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7 **UNITED STATES DISTRICT COURT**
 8 **DISTRICT OF ARIZONA**

9 ROY and JOSIE FISHER, et al.,)
 Plaintiffs,)
 10 UNITED STATES OF AMERICA,)
 11 Plaintiff-Intervenor,)
 12 vs.)
 13 ANITA LOHR, et al.,)
 14 Defendants,)
 15 and)
 16 SIDNEY L. SUTTON, et al.,)
 Defendants-Intervenors.)
 17 _____)
 18 MARIA MENDOZA, et al.,)
 Plaintiffs,)
 19 UNITED STATES OF AMERICA,)
 20 Plaintiff-Intervenor,)
 21 vs.)
 22 TUCSON UNIFIED SCHOOL)
 23 DISTRICT NO. ONE, et al.,)
 Defendants.)
 24 _____)

CIVIL ACTION
 NO.: 74-90 TUC DCB
 (consolidated case)

**THE UNITED STATES' NOTICE OF
 NO OBJECTION TO THE NOTICE
 AND REQUEST FOR APPROVAL OF
 PORTABLE CLASSROOMS AT
 DIETZ K-8 SCHOOL**

1 The United States does not object to the Court approving the request of the Tucson
2 United School District No. One (“the District” or “TUSD”) to relocate two double-
3 portables (“portables”) to Dietz K-8 School (“Dietz”).¹ The United States has no
4 objection to the way in which the District consulted with the United States about this
5 project or the timing of that consultation. Moreover, the United States has no reason to
6 believe the requested action violates the Unitary Status Plan or any related desegregation
7 orders (hereinafter collectively “desegregation obligations”).
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10 **I. CONSULTATION PROCESS**

11 The United States does not object to the District’s consultation process because it
12 understands the practical realities the District faces in running its day-to-day operations.
13 The District is required to consult with the United States, the other plaintiffs, and the
14 Special Master, and ultimately obtain the approval of this Court, when decisions it makes
15 may implicate its desegregation obligations. Those decisions also require approval from
16 appropriate TUSD officials and governing bodies. Given these two approval chains, the
17 District must determine in what order and on what timetable to seek approval from each.

18 The United States understands that the District might want, as it has done in this
19 case, to take steps to ensure that the TUSD officials and governing bodies actually want to
20 pursue a course of action before beginning the consultation process. The United States
21 will not object to the District taking steps to gain those approvals as long as it ultimately
22

23 ¹ The Order appointing the Special Master allows plaintiffs to file “objections” to a notice and request for approval,
24 gives the District a chance to respond and then provides for the Special Master to submit a report to Court. January 6,
25 2012 Order at 3-4. While the United States is not objecting to the notice, it is filing this pleading during the period in
26 which objections can be filed because it seems the most appropriate time, given the schedule, for the United States to
inform the Court of its position.

1 engages in the consultation and approval process required for the action at issue and does
2 not take any actions that cannot be reversed if the Court ultimately does not approve the
3 action. Given that the District consulted with the plaintiffs and the Special Master, and
4 does not appear to have taken any irrevocable actions, the United States believes the
5 District has met its consultation obligations.
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7 **II. DESEGREGATION IMPACT**

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9 Based on the information it has been provided, the United States believes the
10 proposal to add portables at Dietz does not violate the District's desegregation obligations.
11 First, the addition of portables at Dietz does not change student assignment at Dietz, it
12 merely provides additional space for students already assigned to the school. Therefore,
13 adding portables cannot negatively impact the District's desegregation efforts in regard to
14 student assignment.

15 Second, that the District is using the portables to implement a middle-school model,
16 initiate a sixth grade enrichment program, provide additional space to serve exceptional
17 students and expand elective offerings does not violate its desegregation obligations. There
18 is no reason to believe that any of these uses will harm students at Dietz, and in fact the
19 District reasonably asserts that each will benefit those students. In addition, there is no
20 evidence that providing these benefits to students at Dietz presents any barriers to providing
21 similar benefits to other District students at other schools. Therefore, the United States sees
22 no reason to object to the proposed portables.
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III. CONCLUSION

For the reasons set forth above, the United States has no objection to the Court approving the addition of portables at Dietz.

Respectfully Submitted,

Dated: May 15, 2015

VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division

/s/ James A. Eichner
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CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2015, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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