

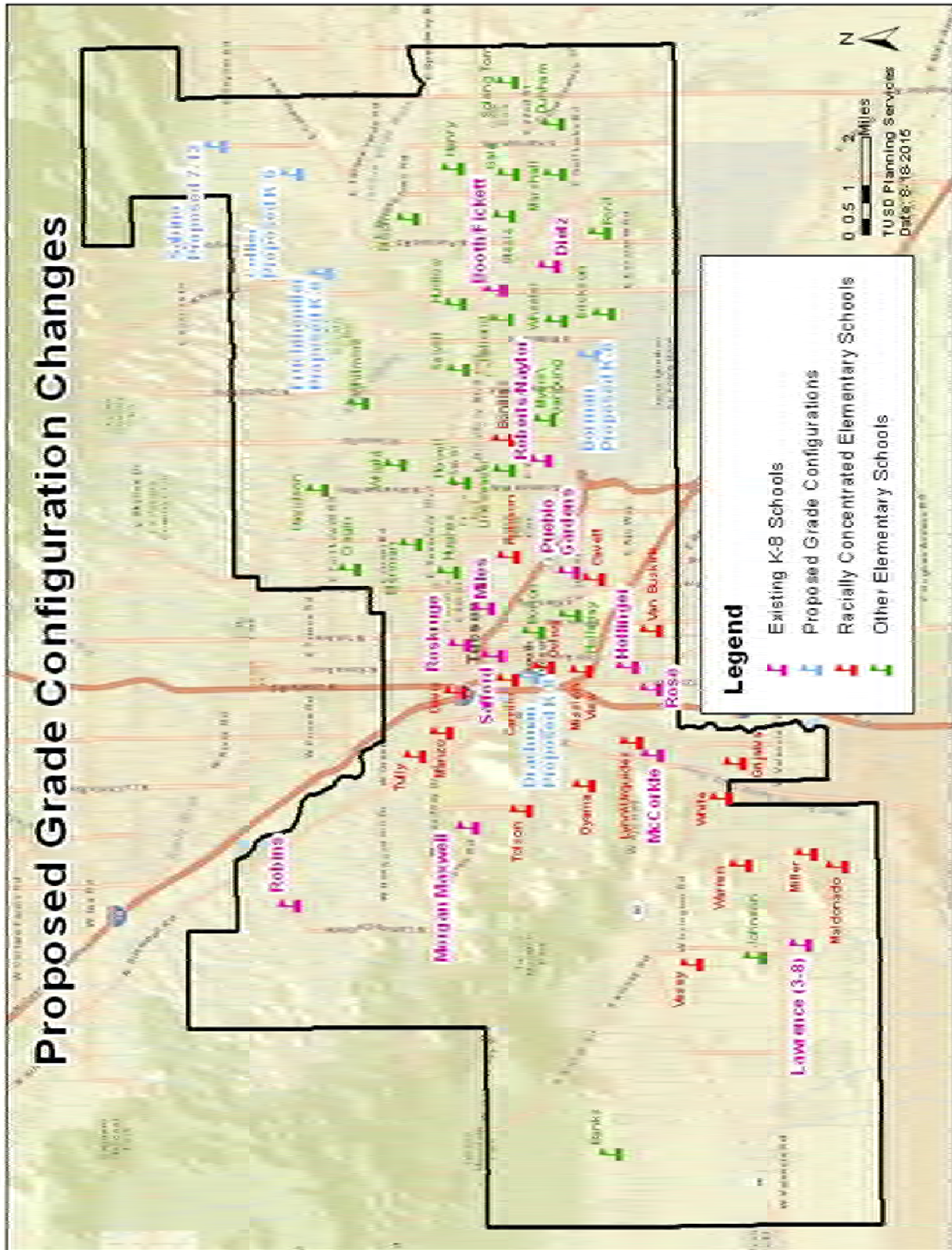


Appendix A-  
Analysis of Additional Grade Configuration  
Change Options

## Appendix A Analysis of Additional Grade Configuration Change Options

Early in this project TUSD staff evaluated other options for grade changes. The first analysis shown in the map on the following page indicated that there were already sufficient K-8 schools in other areas of the District (specifically central and west). The analysis also highlighted the fact that virtually all of the central and west schools are racially concentrated so adding more students to them would not have an integrative effect.

After the August 26 teleconference, at the request of the Mendoza counsel, TUSD staff evaluated the integrative impacts of grade configuration change options more comprehensively and in more detail. As shown in the pages following the map, only one grade configuration change would have an integrative effect. That would be the change of Cavett ES from K-5 to K-6 and, coincidentally, adding a junior high to Catalina HS. The positive integrative effect could come from the movement of Cavett Area 7<sup>th</sup> and 8<sup>th</sup> graders from Utterback MS to Catalina HS, assuming they would choose that option.



## Analysis of Additional Grade Change Options

This is an analysis of the integrative effects: 1) of converting any remaining K-5 schools that could become K-8; 2) adding junior high grades to high schools with capacity; and 3) adding 6<sup>th</sup> grades to schools with capacity and where there is also capacity at the high school they feed into.

### Potential K-8 Schools

These are K-5 schools that have capacity for additional 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grades where those grades are at least 50 students each based on typical 5<sup>th</sup> to 6<sup>th</sup> grade cohort progression ratios of 70% and 7<sup>th</sup> and 8<sup>th</sup> grade cohort progression ratios of 100%. These are independent of the capacity of the high schools.

