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11 Attorneys for Mendoza Plaintiffs

12
 13 UNITED STATES DISTRICT COURT
 14 FOR THE DISTRICT OF ARIZONA
 15

16 Roy and Josie Fisher, et al.,
 17 Plaintiffs,
 18 v.
 19 United States of America,
 20 Plaintiff-Intervenors,
 21 v.
 22 Anita Lohr, et al.,
 23 Defendants,
 24 Sidney L. Sutton, et al.,
 25 Defendant-Intervenors,

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

**MENDOZA PLAINTIFFS’
 OBJECTIONS TO TUSD’S FINAL
 REVISED COMPREHENSIVE
 MAGNET PLAN**

Hon. David C. Bury

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1 Maria Mendoza, et al.,

Case No. CV 74-204 TUC DCB

2 Plaintiffs,

3 United States of America,

4 Plaintiff-Intervenor,

5 v.

6 Tucson United School District No. One, et al.,

7 Defendants.

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11 **INTRODUCTION**

12 On May 15, 2015, the Tucson Unified School District, No. One (“TUSD” or the
13 “District”) filed its Revised Comprehensive Magnet Plan and Individual School
14 Improvement Plans (Doc. 1803) (“May 15 CMP”) under this Court’s January 16, 2015
15 Order regarding the comprehensive magnet plan (Doc. 1753) (“CMP Order”). The
16 plaintiffs and Special Master each provided the District with comments on the May 15
17 CMP so that it could consider making revisions to the plan before taking it to its
18 Governing Board for a vote. On June 9, 2015, TUSD’s Governing Board approved the
19 Final Revised Comprehensive Plan, which it then filed with the Court on June 11, 2015
20 (Doc. 1808) (“Final CMP”).

21 However, the Final CMP contained no individual magnet school improvement
22 plans, which raises significant issues regarding the District’s commitment to those plans
23 and the budgets to support them. It also suggests that improvement plans have not been
24 revised to be made consistent with revisions in the Final CMP, and makes unclear whether
25 needed substantive and budgetary revisions, including those that would address the
26 district-wide and individual magnet school issues identified in the 2011 Magnet School
27 Study, have been or will be made. In light of the District’s apparent failure to give
28 Mendoza Plaintiffs’ April 2 and May 29, 2015 comments on the CMP and improvement

1 plans serious consideration, or to answer Mendoza Plaintiffs' requests for information,
2 they must assume that no changes have been made to the improvement plans.

3 Notwithstanding that Mendoza Plaintiffs have for months stressed the importance of
4 asset based strategies (as contemplated in the USP) to improve magnet students' academic
5 achievement, the District has loaded improvement plans with deficit model strategies,
6 including the use of paraprofessionals to provide direct instruction and mandatory
7 interventions, to the exclusion of asset model strategies. Such an approach is likely to be
8 ineffective in improving schools' academic achievement and to fail to attract diverse
9 students to integrate magnet schools, and is inconsistent with the USP.

10 Moreover, the District's Final CMP and Improvement Plans are inconsistent or
11 directly conflict with this Court's CMP Order in a number of respects. First, the Final
12 CMP fails to adequately address transportation and inconsistently provides students access
13 to programs through free transportation, thus unfairly burdening some students, and
14 putting some schools at a disadvantage as they seek to improve students' academic
15 achievement. Additionally, notwithstanding that this Court required schools to set up
16 academic achievement goals and benchmarks, some schools set goals and benchmarks at
17 or below their current academic achievement scores, putting them at an unfair advantage in
18 avoiding magnet status withdrawal over other schools. Finally, the Final CMP fails to
19 address magnet schools' themes or to identify how schools fit into magnet feeder patterns.

20 Other aspects of the Final CMP and Improvement Plans are either internally
21 inconsistent or inconsistent with the USP. The District's proposal to transition Tully
22 Elementary School into a GATE-themed magnet is inconsistent with the purpose of
23 magnet schools and the ALE provisions of the USP, and could potentially result in
24 stigmatizing predominantly Latino students. The District also indicates that it will not
25 consider any additional dual language magnet programs before it can seek unitary status,
26 which would be a failure to comply with the USP. Finally, the District's lighthouse option
27 is poorly developed, would divert significant funds from magnet schools to a non-magnet
28 school, and Ochoa Elementary School is ill-equipped to serve as a model lighthouse school.

1 Accordingly, Mendoza Plaintiffs request that this Court sustain their objections, and
2 that it order the District to make necessary revisions to the Final CMP and Improvement
3 Plans as specified below.

