16, and 30, and May 14 and 28.

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1 meetings to further refine and evaluate their proposals. In July, the BRC's proposals will be
2 shared with the public via TUSD's website and public meetings at three different TUSD
3 school locations.

4 9. To facilitate each meeting, the BRC is provided with materials including
5 agendas, slide show presentations, data, etc. Most materials are provided in hard copy form
6 and all materials are provided electronically on the website that TUSD created to provide
7 the BRC members 24 hour access to all materials from the meetings. The website is updated
8 timely and periodically with information, including agendas, slide show presentations, data
9 and minutes of the prior meetings. Attached hereto as **Exhibits 1-14** are true and correct
10 copies of the materials provided to the BRC members at the meetings, all of which is
11 available on the BRC website. I understand these materials also must be available to
12 Plaintiffs, as Plaintiffs' representatives have been given these materials at the various
13 meetings and also have access to this website by virtue of their service on the BRC.

14 10. In addition to the BRC website, we also created a website to post materials
15 and information for the Plaintiffs and Special Master to review and utilize in any proposals
16 they might wish to provide to the BRC or the process. Attached hereto as **Exhibits 15-24**
17 are the materials made available to the Plaintiffs and Special Master. This includes
18 information provided during meetings held by TUSD with the Plaintiffs counsel and Special
19 Master to update them on the BRP and answer questions and make adjustments as the
20 process unfolds. Such meetings occurred on March 28, 2014, April 16, 2014 and May 20,
21 2014. An additional meeting is tentatively scheduled for June 18, 2014.

22 11. Throughout the process I have described above, I have received questions and
23 requests for information directly from BRC members. I have received questions and
24 requests for information from the Plaintiffs' representatives on at least five occasions.
25 Attached hereto as **Exhibit 26** is a true and correct copy of my email communications
26 providing information and answering questions throughout this process directly to
27 Plaintiffs' representatives. This includes requests for information on April 7, April 30, May
28

1 14 and May 23 from the representatives of the Mendoza Plaintiffs and on April 8 from the
2 representatives of the Fisher Plaintiffs.

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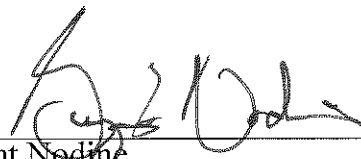
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7 I declare under penalty of perjury under the laws of the United States of America
8 that the foregoing is true and correct.

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10 DATED this 6th day of June, 2014.

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