

**FISHER PLAINTIFFS' COMMENTS RE: PLACEMENT OF
PORTABLES AT DIETZ K-8 SCHOOL**

The Fisher Plaintiffs have reviewed the District's proposal to place additional portables at Dietz K-7 (to be K-8) School. The Fisher Plaintiffs have serious concerns with regard to this proposal. These concerns and comments are provided below:

GENERAL SUMMARY OF FISHER POSITION

The Fisher Plaintiffs believe the District is using a broad lens and stretch of the imagination to interpret the Order from the Court. The Order requires that when students from a closing school are sent to a new school, those students cannot be placed in portables at the receiving school. The USP clearly provided that students moved from a closing school may not be placed in portables in their new, receiving schools, and Court orders follow that same language, providing that the students from a closing school, when received by their new school, may not be placed in portables. The Fisher Plaintiffs believe the District is taking a very liberal interpretation of specific and strictly-construed language to suit their proposals.

The Fisher Plaintiffs are concerned about the process of creating proposals. There appears to be the beginning of a practice of making proposals that the DIA suggests there may be little, or minimal, effect upon the minority students and that is used as an excusable practice to ignore the clear mandates of the USP (i.e, Fruchtendler and Sabino and the effect upon Magee). The Fishers can cite other examples. The overarching concern is this appears to be a practice that, if allowed to continue, will allow the District to continue down a slippery slope of ignoring the requirements of the USP.

The District continues to inundate the Fisher Plaintiffs with late proposals where there has been no input. The District continually provides the Fisher Plaintiffs with new proposals and indicating only a short period of time to analyze and respond to these proposals. In this particular case, it appears this genesis for this proposal was constructed by the new principal of Dietz (who took over Dietz in school year 2013-2014).

Comment #1: The District indicates their belief the student population at Dietz will increase in the future due to the expansion from a K-6 to K-8 school. The Fisher Plaintiffs contend there will be no population increase, as Dietz is a "C" school. There is no motivation for parents to be willing to send students to a "C" school when they have the option to send students to an "A" school. As the Fisher Plaintiffs believe that parents will send their students to such an "A" school, there is no reason to believe the Dietz student population will increase. The Fisher Plaintiffs believe the student population at Dietz will remain stagnant or decrease. The District does not cite any studies indicating the area surrounding Dietz and

its attendance boundaries. Fisher Plaintiffs believe that the increase in students at Dietz is driven by the closure of Carson Middle School and Keen Elementary School, rather than an actual population growth. If the student population would remain stagnant or decrease, the District's proposal for additional portables would be without merit.

Comment #2: The amount of landmass required for a K-8 school is larger than that required for a K-6 school. Adding additional portables in a school that does not have the space, as the district proposes, is inappropriate. Dietz does not have the same landmass, and is not large enough for a K-8 school. Additionally, if the District were permitted to add two portables at Dietz, the students still would not be provided with a comparable education as other middle school students are receiving. Specifically, Dietz does not have PE facilities, science labs, or technology classrooms – with the exception of one computer lab. The middle school students currently enrolled at Dietz (7th grade) are receiving an inferior educational experience that will not provide them with the academic and social skills necessary to enter high school.

Comment #3: The Fisher Plaintiffs concur in the Mendoza Plaintiffs concern in regard to what appears to be the implementation of changes at the school-site level without the District's consideration of, or concern for the District-wide impacts such changes may present. The District has considered changes at Fruchtendler Middle School, including moving those students to facilities which have both sufficient land space and a diverse array of course offerings – considerations which have not been contemplated with Dietz.

PROPOSAL

The Fisher Plaintiffs believe a better solution is to reopen Carson Middle School, which is currently closed and not being utilized as an educational facility. Carson Middle School contains the necessary classrooms and landmass to provide a quality and diverse educational experience to these students. The Fisher Plaintiffs further believe any matter concerning the portables must be considered within the context provided for in the USP.

CONCLUSION The Fisher Plaintiffs are unable to agree on the District's proposal or any stipulation embodying the District's Dietz proposal for placing portables on the school site.