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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,

**NOTICES AND REQUESTS FOR
APPROVAL OF GRADE
EXPANSIONS AT:**

v.

Anita Lohr, et al.,

Defendants,

**(1) BORMAN ELEMENTARY
SCHOOL;**

Sidney L. Sutton, et al.,

Defendants-Intervenors,

**(2) COLLIER ELEMENTARY
SCHOOL;**

Maria Mendoza, et al.

Plaintiffs,

(3) DRACHMAN K-6 SCHOOL;

United States of America,

Plaintiff-Intervenor,

**(4) FRUCHTHENDLER
ELEMENTARY SCHOOL; AND**

v.

(5) SABINO HIGH SCHOOL

Tucson Unified School District No. One, et al.

Defendants.

CV 74-204 TUC DCB
(Consolidated Case)

1 Tucson Unified School District, No. 1 (“TUSD” or the “District”) submits Notices
 2 and Requests for Approval (“NARA”s)¹ of the following proposals, approved by the
 3 District’s Governing Board on November 10, 2015: (1) to add 6th-8th grades to Borman K-5
 4 Elementary School; (2) to add 6th grade to Collier K-5 Elementary School; (3) to add 7th-8th
 5 grades to Drachman K-6 Elementary School; (4) to add 6th grade to Fruchthendler K-5
 6 Elementary School; and (5) to add 7th-8th grades to Sabino High School.² This request
 7 describes the proposal development process and support for each proposal. Each proposal
 8 complies with the Unitary Status Plan (USP), this Court’s Orders, and the Constitution.

9 **I. BACKGROUND**

10 Charter schools (i.e. BASIS) located within the District’s boundaries, and
 11 neighboring school districts (i.e. Catalina Foothills), have expanded in and around the
 12 District’s Eastside with newer schools, some located in closer proximity to families than
 13 their neighborhood TUSD school.³ Arizona’s open enrollment law, permitting children
 14 living within TUSD’s boundaries the right to enroll in non-TUSD schools, facilitates and
 15 promotes inter-district and charter school transfers. The impact of these transfers is
 16 especially acute on the District’s Eastside, resulting in demographic changes and frustrating
 17 desegregation efforts, creating underutilized schools that drain scarce resources, and school
 18 consolidations causing student relocations and undermining public confidence in TUSD.

19
 20 ¹ Instead of filing a separate document for each request, and to avoid repetition, the
 21 District has combined the five requests into one document. This document is not
 22 technically be a “motion” and therefore likely need not conform to LRCiv 7.2. This
 23 document exceeds the LRCiv 7.2 page limit by two pages, but actually provides the Court
 significantly fewer pages than if five separate documents were filed. If the Court prefers,
 the District will refile five documents, each of which will conform to the rule’s page limits.

24 ² The proposals add one grade per year, as follows: in SY 2016-17, 6th grades at
 25 Borman, Collier, and Fruchthendler, and 7th grade at Drachman; in SY 2017-18, 7th grades
 26 at Borman and Sabino, and 8th grade at Drachman; and in SY 2018-19, 8th grades at Borman
 and Sabino.

27 ³ The Sabino boundary (including Collier and Fruchthendler) is bordered on the west
 28 by Catalina Foothills School District and on the east by Tanque Verde School District. *See*
 Ex. 1, p.41. Vail School District is southeast of Borman and attracts Borman-area students.

1 The proposals are TUSD’s proactive approach to address declining enrollment from inter-
2 district and charter school transfers, recognized in the USP as having potential adverse
3 impacts on the District’s ability to meet its USP obligations. *See* USP §II.H.1.

4 In its May 12, 2015 Order (ECF 1799, “May Order”) denying TUSD’s request to add
5 grades to Fruchthendler and Sabino, this Court outlined its expectations for similar future
6 requests. Accordingly, the District convened a Student Assignment Committee (SAC),
7 engaged the Special Master and Plaintiffs (SMP) over a four-month development period,
8 and analyzed each proposal in the context of USP student assignment strategies and other
9 USP obligations. The proposals will improve integration overall, attract out-of-district
10 students, retain resident students, and enhance District efforts regarding student assignment,
11 transportation, quality of education, family engagement, and extracurricular activities.

12 **II. STANDARD OF REVIEW**

13 The District must provide the SMP with a notice and request for approval (NARA)
14 of specific student assignment changes. ECF 1350 at 3-4. NARAs “require simultaneous
15 review by the Court and the Special Master.” ECF 1385 at 2:7-8. Through prior rulings, the
16 Court has outlined its standard of review for analyzing such requests including, primarily,
17 the following three factors: whether the District followed applicable development processes
18 (*see* ECF 1799 at 3-4); whether the proposal would have an “adverse impact” on student
19 assignment obligations or “exacerbate ethnic imbalances”⁴; and whether the proposal was
20 considered “within the context” of the USP to eliminate (to the extent practicable) “negative
21 affect[s]” on USP goals and programs.⁵ The Court also considers whether the proposed
22

23 ⁴ *See* ECF 1447 at 2:8-10 (“The USP requires that these closures do not have an
24 adverse impact on the ongoing desegregation obligations being undertaken pursuant to
25 it....”) and at 8:7-8 (“The Court finds that the proposed closures will not exacerbate ethnic
26 imbalances in TUSD....”).

