

## **OVERVIEW**

The Fisher Plaintiffs have conducted a careful review of the Comprehensive Magnet Plan (hereinafter CMP or Plan) filed on 05/15/15 by the Tucson Unified School District (hereinafter TUSD or District) (entered into record on 05/15/15 as document number 1803). Based on that review, and in addition to the two secondary recommendations made below, the Fisher Plaintiffs strenuously object to the Plan's unjustifiably extended timelines for the withdrawal of magnet status and the redirection of funding. The Fisher Plaintiffs are extremely concerned that the District's Plan fails to take timely action to withdraw magnet status and redirect magnet funding away from the five schools identified as "problematic," (at page 10 of TUSD CMP entered into record on 05/15/15 as document number 1803). The CMP clearly fails to honor its obligations under the Court's 01/16/15 order and the governing language of the Unitary Status Plan (hereinafter USP) where it proposes to waste, for another two school years,<sup>1</sup> a major portion of its limited magnet

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<sup>1</sup> Although it is not completely clear from the wording of the Plan, it seems that even if the Special Master (hereinafter SM) decides in the Fall of 2015 that the five magnet schools classified as "problematic" should - as the District predicts at page 12 of its Plan - have their magnet status withdrawn, the District will continue to allocate magnet funding to those schools all the way through the end of the following 2016-17 school year (hereinafter SY). If this is in fact the policy actually being proposed (and again the wording of the Plan is ambiguous on this point), then the Plan all but ensures that the status quo will remain undisturbed up and probably following to the District's likely motion for unitary status at the end of the 2016-17 SY, which would clearly defeat the purpose of the CMP.

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budget at “problematic” magnet schools it predicts will do nothing to aid integration. Whatever political considerations may have given rise to this planned inaction, the current iteration of the Plan must fall in the face of federal law where it would delay the much-needed and long-awaited overhaul of the District’s magnet programs. Justice delayed is justice denied and where - as here - a District operates under the jurisdiction of a federal desegregation order, it must implement its remedial desegregation plan with all due speed.

**FISHER PLAINTIFFS’ OBJECTION TO THE CMP**

**Withdrawal of magnet status and redirection of funding must be timely**

The magnet plan of action states that the twenty current magnet schools have been classed into three normative categories on the basis of the schools respective (1) State letter grade and (2) likelihood of meeting USP-mandated integration requirements. The three categories are MAINTAINING, INTERMEDIATE and PROBLEMATIC. The plan of action further explains that “Problematic [schools are] (C or D schools with little chance of meeting the integration requirements of the USP” (at page 10 of document number 1803 filed 05/15/15). Of the District’s twenty magnet schools, five (Cragin, Pueblo, Holladay, Robison and Utterback) are identified as PROBLEMATIC and likely to have their magnet status and funding withdrawn. Not now, not over the Summer, not even at the end of the upcoming 2015-16 SY, but only at the end of the 2016-17 SY. In their accompanying RFI, the Fisher Plaintiffs have asked the District to provide the percentage of the overall magnet budget for the 2014-15 SY and the 2015-16 SY allocated to these schools. The magnet plan of action states that “[p]roblematic

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schools have been granted magnet funding for the 2015-16 school year. This funding is to be allocated towards student achievement [...]. After analysis of 2015-16 40th day enrollment data, these schools are highly likely to have magnet status withdrawn” (idem emphasis added). The plan further specifies that, “[i]n the Fall of 2015, the Special Master will review 40th day enrollment data to determine whether magnet schools have met the USP integration goal for incoming grades and cohorts beginning with those grades that began in 2014-15. This analysis will be the first determining factor in identifying which magnet program will be eliminated at the end of the 2015-16 school year” (idem at 13). However, the plan then states that “[i]f a magnet is eliminated at the end of the year due to achievement deficits, the school will receive the magnet funding allocated during the budgeting process for the following year [and] [s]tudents attending the school under magnet status will receive transportation until they reach the highest grade at that school” (idem). Thus, the action plan acknowledges that, as we stand at the end of the 2014-15 SY, the District has already concluded - on the one hand - that fully five of the District’s twenty magnet “schools [enrolling a significant percentage of the total number of students attending magnet schools] are highly likely to have magnet status withdrawn” (idem) and - on the other - that these clearly ineffective magnet schools should continue to drain a significant percentage of the District’s overall magnet budget (what percentage exactly should be determined by the District’s response to the accompanying RFI), not just through the end of 2015, but all the way through the end of the 2016-17 SY. The internal inconsistency apparent in these two conclusions (the first evidence-based and logical, the second frankly unfathomable) suggests that the integrity of the District’s plan was compromised in the face of political pressure.

