

1 LOIS D. THOMPSON, Cal. Bar No. 093245 (Admitted Pro Hac Vice)
lthompson@proskauer.com
2 JENNIFER L. ROCHE, Cal. Bar No. 254538 (Admitted Pro Hac Vice)
jroche@proskauer.com
3 PROSKAUER ROSE LLP
2049 Century Park East, 32nd Floor
4 Los Angeles, California 90067-3206
Telephone: (310) 557-2900
5 Facsimile: (310) 557-2193

6 JUAN RODRIGUEZ, Cal. Bar. No. 282081 (Admitted Pro Hac Vice)
jrodriguez@maldef.org
7 THOMAS A. SAENZ, Cal. Bar No. 159430 (Admitted Pro Hac Vice)
tsaenz@maldef.org
8 MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATIONAL FUND (MALDEF)
9 634 S. Spring St., 11th Floor
Telephone: (213) 629-2512 ext. 121
10 Facsimile: (213) 629-0266

11 Attorneys for Mendoza Plaintiffs

12 UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF ARIZONA
14

15 Roy and Josie Fisher, et al.,

16 Plaintiffs,

17 v.

18 United States of America,

19 Plaintiff-Intervenors,

20 v.

21 Anita Lohr, et al.,

22 Defendants,

23 Sidney L. Sutton, et al.,

24 Defendant-Intervenors,

Case No. 4:74-CV-00090-DCB

**MENDOZA PLAINTIFFS' OBJECTION
TO SPECIAL MASTER REPORT AND
RECOMMENDATION RELATING TO
TUSD'S COMPREHENSIVE MAGNET
PLAN**

Hon. David C. Bury

1 Maria Mendoza, et al.,
2 Plaintiffs,
3 United States of America,
4 Plaintiff-Intervenor,
5 v.
6 Tucson United School District No. One, et al.,
7 Defendants.

Case No. CV 74-204 TUC DCB

8
9 **Introduction**

10 Mendoza Plaintiffs share the Special Master’s concern that it has taken the District
11 so long to develop its Comprehensive Magnet Plan. They also agree with and support
12 many of the recommendations in his November 26, 2014 Report and Recommendation
13 Relating to TUSD’s Comprehensive Magnet Plan (“CMP R&R”). However, there are
14 three areas in which they are constrained to disagree and object: (1) the Special Master
15 should have supported the Mendoza and Fisher Plaintiffs’ objection to the District’s
16 decision to add Cragin Elementary School and Mansfeld Middle School as new magnet
17 schools, particularly after the District failed to obtain a federal magnet school grant to help
18 underwrite the cost of creating these two additional magnets, given that so many of the
19 existing magnet schools require considerable investment of District financial and
20 administrative support if they are to succeed in attaining appropriate levels of both
21 integration and academic achievement and the generally held view that the District has too
22 many magnet schools for its relative size; (2) the Special Master should have supported the
23 Mendoza Plaintiffs’ objection to the academic standards set forth in the CMP for failing to
24 adequately articulate that magnet schools will reduce the academic achievement gaps
25 between racial groups in those schools given the emphasis on reducing academic
26 achievement gaps set forth in the USP. As more fully explained below, although language
27 to address the Mendoza Plaintiffs’ objection was added to the November 14, 2014 revision
28 of the CMP, they believe that the language that had been included in the version of the

1 CMP adopted by the Governing Board on July 15, 2014 but then deleted more clearly and
2 effectively sets forth that important goal and that the Special Master should have
3 recommended that such language be reinserted in the CMP; and (3) in circumstances
4 removed from the history of how magnet schools originally were designated in Tucson and
5 then how they were starved of resources and support for many years, the Special Master's
6 concern that the process for removing magnet status from existing magnet schools is too
7 long and/or drawn out would be understandable. Unfortunately, however, because the
8 Tucson magnet schools suffered from lack of resources, support, and direction for many
9 years, they now need time (and an infusion of resources and support) to meet their
10 integration and academic achievement goals. Mendoza Plaintiffs therefore believe that the
11 Special Master's recommendation should have focused less on the process for removing
12 magnet status and more on ensuring that the magnet schools that were in existence before
13 the adoption of the USP receive the support and assistance they need to achieve the CMP
14 and USP's integration and achievement goals.

15 **Objection to Recommendation Relating to the New Cragin and Mansfeld Magnet**
16 **Schools**

17 In the fall of 2013, when the Mendoza Plaintiffs first saw of draft of the District's
18 magnet plan, they protested the District's decision to add new magnet schools and
19 specifically criticized the choice of Cragin Elementary and Mansfeld Middle Schools.