<b>Elementary School</b>	<b>Enroll w/ PreK</b>	<b>Capacity</b>	<b>USP Criteria</b>	<b>Integrative Effect</b>
Erickson	497	680		None
Lynn/Urquides	539	780	RC	None

### Potential Additional 7-12 High Schools

These are high schools with a minimum of 162 empty seats (6 classes of 27 to allow a full complement of teachers and courses for all periods). The only instance of a positive integrative effect is the addition of Cavett Area 7<sup>th</sup> and 8<sup>th</sup> graders who might move from Utterback MS (racially concentrated) to Catalina HS (integrated), assuming they would choose that option. The overall, ethnic composition of the high schools themselves would change little due to the addition of a junior high.

<b>High School</b>	<b>Enroll</b>	<b>Capacity</b>	<b>USP Criteria</b>	<b>Integrative Effect</b>
Catalina	785	1500	I	Positive
Palo Verde	1252	2070	I	None
Pueblo	1650	1900	RC	None
Sahuaro	1759	1950		None
Santa Rita	541	2070		None

I = integrated

RC = racially concentrated

Potential K-6 Schools

These are K-5 schools that have capacity for an additional 6<sup>th</sup> grade where that 6<sup>th</sup> grade is at least 25 students based on typical 5<sup>th</sup> to 6<sup>th</sup> grade cohort progression ratios of 70%. Also the high school that these feed into must have capacity for a 7-12 configuration.

<b>Elementary School</b>	<b>Enroll w/ PreK</b>	<b>Capacity</b>	<b>USP Criteria</b>	<b>Integrative Effect</b>
Blenman	399	530	I	None
Bloom	332	480		None
Cavett	301	440	RC	Positive <sup>1</sup>
Cragin	388	470	I	None
Davidson	331	390	I	None
Dunham	224	280		None
Erickson	497	680		None
Ford	361	440		None
Henry	357	420		None
Holladay	270	340		None
Hudlow	280	420	I	None
Marshall	287	420		None
Soleng Tom	424	500		None
Steele	327	400		None
Van Buskirk	371	480	RC	None
Warren	304	360	RC	None
Wheeler	416	640		None
Whitmore	323	460	I	None

1. Positive because, if 7<sup>th</sup> and 8<sup>th</sup> grade students in the area were to choose Catalina HS, there would be more students in an integrated school (Catalina). However, there are not enough students in Cavett ES alone to provide a junior high population of 150 so other elementary schools such as Cragin, Davidson or Wright would need to be added.

***TUUSD***

**Appendix B-**  
**Special Master and Plaintiffs Comments**

**Brown, Samuel**

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**From:** Thompson, Lois D. <lthompson@proskauer.com>  
**Sent:** Wednesday, July 22, 2015 12:41 PM  
**To:** Taylor, Martha; Anurima Bhargava; James Eichner; Juan Rodriguez; Rubin Salter; Willis D. Hawley; Zoe Savitsky  
**Cc:** Desegregation; Tolleson, Julie; RLL; Nodine, Bryant  
**Subject:** RE: Student Assignment - Grade Reconfiguration  
**Categories:** BoardSuptSMPartiesIC

Dear Martha,

I write to provide you the Mendoza Plaintiffs' feedback on the approach and schedule you reference below.

So that there can be no confusion later, we are constrained to begin with a comment on approach, specifically concerning your statement of the purpose of this effort: "The purpose of these efforts will be to determine whether grade configurations can serve to attract and retain students, and improve educational quality, at select sites." We believe that statement of purpose is inadequate. The USP expressly states that the District is to propose scenarios "in an effort to increase the integration of its schools." (USP, Section II, D, 2.) Mendoza Plaintiffs therefore will object to any process and outcome that does not include within it the goal of increasing the integration of the District's schools.

With respect to the schedule you propose, we would like to clarify the following:

- (1) Whenever "reports" or "recommendations" are provided to the plaintiffs and the Special Master as, for example, on July 23 and August 6, we should also receive (or be given immediate e-access to) all the data that has been used by DLR and/or provided to the SAC in advance of the issuance of such reports and recommendations.
- (2) There has to be built into the schedule a clear process and prompt response time for requests for additional information and data from the plaintiffs and the Special Master.
- (3) We want to confirm that the August 26 meeting on the DLR calendar is an opportunity for the plaintiffs and the Special Master to be informed and to ask questions, that is, that we are not expected to have fully developed a response to the report that we may not have received until less than one week before the scheduled call. (As a side note: Juan and I have put this call on our calendars but for those of us who are not subject to the TUSD calendar, the end of August often is vacation time. We therefore suggest that everyone confirm availability on that date.)
- (4) No time frame is set for the receipt of initial comments and recommendations from the plaintiffs and Special Master before the Sept. 8 meeting of the Governing Board to study the plan. Yet, it seems that it might be useful for the District and the Governing Board to get some preliminary feedback before that meeting. Does it make sense to say that we may (but are not required) to provide feedback by Wednesday, September 2? (Whether this really seems necessary and what such comment might be will very much depend on what is being proposed by the District at this time.)
- (5) No date is set for receipt by the District of Special Master and plaintiffs' comment and recommendations after submission of the DIA and NARA. Or is that what is meant by the entry for October 9? If so, the timeframe seems fine but the entry likely should be clarified.
- (6) Consistent with the Court Order of June 12, 2015 (Doc. No. 1809), we want to confirm that the comments of the plaintiffs and the Special Master will be transmitted directly to the Governing Board when it considers the final plan, that is, that they are not to be provided with a document created by District staff that undertakes to summarize those comments.