27 ⁵ *See* ECF 1399 at 7:13-14 (“...the Court finds [the proposals] should be considered
28 within the context of the USP....”); *and see* ECF 1399 at 6:12-14 (“The Court approves the
construction projects ... these proposals are found to have no negative affect on [USP]
goals and programs.”).

1 action “is called for by...the USP,” or is being undertaken for some other purpose. *See*
 2 ECF 1447 at 2:7-8. The District submits the proposals with these factors in mind.

3 **III. TUSD FOLLOWED THE APPLICABLE DEVELOPMENT PROCESSES**

4 Pursuant to the May Order, when developing significant student assignment
 5 proposals, the District must (A) submit items to the SMP for review and solicit their input
 6 before implementing the proposal,⁶ and (B) comprehensively consider the proposal with the
 7 SMP pursuant to applicable USP criteria in an effort to increase the integration of TUSD
 8 schools⁷. Thus, in the absence of jointly-developed procedures⁸, the District submitted
 9 items to the SMP for review, solicited SMP input, and comprehensively considered each
 10 proposal with the SMP in an effort to increase the integration of TUSD schools.

11 **A. The District Submitted Items for SMP Review and Solicited SMP Input**

12 The District provides a detailed and extensive account of item submission to, and
 13 solicitation of, SMP input below. In July of 2015, before fully engaging in the proposal
 14 development process, the District submitted to the SMP for review a draft development
 15 timeline and process. Ex. 7, “SAC Report – Appendices” (Taylor Email, 7.20.15), p. 8.
 16 Between August and October of 2015, the District submitted to the SMP for review an
 17 initial Desegregation Impact Analysis (DIA) for each proposal, SAC minutes, maps,
 18 responses to requests for information, and other information. *Id.* pp. 6-55. Throughout this
 19

20 ⁶ “The addition of the NARA requirement does not eliminate, bypass, negate or
 21 thwart the general review provisions in the USP, § I.D.1.” *Id.* at 4:24-25. “...section I.D.1
 22 requires: the District ‘shall’ solicit the input of the Special Master and the Plaintiffs and
 submit items for review before they are put into practice or use...” *Id.* at 3:19-4:1.

23 ⁷ The Court, citing USP § II.D.2, found that in developing a NARA proposal to
 24 “change student assignments,” the USP requires the District, parties, and Special Master to
 25 “comprehensively consider the proposal, pursuant to applicable USP criteria, in an effort to
 increase the integration of TUSD schools.” *Id.* at 5:17-20.

26 ⁸ Concurrent with the initial development of the subject proposals, the Special
 27 Master and the parties began working together to create viable procedures for developing
 28 significant student assignment proposals pursuant to this Court’s directive. *See* ECF 1809
 at 6:27 – 7:3. Resolution of “viable procedures” is pending.

1 period, the District solicited, and they provided, input, comments and objections via email
 2 and discussions during District-initiated teleconferences, phone calls, and in-person
 3 meetings. *Id.* In August, the District invited the Plaintiffs to send representatives to
 4 participate in an SAC meeting. *Ex. 7, p. 21. (Taylor Email, 8.12.15).*⁹ The Department of
 5 Justice participated by phone, and both the Fisher and Mendoza Plaintiffs sent
 6 representatives who presented their views and engaged in discussions with SAC members.
 7 *See Ex. 8, Declaration of Bryant Nodine (“Nodine Dec”)* ¶3. On August 26, 2015, the
 8 District facilitated a teleconference with the SMP to solicit their additional feedback and to
 9 discuss the evolving proposals in detail. *Id.* ¶4. On September 25, 2015, the District
 10 submitted to them draft proposals and DIAs. *Id.* ¶5, *Ex. 8-A.* From August through
 11 October, the District carefully reviewed SMP input and accordingly revised the proposals
 12 and the development process (including goals and timelines) several times. *Id.* ¶6, *Ex. 8-B.*

13 The Court found that the District’s Governing Board should have “the benefit of
 14 input from the Plaintiffs before it acts” (ECF 1809 at 4:17-18) and “that the Board should
 15 have the advantage of the information contained in the DIA when considering an action that
 16 will require a NARA” (*Id.* at 5:17-18). Accordingly, District staff provided the SMP’s
 17 input to Board members in advance of their October 20th meeting along with draft
 18 proposals, including: an assessment of the integrative impacts of potential grade
 19 configuration options; draft DIAs; revised SAC goals; and detailed descriptions of District
 20 engagement with the SMP through October 19th. *Id.* ¶7, *Ex. 8-C.* On October 20, 2015, the
 21 District’s Director of Planning Services, Bryant Nodine, presented the draft proposals
 22 (including DIAs) to the Board for the express purpose of sharing “the progress of the grade
 23 configuration change proposals from the schools, the work of the committee assigned to this

24 ⁹ “[I]n order to ensure that the plaintiffs’ views are considered by the committee in
 25 its work, we would like to invite each Plaintiff class to send up to two representatives to the
 26 SAC meeting ... [where] we will be discussing proposals specifically through the lens of
 27 the revised goals, which take into account Plaintiffs’ feedback re integration. Plaintiff
 28 representatives will be invited to make their presentations at the beginning of the meeting,
 which will be followed by a dialogue with the committee, so the committee can better
 understand their point of view....”

