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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
MAGNET SCHOOL
ENROLLMENT DATA AND
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	Plaintiffs,
3	United States of America,
4	Plaintiff-Intervenor,
5	v.
6	Tucson Unified School District No. One, et al.
7	Defendants.

8 Following in-person and telephonic discussion over many 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, Bonillas and Robison
12 elementary schools, Safford K-8, Utterback middle school, and Cholla and Pueblo high
13 schools. In addition, the Mendoza Plaintiffs have requested that the terms of the Stipulation
14 also apply to Holladay elementary school. The Mendoza Plaintiffs and the District agree to
15 the following recitals and proposed Order. Although the Fisher Plaintiffs have filed an
16 objection to a previous version of this document expressing opposition to this stipulated
17 resolution, the Department of Justice has authorized the Mendoza Plaintiffs and the District
18 to represent herein that it supports the agreement to provide the District with more time for
19 the implementation of its magnet schools and programs, but takes no position on the
20 specific conditions herein negotiated between TUSD and the Mendoza Plaintiffs. The
21 Special Master is reporting to the Court his support of this resolution and recommends that
22 the Court enter the proposed Order filed herewith:

23 **RECITALS**

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

27 Accordingly, the CMP must be revised so it reflects an operational Magnet
28 School Plan, using the 2016-17 target date for reaching unitary status. Once

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1 operational, the regular three-year review cycle proposed by the District is
2 approved by the Court.

3 ECF # 1753, p. 17.

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

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

16 *Id.*

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

26 4. Each of the benchmarks for 2015-16 enrollment was for the entering grade (i.e.,
27 kindergarten at the elementary level, 6th grade for middle schools, kindergarten and 6th
28 grade for K-8s, and ninth grade for high schools), often inclusive of both the entering class
of 2014-15 and 2015-16, combined. Based on fortieth day enrollment data for the schools or
programs included in this Stipulation, the Special Master has concluded some of the schools

1 named failed to meet the benchmarks. Data relating to academic benchmarks is not yet
2 available.

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

11 6. In all but one (Bonillas Elementary School) of Ochoa, Bonillas, Holladay and
12 Robison elementary schools, Safford K-8, Utterback middle school, and Cholla and Pueblo
13 high schools, as of Monday, October 6, 2015, there were teaching vacancies. Those
14 vacancies consisted of:

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

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

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

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

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

26 f. At Robison, as of November 5, 2015, there are teaching vacancies in kindergarten
27 (1) and fifth grade (1);

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1 g. At Pueblo, as of November 5, 2015, there are teaching vacancies for World
2 History (1), Dance/PE (1), ELD (1), and ExEd (1).

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

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

15 9. On May 15, 2015, each of the District's magnet schools or programs submitted a
16 School Improvement Plan, along with a cost estimate therefore, to accompany the District's
17 Comprehensive Magnet Plan. On June 15, 2015, the District submitted revised versions of
18 the School Improvement Plans.

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

24
25
26 ¹ This fund includes printing, advertising, graphic design, and related resources and supports that
27 are available jointly to the programs.

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

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

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

- A. The District shall proceed to fill all vacancies at each of the magnet schools (or programs) listed in Paragraph 6 above as follows: By November 1, 2015, it will fill the teaching vacancies at Ochoa, Bonillas, and Holladay elementary schools, Safford K-8, Utterback middle school, and Cholla high school; by

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).

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1 November 30, 2015 it will fill the teaching vacancies at Robison elementary
2 school and Pueblo high school. If the District is unable to fill these positions
3 with highly qualified persons by the dates noted above, it may go beyond the
4 target dates for filling open vacancies if it can demonstrate that it has
5 attempted in good faith to fill vacancies but has been unable to do so and can
6 detail the issues it has encountered preventing it from filling those vacancies;

7 B. The District shall take steps to ensure that the schools or programs identified
8 in Paragraph 6 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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- 1 F. The District shall continue to target initiatives designed to close the
2 achievement gap between ethnic/racial groups at each of its schools, and shall
3 provide special support (as described in paragraph H) to assist the schools or
4 programs listed in Paragraph 6 and any magnet school or program reported as
5 a “C” or “D” school or program in its Improvement Plan in meeting the
6 academic achievement benchmarks listed in their respective Improvement
7 Plans with priority given to D schools;
- 8 G. Implementation Committee member Dr. Becky Montano, with the assistance
9 of the Special Master and other members of the Implementation Committee as
10 appropriate, shall monitor the District’s compliance with this Order by
11 visiting each of the schools and programs mentioned in Paragraph 6 as
12 frequently, in the professional judgement of the monitors, as needed. If, in
13 the judgment of the monitors, specific issues are identified that merit
14 immediate attention, such findings shall be reported to the District and, the
15 Plaintiffs by the Special Master, who shall, at a minimum, provide a progress
16 report to the District, the Plaintiffs, and Special Master no less frequently than
17 quarterly, beginning with the fourth calendar quarter of 2015;
- 18 H. Fulfillment of the terms of this Stipulation shall be a priority for the
19 reallocation of any budgeted, but unspent, funds available pursuant to A.R.S.
20 § 910(G). Such expenses may include recruiting/transfer/retention stipends
21 for teachers, marketing and recruitment expenses beyond those detailed and
22 funded through the magnet schools’ existing Improvement Plans, and targeted
23 academic interventions for students in addition to those detailed and funded
24 through their existing Improvement Plans; and
- 25 I. Nothing in this Stipulation or the Order implementing it shall be interpreted as
26 altering the provisions of the Court’s January 16, 2015 Order.
- 27
28

1 DATED this 6th day of November, 2015

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3 **RUSING LOPEZ & LIZARDI, P.L.L.C.**

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