(7) We want to confirm that nothing in this schedule is intended to change in any way the process and time frames in place per the USP and Court Orders that govern what may be filed with the Court and when with respect to the NARA process.

**Lois D. Thompson**

Partner

[Proskauer](#)

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f 310.557.2193  
[lthompson@proskauer.com](mailto:lthompson@proskauer.com)

greenspaces

Please consider the environment before printing this email.

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**From:** Taylor, Martha [mailto:Martha.Taylor@tusd1.org]  
**Sent:** Monday, July 20, 2015 4:55 PM  
**To:** Anurima Bhargava; James Eichner; Juan Rodriguez; Thompson, Lois D.; Rubin Salter; Willis D. Hawley; Zoe Savitsky  
**Cc:** Desegregation; Tolleson, Julie; RLL; Nodine, Bryant  
**Subject:** Student Assignment - Grade Reconfiguration

Dr. Hawley and counsel: We are reaching out to ask for your feedback on our proposed timeline for engaging in an analysis of grade reconfiguration proposals similar to, and including, the recent Fruchthendler/Sabino proposals. Our Student Assignment Plan Calendar is attached. The purpose of these efforts will be to determine whether grade configurations can serve to attract and retain students, and improve educational quality, at select sites. Our goal is to initiate these efforts this month, work with a Student Assignment Committee and the SMP collaboratively over the next few months, and finalize the analysis so that one or more of the proposals can be approved by the Board this fall in time for the school choice enrollment period. Our hope is that through productive collaboration from the beginning, we will address any concerns or issues before finalizing the proposals. The ultimate objective is to produce a set of proposals to the Governing Board that is supported by the Committee and by the SMP.

Over the past couple of weeks we have communicated some of our ideas to the Special Master, and have made tweaks to the timeline based on his feedback. At this time, the Special Master has raised no objection to our proposed timeline and approach. Our next step is to get your feedback on the timeline and approach so that we can implement the process, ensuring that we comply with the USP and relevant court orders. Please review the attached documents and provide feedback no later than the close of business on Wednesday, July 23.

Thank you.

Martha.

\*\*\*\*\*  
\*\*\*\*\*

This message and its attachments are sent from a law firm and may contain information that is confidential and protected by privilege from disclosure.



**Brown, Samuel**

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**From:** Willis D. Hawley <wdh@umd.edu>  
**Sent:** Friday, July 31, 2015 6:26 AM  
**To:** Rubin Salter Jr.; Juan Rodriguez; Lois Thompson; Anurima Bhargava; Zoe Savitsky;  
James Eichner; Desegregation; TUSD  
**Subject:** GRADE CONFIGURATION

In rereading the proposed process for considering grade reconfiguration, it seems important that no steps be taken to implement changes until the parties agree on a proposed plan or the Court acts to approve, whichever comes first. This is important lest the value of reconfiguration be trumped by arguments about the process of arriving at a decision.

Bill Hawley

**Brown, Samuel**

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**From:** Thompson, Lois D. <lthompson@proskauer.com>  
**Sent:** Wednesday, August 5, 2015 12:03 PM  
**To:** Taylor, Martha; Nodine, Bryant; Brown, Samuel; TUSD (TUSD@rllaz.com); Desegregation; wdh@umd.edu; Anurima Bhargava (Anurima.Bhargava@usdoj.gov); Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov); Eichner, James (CRT) (James.Eichner@usdoj.gov); rsjr3@aol.com; wbrammer@rllaz.com; Juan Rodriguez (jrodriguez@MALDEF.org); Tolleson, Julie  
**Subject:** Student Assignment Committee  
**Categories:** BoardSuptSMPartiesIC

Martha, Counsel, and Special Master Hawley,

The Mendoza Plaintiffs appreciate that the District has provided access to the FTP site with the Student Assignment Committee (SAC) meeting materials. Mendoza Plaintiffs have reviewed the materials in the "2015-07-23 Meeting Report" folder. Unfortunately, those materials and the District's email below raise a number of concerns. Prime among them is the following:

Mendoza Plaintiffs noted the District's statement in the below email that it is "address[ing] the requests of various schools to revisit grade configurations" and its assertion that as a consequence, this "project is not undertaken as a USP-mandated boundary review." The District is wrong. USP Section II, D, 2 clearly states that the "District shall review and/or redraw its attendance boundaries when it... repurposes or consolidates a school [or]... alters the capacity of a school." Further, that USP section states that "[w]hen the District draws attendance boundaries, it **shall** consider" criteria that include "effects on school integration." (Id.; emphasis added.) Therefore, this "project" does entail a USP-mandated boundary review. And, with respect to such review, the USP expressly requires that, "the District **shall propose and evaluate various scenarios**... in an effort to increase the integration of its schools." (USP Section II, D, 2; emphasis added.)

Not surprisingly given the statements in the below email, Mendoza Plaintiffs have seen nothing in the SAC meeting materials for July 23, 2015 to suggest that the proposed scenarios were developed in accordance with the USP mandate to propose and evaluate scenarios to increase the integration of TUSD schools. The "2015-07-22 SAC Meeting Presentation" document recites instead as one of the project's goals that "grade configuration changes ... do not hinder desegregation." However, proposals that do not "hinder desegregation" may do nothing to further the effort to "increase the integration" of TUSD schools as is required by the USP. Nor do they suggest that integration-increasing scenarios have been considered. The District's process and proposals to date therefore do not comply with USP Section II, D, 2.

