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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Roy and Josie Fisher, et al.,

Plaintiffs

CV 74-90 TUC DCB
(Lead Case)

v.

United States of America,

Plaintiff-Intervenor,

**STIPULATION REGARDING 40th
DAY MAGNET SCHOOL
ENROLLMENT DATA AND
STIPULATION RE: MAGNET
SCHOOL SUPPLEMENTED
IMPROVEMENT PLANS (with
PROPOSED ORDER)**

v.

Anita Lohr, et al.,

Defendants,

CV 74-204 TUC DCB
(Consolidated Case)

and

Sidney L. Sutton, et al.,

Defendants-Intervenors,

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1	Maria Mendoza, et al.
2	
3	United States of America,
4	
5	v.
6	Tucson Unified School District No. One, et al.
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8 Following in-person and telephonic discussion over several days, the parties
9 undersigned submit the following regarding the status of the District’s magnet schools and
10 programs, particularly with regard to those sites for which the Special Master has indicated
11 that he may recommend withdrawal of magnet status: Ochoa and Bonillas elementary
12 schools, Safford K-8, Utterback middle school, and Cholla high school. In addition, the
13 Mendoza Plaintiffs have requested that the terms of the Stipulation also apply to Holladay
14 elementary school. The Mendoza Plaintiffs and the District agree to the following recitals
15 and proposed Order; although the Fisher Plaintiffs have expressed opposition to this
16 stipulated resolution, the Department of Justice has authorized the Mendoza Plaintiffs and
17 the District to represent herein that it supports the agreement to provide the District with
18 more time for the implementation of its magnet schools and programs, but takes no position
19 on the specific conditions herein negotiated between TUSD and the Mendoza Plaintiffs:

RECITALS

21 1. On January 16, 2015, the Court ordered the District to revise its
22 Comprehensive Magnet Plan. The Order addressed, among other things, the process and
23 timeline for the possible withdrawal of magnet status under the Comprehensive Magnet
24 Plan.

25 Accordingly, the CMP must be revised so it reflects an operational Magnet
26 School Plan, using the 2016-17 target date for reaching unitary status. Once
27 operational, the regular three-year review cycle proposed by the District is
28 approved by the Court.

ECF # 1753, p. 17.

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1 2. In connection with the revision, the District was further directed to develop
2 “Improvement Plans” for each site in consultation with the Special Master. *Id.*
3 (“Improvement Plans must be prepared to identify the specific measures necessary to
4 address each deficiency precluding the school or program from being a magnet, and must
5 include a time line, with annual bench marks, for attaining magnet status.”) The Special
6 Master would then be responsible to monitor implementation of the Improvement Plans and
7 to

8 file reports as necessary with the Court identifying any failure to attain a
9 requisite benchmark, and may accordingly recommend eliminating a magnet
10 school or program, or recommend that the school should be given more time
11 and how much more time should be allowed for the school to reach the
12 missed improvement bench mark.

11 *Id.*

12 3. On June 11, 2015, the District filed the Revised Comprehensive Magnet Plan.
13 ECF #1808. On June 19, 2015, the District filed the Improvement Plans for each magnet
14 school or program. ECF # 1816. Each of those plans included, among other things,
15 integration goals in the form of annual benchmarks for 2015-16 enrollment as well as goals
16 for 2016-17. Revised versions of some of the Plans (Davis, Ochoa, Cholla, Roskruge and
17 Tucson High) were submitted on July 7, 2015. ECF # 1824-1. Each of the Improvement
18 Plans also contained itemized undertakings by the school or program developed for the
19 purpose of attaining its stated integration and achievement goals together with a budget to
20 accomplish those undertakings.

21 4. Each of the benchmarks for 2015-16 enrollment was for the entering grade
22 (i.e., kindergarten at the elementary level, 6th grade for middle schools, kindergarten and 6th
23 grade for K-8s, and ninth grade for high schools), often inclusive of both the entering class
24 of 2014-15 and 2015-16, combined. As to the schools or programs included in this
25 Stipulation, the benchmarks – and the 40th day data against which they are to be measured –
26 reflect the following:
27
28

1 **a. Ochoa Elementary School.** “By the 40th day of the 2015/16 SY, the
 2 Hispanic enrollment in Kindergarten and 1st Grade will be no more 80.8%, the enrollment
 3 of [w]hite students will be no less than 4.5%, and the enrollment of African American
 4 students will be maintained as reported on the Mojave/Synergy student tracking system.”
 5 ECF # 1824-1, p. 15.