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In addition to the magnet schools classified as “problematic,” the CMP also recognizes that Ochoa ES is not a feasible magnet and has, therefore, taken an “exclusionary option” (idem at 10). Unfortunately, on the basis of the CMP, it is not clear what criteria were used to select Ochoa for the “exclusionary option” and whether the application of those same criteria to other current magnets would recommend the same option. The Plan also fails to state whether such criteria were applied systematically to all current magnets and - if so - with what result and - if not - why not. These are all questions raised, but not answered, by the CMP. Without the information requested in the accompanying RFI, the Fisher Plaintiffs are compelled to object to the current draft of the CMP. Together with the five PROBLEMATIC magnet schools already recognized as likely to lose their magnet status, the Fisher Plaintiffs have no way of knowing exactly how many of the District’s twenty magnets would qualify as either PROBLEMATIC or meet the criteria for the “exclusionary option.” Without a timely response to the accompanying RFI, the Fisher Plaintiffs must conclude that a significant percentage of the District’s twenty magnets may well not pass muster as magnets, and yet somehow inexplicably remain identified and funded as magnet schools. Should this prove true, it would obviously undo the remainder of the CMP.

It is undeniable that changes to schools, however well-intentioned and - justified, however good or bad, are likely to incur stakeholder resistance. But delaying changes already recognized as necessary, such as the withdrawal of magnet status at the five PROBLEMATIC schools “highly unlikely” to succeed as magnets means that the remaining time left before the District is authorized to move for unitary status will be needlessly wasted and thousands of students will continue to attend what can only be characterized as sham magnet schools. Any private business identifying problems of this magnitude, but deciding to wait more

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than two years to make the necessary changes would soon go bankrupt. If the District's leadership can muster the political will to make the necessary changes in a timely manner, then it must fall to the SM and the Court to intervene and ensure that the changes are made and made while there is still time to verify (and just trust) that the District's magnet plan is effective before the District moves for unitary status. Beyond "maintain[ing] basic school functions," schools likely to lose magnet status are likely to have high concentrations of low SES minority students - exactly the student population that requires extra support to overcome the challenges detailed in Professor Gary Orfield's 2014 memorandum on the benefits of integration. The Fisher Plaintiffs believe that these schools be targeted for additional assistance to counterbalance the challenges they face. That assistance, however, will be part of a zero-sum funding equation where the opportunity to "magnetize" a school will come at the cost of implementing viable educational interventions that are not naively predicated on a school's wan hopes of succeeding as a magnet. There are magnet school sites that are simply not conducive to attracting diverse enrollment (whether because of parental perceptions of the safety of the neighborhood or because of travel times). With a number of centrally located school sites sitting in disuse, the Fisher Plaintiffs believe TUSD should begin migrating student enrollment into more readily integrated sites (whether by reopening closed central campuses, closing peripheral campuses or expanding central campuses).<sup>2</sup>

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<sup>2</sup> See the Fisher Plaintiffs' accompanying 06/13/14 proposal regarding "[f]actors considered to identify closed schools as candidates for use as centrally located magnets [and] [c]losed schools (with candidates for use as centrally located magnets appearing in bold)."

**Evaluation of magnets should include socioeconomic measures**

The Fisher Plaintiffs believe that, ideally, a magnet school should serve students who would otherwise attend ethnically and racially imbalanced schools and - by virtue of the siting and targeted marketing of the magnet - will offer those students the benefit of attending an integrated and academically excelling school. The use of a dynamic measure of the impact of the magnet on student enrollment and achievement might well mean that a “C” school working with a high percentage of low SES students is actually making a greater contribution to the integration of the District than an “A” school working with higher SES students. Any fair and useful assessment of magnets will have to capture that distinction. It is not clear from the CMP that the current evaluation of magnets isn’t biased in favor magnets working with relatively less challenged student populations. The Fisher Plaintiffs believe this warrants further investigation and modification of the CMP if the concerns are proven valid.

**Tension between quality and quantity of magnets warrants further evaluation**

There is inherent tension between the equally laudable goals of reaching as many students as possible and of sufficiently concentrating limited resources to fully support magnets. The CMP seems to favor the former over the latter goal. It might be worthwhile to identify criteria to use to assess whether this is really the optimal use of limited funds (as opposed to increasing funding at a smaller set of magnets or striking some balance between the two goals).