Mendoza Plaintiffs raised this issue in an email dated July 22, 2015, just two days after having been informed of how the District intended to approach this project. At that time we stated: "Mendoza Plaintiffs ...will object to any process and outcome that does not include within it the goal of increasing the integration of the District's schools." We will request that the Special Master prepare a report and recommendation to the Court on the District's failure to comply with USP Section II,D,2 absent an immediate revision of the student assignment process to comply with the requirements of the USP.

Mendoza Plaintiffs request that the District provide the plaintiffs and Special Master with the "brief district-wide study" it conducted on the basis of which it "concluded that these 5 schools helped distribute K-8s and alternative grade configurations across the district" (described in item 8.c. of the "2015-07-22 SAC Meeting Minutes" document). In addition, Mendoza Plaintiffs request the production of any material related to that district-wide study that evidences

that the District evaluated scenarios for the purpose of determining whether they would increase the integration of its schools.

Additionally, Mendoza Plaintiffs understood from the July 24, 2015 teleconference that the parties and Special Master were in general agreement that the plaintiffs' written comments would not be filtered or summarized by the District before being presented to the Governing Board for consideration, but would instead be subject to guidelines to be developed. (Clear recommendations and page limits were discussed as potential guidelines.) The Mendoza Plaintiffs were therefore a bit confused by the District's statement below that "nothing shall prohibit the District from summarizing the feedback in an attempt to effectively and efficiently communicate with the Board." Mendoza Plaintiffs request confirmation that that statement contemplates that the District may elect to summarize plaintiffs' arguments when addressing the Board but that such summaries are not meant to take the place of plaintiffs' written comments that the parties agreed would be provided directly to the Board under the Court's June 12, 2015 order (Doc. 1809).

Lois D. Thompson

From: Taylor, Martha [<mailto:Martha.Taylor@tusd1.org>]

Sent: Monday, August 03, 2015 2:25 PM

To: Anurima Bhargava; James Eichner; Juan Rodriguez; Lois Thompson; Rubin Salter; Willis D. Hawley; Zoe Savitsky

Cc: Desegregation; Tolleson, Julie; RLL; Nodine, Bryant; Patterson, Charlotte

Subject: Student Assignment Committee

Dr. Hawley and counsel – Below is the report information from Bryant Nodine regarding the first meeting of the Student Assignment Committee.

Dr. Hawley and counsel: Contained herein is report information on the Student Assignment Committee's first meeting on July 22. I apologize for not getting this information to all of you on the due date of July 23. In the future all due dates on the attached calendar will be met.

The materials and notes from that meeting are in an FTP site so everyone has immediate access at any point in the process to all relevant information. The sites will be updated after each meeting, with meeting information in a folder labelled by date within 48 hours of the meeting. All information provided there will comprise our reports to SMP.

Specifics of the site are:

<https://ftp.dlrprojects.com>

Username: TUSD-SAC

Password: SACcommittee

In the meeting of July 22, the committee reviewed and agreed to use the relevant criteria from existing Regulation JC-R, to evaluate the grade configuration proposals. This project is not undertaken as a USP-mandated boundary review, but rather to address the requests of various schools to revisit grade configurations, often emphasizing the recruitment and retention of students to the District generally. Nevertheless, the review criteria include impacts on race, ethnicity and school desegregation. Preliminary desegregation impact analyses were provided to the committee.

A new schedule was developed (attached), at the request of the committee, to move the August 5 meeting, which is right before the start of school, to Monday, August 10. The schedule for reports to the SMP was also changed to provide 48 hours to fully update the ftp site.

Although we have had to delay one committee meeting, we will be able to keep the rest of the schedule intact and we still plan to meet with the SMP by phone conference or in person, in Tucson, on August 26. That meeting will be an opportunity for the SMP to be informed, to ask questions, and to provide preliminary feedback. We ask that the SMP provide feedback to the committee recommendations by Wednesday, September 2.

## Brown, Samuel

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**From:** Eichner, James (CRT) <James.Eichner@usdoj.gov>  
**Sent:** Friday, August 7, 2015 5:56 AM  
**To:** Thompson, Lois D.; Taylor, Martha; Nodine, Bryant; Brown, Samuel; TUSD (TUSD@rllaz.com); wdh@umd.edu; Savitsky, Zoe (CRT); rsjr3@aol.com; wbrammer@rllaz.com; Juan Rodriguez (jrodriguez@MALDEF.org); Tolleson, Julie  
**Cc:** Eichner, James (CRT)  
**Subject:** RE: Student Assignment Committee

Martha and Julie -

We share the concern raised by the Mendoza plaintiffs that the Student Assignment Committee has stated its goal as providing “grade configuration changes that do not hinder desegregation” rather than to “increase integration of the schools” as required by Section (II)(D)(2) of the USP. We therefore request that the District change its stated goals, and act in conformity with that goal going forward, or explain its failure to do so and engage with a dialogue with the Special Master and the plaintiffs about this issue.

Jim and Zoe.