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5 **ARGUMENT**

6 *The District's Failure to Revise, Seek Approval For, And File Individual*
7 *School Improvement Plans Raises Issues of the District's Commitment to Those*
8 *Plans and Budgets, and Whether Needed Budget Revisions and Resolution of*
9 *Inconsistencies Have Been or Will be Made*

10 On May 15, 2015, the District filed its CMP, including individual magnet school
11 improvement plans under this Court's CMP Order. Pursuant to the agreed-upon CMP
12 briefing schedule, the plaintiffs and Special Master provided the District with comments
13 on the May 15 CMP and improvement plans by May 29, 2015 so that it could consider
14 whether to revise the CMP before it presented it to the Governing Board for a vote.¹
15 (Briefing Schedule for CMP (Doc. 1808-2).) On June 9, TUSD's Governing Board
16 approved the District's Final CMP, which was then filed with this Court on June 11, 2015.
17 However, the Final CMP approved by the Governing Board does not contain any of the
18 individual magnet school improvement plans or the budgets necessary to support them.
19 Mendoza Plaintiffs therefore must assume that no substantive or budgetary changes have
20 been made to the improvement plans filed on May 15, 2015 for purposes of this objection.
21 They also are constrained to raise a number of issues that result from the District's failure
22 to obtain Governing Board approval of the individual magnet school improvement plans
23 and its failure to respond to Mendoza Plaintiffs' requests for information concerning both
24 the overall plan and the individual school plans.

25
26 ¹ Mendoza Plaintiffs' comments to the May 15 CMP and improvement plans are attached
27 as Exhibit A. At the March 26 and 27, 2015 meeting among all the parties and Special
28 Master in Tucson, the District provided the Special Master and plaintiffs with second
drafts of individual magnet school improvement plans. The April 2, 2015 comments
Mendoza Plaintiffs provided the District regarding these plans are attached as Exhibit B.

1 First, the budget allocations necessary to support magnet schools' implementation
2 of their improvement plans are contained within those improvement plans. Thus, neither
3 the magnet improvement plans, nor the budgets to support them have been approved by
4 TUSD's Governing Board. The plaintiffs and Special Master therefore have no assurance
5 that the District has committed to or will commit to the budget allocations necessary for
6 magnet schools to implement their strategies to improve integration and academic
7 achievement at their schools. Further, on May 29, 2015, Mendoza Plaintiffs specifically
8 requested that the District "confirm that it has committed to include, at the very minimum,
9 all the expenses referenced in the individual magnet school improvement plans in the
10 2015-16 budget." (Exhibit A at 1.) Mendoza Plaintiffs have not received a response to
11 their request, or to any other request for information in their May 29 comments.

12 The need for such an express commitment is highlighted by the District's Fall 2014
13 failure to fill magnet coordinator positions it was to provide under the 2014-15
14 desegregation budget due to its hiring freeze, about which the plaintiffs only recently
15 learned.² (See TUSD May 29, 2015 response to the Fisher Plaintiffs' Request For
16 Information, attached as Exhibit C.) Specifically, notwithstanding its repeated assertions
17 that there "is no hiring freeze," the District put "all 'out of classroom' positions... on
18 hold," on August 11, 2014. (*Id.*) Mendoza Plaintiffs made several requests regarding the
19 hiring freeze, including that the District commit to filling any of these positions that may
20 become vacant during the 2015-16 school year. (Mendoza Plaintiffs' Further Comments
21 on Draft #3 of the Proposed 2015-16 910(G) Budget and Changes to Draft #3, dated June
22 4, 2015, attached as Exhibit D.) Mendoza Plaintiffs have not received a response from the
23 District. Thus, in light of the District's failure to implement the USP 2014-15 budget,
24 Mendoza Plaintiffs are particularly concerned that absent Governing Board approval of

25 ² Notably, the District failed to inform the plaintiffs and Special Master of the hiring freeze
26 that occurred on August 11, 2014, notwithstanding that the magnet coordinator position
27 was the result of a budget review process of many months involving plaintiff, Special
28 Master, and court review. It was only until months later, after the Fisher Plaintiffs
specifically requested information on the hiring freeze, that the District informed the
plaintiffs and Special Master of its failure to fill the positions. (See Exhibit C.)

1 individual magnet improvement plans and their budgets, the District will again unilaterally
2 deviate from magnet plan implementation.

