

TUCSON UNIFIED SCHOOL DISTRICT

LEGAL DEPARTMENT
1010 EAST TENTH STREET
TUCSON, ARIZONA 85719
(520) 225-6040

Julie C. Tolleson
Julie.Tolleson@tusd1.org

Samuel E. Brown
Samuel.Brown@tusd1.org

Attorneys for Tucson Unified School District No. One, et al.

RUSING LOPEZ & LIZARDI, P.L.L.C.

6363 North Swan Road, Suite 151
Tucson, Arizona 85718
Telephone: (520) 792-4800
Facsimile: (520)529-4262

J. William Brammer, Jr. (State Bar No. 002079)
wbrammer@rllaz.com

Oscar S. Lizardi (State Bar No. 016626)
olizardi@rllaz.com

Michael J. Rusing (State Bar No. 006617)
mrusing@rllaz.com

Patricia V. Waterkotte (State Bar No. 029231)
pvictory@rllaz.com

Attorneys for Tucson Unified School District No. One, et al.

**IN THE UNITED STATES DISTRICT COURT
FOR THE 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)

**NOTICE AND REQUEST FOR
APPROVAL OF PORTABLE
CLASSROOMS AT DIETZ K-8
SCHOOL**

CV 74-204 TUC DCB
(Consolidated Case)

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

8

9 The Tucson Unified School District, No. 1 (“TUSD” or the “District”), by and

10 through undersigned counsel, submits this Notice and Request for Approval (“NARA”) to

11 relocate two double-portables (four classrooms) to Dietz K-8 School¹ (“Dietz”). For the

12 reasons set forth below, this action complies with the Unitary Status Plan (“USP”), the

13 Order Approving the Special Master, and the Constitution.

14 **A. Background**

15 During the winter of 2014-15, TUSD developed enrollment projections for the

16 subsequent school year. In January 2015, the site principal initiated a request for additional

17 space based on the projections. In February and March, site and central staff analyzed the

18 request, determined that Dietz would need additional classroom space to implement its

19 programs as it moved from a K-7 to a K-8 school in the 2015-16 school year, and began

20 developing a plan for placement of portable classrooms at Dietz.² In March, after

21 developing a plan, TUSD staff requested a proposal from an approved contractor. The

22 initial estimates exceeded the threshold set by the Governing Board (\$250,000) for

23 procurements requiring Governing Board approval. *See* Exhibit 1 – Policy DJ, Purchasing

24

25 ¹ Dietz is located on TUSD’s eastside, and its student population is 51% Latino,

26 14% African American, and 25% Anglo (based on USP-coding rules).

27 ² In its Order of March 20, 2013 (ECF # 1452), this Court granted the District’s

28 request for approval to convert Dietz to a K-8 school.

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1 Procedures (**Procurement Approval Levels**, “All Procurements, including all documented
2 sole source and emergency procurements that exceed \$250,000 ... shall require the
3 approval of the Governing Board.”) Accordingly, staff submitted the contract to the
4 Governing Board for approval on April 14, 2015 before proceeding with the proposal. *See*
5 Exhibit 2 – Governing Board Agenda Item and Board Agenda, April 14, 2015. After the
6 Governing Board approved the contract, staff immediately began developing the
7 Desegregation Impact Analysis (DIA) and other information to present to the Special
8 Master and Plaintiffs.

9 On May 1, 2015, in an effort to collaborate in lieu of initiating litigation, the District
10 submitted the DIA along with a memorandum outlining the particulars of the action, to the
11 Special Master and Plaintiffs for consideration. *See* Exhibit 3 – TUSD Memo of April 30,
12 2015 (including the Desegregation Impact Analysis (“DIA”)). Over the following week,
13 the District received and responded to requests for information from the Special Master.
14 *See* Exhibit 4 – Special Master Request for Information of May 3, 2015; *and see* Exhibit 5 –
15 TUSD Response Memo of May 5, 2015. After receiving TUSD’s Response, both the
16 Special Master and the Department of Justice communicated no objection to the action (but
17 reserved the right to revisit if another party raised questions or objections). *See* Exhibit 6 –
18 Special Master and DOJ Emails of May 6, 2015. However, both the Mendoza and Fisher
19 Plaintiffs objected to the action and submitted comments to TUSD, focusing primarily on
20 process concerns and perceived problems with equitable access to programs.