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**From:** Thompson, Lois D. [mailto:lthompson@proskauer.com]  
**Sent:** Wednesday, August 05, 2015 3:03 PM  
**To:** martha.taylor@tusd1.org; Bryant.Nodine@tusd1.org; Brown, Samuel; TUSD (TUSD@rllaz.com); Desegregation (deseg@tusd1.org); wdh@umd.edu; Bhargava, Anurima (CRT); Savitsky, Zoe (CRT); Eichner, James (CRT); rsjr3@aol.com; wbrammer@rllaz.com; Juan Rodriguez (jrodriguez@MALDEF.org); julie.tolleson@tusd1.org  
**Subject:** Student Assignment Committee

Martha, Counsel, and Special Master Hawley,

The Mendoza Plaintiffs appreciate that the District has provided access to the FTP site with the Student Assignment Committee (SAC) meeting materials. Mendoza Plaintiffs have reviewed the materials in the “2015-07-23 Meeting Report” folder. Unfortunately, those materials and the District’s email below raise a number of concerns. Prime among them is the following:

Mendoza Plaintiffs noted the District’s statement in the below email that it is “address[ing] the requests of various schools to revisit grade configurations” and its assertion that as a consequence, this “project is not undertaken as a USP-mandated boundary review.” The District is wrong. USP Section II, D, 2 clearly states that the “District shall review and/or redraw its attendance boundaries when it... repurposes or consolidates a school [or]... alters the capacity of a school.” Further, that USP section states that “[w]hen the District draws attendance boundaries, it **shall** consider” criteria that include “effects on school integration.” (Id.; emphasis added.) Therefore, this “project” does entail a USP-mandated boundary review. And, with respect to such review, the USP expressly requires that, “the District **shall propose and evaluate various scenarios**... in an effort to increase the integration of its schools.” (USP Section II, D, 2; emphasis added.)

Not surprisingly given the statements in the below email, Mendoza Plaintiffs have seen nothing in the SAC meeting materials for July 23, 2015 to suggest that the proposed scenarios were developed in accordance with the USP mandate to propose and evaluate scenarios to increase the integration of TUSD schools. The “2015-07-22 SAC Meeting Presentation” document recites instead as one of the project’s goals that “grade configuration changes ... do not hinder desegregation.” However, proposals that do not “hinder desegregation” may do nothing to further the effort

**Brown, Samuel**

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**From:** Rubin Salter, Jr. [mailto:rsjr3@aol.com]  
**Sent:** Monday, August 10, 2015 5:57 PM  
**To:** James.Eichner@usdoj.gov; lthompson@proskauer.com; Taylor, Martha; Nodine, Bryant; Brown, Samuel; TUSD@rllaz.com; wdh@umd.edu; Zoe.Savitsky@usdoj.gov; wbrammer@rllaz.com; jrodriguez@MALDEF.org; Tolleson, Julie  
**Subject:** Re: Student Assignment Committee

Dear Martha:

Please find attached the Fisher Plaintiffs' 08/10/15 preliminary objection to the TUSD Student Assignment Committee.

Thank you,

Rubin

-----  
Rubin Salter, Jr.  
Attorney  
The Law Office of Rubin Salter, Jr.  
177 N. Church Avenue  
Suite 903  
Tucson, AZ 85701  
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Monday August 10, 2015

Attention: Martha Taylor

Dear Martha:

The Fisher Plaintiffs have completed a preliminary review of the material uploaded to the District's Student Assignment Committee (SAC) folder. Based on that review, the Fisher Plaintiffs, by copy of this email, join the Mendoza Plaintiffs and the Department of Justice (DOJ) in their objection to the current goals and guidelines set for the SAC (see Thompson 08/05/15 and Eichner 08/07/15 emails).

The SAC clearly fails to assign due priority to the District's desegregation obligations under the Unitary Status Plan (USP) and clearly fails to involve the type and degree of input from the plaintiffs and the Special Master (SM) contemplated under the USP and the Court's 05/12/15 order interpreting the applicable provisions of the USP. Additionally, the composition of the SAC is clearly unrepresentative of the full spectrum of stakeholders impacted by the proposed changes.

The overwhelming majority of SAC members appear to be Tucson Unified School District (TUSD) employees and/or the parents of students attending the schools proposing the grade reconfigurations. While employees and parents initiating or endorsing the proposals certainly deserve a seat at the table, their participation should be balanced by a full range of stakeholder participation. The Committee's membership bias raises the concern that the Committee may reach foregone conclusions behind the trappings of stakeholder participation afforded by the professional management of the DLR Group.

The District's desegregation impact analyses (DIAs) claim that the proposed changes will "have virtually no impact on" the racial and ethnic profile of the impacted schools (see inter alia the Borman K-8 DIA uploaded to the DLR site). The District explains that the enrollment projections made in its DIAs "are estimates based on current patterns of choice" (idem). As the Fisher Plaintiffs noted in their 04/23/15 objection to the proposed grade reconfigurations at Fruchthendler and Sabino, the projected continuation of current school choice patterns (chiefly patterns of White Flight) is unwarranted.

Patterns of White Flight do not exist in a policy vacuum. The District has the means to implement policies that can influence future school choice patterns in ways that can make integration a reality. And the District has the legal duty, under the USP and controlling Ninth Circuit authority, to do just that, a duty that the District unfortunately seems unwilling to uphold.

The District is legally empowered and obliged to consider and take affirmative steps to counteract - not cater to - the phenomenon of White Flight, both without and within the District. The “grassroots” initiatives of identifiably White schools, like Fruchthendler and Borman, to recapture predominantly White enrollment (under the cover of ostensibly neutral grade reconfigurations) violate both the letter and the spirit of the student assignment provisions of the USP and the equal protections safeguarded by the Supreme Court’s landmark Civil Rights decisions in *Brown* and its progeny.