3 Second, the absence of any improvement plans in the Final CMP raises the issue of
4 whether the District intends to spend 910(G) funds as detailed in the May 15 CMP, or
5 whether it has revised budget allocations. For example, in their May 29 comments,
6 Mendoza Plaintiffs indicated that the budget for Robison Elementary School is “a mere
7 \$191,311.40, very low when compared to all other... improvement plan budgets,” (Exhibit
8 A), which is particularly problematic given that Robison essentially has a full-time
9 International Baccalaureate magnet theme and the 2011 Magnet School Study³ stressed the
10 importance of “plan[ning] for district funding to maintain ongoing required training and
11 subscription fees after the grant funding ends.” (Final CMP at 45.) Similarly, Mendoza
12 Plaintiffs questioned whether the \$716,018 that would be spent implementing the Ochoa
13 lighthouse option was an effective use of 910(G) funds. (Exhibit A.) While the Final
14 CMP makes clear that the District still proposes this option, (Final CMP at 5), it is unclear
15 whether it has made any adjustments to the budget allocations made to support that option,
16 particularly given both Mendoza Plaintiffs’ and the Special Master’s expressed objection
17 to this proposal for Ochoa (discussed below) or whether it has increased the budget
18 allocations to Robison to address the significant underfunding of that school’s
19 improvement plan.

20 Third, the absence of any updated improvement plans raises the issue of whether
21 revisions to the Final CMP have been incorporated into the individual plans. For example,
22 in the Final CMP, the strategies “C” and “D” schools were directed to adopt have changed.
23 (See Final CMP at 7; May 15 CMP at 12.) In the Final CMP, teacher leaders of PLCs no
24 longer receive a stipend, there is no class reduction based on a “high number of ELL
25 students and/or Special Education students,” and the positions that are to support PLCs
26

27 ³ Mendoza Plaintiffs note that the “Individual Magnet School Summaries” referenced in
28 the 2011 Magnet School Study (Final CMP at 57) are not attached to the District’s Final
CMP.

1 have changed. (*See* Final CMP at 7; May 15 CMP at 12.) If improvement plans have not
2 changed from the May 15 versions, magnet schools are likely to experience trouble in
3 implementing seemingly conflicting portions of the CMP and their improvement plan.
4 Moreover, both the Mendoza Plaintiffs and the Special Master have informed the District
5 that there exists an inconsistency between the May 15 CMP (which was not resolved in the
6 Final CMP) and the improvement plans. (Exhibit A; Exhibit E (June 2, 2015 comments).)
7 The academic achievement assessment includes consideration of a reduction of
8 achievement gaps between the achievement of “the highest ethnic group compared to other
9 ethnic groups,” (Final CMP at 10), yet improvement plans contain data reports that
10 specifically contemplate a reduction of achievement between white students and Latino
11 and African American students, (*See* May 15 CMP). As far as Mendoza Plaintiffs can tell,
12 the District has also not addressed this inconsistency between the CMP and individual
13 improvement plans.

14 Fourth, the District’s failure to respond to Mendoza Plaintiffs’ requests for
15 information has limited their understanding of the District’s proposals and magnet
16 improvement plans. Significantly, Mendoza Plaintiffs “asked if the District has already
17 addressed the District-wide and school specific issues identified in the 2011 Magnet
18 School Study [referenced in the CMP Order at 17], and if not, why it has chosen not to.”
19 (Exhibit A.) Mendoza Plaintiffs therefore do not understand whether or to what extent
20 issues identified in that report have been addressed, or whether the District has revised
21 individual magnet plans to address those issues.

22 For the reasons stated above, Mendoza Plaintiffs request that this Court order the
23 District to seek approval of its most updated versions of individual magnet improvement
24 plans from its governing board, that it file these plans with the Court, and that it issue any
25 other additional orders it believes will remedy the issues caused by the District’s failures
26 described above.

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1 **Academic Achievement**

2 *The Magnet School Improvement Plans Inappropriately and Heavily Rely on*
3 *Deficit Model Strategies, Often Involving Paraprofessionals Providing Direct*
4 *Instruction, to the Exclusion of Asset Model Strategies.*