	Grades	White	African American	Hispanic /Latino
15-16 (Prelim 40 th Day)	K + 1 st	4.5%	1.5%	88.1%
14-15 (100 th Day)	K	2.9%	0.0%	91.5%

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 10 Based on the preliminary 2015/16 SY 40th day enrollment data for Ochoa, the combined
 11 Hispanic enrollment in Kindergarten and 1st Grade is 88.1%, the combined K-1 enrollment
 12 of white students is 4.5%, and the combined K-1 enrollment of African American students
 13 is 1.5%.

14 **b. Bonillas Elementary School:** “By the 40th day of the 2015/16 SY, the
 15 Hispanic enrollment in Kindergarten will be no more 74%. The [w]hite and African
 16 American enrollment will be maintained to meet the USP definition as reported on the
 17 Mojave/Synergy student tracking system.” ECF # 1816, p. 6.

	Grade	White	African American	Hispanic /Latino
15-16 (Prelim 40 th Day)	K	16.9%	6.2%	75.4%
14-15 (40 th Day)	K	14.3%	4.3%	75.4%

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 22 Based on the preliminary 2015/16 SY 40th day Kindergarten enrollment data for Bonillas,
 23 the Hispanic enrollment is 75.4%, the enrollment of white students is 16.9%, and the
 24 enrollment of African American students is 6.2%.

25 **c. Safford K-8:** “By the 40th day of the 2015/16 SY, the Hispanic enrollment
 26 in Kindergarten and 1st grade will be no more than 72.2%. In 6th and 7th grade, Hispanic
 27 enrollment will be no more than 76.7%. The enrollment of [w]hite students in Kindergarten
 28

1 and 1st grade will be no less than 6.2% and in 6th and 7th grade will be no less than 5.4%.
 2 The enrollment of African American students will be no less than 0.0% as reported on the
 3 Mojave/Synergy student tracking system.” ECF # 1816, p. 140.

	Grade	White	African American	Hispanic /Latino
15-16 (Prelim 40 th Day)	K + 1	10.8%	13.5%	68.9%
15-16 (Prelim 40 th Day)	6 + 7	3.0%	7.0%	77.8%

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 8 Based on the preliminary 2015/16 SY 40th day enrollment data for Safford, the combined
 9 Kindergarten and 1st grade enrollment is 68.9% Hispanic. The combined Hispanic
 10 enrollment in 6th and 7th grades is 77.8%. The combined K-1 enrollment of white students
 11 is 10.8%, and the combined 6-7 enrollment of white students is 3%. The combined K-1
 12 enrollment of African American students is 13.5%, and the combined 6-7 enrollment of
 13 African American students is 7%.

14 **d. Cholla High School Magnet Program:** “By the 40th day of the 2015/16
 15 SY, the Hispanic enrollment in 9th and 10th Grade will be no more 74.3%, and [w]hite and
 16 African American enrollment will continue to meet the USP definition of integration as
 17 reported on the Mojave/Synergy student tracking system.” ECF # 1824-1, p. 23.

	Grade	Hispanic /Latino
15-16 (Prelim 40 th Day)	9 + 10	77.4%

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 22 Based on the preliminary 2015/16 SY 40th day enrollment data for Cholla, the combined
 23 Hispanic enrollment for 9th and 10th grades is 77.4%.

24 **e. Utterback Middle School.** “By the 40th day of the 2015/16 SY, the
 25 Hispanic enrollment in 6th and 7th grade will be no more 74.3%. The enrollment of [w]hite
 26 students and African American students will continue to meet the USP requirements for
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1 integration as reported on the Mojave/Synergy student tracking system.” ECF # 1816, p.
 2 151.

	Grade	Hispanic /Latino
15-16 (Prelim 40 th Day)	6 + 7	81.8%

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 6 Based on the preliminary 2015/16 SY 40th day enrollment data for Utterback, the combined
 7 Hispanic enrollment for 6th and 7th grades is 81.8%.

8 **f. Holladay Elementary School.** “By the 40th day of the 2015/16 SY, the
 9 Hispanic enrollment in Kindergarten and 1st Grade will be no more 75.5%, the enrollment
 10 of [w]hite students will be no less than 4.3%, and the enrollment of African American will
 11 continue to meet the USP definition of integration as reported on the Mojave/Synergy
 12 student tracking system.” ECF # 1816, p. 61.

	Grade	White	African American	Hispanic /Latino
15-16 (Prelim 40 th Day)	K + 1 st	2.0%	23.0%	69.0%

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 17 Based on the preliminary 2015/16 SY 40th day enrollment data for Holladay, the
 18 combined Hispanic enrollment in Kindergarten and 1st Grade is 69%, the combined K-1
 19 enrollment of white students is 2%, and the combined K-1 enrollment of African American
 20 students is 23%.

21 5. Fortieth day enrollment data reflects that five of the six schools or programs
 22 listed above did not meet all of their 2015-16 benchmarks for reducing racial concentration.
 23 Specifically:

24 a. Ochoa: The combined K-1 Hispanic enrollment of 88.1% was higher than the
 25 80.8% benchmark.