The District’s proposed reconfiguration of Borman K-5 as a K-8 school suffers from the same shortcomings as the District's past efforts to reopen Lowell Smith ES as a MS. Like Borman ES, the Lowell Smith campus is located on the Davis-Monthan (DM) Air Force Base. The District first petitioned the Court to reopen the (then) recently closed Lowell Smith ES as a MS on 03/07/07 (see document number 1189 filed 03/07/07). On 03/15/07 and 04/09/07, the Fisher and the Mendoza Plaintiffs filed their respective responses in opposition to the proposed reopening as violative of the District's desegregation obligations (see document numbers 1190 filed 03/15/07 and 1195 filed 04/09/07). On 05/10/07, the Court agreed with the Plaintiffs' arguments and denied the District's petition, explaining that:

The Court finds that reopening Smith Elementary School as a middle school has an adverse affect on ongoing desegregation obligations because it is inconsistent with on-going efforts to reduce segregation in TUSD's schools [...]. Reopening Smith School as a middle school removes a segment of the existing community assigned to Naylor Middle School, thereby, decreasing its base of concerned parents. Attendance by DM students at other TUSD schools and charter schools has had precisely this result. To the extent that TUSD is attempting to bring charter students back into its fold, this may benefit the Naylor Middle School. Conversely, it is not in the best interest of the community for TUSD to authorize non-minority DM students to attend other TUSD schools instead of Naylor Middle School [...]. In light of the evidence that Naylor Middle School, with a predominately minority student body, is seriously failing to educate its student body, it is highly

suspect for TUSD to carve out a separate non-minority educational system for a group of these students that are predominately non-minority. Fisher Mendoza [is] a desegregation case, which at its core is based on the principle that separate schools will not provide equal education (at pages 4-5 of document number 1209 filed 05/10/07 emphasis added).

Undeterred, the District returned the following year to notify the Court that it was still "exploring ways to re-open Smith" (at page 3 of document number 1264 filed 04/10/08). The District explained that it hoped to reopen Smith to recapture an estimated 500 students lost under State open-enrollment laws facilitating the flight of (predominantly White) Davis-Monthan-area students to neighboring districts and charter schools (*idem* at 4). On 04/16/08, the Mendoza Plaintiffs filed a response opposing the second attempt to reopen Smith as still very much in violation of the District's desegregation obligations (see document number 1267 filed 04/16/08).

Yet again, the District seeks to win back DM-area enrollment lost to neighboring districts and charter schools, this time by reconfiguring Borman K-5 into what would very likely become an identifiably White K-8 school. The plaintiffs and the Court have already considered, and rejected, the District's constitutionally unsound approach to recapturing enrollment lost to White Flight. On 04/14/15, the District filed a notice and request for the Court's approval (NARA) of the reconfiguration of grade levels at Fruchthendler ES and Sabino HS (see document number 1789 filed 04/14/15). In that NARA, the District explained that:

A high percentage of middle school aged students living in the area surrounding Fruchthendler Elementary School ("Fruchthendler") and Sabino High School ("Sabino") do not attend TUSD schools for grades 6 through 8. Some area students attend the nearest TUSD middle school, Magee, but many students who leave TUSD after fifth grade for middle school outside the district do not return at all. As a result, TUSD loses funding, and the decline of its Anglo student population is exacerbated (thereby frustrating efforts to recruit Anglo students to other TUSD schools for integration purposes) (*idem* at 2).



On 04/23/15, the Fisher and Mendoza Plaintiffs filed memoranda opposing the proposed reconfiguration (see documents number 1791 and 1794 filed 04/23/15). On 05/12/15, the Court issued an order denying the District's request, explaining that:

The record reflects that the student assignments proposed by TUSD were not considered in the context of the four integration strategies required by the USP: attendance boundaries, pairing and clustering of schools; magnet schools and programs; and open enrollment. (USP § II.1.) Because the proposed student assignments involve the creation of an honors program, the USP, section V, requires the District to also consider Plaintiffs' concerns regarding equal access. There is nothing about a NARA proposal to change student assignments to exempt it from the USP requirement that the District, the parties, and the Special Master comprehensively consider the proposal, pursuant to applicable USP criteria, in an effort to increase the integration of TUSD schools. USP § II.D.2. Plans and strategies are now in place, pursuant to the USP, for addressing student assignments, but this NARA fails to reflect how the Fruchthendler-Sabino Honors Pipeline plan fits into these plans and strategies, and if not, why (at page 5 of document number 1799 filed 05/12/15 emphasis added).

The Fisher Plaintiffs remain extremely concerned by the District's continued efforts to reconfigure grade levels at Fruchthendler ES and Sabino HS. Their concerns are motivated in equal parts by the District's decision to insulate the work of the SAC from the input of the plaintiffs and the SM and the District's erroneous assumption that it has no obligation to recognize and counteract the harmful effects of White flight in its student assignment plans. The Supreme Court has long held that "a student assignment plan is not acceptable merely because it appears to be neutral, for such a plan may fail to counteract the continuing effects of past school segregation" (Swann v Board of Education, 402 U.S. 1 1971). In Swann, the Court found that "racially neutral assignment plans proposed by school authorities to a district court may be inadequate; such plans may fail to counteract the continuing effects of past school segregation resulting from discriminatory location of school sites" (idem).