1 task, and the responses to the proposals from the Special Master and Plaintiffs.” Id. ¶8, Ex.
 2 8-D. Then, after considering and incorporating input from the Board, the SMP, and the
 3 SAC, District staff developed the final proposals through the SAC recommendations (*see*
 4 Id. ¶9, Ex. 8-E) and SAC Report (including DIAs and additional SMP input)(*See* Exs. 1-7).
 5 On November 10, 2015, Mr. Nodine presented the final proposals to the Board and they
 6 were approved. Nodine Dec. ¶10, Ex. 8-F.

7 **B. The Parties Considered Proposals Comprehensively**

8 In its May Order, the Court directed the District to consider future proposals “in the
 9 context of the four integration strategies required by [USP §II.A.1],” including: attendance
 10 boundaries; pairing and clustering of schools; magnet schools and programs; and open
 11 enrollment. *See* ECF 1799 at pp. 4-5. Over the next three months, the District evaluated
 12 and considered each proposal in the context of each integration strategy and shared its
 13 analyses with the SMP in writing and in meetings for further consideration.¹⁰ The final
 14 proposals include summary descriptions of these analyses.¹¹ Details of these analyses are
 15 included herein. *See* below, §§ IV(A-E), sub-section “1. Impact on student assignment.”

16 USP §II.D.2 requires the District to review its boundaries to determine whether to
 17 redraw them only when it “opens a new school; closes, repurposes or consolidates a school;
 18 alters the capacity of a school; or designates a school without an attendance boundary.”
 19 District staff and SAC members reviewed each proposal to determine whether boundary
 20 changes were necessary or would improve integration. None required a boundary change,
 21 nor would a boundary change improve integration significantly in any of the proposals.

22 USP §II.D.2 states that “[w]hen the District draws attendance boundaries, it shall
 23 consider [a set of six criteria]” and, in “applying these criteria, the District shall propose and
 24

25 ¹⁰ *See* Nodine Dec. ¶5, Ex. 8-A at pp. 6-7 (“2. The District Must Use Four
 26 Strategies...”) and at pp. 13-17 (“Integration Strategies”).

27 ¹¹ *See* Ex. 1, p. 8; *and see* Exhibit 2 “Borman Proposal and DIA” p. 2; Exhibit 3
 28 “Collier Proposal and DIA” p. 2; Exhibit 4 “Drachman Proposal and DIA” p. 2; Exhibit 5
 “Fruchthendler Proposal and DIA” p. 2; and Exhibit 5 “Sabino Proposal and DIA” p. 2.

1 evaluate various scenarios with, at minimum, the Plaintiffs and the Special Master in an
 2 effort to increase the integration of its schools.” Notwithstanding that none of the five
 3 proposals involve the redrawing of attendance boundaries, the District proposed and
 4 evaluated various scenarios, and considered them comprehensively, with the SMP in an
 5 effort to increase integration at the subject, surrounding, and racially concentrated schools.

6 **1. Scenario 1: other potential grade configurations to increase integration**

7 The District conducted a districtwide analysis to determine whether grade
 8 reconfigurations could increase integration at other sites. *See* Nodine Dec., Ex. 8-A at pp.
 9 8-11). Based on the results, the District proposed two possible scenarios: adding 6th grade
 10 to Cavett Elementary School, and adding 7th and 8th grades to Catalina High School. These
 11 scenarios together (much like the Collier/Fruchthendler/Sabino proposals, together) could
 12 operate to improve integration, but the District has concluded that further analysis and
 13 evaluation is needed before making a final determination. The District has committed to
 14 evaluating these scenarios and “present[ing] [them] for consideration, by all parties, in the
 15 second semester of SY15-16.” Nodine Dec., Ex. 8-E at 10.

16 **2. Scenario 2: open enrollment using incentive transportation/express buses**

17 The USP provides free incentive transportation to students residing in the attendance
 18 boundary of TUSD’s racially concentrated schools who are willing to enroll voluntarily at a
 19 non-neighborhood school where their presence will increase integration. *See* USP §III.A.3.
 20 Currently, only a handful of these students utilize incentive transportation to attend Collier,
 21 Fruchthendler, Magee, or Sabino. However, following input from the SMP, the District
 22 developed scenarios for supporting incentive transportation with express buses to reduce
 23 travel time and increase the attractiveness of Collier, Fruchthendler, Magee, and Sabino as
 24 elementary, middle, and high school options to parents of eligible students.¹² The District
 25 provided initial projections based on current utilization of incentive transportation. As the

26 _____
 27 ¹² Eligible students are those whose voluntary transfer from a school in a racially
 28 concentrated boundary to a non-neighborhood school would improve integration at the
 receiving school. *See* USP § III.3. These students will always increase integration at the
 receiving school and may also reduce racial concentration in the sending school.