5 Mendoza Plaintiffs object to the District’s and magnet schools’ heavy reliance on
6 deficit model strategies to improve magnet schools’ academic achievement, to the
7 exclusion of asset model strategies. From the time the USP was being negotiated, the
8 Mendoza Plaintiffs have stressed the importance of asset model strategies to improve
9 student academic achievement.⁴ Indeed, the USP is replete with asset model strategies,
10 including provisions for Latino and African American recruitment into advanced learning
11 experiences, professional development on culturally responsive pedagogy, dual language
12 programs, culturally relevant and multicultural courses, all of which are included within
13 the “Quality of Education” USP section. (USP (Doc. 1450) at 28-38.) The Special Master
14 summed up the importance of skills-based, asset model strategies in the CMP, stating that
15 “[a]ccounting for student assets in the context of what we want them to learn and what
16 they still need to learn allows them to use their language and cultural assets to meet
17 challenges and cross cultural boundaries and in the process elevate their competence and
18 confidence.” (Special Master’s June 3, 2015 Comments on Plaintiffs’ Objections to the
19 CMP – Part 3 (inadvertently dated May 3, 2015), attached as Exhibit E.⁵) In their April 2,
20 and May 29, 2015 comments, Mendoza Plaintiffs stressed the need for the improvement
21 plans to include more asset model strategies to improve academic achievement, and that
22 they not so heavily rely on deficit model strategies. Although Mendoza Plaintiffs have
23 made such request for months, they have not seen any changes to the improvement plans
24 that would suggest that the District has seriously considered their concerns.

25 ⁴ Mendoza Plaintiffs have repeatedly had to remind the District of the need to include asset
26 model strategies in their implementation of USP required plans and initiatives, as detailed
further on page 3 of Mendoza Plaintiffs May 29 comments (Exhibit A).

27 ⁵ Special Master Hawley provided comments on the May 15, 2015 CMP and plaintiffs’
28 objections in three parts, provided on May 31, June 2, and June 3, 2015. Exhibit E
contains all three parts of Special Master Hawley’s comments.

1 Among the deficit model strategies heavily relied on are after school tutoring,
2 summer tutoring and interventions, semester-long “response to intervention” courses, in-
3 class interventions involving grouping by student achievement and other mandatory
4 interventions such as those that exist in the Davis, Dodge, Cholla, and Pueblo
5 improvement plans (*See* May 15 CMP at 182, 245, 302, 319.) Particularly troublesome are
6 mandatory “pull out” interventions that, as the Special Master noted, “too often [] result in
7 fragmenting students’ learning experiences and can result in stigmatizing students who
8 were pulled away from their peers because they and everyone else knows ‘that they are not
9 as smart as others.’” (Exhibit E (June 3, 2015 comments).) Mendoza Plaintiffs’ requested
10 that the District identify “what classroom instruction these students [who would be pulled
11 out] would miss,” (Exhibit A), but they have received no response. In the Final CMP, the
12 District asserts that student “[p]ull-out interventions will be used minimally,” (District’s
13 Final CMP (Doc. 1808-3) at 8) but there is no indication that such potentially-stigmatizing
14 interventions have been made voluntary or that individual school plans reflect that new
15 commitment.

16 The problematic nature of the approach is compounded by the fact that the District
17 heavily relies on paraprofessionals in its deficit model strategies. For example, in some
18 individual improvement plans, it appears that such paraprofessionals provide students
19 direct instruction, notwithstanding that they are not qualified or certified to provide such
20 instruction. (*See e.g.*, discussion of “instructional specialists” on pages 142, and 188 of
21 May 15 CMP; Exhibit A.) As the Special Master described, “there is an enormous amount
22 of money [that] is being proposed to finance paraprofessionals. This is particularly
23 troublesome in those schools that are weak academically. In some cases, these folks are
24 meant to provide direct instruction for struggling students which most are not qualified to
25 do... The idea that we can significantly improve student learning by using
26 paraprofessionals extensively, especially when those people are being paid poverty wages,
27 defies credulity.” (Exhibit E (May 31, 2015 comments).)
28

1 The District’s heavy reliance on deficit model strategies, often including
2 paraprofessionals, to the exclusion of asset model strategies, is likely to be less effective
3 than meaningful asset model strategies.⁶ Significantly, parents and students are likely to
4 be far less attracted to magnet schools if their improvement plans are loaded with only
5 deficit model strategies, and thus, schools’ efforts to integrate will be hindered by this
6 approach. The addition of more asset model strategies, including before/after school
7 offerings, would make magnet schools more attractive and would be consistent with the
8 approach to improving academic achievement in the USP.