Under federal law, a school district operating under a federal desegregation order carries an affirmative obligation to account for the legacy of discriminatory practices when fashioning its student assignment policies and plans. The seeming “neutrality” of the District’s proposed student assignment “honors pipeline” from Fruchthendler to Sabino is absurd when the pipeline is designed to provide privileged programming to the historically privileged class of predominantly high SES White students residing in the Sabino attendance area. It is extremely unsettling that the District again proposes to alleviate White flight from the District by endorsing White flight within the District. The Fisher Plaintiffs are extremely disappointed that the District, rather than exploring ways to increase the diversity at schools like Magee and Roberts/Naylor, again propose intradistrict White flight as way to recapture enrollment currently lost to interdistrict White flight.

Sincerely,

Rubin Salter, Jr.

**Brown, Samuel**

---

**From:** Thompson, Lois D. <lthompson@proskauer.com>  
**Sent:** Monday, August 17, 2015 2:12 PM  
**To:** Taylor, Martha; Tolleson, Julie; Brown, Samuel; wbrammer@rllaz.com  
**Cc:** Juan Rodriguez (jrodriguez@MALDEF.org); Anurima Bhargava (Anurima.Bhargava@usdoj.gov); Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov); Eichner, James (CRT) (James.Eichner@usdoj.gov); rsjr3@aol.com; wdh@umd.edu  
**Subject:** Re: SAC Response  
**Attachments:** 20150813 Responses to SMP SAC Concerns.pdf

Dear Martha, Julie, Sam, and Bill Brammer,

I write to specifically address the paragraph from the “TUSD Responses to Special Master and Plaintiffs Concerns re Student Assignment Committee (SAC) on Proposed Grade Reconfigurations” set forth below:

The District thanks the Plaintiffs and Special Master for their feedback and provides responses below. We hope that future feedback, during collaborative engagements such as this one, can take a more positive and productive tenor – phrases like “the SAC fails” “the District is wrong” and “the District unfortunately seems unwilling to uphold [its duty to desegregate]” are not productive. This is an iterative process, we are all participants – suggestions should take the form of recommendations, not indictments on District staff. Such adversarial communications do not foster good relations, present unnecessary obstacles to developing mutual understanding, and do not honor the work of the staff and volunteers who spend countless hours engaged in this work. Our goal is for the SMP feedback and our responses to be meaningful, impactful, and relevant and to foster a positive and productive exchange of ideas. We suggest that SMP feedback be given in the form of recommendations as the District can then adopt, modify, or respond to those recommendations.

We believe that the Mendoza Plaintiffs have demonstrated a willingness and ability to engage with the District to provide constructive comment on District plans and proposals developed pursuant to the USP and Court order. We intend to continue to do so. But we also have a duty to inform the District when we believe an action it is contemplating violates the terms of the USP or an applicable Court order. That is what we did with respect to the student assignment revision process that the District has initiated and, if warranted in the future, will continue to do with respect to District initiatives. We cannot simply “recommend” that the District alter a course of action that we believe is contrary to the mandates of the USP, the Constitution, or a Court order. In such a circumstance, it is incumbent on us to tell the District that we think it is wrong and to then object if it persists in a course of action that we believe fails to comply with the mandates of the USP, the Constitution, or other applicable Court order.

Lois Thompson

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**From:** Taylor, Martha [<mailto:Martha.Taylor@tusd1.org>]  
**Sent:** Thursday, August 13, 2015 5:17 PM

**To:** Anurima Bhargava; James Eichner; Juan Rodriguez; Thompson, Lois D.; Rubin Salter; Willis D. Hawley; Zoe Savitsky  
**Cc:** Desegregation; Tolleson, Julie; RLL; Nodine, Bryant; Patterson, Charlotte  
**Subject:** SAC Response

Dr. Hawley and counsel: Now that the District has received everyone’s feedback on the Student Assignment Committee on Grade Reconfiguration, we are submitting our responses to this feedback as part of our collaborative effort. We hope that everyone will provide feedback to our responses by Tuesday, August 18, so we can share this information with the SAC on Wednesday, August 19 at that scheduled meeting. As a reminder, we are also scheduled to have a teleconference meeting on Wednesday, August 26. We are suggesting from 1 – 2 p.m. Please let us know if this time will work for you. Finally, please do let us know if you will have any representatives coming to next Wednesday’s meeting.

Thank you.

Martha

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## Brown, Samuel

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**From:** Thompson, Lois D. <lthompson@proskauer.com>  
**Sent:** Monday, August 17, 2015 11:26 AM  
**To:** Taylor, Martha; Anurima Bhargava (Anurima.Bhargava@usdoj.gov); Eichner, James (CRT) (James.Eichner@usdoj.gov); Juan Rodriguez (jrodriguez@MALDEF.org); rsjr3@aol.com; wdh@umd.edu; Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov); Desegregation; TUSD (TUSD@rllaz.com); Tolleson, Julie; Nodine, Bryant; Patterson, Charlotte  
**Subject:** Re: SAC Meeting

Dear Martha,

Mendoza Plaintiffs' representative Sylvia Campoy will attend the meeting of the SAC committee on August 19.

Neither she nor we believe that she should make a "presentation" at the beginning of the meeting. As you know, beyond providing comments on the proposed "Student Assignment Plan Calendar" and addressing other aspects of the proposed process (topics we will address in a separate email), Mendoza Plaintiffs have been focused on what they believe to be a District failure to comply with the provisions of the USP as they relate to the student assignment revision process in which the District now is engaged. The "TUSD Responses to Special Master and Plaintiff Concerns" that you provided on August 12 sets forth the District's disagreement with the position asserted by all the Plaintiffs on that issue. That is a matter that may well have to be resolved but not through a presentation to and discussion with a lay committee.