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1 scenario developed, Plaintiffs requested revised DIA projections based on the potential
 2 impact of the scenario at the subject (and impacted) schools. The District then sought to
 3 confirm or reject the initial projections by surveying parents of eligible students to obtain
 4 solid data on actual interest levels in participating in incentive transportation supported by
 5 express buses. Nodine Dec. ¶11, Ex. 8-G. When many more parents indicated interest than
 6 the District or SMP had expected, the District revised its projections. In this scenario, if
 7 only a fraction of these eligible students actually enrolled in Collier, Fruchthendler, Magee,
 8 or Sabino, the impact would increase integration at all four schools and, in some cases, at
 9 the racially concentrated sending schools (*see* Id. ¶12):

Projected Impact of Each Proposal Supported by Express Buses
Collier may move “7% to 8% closer to being integrated in two racial-ethnic categories (Anglo and Hispanic).” Ex. 3, p. 5.
Fruchthendler may move “4% to 5% closer to being integrated in two racial-ethnic categories (Anglo and Hispanic).” Ex. 5, p. 5.
Magee may move “6% closer to being integrated in two racial-ethnic categories (Anglo and Hispanic). Ex. 6, p. 7.
Sabino may move “4% to 5% closer to being integrated in two racial-ethnic categories (Anglo and Hispanic).” Ex. 6, p. 6.

16 **3. Scenario 3: magnet transportation with express buses to Drachman**

17 As described in detail in the Drachman request, below, the District proposed to use
 18 free magnet transportation with express buses to supplement the Drachman proposal by
 19 reducing travel times and increasing the attractiveness of Drachman Montessori magnet to
 20 parents of Eastside students who would improve integration at Drachman.

21 **4. Scenario 4: enhance educational quality at surrounding schools**

22 In response to SMP concerns related to potential impacts on Magee Middle School
 23 and Roberts-Naylor K-8 School, the District proposed and evaluated scenarios to enhance
 24 educational quality at both schools to increase their attractiveness (to District and out-of-
 25 district students), reduce the potential loss of TUSD students, increase African-American
 26 and Latino participation in ALE programs, improve academic achievement, and to ensure
 27 equal access to educational benefits and quality educational programs.

28 **5. Scenario 5: commitment to propose additional integration initiatives**

1 The District is developing initiatives to increase the number of students attending
2 integrated schools for submission by March 1, 2016. *See* ECF 1865 at 7, provision “E”.

3 **IV. GRADE RECONFIGURATION PROPOSALS**

4 The District now turns to individual proposals which were designed in accordance
5 with the USP to prevent negative effects on USP goals and programs, result in positive
6 overall impacts to integration, and do not exacerbate ethnic imbalances.

7 **A. Request to Change Borman Elementary School to a K-8 School¹³**

8 The Borman proposal and DIA is included as Exhibit 2. As of October 16, 2015, the
9 Special Master supported the proposal, the DOJ and Mendoza Plaintiffs did not object, and
10 the Fisher Plaintiffs objected. *See* Nodine Dec., Ex. 8-D at 42.

11 **1. Impact on student assignment**

12 Borman students are almost exclusively children or grandchildren of service
13 members, or of employees or affiliates of Davis-Monthan Air Force Base. After
14 completing fifth grade, many Borman students attend the on-base charter school, private or
15 off-base charter schools, or schools in other school districts for 6th grade, decreasing the
16 likelihood that they will attend TUSD middle or high schools (approximately “70% of the
17 Borman Area students may not attend TUSD schools”). *See* Ex. 2, pp. 5-6. The proposal
18 would retain many of these students, and give the District greater access to them for
19 outreach and recruitment to encourage school choices that will improve integration.

20 Borman’s population is approximately fifty percent Anglo, reflecting the population
21 from which it draws, and will continue to draw as a K-8 “[a]s the same students [in
22 Borman] now will form the 6th through 8th grades [so] there is no change to the racial-
23 ethnic composition....” *Id.*, p. 4. As the proposal draws primarily on students who
24 otherwise leave the District after 5th grade, it “would have virtually no impact on
25 [surrounding] middle schools.” *Id.*, p. 5. The Borman proposal does not exacerbate ethnic
26 imbalances. Borman’s student population is 54% Anglo and 23% Latino. Were those

27
28 ¹³ Because Borman is located on Davis-Monthan Air Force Base, security protocols
make it difficult for parents or guardians not affiliated with the base to access the school.