9 For the reasons discussed above, Mendoza Plaintiffs request that the Court order the
10 District to develop more skills-based strategies to improve academic achievement in each
11 of the magnet school improvement plans. They further request that Court order the
12 District to make any “pull out” programs voluntary given their potential to disrupt
13 students’ regular instruction and stigmatize them. Mendoza Plaintiffs also ask that the
14 Court order that no TUSD magnet school use paraprofessionals to provide direct student
15 instruction, and that any improvement plan ambiguous in this regard be revised to be made
16 clear and consistent with its order. Finally, to the extent that inclusion of asset based
17 strategies require any increase in proposed Final CMP expenditures, Mendoza Plaintiffs
18 request that the Court order the District to eliminate some of the “enormous amount of
19 money [that] is being proposed to finance paraprofessional,” (Exhibit E (May 31
20 comments)).

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26 ⁶ Some of the very few asset model strategies Mendoza Plaintiffs identified in the
27 improvement plans, and that they encouraged the District “to consider for other schools, in
28 addition to other asset model strategies,” include expansion of and student recruitment into
academic clubs, and the “Dual Language Academy Student Ambassadorship program”
(Exhibit A at 3; May 15 CMP at 257, 265.)

1 *Transportation for Tutoring and Interventions Outside of Regular School*
2 *Hours is Inconsistently Provided for, Which Would Affect Schools' Ability to*
3 *Implement Those Programs, and Is Inconsistent with this Court's CMP Order*

4 In its CMP Order, this Court specifically identified transportation as a component
5 the District failed to address in its May 15 CMP, emphasizing that it is “the most
6 expensive factor in operating a magnet school theme.” (CMP Order at 16.) In their April
7 2 and May 29 comments, Mendoza Plaintiffs indicated that they identified little to no
8 discussion of transportation in the CMP or magnet improvement plans, and noted that if
9 interventions and tutoring outside of regular school hours “are to be effective, meaningful
10 access to them must be provided through free transportation.” (See Exhibit A; Exhibit B.)
11 Notwithstanding that Mendoza Plaintiffs’ have reiterated these comments for months, the
12 District’s Final CMP fails to adequately address the issue.

13 Specifically, with regard to interventions and tutoring, the Final CMP indicates that
14 interventions at schools receiving “21st century funding” “include[] transportation,” that
15 other schools’ interventions “include[] a minimal fee,” and that “[a]fter school tutoring and
16 Saturday school may include transportation.” (Final CMP at 8-9.) Mendoza Plaintiffs
17 strenuously object to the District’s inconsistent and ambiguous approach. Magnet school
18 students who would have to pay to receive transportation or would not be provided
19 transportation to participate in interventions/tutoring at all will unfairly face barriers in
20 accessing those programs. Further, these students’ schools will be unfairly disadvantaged
21 in their ability to successfully implement their academic achievement strategies.
22 Moreover, the District fails to indicate which schools would receive free transportation,
23 which would involve a “minimal fee” and which schools would not receive transportation
24 for after-school and Saturday tutoring. Thus, Mendoza Plaintiffs are unable to assess
25 whether implementation of the District’s Final CMP would result in disproportionate
26 unfairness to the District’s Latino and African American students.

27 Compounding the inadequacy of the District’s approach to transportation is the fact
28 that, because improvement plans have not been revised, approved by the Governing Board,

1 or filed with the Court, it is impossible to tell whether those schools provided with free
2 transportation have sufficient funds allocated to support such transportation. Thus, the
3 District's approach to intervention/tutoring transportation is inconsistent, inequitable, and
4 ambiguous. Nor do Mendoza Plaintiffs believe that it is the type of discussion of
5 transportation that this Court contemplated in its CMP Order. Mendoza Plaintiffs
6 therefore request that this Court order the District to revise its magnet school improvement
7 plans to provide free transportation for its students who otherwise qualify for
8 transportation under the USP to participate in interventions, tutoring and other after-school
9 programs, and that adequate budgetary needs be detailed in those plans.

10 *Some Magnet Improvement Plans Do Not Contain "Goals" or Adequate*
11 *Academic Achievement Benchmarks, Creating an Inconsistency Among*
12 *Improvement Plans That Unfairly Disadvantages Some Schools*