21 **B. Purpose of the Request**

22 TUSD hereby incorporates by reference the background information provided in its
23 May 1, 2015 and May 5, 2015 memos to the Special Master and Plaintiffs. *See* Attachments
24 3 and 5. These memoranda outline the background of the Dietz K-8 conversion, the future
25 uses of the proposed portable classrooms at Dietz, and the impacts on
26 integration/desegregation (including the DIA attached to the May 1, 2015 memo).

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1 There are multiple reasons for this request that will serve to enhance the educational
 2 experiences and opportunities for Dietz’s students: implementation of a successful “middle-
 3 school” model; initiation of a sixth-grade enrichment program to improve academic
 4 achievement; provision of additional space to serve exceptional education students and
 5 families; and expansion of elective offerings within the “middle school” model under which
 6 Dietz operates.

7 The Middle School Model

8 During the 2012-13 school closures, TUSD planned for Dietz K-8 to operate under a
 9 “self-contained” model (middle-school aged students remain with a single teacher for most
 10 or all of the school day). In the summer of 2013, TUSD hired a new principal at Dietz who,
 11 like many other K-8 principals (in conjunction with central leadership), developed a
 12 “middle school” model (middle-school aged students rotate between teachers) for Dietz.

13 TUSD operates 13 K-8 schools: ten on the westside (west of Country Club road, the
 14 geographical center of TUSD), one central, and two on the eastside. With the exception of
 15 two K-8s (C.E. Rose K-8 and McCorkle Academy of Excellence K-8), all of TUSD’s K-8
 16 schools operate under a middle-school model, as shown in the table below:

<i>Self-Contained Model</i>	<i>Middle-School Model</i> *6 th grade is self-contained
C.E. Rose, McCorkle	*Hollinger, *Lawrence (3-8), *Maxwell, Roskruge, Pueblo Gardens, Robins, Safford, Naylor, Miles, Dietz, Booth-Fickett

20 Site principals and central leadership collaborate to determine the model that best
 21 suits the specific needs of each school’s community and students. For example, C.E. Rose
 22 K-8 is a highly successful school operating under the self-contained model; McCorkle K-8
 23 implements project-based learning which works better under the self-contained model.

24 Improving Academic Achievement

25 One of the four portable classrooms will be used to provide 6th grade students an
 26 academic enrichment course that would take the place of one elective period. This course is
 27 offered at several TUSD K-8 and middle schools, and is designed to help students transition
 28

1 from elementary school to middle school. Similar programs for sixth graders exist at seven
 2 TUSD schools: five on the westside, one centrally, and one on the eastside.³ Of the seven
 3 schools that currently offer CORE enrichment classes for sixth graders, three have Latino
 4 populations over 35%, and four have Latino populations over 70%. Dietz K-8 is 51%
 5 Latino, and 14% African-American (by USP coding rules). Currently, African American
 6 students have access to this type of program at only one school where they have a sizable
 7 percentage of the population, Doolen Middle School (16% African American). The addition
 8 of this program at Dietz (14% African American) will help address this inequality.

9 Providing Additional Space to Serve Exceptional Education Students

10 As additional grades, and additional staff, were added at Dietz, the number of
 11 Exceptional Education Cross-categorical (CCS) students also increased. As a result, more
 12 space is needed for IEP meetings, to provide privacy for meetings with families and
 13 students, for small group instruction, for testing space, and to serve as a “home base” for
 14 CCS teachers.

15 Expanding Electives

16 Additional space is needed to provide additional electives, including multi-purpose
 17 space for opera, strings, orchestra, and Taiko drums. Students are primarily served in the
 18 main building and would be in a portable classroom for no more than 60 minutes at a time
 19 to attend an elective class. In the past, the Special Master and Plaintiffs have expressed
 20 concern about the reduced elective opportunities that may exist for middle-school aged
 21 students attending K-8 schools. This action would help address that concern at Dietz.