20 Among other observations, they noted the following in a set of comments provided
21 to the District on September 6, 2013:

22 "The Draft Plan says that Cragin Elementary was chosen to be a new magnet
23 "because of its integrated population" and that Mansfeld was chosen to be a new magnet
24 because it is "currently racially concentrated." No explanation is provided for these two
25 apparently contradictory rationales. Nor is there any discussion of what Cragin will do to
26 recruit and maintain an integrated school population as a magnet or what Mansfeld will do
27 to become less racially concentrated – and certainly no discussion of why an already
28 integrated school was chosen to be the site for a new magnet program in a District that has

1 so few integrated schools and when magnet schools are intended to be the tool to increase
2 the total number of integrated schools in the District. (Nor is there discussion of the
3 challenges each school faces: Cragin as an under-performing school that had been
4 considered for closure [is the addition of a magnet program intended to lead to school
5 improvement? What will motivate parents to send their children to a new magnet program
6 in a school that was rated “D” and then “C” in the last two years and that is
7 underperforming the District on its AIMS scores?]. Mansfeld will be near capacity after it
8 absorbs 120 new students upon the closing of Maxwell [and what will motivate parents to
9 send their children to a school that is going through the process of absorbing and
10 integrating so many new students and also was rated “D” and then “C” in the last two
11 years reported as of the date of the school closure considerations?].”

12 With respect to Cragin there also is an additional concern: that, as a new already
13 integrated performing arts magnet elementary school, it will undermine efforts to further
14 integrate the Holladay fine and performing arts magnet elementary school given the
15 overlap in their programs and themes and the fact that Holladay has substantial work to do
16 to improve the academic achievement of its current students.

17 While the District attempted to present responses to these concerns and objections,
18 it has never been able to satisfactorily explain either its rationale for adding new magnet
19 schools when it already had 14 magnet elementary and middle schools in the District or
20 how it would be able to provide the needed resources and support to new magnet schools
21 even as it undertook to improve the levels of integration and academic achievement at the
22 existing magnet schools. (Significantly, in that regard, of the 16 [including Cragin and
23 Mansfeld] magnet elementary and middle schools in the District, only a single one is
24 identified in the CMP as currently meeting both the integration and the academic
25 achievement standards.)

26 In the Magnet Plan of Action for 2013-14, TUSD recited that both Cragin and
27 Mansfeld had been included in its application for a federal magnet school grant and
28 represented that development and implementation would be accelerated if it received that

1 grant. The grant was not received. Yet, the District proceeded with development and
2 implementation – spending funds that could (and should have been used) to enhance the
3 performance of its existing magnet schools. This is particularly true with respect to
4 Mansfeld for which the District has budgeted over \$497,000 in 910(g) funds this year per
5 the 2014-15 USP Budget Summary on file with the Court. (Doc. No. 1667-1, Ex. A.) (As
6 the Special Master pointed out Cragin raises a different concern – whether it can
7 successfully perform as a magnet school, particularly given its low achievement rating
8 with only \$44, 620 in 910(g) funds allocated to its magnet program. (*Id.*)

9 The Special Master noted in his CMP R&R that the positions of the plaintiffs are
10 well reasoned. (CMP R&R at 5.) Mendoza Plaintiffs respectfully suggest that he should
11 therefore have accepted those positions and recommended against the creation of Cragin
12 and Mansfeld as magnet schools.

13 **Objection to Findings and Recommendation Concerning Academic Standards that**
14 **Focus on Closing the Achievement Gap**

15 The July 2014 version of the CMP adopted by the Governing Board contained
16 language in the section on academic standards for magnet schools that included the
17 following language: “[t]he achievement gaps between the racial groups participating in
18 magnet programs will be less than the achievement gaps between racial groups not
19 participating in magnet programs.” (July 15, 2014 CMP at 7.) For reasons Mendoza
20 Plaintiffs do not know, that language was dropped from subsequent revisions of the CMP.
21 Most recently, in the final draft dated November 14, 2014, the District has added the
22 following language: “The growth [presumably academic growth]of the subgroups at the
23 magnet school is greater than the state median growth of subgroups there by reducing the
24 achievement gap at a greater rate than schools across the state...” (November 14, 2014
25 CMP at 8.) Apart from the fact that there may well be confusion and concern about what
26 is meant by a “subgroup”, Mendoza Plaintiffs believe that the key issue for magnet schools
27 is that they outperform other schools in the same District, not the State taken as a whole,
28 and therefore believe that the Special Master should have recommended that the District

1 revert to the language of its earlier CMP. Mendoza Plaintiffs do not believe, as the Special
2 Master has suggested at page 12 of the CMP R&R that inclusion of the requested language
3 from the July 15 iteration of the CMP overemphasizes the narrowing of the achievement
4 gap. Further, they note that the USP expressly calls upon the District to “improve the
5 academic achievement and educational outcomes of the District’s African American and
6 Latino students, including ELL students, using strategies to seek to close the achievement
7 gap and eliminate the racial and ethnic disparities for these students in academic
8 achievement....” (USP Section V, E, 1.)