1 numbers reversed, Borman would be Integrated under the USP, meaning the level of
2 student diversity at Borman is equal to that of an Integrated school.

3 The USP's four student assignment strategies are attendance boundaries, pairing and
4 clustering, magnets, and open enrollment. USP §II.A.1. Due to Borman's unique security
5 issues, it is not feasible to use any of these strategies to increase integration. Faced with
6 these challenges, the District and parties developed a scenario within the proposal to add the
7 Advancement Via Individual Determination (AVID) program to improve the attractiveness
8 of nearby Roberts-Naylor K-8 School and enhance integration by "provid[ing] more
9 students with an opportunity to attend an integrated school." *Id.*, p. 2. Although many
10 Borman-area parents may not elect to go off-base to attend Roberts-Naylor – some will.
11 Virtually every Borman-area student enrolled in Roberts-Naylor will enhance integration.

12 **2. Effect on Other USP Obligations (including Equity Considerations)**

13 The Borman proposal will positively affect District efforts in student assignment
14 (§II), quality of education (§V), family and community engagement (§VII), and
15 extracurricular activities (§VIII). *See Id.*, pp. 5-6. The proposal creates an educational
16 benefit for Borman students currently available to Roberts-Naylor students: eliminating the
17 transition from 5th grade to middle school. To ensure equity, the proposal creates an
18 additional educational benefit for Roberts-Naylor students by expanding AVID "to prepare
19 African American and Latino students for success in core classes and Advanced Learning
20 Experiences (ALEs) such as GATE and pre-AP classes." *Id.*, p. 2.

21 **B. Request to Change Collier Elementary School to a K-6 School**

22 The Collier proposal and DIA is included as Exhibit 3. As of October 16, 2015, the
23 Special Master supported the proposal, the DOJ did not object, and the Fisher and Mendoza
24 Plaintiffs objected. *See Nodine Dec.*, Ex. 8-D at 42.

25 **1. Impact on student assignment**

26 Collier is a small school of approximately 200 students. Its Anglo student
27 population has dropped from 75% in 2005 to 62% in 2015. Concurrently, the growth of
28 charter schools and neighboring school districts surrounding Collier has left it severely

1 underutilized. “[F]or the Collier Area, there are over 20 [neighborhood attendance area
2 resident] students per grade in the K-5 level who do not attend TUSD schools and over 40
3 who do not attend TUSD schools in the 6th grade.” Ex. 3, p. 4. The proposal would help to
4 retain some of these students, giving the District greater access to them for outreach and
5 recruitment to encourage school choices that will improve integration, and boost Collier’s
6 population to improve site utilization. As Collier is geographically distant from other
7 schools, “[p]airing or clustering [it] with another school to share a boundary is not feasible,”
8 boundary changes “would not increase integration,” and the proposal “would not
9 significantly impact any surrounding magnet schools.” Id., p. 2.

10 The District initially projected the proposal would not adversely impact student
11 assignment or exacerbate ethnic imbalances as it would “have very little impact on
12 [Collier’s] racial ethnic composition....” Id., p. 4. As it evolved, the District developed a
13 scenario to use the USP’s open enrollment strategy to increase integration as increases in
14 the enrollment of non-Anglo students “would move [Collier] towards the definition of an
15 Integrated School.” Id., p. 2. Thus, this scenario likely would improve integration at
16 Collier and may, to some extent, reduce racial concentration in sending schools.

17 Previous data suggested few parents tolerate extended bus rides. The District
18 evaluated the potential impact of an express bus by surveying parents of eligible 5th grade
19 students to determine their interest in free transportation to Collier if 6th grade were added.”
20 Nodine Dec. ¶11, Ex. 8-G at 3. The survey revealed that “82 parents (25% of respondents)
21 may be interested in having their children attend [] Collier if a 6th grade were added and if
22 transportation were provided.” Id., p. 5. Many more parents of students in lower grades
23 (K-4th) may also be interested. If only 30 of these students opt to attend Collier it would
24 “move the school 7% to 8% closer to being integrated in two racial-ethnic categories
25 [Anglo and Hispanic]. Id. As these students matriculate through Collier, some will bring
26 their younger siblings who will further contribute to integration. As they matriculate out of
27 Collier, they are more likely to enroll in 7th grade at Sabino (if approved) and to continue
28 contributing to integration at that site.

1 Many Collier students currently attend Magee, and to increase integration at Magee
 2 its numbers of non-Anglo students must increase – of which the greatest available pool is
 3 Latino students. Accordingly, the District proposed strategies to “increase [Magee’s]
 4 attractiveness to Latino students and families...” using open enrollment with incentive
 5 transportation and express buses (see §E(2), below). *Id.*, p. 7.