13 In the Special Master's May 17 and June 2 comments (Exhibits E; Exhibit F), and
14 Mendoza Plaintiffs' April 2 and May 29 comments (Exhibits A; Exhibit B), issues with
15 some improvement plans' inadequate academic achievement goals and benchmarks were
16 brought to the District's attention. For example, "Cholla received 125 points [grade B] in
17 2013-14, [(May 15 CMP at 299)], but its academic achievement goal for each of 2014-15
18 and 2015-16 is to reach 120 points. Such targets cannot be described as 'goals.'" (Exhibit
19 A (noting that Tucson High, Roskruge, and Booth-Fickett have similar inadequate goals).)
20 The Special Master "indicated that most schools had set minimal goals for improvement
21 and in some cases had actually set lower goals than they had achieved in the recent past.
22 Presumably this will be resolved in the final plan (it must be)." (Exhibit E (June 2, 2015
23 comments).) However, because no revised improvement plans were approved by the
24 District's Governing Board or filed with the Court, it appears that such inadequate goals
25 still exist in the improvement plans. By setting very low "goals," some schools are put at
26 an unfair advantage as they would more easily meet those goals than would schools that
27 set more ambitious goals, which could potentially affect which schools get considered for
28 magnet status removal. Mendoza Plaintiffs therefore request that the District be ordered to

1 revise academic achievement goals and benchmarks in magnet school improvement plans
2 so that no school sets future goals or benchmarks at or below its current academic
3 achievement score.

4 *Improvement Plans are Inconsistent with the Final CMP Regarding*
5 *Strategies to Improve English Language Learners' Academic Achievement*

6 The CMP states that “[f]or schools that did not reclassify enough ELL students to
7 receive additional points from the Arizona letter grade system, they included strategies in
8 their plans specifically designed for the success of ELL students.” (Final CMP at 12.)
9 Mendoza Plaintiffs have informed the District that they agree with this approach, but that a
10 “number of schools that did not receive points for ELL reclassification had no such
11 strategies, including Carrillo and Robison. Additionally, Borton’s improvement plan
12 simply states that “teachers will implement strategies specifically designed for ELL
13 students in order to increase [] achievement.” (Exhibit A (citing May 15 CMP at 155).)
14 Mendoza Plaintiffs are not aware of any District attempt to make the magnet school
15 improvement plans consistent with the CMP in this regard. Mendoza Plaintiffs therefore
16 request that the District be ordered to make its improvement plans consistent with its Final
17 CMP on strategies for improvement of ELLs’ academic achievement.

18 **Integration**

19 *The Proposed Transition of Tully Elementary School Into a GATE-Themed*
20 *Magnet Is Inconsistent with the USP and the Purpose of Magnet Schools, and May*
21 *Result in Stigmatizing Students at a Predominantly Latino School*

22 The District proposes that “Tully Magnet Elementary [] change their theme from
23 STEM to Gifted and Talented” education. (See Final CMP at 5; May 15 CMP at 9.) It
24 asserts that the theme-change is a recruitment strategy that will “attract students to Tully.”
25 (May 15 CMP at 224.) As this Court indicated in its CMP Order, “[t]raditionally, magnet
26 schools are distinct from other public schools because they offer a specialized academic
27 focus, theme, or pedagogy known as the magnet program.” (CMP Order at 3:20-21 (citing
28 the 2011 Magnet School Study); see also Final CMP at 3 (“The goal of magnet schools by

1 definition is to attract a racially diverse student body *by creating schools so unique* that it
2 will draw a diverse range of students from across the district.”) (emphasis added.) The
3 GATE program exists at magnet and non-magnet schools throughout the District as an
4 advanced learning experience. It is therefore neither a magnet theme nor a program that
5 would distinguish Tully from other TUSD schools.

6 Moreover, Mendoza Plaintiffs understand that if Tully’s theme-change is
7 implemented, students enrolled in the program would be included in the assessment of
8 whether the District has met its obligations to improve Latino and African American
9 student participation in ALEs. (See Special Master’s May 17, 2015 memo Re: Comments
10 on the Revised CMP, attached as Exhibit F.) However, unlike the many other TUSD
11 GATE programs, participation in the proposed program at Tully would not be based on
12 student testing. (See Final CMP at 4 (“Students do not need to test or audition in order to
13 gain placement at any TUSD magnet school.”).) Thus, because Tully is a racially
14 concentrated Latino school, (TUSD’s annual report, Appendix II-23 (Doc. 1686-8) at 1),
15 the District would be able to significantly increase Latino student participation in ALEs
16 (and thereby fulfill its USP ALE obligations) by eliminating the standard to participate in
17 the program. Such an approach does not involve the kind of improvement in academic
18 achievement and recruitment of Latino students into ALEs that is contemplated in the USP
19 and sends the message that Latino students are unable to be held to the same standard as
20 other TUSD students. Moreover, such a message could potentially result in a
21 disproportionately Latino student population at Tully becoming stigmatized as students
22 who require special treatment to participate in GATE programs. Mendoza Plaintiffs
23 therefore request that the Court sustain their objection to the proposed theme change at
24 Tully Elementary School.