9 **Objection to Findings and Recommendation Concerning the Process for Removal of**
10 **Magnet Status**

11 As noted above, it is essential to put the history of the District’s magnet schools and
12 the level (or lack thereof) of support, resources, and direction that they received in recent
13 years in perspective before one can assess what the process and timing should be when it
14 comes to elimination of magnet status for failure to achieve integration and/or academic
15 achievement goals. As noted above, of the 14 elementary and middle school magnet
16 schools in existence before the adoption of the USP only one currently meets both the
17 CMP’s integration and academic achievement standards. Further, as detailed in the 2011
18 magnet study that was commissioned pursuant to the provisions of the PUSP, there was a
19 lack of district-level understanding regarding magnets, lack of central office consideration
20 and support, lack of central office-supported marketing and recruitment to help schools
21 with diversity issues, lack of focus on enrollment/diversity goals, lack of attention to
22 magnet pipeline schools, lack of district-level processes for monitoring student
23 achievement at a magnet school program, lack of professional development that is directly
24 related to a school’s magnet theme, as well as specific issues concerning the articulation
25 and implementation of magnet themes at the individual school or program level. (See
26 CMP, Attachment B: Summary of 2011 Magnet Study Findings.) Given the foregoing,
27 there is a vast amount that the District must now correct both at the central administration
28 level and on site to revitalize the magnet schools and to move them toward attainment of

1 the articulated integration and academic achievement goals. In light of that history and the
2 effort that is now required, Mendoza Plaintiffs believe that the focus should not be on the
3 process for terminating magnet status but, rather, ensuring that the magnet schools that
4 were in existence when the USP was adopted have the resources and support they need to
5 meaningfully improve. In that regard they note the discussion on page 4 of the CMP
6 R&R¹ concerning appropriate investments in magnet programs that would enhance the
7 quality of teaching and learning in the magnet schools and programs and urge the Court to
8 modify the Special Master's recommendations to include express direction to the District
9 to address the issues raised in the 2011 Magnet Study and to provide the magnet schools
10 the support they need to succeed.

11 **Conclusion**

12 For the reasons set forth above, the Mendoza Plaintiffs request the Court to sustain
13 their objections to the CMP R&R and to modify the R&R as discussed herein.

14
15 Dated: December 3, 2014

PROSKAUER ROSE LLP
LOIS D. THOMPSON
JENNIFER L. ROCHE

17 MALDEF
18 JUAN RODRIGUEZ
19 THOMAS A. SAENZ

20 s/ Lois D. Thompson

21 LOIS D. THOMPSON
PROSKAUER ROSE LLP

22 *Attorneys for Mendoza Plaintiffs*

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24
25 ¹ Page 4 of the CMP R&R also expresses concern about the CMP requirement that Carrillo
26 (which has an A rating) adopt a specific theme to which there appears to be marginal
27 commitment but refrains from making a recommendation in this regard. Mendoza
28 Plaintiffs have repeatedly questioned the efficacy of the imposed theme and the risk that
imposition of the theme presents of reducing the effectiveness of one of TUSD's few A
schools. Accordingly, they also ask the Court to modify the CMP R&R to the extent of
directing the District to revisit its approach to imposing a theme on Carrillo.

CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2014, I electronically submitted the foregoing Mendoza Plaintiffs' Objection to the Special Master's Report and Recommendation Relating to TUSD's Comprehensive Magnet Plan to the Office of the Clerk of the United States District Court for the District of Arizona for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

J. William Brammer, Jr.
wbrammer@rllaz.com

Oscar S. Lizardi
olizardi@rllaz.com

Michael J. Rusing
mrusing@rllaz.com

Patricia V. Waterkotte
pvictory@rllaz.com

Rubin Salter, Jr.
rsjr@aol.com

Kristian H. Salter
kristian.salter@azbar.org

Zoe Savitsky
Zoe.savitsky@usdoj.gov

Anurima Bhargava
Anurima.bhargava@usdoj.gov

Andrew H. Marks
amarks@markslawoffice.com

I further certify that on December 3, 2014, I sent an e-mail copy of the foregoing to the following that is not a CM/ECF registrant:

Special Master
Dr. Willis D. Hawley
wdh@umd.edu

Dated: December 3, 2014

s/ Olia A. Golinder
Olia A. Golinder