22 **C. Notice and Request**

23 Based on the foregoing, and based on the information provided in the Exhibits
 24 (including the DIA attached to Exhibit 3), TUSD respectfully requests that the Court
 25

26 ³ In TUSD’s memo to the parties, it mistakenly identified the location of the existing
 27 programs at three schools west, two central, and two east. A review of the list of schools
 28 and a map of the District reveals that the existing programs are available at the locations
 listed above: five west, one central, and one east.

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1 approve the addition of two portables (four-classrooms) at Dietz K-8 to help implement the
2 middle-school model, improve academic achievement, expand elective opportunities, and
3 provide needed space for exceptional education services.

4 The USP requires TUSD to “assess the impact of the requested action on the
5 District’s obligation to desegregate and shall specifically address how the proposed change
6 will impact the District’s obligations under this Order.” *See* USP §X(C)(2). The
7 Desegregation Impact Analysis indicates that “the addition of the portables will have
8 virtually no impact on the racial/ethnic makeup of Dietz’s student population.” *See* Exhibit
9 3. The request complies with the student assignment goals of the USP and is congruent with
10 the Constitution: the action does not negatively impact TUSD’s efforts to desegregate
11 and/or integrate. The request furthers the goals of USP section V(A)(1), Quality of
12 Education, by facilitating efforts “to improve the academic achievement of African
13 American and Latino students” by providing a sixth grade enrichment program, and
14 increased access to electives, at a school with a 51% Latino student population and a 14%
15 African American student population.

16 DATED this 8th day of May, 2015

17 TUCSON UNIFIED SCHOOL DISTRICT
18 LEGAL DEPARTMENT

19 s/ Samuel E. Brown
20 Julie C. Tolleson
21 Samuel E. Brown

22 RUSING LOPEZ & LIZARDI, P.L.L.C.
23 J. William Brammer, Jr.
24 Oscar S. Lizardi
25 Michael J. Rusing
26 Patricia V. Waterkotte

27 **ORIGINAL** of the foregoing filed via the CM/ECF
28 Electronic Notification System and transmittal of a
Notice of Electronic Filing provided to all parties
that have filed a notice of appearance in the District
Court Case, as listed below.

ANDREW H. MARKS

Tucson Unified School District – Legal Department
1010 East 10th Street, Room 24
Tucson, Arizona 85719
Telephone: (520) 225-6040

1 Attorney for Special Master
Law Office of Andrew Marks PLLC
2 1001 Pennsylvania Ave., NW
Suite 1100
3 Washington, DC 20004
amarks@markslawoffices.com

4 LOIS D. THOMPSON CSBN 093245
JENNIFER L. ROCHE CSBN 254538
5 Attorneys for Mendoza Plaintiffs
Proskauer Rose LLP
6 2049 Century Park East, Suite 3200
Los Angeles, California 90067
7 (310) 557-2900
lthompson@proskauer.com
8 jroche@proskauer.com

9 JUAN RODRIGUEZ, CSBN 282081
THOMAS A. SAENZ, CSBN 159430
10 Attorneys for Mendoza Plaintiffs
Mexican American LDEF
11 634 S. Spring St. 11th Floor
Los Angeles, CA 90014
12 (213) 629-2512
jrodriguez@maldef.org
13 tsaebz@maldef.org

14 RUBIN SALTER, JR. ASBN 001710
KRISTIAN H. SALTER ASBN 026810
15 Attorneys for Fisher, et al., Plaintiffs
177 North Church Avenue, Suite 903
16 Tucson, Arizona 85701-1119
rsjr2@aol.com

17 ANURIMA BHARGAVA
18 ZOE M. SAVITSKY CSBN 281616
JAMES EICHNER DCBN 460587
19 Attorneys for Plaintiff-Intervenor
Educational Opportunities Section
20 Civil Rights Division
U.S. Department of Justice
21 950 Pennsylvania Avenue, SW
Patrick Henry Building, Suite 4300
22 Washington, DC 20530
(202) 305-3223
23 anurima.bhargava@usdoj.gov
zoe.savitsky@usdoj.gov
24 james.eichner@usdoj.gov

25
26 s/ Samuel E. Brown