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1 *The Final CMP Fails to Address the Strengths and Weaknesses of Magnet*
2 *Schools' Themes or to Identify How Schools Fit Into Theme Pipelines as Required*
3 *By the CMP Order*

4 In rejecting the CMP approved by TUSD's Governing Board on July 15, 2014, this
5 Court indicated that the "CMP fails to present for easy comparison and evaluation the
6 basic rubric information for the current magnet schools and programs or identify the
7 strength of the various magnet themes operating in these schools. The Court does not
8 know how each school fits into an overall magnet feeder school plan." (CMP Order at 16.)

9 In each of their April 2 and May 29 comments, Mendoza Plaintiffs informed the
10 District that the vast majority of magnet improvement plans do not contain **any** integration
11 or academic achievement strategies that take into account the school's theme. (*See* Exhibit
12 A; Exhibit B.) Such strategies to improve magnet theme integration are particularly
13 important if schools are to attract a diverse student population. In addition, as Mendoza
14 Plaintiffs stated in their May 29 comments, inclusion of "integration [and] academic
15 achievement strategies within the context of a school's theme is likely to introduce a
16 consistency and cohesion to [schools'] improvement plan[s] that will improve the
17 likelihood of successful implementation of [those] plan[s] and attainment of goals."
18 (Exhibit A.)

19 While Mendoza Plaintiffs appreciate the Special Master's view that "it is not clear
20 that all of the magnet themes are very coherent or comprehensive to start with[.]" (Exhibit
21 E (June 2, 2015 comments)), Mendoza Plaintiffs see the lack of coherency as underscoring
22 the need for schools to address theme-integration strategies in their plans. In the months
23 that Mendoza Plaintiffs have raised this issue, the District's only CMP revision that
24 appears intended to address their concerns is the bare statement in the Final CMP that
25 "[s]chools that have a magnet identity were encouraged to keep that identity and embed the
26 theme into the strategies[.]" (Final CMP at 6.) Notably, the revision was made after the
27 May 15 improvement plans were created and filed with the Court. The failure of the vast
28 majority of improvement plans to include even a single strategy that takes into account the

1 school's theme is not what was contemplated in this Court's Order. Mendoza Plaintiffs
2 therefore ask that this Court order the District to revise magnet school improvement plans
3 to include at least some strategies to strengthen magnet theme implementation.

4 Similarly, in their May 29 comments, Mendoza Plaintiffs indicated that "[i]f magnet
5 schools are to be attractive to students and parents, the District must address [magnet
6 theme pipelines, or feeder patterns] to provide them with a sense of continuity in the
7 educational program they would commit to if they applied." (Exhibit A.) They further
8 reminded the District that the 2011 Magnet School Study recommended that the "district
9 [] look at its feeder pattern for magnet school themes and seek to provide K-12 continuity,"
10 [(Final CMP at 32)], as 'no attention has been paid to the District Continuity (Pipeline) for
11 Magnet Schools during the past several years,' [(*id.* at 54)]." (Exhibit A.) While the Final
12 CMP identifies three existing magnet theme pipelines, (Final CMP at 4), it fails to identify
13 the schools that make up the pipelines, or how the proposed theme changes at Carrillo and
14 Tully and the elimination of the Ochoa and Cragin magnet programs would fit into overall
15 magnet pipelines. The CMP therefore does not provide sufficient information that would
16 allow the public or this Court to "know how each school fits into an overall magnet feeder
17 school plan[.]" (CMP Order at 16). Mendoza Plaintiffs therefore request that the Court
18 order the District to revise the CMP to include a more meaningful discussion of magnet
19 feeder patterns.

20 *The Final CMP Indicates that the District Does Not Intend to Comply with*
21 *the USP Requirement that It Consider Additional Dual Language Magnet Programs*

22 The USP requires that the District "consider how, whether, and where to add...
23 additional dual language [magnet] programs..." (USP Section II, E, 3.) However, the
24 Final CMP indicates that "[n]o additional dual language programs will be offered during
25 the 2015-16 or 2016-17 school years" because of budgetary capacity. (Final CMP at 4.)
26 As Mendoza Plaintiffs noted in their May 29 comments, given that the District may seek
27 unitary status at the end of the 2016-17 school year, it appears that the District does not
28 intend to comply with USP Section II, E, 3. Moreover, Mendoza Plaintiffs do not

1 understand the District’s explanation of budgetary constraints as the District has had
2 approximately five million dollars of unexpended 910(G) funds in the 2014-15 school
3 year, and in the last quarter. (See Exhibit A.) Mendoza Plaintiffs therefore ask that the
4 Court strike this language from page 4 of the Final CMP.