26 b. Bonillas: The Hispanic Kindergarten enrollment of 75.4% was higher than the
 27 74% benchmark.

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1 c. Safford: The combined K-1 Hispanic enrollment of 68.9% met the benchmark
2 because it was not higher than 72.2%, but the combined 6-7 Hispanic enrollment of 77.8%
3 was higher than the 76.7% benchmark.

4 d. Cholla: The combined 9-10 Hispanic enrollment of 77.4% was higher than the
5 74.3% benchmark.

6 e. Utterback: The combined 6-7 Hispanic enrollment of 81.8% was higher than
7 the 74.3% benchmark.

8 Data relating to academic achievement benchmarks is not yet available.

9 6. Under this Court's January 16, 2015 Order, "the Special Master shall monitor
10 compliance by each school regarding its Improvement Plan [and]...shall file reports
11 identifying any failure to attain a requisite benchmark, and may accordingly recommend
12 eliminating a magnet school or program, or recommend that the school should be given
13 more time and how much more time..." ECF #1753, p.18. However, based on a variety of
14 factors beyond the control of the six schools or programs at issue, the parties undersigned
15 have requested that the Special Master refrain from recommending elimination of these
16 programs.

17 7. In all but one (Bonillas Elementary School) of the schools or programs listed
18 above as of Monday, October 6, 2015, there were teaching vacancies. Those vacancies
19 consisted of:

20 a. At Cholla High School, there are no vacancies in the magnet program, but
21 there are five vacancies being filled by long-term substitutes (1 algebra/geometry, 2 English
22 Language Arts, 1 biology, and 1 dance), and two vacancies being covered by other teachers
23 working on 6/5 contracts.

24 b. At Safford, there are teaching vacancies in 6th grade math, Arabic, and
25 graphic arts.

26 c. At Holladay, there is a teaching vacancy at each of the first, third, and fifth
27 grade levels.

28

1 d. At Ochoa, there is one teaching vacancy, a 1-2 combo ELD class.

2 e. At Utterback, there are vacancies in 8th grade science (2), 7th grade language
3 arts (2), 7th grade science (1), 6th grade language arts (1) and drama (1).

4 8. At all but one (Cholla High School) of the schools or programs listed above,
5 the principal has been in his or her current position for two years or less. Specifically

6 a. At Bonillas, Principal Ambrosio arrived in April 2014.

7 b. At Safford, Principal Gabaldón began his tenure in the fall semester of 2014.

8 c. At Utterback, Principal Dunbar began her tenure in the fall semester of 2014.

9 d. At Holladay, Principal Strozier arrived in June 2015.

10 e. At Ochoa, Principal Moreno arrived in January 2015.

11 9. The District, on behalf of each of these schools and programs, has requested
12 that the Special Master and Court refrain from any action regarding the magnet status of the
13 six programs until they have had the full 2015-16 school year to implement both the
14 integration and the achievement components of their Improvement Plans, and that their
15 progress towards the integration goals be measured based on the 40th day enrollment for the
16 2016-17 school year.

17 10. The Mendoza plaintiffs have stated that they will join in that request on the
18 condition that the District agree to provide both on-going support for the magnet schools
19 and programs identified above and its assurance that the other magnet schools and
20 programs, not expressly covered by this Stipulation, also will receive the resources they
21 require to implement their Improvement Plans, as explained in their proposal to the District
22 on October 6 and as detailed and further more particularly described below.

23 11. On May 15, 2015, each of the District's magnet schools or programs
24 submitted a School Improvement Plan, along with a cost estimate therefore, to accompany
25 the District's Comprehensive Magnet Plan. On June 15, 2015, the District submitted
26 revised versions of the School Improvement Plans.

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12. On July 14, 2015, the Governing Board adopted its 2015-16 budget, including a USP budget. The 2015-16 USP budget allocates \$11,279,581 to magnet schools and programs, plus \$503,000 to the magnet department¹ for a total Comprehensive Magnet Plan funding of \$11,787,033.² However, some sites were allocated less than that requested in their School Improvement Plan, and some were allocated more as follows:

SCHOOL	MAY 15 IP Version ECF 1803	June 15 IP Version ECF 1816	July 15, 2015 Final Budget Allocation	Amount Added to Final Budget Allocation
Bonillas	359,634.80	340,807.30	340,607.30	19,027.50
Borton	545,082.45	496,631.15	498,059.15	47,023.30
Carillo	429,930.60	415,272.60	473,183.60	
Cragin	197,767.00	181,472.00	185,510.00	12,257.00
Davis	429,887.24	423,815.80	411,862.57	18,024.67
Drachman	485,008.80	475,208.80	476,836.80	8,172.00
Holladay	446,233.23	288,221.83	441,434.67	4,798.56
Ochoa	207,680.00 ³	229,619.00	176,618.00	53,001.00
Robison	191,311.40	170,396.00	274,995.08	
Tully	234,467.27	276,461.75	266,170.67	10,291.08
Booth-Fickett	811,671.50	611,135.00	831,571.00	
Dodge	250,458.04	206,795.34	287,375.54	
Mansfeld	556,872.00	424,385.00	528,333.50	28,538.50
Roskruge	692,054.40	687,314.90	764,987.90	
Safford	824,907.00	826,675.00	857,728.50	
Utterback	468,676.00	449,693.00	547,053.53	
Cholla	1,109,253.60	991,633.10	1,101,173.10	8,080.50
Palo Verde	428,816.30	370,858.80	361,138.80	67,677.50
Pueblo	537,176.00	500,472.00	513,973.60	23,202.40
Tucson	1,959,462.90	1,947,517.90	1,940,967.90	18,495.00
TOTAL	\$11,166,350.53	\$10,314,386.27	11,279,581.21	\$318,589.01

¹ This fund includes printing, advertising, graphic design, and related resources and supports that are available jointly to the programs.

² This is an increase from the FY14-15 funding amount of \$9,625,689, an amount the Mendoza plaintiffs feel was inadequate.

³ This figure reflects the cost of the first-year of implementation of the multi-year Ochoa “lighthouse” proposal in the May version of the CMP and accompanying Ochoa improvement plan (Doc. 1803).

1 NOW, THEREFORE, to avoid further litigation regarding the status of any of the
2 District's magnet schools and programs, to advance the implementation of the USP, and to
3 enhance integration and academic achievement in the district, the undersigned parties agree
4 as follows:

- 5 A. The District shall proceed to fill all vacancies at each of the magnet schools
6 (or programs) listed in Paragraph 4 above by November 1, 2015;
- 7 B. The District shall take steps to ensure that the schools or programs identified
8 in Paragraph 4 above remain fully staffed (as to certificated staff,
9 administrators, and all teaching aids and other personnel identified in the
10 Improvement Plan as contributing to the school's effort to improve
11 achievement and close the achievement gap between racial groups at the
12 school) prior to the start of the 2016-17 school year;
- 13 C. The District shall give its magnet schools and programs priority in the placing
14 of teachers and certificated staff, such as during the spring hiring process.
15 This priority shall include the opportunity for principals at these sites to have
16 access to applicant lists at least 14 days prior to applicant information being
17 made available to principals at non-magnet programs;
- 18 D. The District shall fund each magnet school or program at 1) the funding level
19 set in its May 15, 2015 Improvement Plan; *or* 2) the funding level set in its
20 June 15, 2015 Improvement Plan; *or* 3) the amount allocated in the July 2015
21 USP budget, *whichever is higher*. The District shall aggressively seek to
22 increase integration at all of its magnet schools and programs and shall work
23 with the principals, magnet coordinators, and all other appropriate personnel
24 to increase the integration of their entering classes;
- 25 E. By March 1, 2016, the District shall develop and propose initiatives to
26 increase the number of students attending integrated schools within the
27 District;
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- F. The District shall continue to target initiatives designed to close the achievement gap between ethnic/racial groups at each of its schools, and shall provide special support (as described in paragraph H) to assist the schools or programs listed in Paragraph 4 and any magnet school or program reported as a “C” or “D” school or program in its Improvement Plan in meeting the academic achievement benchmarks listed in their respective Improvement Plans;
- G. Implementation Committee member Dr. Becky Montano shall monitor the District’s compliance with this Stipulation by visiting each of the magnet schools identified in Paragraph 4 as frequently as in her professional educational opinion she deems to be appropriate. If, in her judgment, she identifies specific issues that in her professional educational opinion merit immediate attention, she shall report such findings to the District and the Plaintiffs, and she will, at a minimum, provide a progress report to the District and the Plaintiffs no less frequently than quarterly, beginning with the fourth calendar quarter of 2015;
- H. Fulfillment of the terms of this Stipulation shall be a priority for the reallocation of any budgeted, but unspent, funds available pursuant to A.R.S. § 910(G). Such expenses may include recruiting/transfer/retention stipends for teachers, marketing and recruitment expenses beyond those detailed and funded through the magnet schools’ existing Improvement Plans, and targeted academic interventions for students in addition to those detailed and funded through their existing Improvement Plans; and
- I. In the fall of 2016, 40th day enrollment data will be used to evaluate magnet schools’ progress toward meeting integration goals.

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1 DATED this 23rd day of October, 2015

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28 **ORIGINAL** of the foregoing filed via the CM/ECF
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
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