6 **2. Effect on other USP obligations (including equity considerations)**

7 The Collier proposal positively affects District USP efforts in student assignment
 8 (§II), transportation (§III), quality of education (§V), family and community engagement
 9 (§VII), and extracurricular activities (§VIII). *See Id.* pp. 7-8. The District also considered
 10 the equity concerns related to the fair and equitable distribution of K-6 and K-8 schools to
 11 ensure that the proposal was not creating an additional educational benefit for Collier
 12 students in an inequitable manner. Nodine Dec. ¶13 The District concluded that “proposals
 13 to add two K-6 schools on the eastside of [] TUSD, one K-8 central, and one K-8 west was
 14 equitable as it would bring the total count of K-6 and K-8 schools to eleven west, two
 15 central, and four east” (*Id.*, ¶13 Ex. 8-H) as depicted by the chart below:

	TUSD West	TUSD Central	TUSD East	Total
Current Distribution	1 K6 + 10 K8s	1 K8	2 K8s	14
Proposed Distribution	11 K8s	2 K8s	2 K6s + 2 K8s	17

18 Westside Latino and African American students have, and will continue to have, far greater
 19 access to the educational benefits of K-6/K-8 schools than their Eastside Anglo peers.

20 **C. Request to Change Drachman K-6 School to a K-8 School**

21 The Drachman proposal and DIA is included as Exhibit 4. As of October 20, 2015,
 22 the Special Master expressed “reservations” (*see Ex. 7, pp. 53-54*), and the DOJ, Mendoza
 23 Plaintiffs, and Fisher Plaintiffs did not object (*see Nodine Dec., Ex. 8-D at 42*).

24 **1. Impact on student assignment**

25 Drachman K-6 Montessori is a high-achieving, nationally-recognized magnet school
 26 located on the District’s Westside. Initial projections indicated the proposal would have no
 27 adverse impact on integration because it would result in “virtually no change in the racial-
 28

1 ethnic composition” of Drachman (Ex. 4, p. 4), and “virtually no impact” on the racial-
2 ethnic composition on the two surrounding schools that would be impacted by more than
3 ten students, the Safford K-8 School or Valencia Middle School (Id., p. 5). Over the past
4 three years the District has significantly improved the integration of Drachman’s incoming
5 grades, kindergarten and 1st grade. Although the school is racially concentrated
6 (approximately 75% Latino enrollment), Latino enrollment at incoming grades is 68%
7 (73.7% in 1st grade and 62.5% in Kindergarten).

8 Based on an evaluation of the proposal within the context of USP student assignment
9 strategies, the District has concluded that “Drachman is a magnet-theme specific school,
10 surrounded by other magnet-theme specific schools. Pairing or clustering Drachman with
11 another school to share a boundary is not feasible” and that “boundary changes would not
12 increase integration.” Id., p. 2. The open enrollment strategy does not apply because
13 Drachman is a magnet school. For Drachman in particular, as a magnet school, the District
14 not only must strive to improve integration but also must endeavor to meet the specific goal
15 of achieving the USP definition of integration by continuing to increase the percentage of
16 non-Anglo students at Drachman. The proposal does not adversely impact student
17 assignment, in fact, it will likely increase integration at Drachman by functioning “to retain
18 students in a magnet program which is becoming more integrated – helping Drachman
19 reach its USP-mandated goal of becoming an integrated school.” Id., p. 6.

20 There are five Montessori charter schools (two K-6 schools and three K-8 schools)
21 primarily located in the North and East areas of the District. *See* Id., p. 8. To further
22 accelerate integration at Drachman, the District has proposed scenarios to “market[] the K-8
23 Montessori program to targeted demographics [to] improve integration...supported by an
24 express bus from the [E]astside of the District to the downtown area.” Id., p. 28.

25 **2. Effect on other USP obligations (including equity considerations)**

26 The Drachman proposal positively affects the District’s USP efforts in student
27 assignment (§II), transportation (§III), and quality of education (§V). *See* Id., pp. 6-7.
28 Drachman students “will have a consistent Montessori education through 8th grade, will

1 benefit from one less transition from elementary school to middle school, and may take
 2 advantage of express busing.” Id. Although the Special Master has raised concerns that a
 3 middle school Montessori model is not viable, the American Montessori Society has
 4 included middle school teachers in its training for years and, in Tucson alone, there are
 5 three Montessori K-8 schools with middle school components. *See Id.*, p. 8.

6 The District has evaluated equity concerns related to transportation (*see* ECF 1447 at
 7 2:10-11) and student assignment. The District has proposed transportation scenarios with
 8 the SMP involving USP incentive transportation using express buses for non-Anglo
 9 students going to Eastside schools (see above, §III(B)(2)) and USP magnet transportation
 10 using express buses for non-Latino students going to Drachman (see above, §III(B)(3)).¹⁴

11 **D. Request to Change Fruchthendler Elementary School to a K-6 School**

12 The Fruchthendler proposal and DIA is included as Exhibit 5. As of October 16,
 13 2015, the Special Master supported the proposal, the DOJ did not object, and the Fisher and
 14 Mendoza Plaintiffs objected. *See Nodine Dec.*, Ex. 8-D at 42.