5
6 **Other Budget Related Issues**

7 *The Lighthouse Option is an Ineffective and Inefficient Use of 910(G) Funds*
8 *Because Ochoa is Ill-Suited to be a Lighthouse School and the Option is Poorly*
9 *Developed*

10 Mendoza Plaintiffs object to the Ochoa Lighthouse option the District proposes.
11 The District indicates that under this proposal “highly performing [schools that] have little
12 chance of integrating [serve as] a lab school environment where highly successful teachers
13 share their expertise and classrooms as models [and that although] Ochoa would no longer
14 be a magnet school [it] would continue to receive magnet funding for three years
15 beginning in 2015-16.” (Final CMP at 5.) Mendoza Plaintiffs do not understand on what
16 basis the District concludes that Ochoa, a “B” school as rated by the Arizona Department
17 of Education, was chosen as a “highly performing” lighthouse school, or why it believes
18 Ochoa teachers are so “highly successful” that they should serve as models to other
19 teachers. Nor do they understand why the District believes that Ochoa, as an Emilio
20 Reggio themed school involving a unique and specific pedagogy, is an appropriate
21 lighthouse school when no other TUSD magnet schools apply that pedagogy. Moreover,
22 the plan appears poorly thought out given that visiting teachers under the option would be
23 required to leave their students with substitutes “at least 4 times during the semester.”
24 (May 15 CMP at 207.) In an attempt to better understand the District’s proposal, Mendoza
25 Plaintiffs requested that the District address these exact issues on May 29. (Exhibit A.)
26 The Special Master shared nearly identical concerns, and further indicated that “[t]he plan
27 is not well developed[.]” (See Exhibit E (May 31, 2015 comments).) The District has
28

1 failed to respond to any of these concerns and has provided no further information that
2 would allow Mendoza Plaintiffs to understand the justification for this proposal.

3 As detailed in Mendoza Plaintiffs May 29 comments, given that the lighthouse
4 option description closely matches the purpose of Professional Learning Communities
5 under USP Section IV, I, 4, (May 15 CMP at 206-207), “the \$716,018 that would be spent
6 implementing the Ochoa ‘lighthouse’ option would be better spent providing magnet
7 school teachers with additional time in PLCs, especially as the opportunity for
8 collaborative problem-solving could be provided to all magnet teachers in PLCs rather
9 [than] to a very small number of magnet teachers under this proposal.”⁷ (Exhibit A.) In
10 addition, given that Ochoa will no longer be a magnet school, it is inappropriate for it to
11 receive magnet school funding for three additional school years, (Final CMP at 5), when
12 that money could instead be spent directly supporting implementation of actual magnet
13 schools’ improvement plans. Mendoza Plaintiffs therefore respectfully request that the
14 Court sustain their objection to the District’s proposed lighthouse option.

15 16 CONCLUSION

17 For the reasons set forth above, this Court should sustain the objections of the
18 Mendoza Plaintiffs. Additionally, it should order the District to make the necessary
19 revisions detailed above, and to seek Governing Board approval of individual magnet
20 school improvement plans once those revisions have been made.

21
22 ⁷ As fully discussed in their May 29 comments, a number of schools propose that weekly
23 PLCs convene during regular school hours, (May 15 CMP at 151, 170, 254, 277, 288),
24 which would result in a significant amount of interruptions in instruction. Further, given
25 that these schools propose as many as 10 substitute teacher FTEs to allow for teacher
26 participation in PLCs, significant amounts of 910(G) funds would be required to
27 implement the proposals. (*See id.*) On June 3, 2015, the Special Master proposed that,
28 because he understands that teachers have a right under a union consent agreement to leave
school after the hours provided for in the agreement, the District should “if needed,
increase the hourly stipend for PLC sessions” to avoid interruptions in student instruction.
(Exhibit E (June 3, 2015 comments).) Mendoza Plaintiffs fully support the Special
Master’s proposal, but like Mendoza Plaintiffs’ comments and requests for information,
the District has failed to respond to the Special Master’s proposal, thus making it unclear
whether the District has even considered that proposal.

1 Dated: June_18, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2015, I electronically submitted the foregoing Mendoza Plaintiffs' Objections to TUSD's Final Revised 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:

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