15 **1. Impact on student assignment**

16 Fruchthendler is a high-achieving school on the District’s Northeast side. Its Anglo
 17 student population has dropped from 76% in 2005, to 62% in 2015 (based on 2015-16 40th
 18 day data). In the Fruchthendler area, “there are over 40 students per grade in the K-5 level
 19 who do not attend TUSD schools and over 80 who do not attend TUSD schools in the 6th
 20 grade.” Ex. 5, p. 4. The proposal would help to retain some of these students, giving the
 21 District greater access to them for outreach and recruitment to encourage school choices
 22 that will improve integration, and boost the student population to improve site utilization.
 23 The attendance boundary, pairing and clustering, and magnet strategies are not viable
 24 options for improving integration at Fruchthendler. *See Id.*, p. 2. Still, the proposal would
 25 boost its total population to improve site utilization, would not adversely impact its racial or

26 _____
 27 ¹⁴ The scenarios align with USP §III (Transportation) which, generally, operates to
 28 share equitably the transportation burden by moving primarily non-Latino students west
 through magnet transportation, and moving primarily non-Anglo students east through
 incentive transportation.

1 ethnic composition (*see* Id., p. 5), and – through creative use of open enrollment – it likely
 2 would improve integration. As with Collier, the District developed and proposed a scenario
 3 to implement an open enrollment strategy to increase integration through the use of
 4 incentive transportation and express buses. Surveys of 5th grade parents of students living
 5 in racially concentrated boundaries revealed “99 parents (29% of respondents) would be
 6 interested in having their children attend Fruchthendler if a 6th grade were added and if
 7 transportation were provided.” Id. Many more parents of students in lower grades (K-4th)
 8 may also be interested. If only 30 of these students opt to attend Fruchthendler it would
 9 “move the school 4% to 5% closer to being integrated in two racial-ethnic categories
 10 [Anglo and Hispanic]. Id. As these students matriculate through Fruchthendler, some will
 11 bring along their younger siblings who will contribute further to integration. As they
 12 matriculate out of Fruchthendler, they are more likely to enroll in 7th grade at Sabino (if
 13 approved) to continue contributing to integration at that site. As described in section
 14 IV(B)(1) above, and section IV(E)(1) below, the District has evaluated and proposed
 15 strategies to mitigate potential negative impacts to nearby Magee Middle School.

16 **2. Effect on other USP obligations (including equity considerations)**

17 The Fruchthendler proposal positively affects the District’s USP efforts in student
 18 assignment (§II), transportation (§III), quality of education (§V), family and community
 19 engagement (§VII), and extracurricular activities (§VIII). *See* Id. pp. 7-8. *See* also the
 20 District’s consideration of equity concerns related to the fair and equitable distribution of
 21 K-6 and K-8 schools in section IV(B)(2) above. The proposal will improve the impact of
 22 incentive transportation in supporting integration efforts, and will provide additional ALE
 23 programs at nearby Magee Middle School to increase its attractiveness and “to prepare
 24 African American and Latino students for success in core classes and Advanced Learning
 25 Experiences (ALEs) such as GATE and pre-AP classes...” Id., p. 7. The proposal will also
 26 serve to re-engage students and families who “disengage from the District after 5th grade,
 27 frustrating efforts at family engagement, including: marketing, outreach, and recruitment;
 28 ALE, UHS, and dual-language recruitment...” and to expand extracurricular activities “to

1 offer a wider variety of extracurricular activities which afford students opportunities to
2 engage in interracial contact in positive settings of shared interest.” Id., pp. 7-8.

3 **E. Request to Change Sabino 9-12 High School to a 7-12 School**

4 The Sabino proposal and DIA is included as Exhibit 6. As of October 16, 2015, the
5 DOJ did not object to the proposal but the Special Master, Fisher Plaintiffs, and Mendoza
6 Plaintiffs objected. *See* Nodine Dec., Ex. 8-D at 42. The District acknowledges a previous
7 version of this proposal received objections from the Special Master and two parties. Based
8 on those objections, the District made two significant revisions to the Sabino proposal.
9 First, the 7th grade would not begin until SY 2017-18. This revision provides additional
10 time to improve the attractiveness of Magee, and for the 7th grade to grow from the
11 incoming 6th grade classes at Collier and Fruchthendler, from District students recruited
12 through open enrollment (using incentive transportation to improve integration), and from
13 non-TUSD-resident students, thus reducing potential impacts on Magee. Second, the
14 funding for Magee would remain at current levels so it would retain key resources,
15 regardless of enrollment changes (from these proposals or from ongoing demographic
16 shifts), as it develops and implements plans to enhance marketing and student recruitment,
17 and provide Pre-AP/Dual-Enrollment programs with Sahuaro High School.

18 **1. Impact on student assignment**

19 Sabino is a high-achieving school on the District’s Northeast side. Its Anglo student
20 population has dropped from 75% in 2005, to 57.4% in 2015. In the Sabino area (which
21 includes the Magee area, “there are nearly 400 7th and 8th graders who do not attend TUSD
22 schools.” Ex. 6, p. 4. The proposal is designed to retain some of these students – at Sabino
23 *and* at Magee – giving the District greater access to them for outreach and recruitment to
24 encourage school choices that will improve integration, and boost overall student
25 populations to improve site utilization.

26 Initially, the District projected that the proposal would not negatively impact student
27 assignment because it would result in “a very slight positive impact on the racial-ethnic
28 composition of [Sabino]” (Id., p. 6) and “a minimal impact on the racial ethnic composition

1 of Magee” (Id., p. 7). The proposal does not negatively impact other middle schools, “[f]or
2 all other middle schools, the impacts are expected to be minimal.” Id., p. 8.

3 Pairing and clustering strategies do not apply at Sabino, boundary changes are not a
4 viable option for increasing integration, and the “proposal would not significantly impact
5 any surrounding magnet schools as described in the current and previous DIAs.” Id., p. 2.

6 To improve integration, the District evaluated, developed, and proposed scenarios to
7 use the USP’s open enrollment strategy (supported by USP incentive transportation and
8 express buses) to achieve “an increase in non-Anglo students at Sabino [which] would
9 move it towards the definition of an Integrated School” and to “attract more Latino students
10 to Magee” to improve integration. Id. To better analyze the potential success of this
11 approach, the District surveyed parents of 6th and 7th grade students who would improve
12 integration at Sabino and Magee to determine their level of interest in enrolling in these
13 schools if an express bus were provided. Nodine Dec. ¶¶11-12, Ex. 8-G. The survey
14 results revealed interest from over 850 families of non-Anglo students in using an express
15 bus to attend Sabino, and, extrapolating this data to all grades, indicated that this strategy
16 would add “approximately 25 non-Anglo students per grade to Sabino.” Ex. 6, p. 6. Based
17 on these results, the District projects that 150 “additional students from racially
18 concentrated schools areas would move [Sabino] 4% to 5% closer to being integrated in two
19 racial-ethnic categories (Anglo and Hispanic).” Id. Likewise, “140 parents (29% of
20 respondents) may be interested in having their children attend Magee if an express bus”
21 were provided. Id., p. 7. Using those results conservatively to assume one bus with 40 non-
22 Anglo students, the District projects that “the additional students from racially concentrated
23 schools areas, plus the transition of students to Sabino, would move the school 6% closer to
24 being integrated in two racial-ethnic categories (Anglo and Hispanic). Id.

25 **2. Effect on other USP obligations (including equity considerations)**

26 The Sabino proposal positively affects the District’s USP efforts in student
27 assignment (§II), transportation (§III), quality of education (§V), and family and
28 community engagement (§VII). *See* Id. pp. 10-11. As described above, the District has

1 developed and proposed scenarios to ensure that as this proposal conveys educational
2 benefits for students at Sabino, it likewise conveys additional educational benefits for
3 Magee students by expanding ALE programming to “to increase [Magee’s] attractiveness”
4 and “to prepare African American and Latino students for success in core classes and
5 Advanced Learning Experiences (ALEs) such as GATE and pre-AP classes.” *Id.*, p. 10.

6 The District engaged in a comprehensive analysis of potential grade change options
7 at other locations throughout the District, and has committed to further evaluating and
8 (potentially) developing an option to add 6th grade to Cavett Elementary School and 7th-8th
9 grades to Catalina High School. *See* Ex. 1, pp. 8; *and see* Ex. 7, pp. 1-5. To address the
10 District’s continuing commitment to fulfilling the USP §II.A.1 requirement to “develop and
11 implement a coordinated process of student assignment,” the District has committed to
12 developing and proposing by March 1, 2016 additional initiatives to increase the number of
13 students attending integrated schools within the District. *See* ECF 1858-1 at 3:1-3.

14 **V. CONCLUSION**

15 The District followed all applicable processes in developing the proposals and, in so
16 doing, revised them several times to mitigate (and, in some cases, reverse) any projected
17 adverse impacts on its student assignment obligations. No proposal is projected to
18 exacerbate ethnic imbalances, and each was carefully considered within the context of the
19 USP to eliminate to the extent practicable any negative effects on USP goals or programs.

20 TUSD must address declining enrollment, underutilized schools, competition from
21 surrounding school districts and charter schools, and demographic changes that coalesce to
22 frustrate desegregation efforts, drain resources, and undermine strategies to retain and
23 attract students in a manner that promotes integration. Actions not “called for” by the USP
24 still must “not have an adverse impact on the ongoing desegregation obligations being
25 undertaken pursuant to [the USP],” or “disproportionately burden minority students.” *See*
26 ECF 1447 at 2:7-11. These proposals do neither and, in most cases, they will result in
27 positive impacts towards achieving the goals of the USP. For the reasons stated above, the
28 District respectfully requests approval of each of the five proposals.

1 DATED this 16th day of November, 2015.

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21 Notice of Electronic Filing provided to all parties
22 that have filed a notice of appearance in the District
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