The District also has revised the stated goals of the process in what it says is an attempt to respond to Plaintiff concerns.

In the approach proposed below, the Plaintiffs' "presentations" would precede the "presentation of the committee's new goals...and highlights of the DIAs." We respectfully suggest that the new goals and highlights of the DIAs should first be presented by the District and its consultant and then, to the extent they deem appropriate, each of the Plaintiffs' representatives can comment on those "new goals" and the DIAs.

Lois Thompson

---

**From:** Taylor, Martha [<mailto:Martha.Taylor@tUSD1.org>]  
**Sent:** Wednesday, August 12, 2015 5:51 PM  
**To:** Anurima Bhargava; James Eichner; Juan Rodriguez; Thompson, Lois D.; Rubin Salter; Willis D. Hawley; Zoe Savitsky  
**Cc:** Desegregation; RLL; Tolleson, Julie; Nodine, Bryant; Patterson, Charlotte  
**Subject:** SAC Meeting

Dr. Hawley and counsel: On Monday of this week we received the Fisher feedback on the SAC committee and its goals and have now heard from all parties; our response will be forthcoming soon. Also, in order to ensure that the plaintiffs' views are considered by the committee in its work, we would like to invite each Plaintiff class to send up to two representatives to the SAC meeting to be held next Wednesday, August 19 from 3:00-5:00 p.m. at the Duffy library. At that meeting we will be discussing proposals specifically through the lens of the revised goals, which take into account Plaintiffs' feedback re integration. Plaintiff 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. The remainder of the meeting will be devoted to a presentation of the committee's new goals, facility improvements, transportation and highlights of the DIAs. Plaintiff representatives are welcome to stay for the remainder of the meeting or to leave after their presentations. We look forward to hearing from you.

**Brown, Samuel**

---

**From:** Rubin Salter, Jr. <rsjr3@aol.com>  
**Sent:** Monday, August 17, 2015 1:07 PM  
**To:** lthompson@proskauer.com; Taylor, Martha; Anurima.Bhargava@usdoj.gov; James.Eichner@usdoj.gov; jrodriguez@MALDEF.org; wdh@umd.edu; Zoe.Savitsky@usdoj.gov; Desegregation; TUSD@rlaz.com; Tolleson, Julie; Nodine, Bryant; Patterson, Charlotte  
**Subject:** Re: SAC Meeting

Dear Martha:

The Fisher Plaintiffs have asked Dr. James T. Schelble to attend Wednesday's Student Assignment Committee (SAC) meeting on their behalf. Depending on their availability, Ms. Gloria Copeland and Dr. Lorraine Richardson may also be in attendance. While I agree that it is appropriate for plaintiff representatives to attend the meeting and hopefully listen and participate in productive discussions with the Committee members, I agree with Lois and believe it would be premature and potentially counterproductive to ask the plaintiff representatives to provide formal presentations on the student assignment goals of the Committee before the District and the plaintiffs have had the opportunity to resolve their current differences of opinion (which I hope we will be able to do without burdening the Court with additional briefing).

Sincerely,

Rubin Salter, Jr.

-----  
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-----Original Message-----

From: Thompson, Lois D. <lthompson@proskauer.com>  
To: martha.taylor <martha.taylor@tusd1.org>; Anurima Bhargava (Anurima.Bhargava@usdoj.gov) <Anurima.Bhargava@usdoj.gov>; Eichner, James (CRT) (James.Eichner@usdoj.gov) (CRT) (James.Eichner@usdoj.gov) <James.Eichner@usdoj.gov>; Juan Rodriguez (jrodriguez@MALDEF.org) <jrodriguez@MALDEF.org>; rsjr3 <rsjr3@aol.com>; wdh <wdh@umd.edu>; Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov) (CRT) (Zoe.Savitsky@usdoj.gov) <Zoe.Savitsky@usdoj.gov>; Desegregation (deseg@tusd1.org) <deseg@tusd1.org>; TUSD (TUSD@rlaz.com) <TUSD@rlaz.com>; julie.tolleson <julie.tolleson@tusd1.org>; Bryant.Nodine <Bryant.Nodine@tusd1.org>; 'charlotte.patterson@tusd1.org' <charlotte.patterson@tusd1.org>

**Brown, Samuel**

---

**From:** Thompson, Lois D. <lthompson@proskauer.com>  
**Sent:** Tuesday, August 18, 2015 4:38 PM  
**To:** Taylor, Martha; Anurima Bhargava; James Eichner; Juan Rodriguez; Rubin Salter; Willis D. Hawley; Zoe Savitsky  
**Cc:** Desegregation; Tolleson, Julie; RLL; Nodine, Bryant; Patterson, Charlotte  
**Subject:** RE: SAC Response  
**Attachments:** MENDOZA PLAINTIFFS.DOCX  
  
**Categories:** BoardSuptSMPartiesIC

Please see Mendoza Plaintiffs' feedback to the District's responses to the Special Master's and Plaintiffs' Concerns re: Student Assignment Committee as requested below.

**Lois D. Thompson**  
Partner

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**From:** Taylor, Martha [<mailto:Martha.Taylor@tusd1.org>]  
**Sent:** Thursday, August 13, 2015 5:17 PM  
**To:** Anurima Bhargava; James Eichner; Juan Rodriguez; Thompson, Lois D.; Rubin Salter; Willis D. Hawley; Zoe Savitsky  
**Cc:** Desegregation; Tolleson, Julie; RLL; Nodine, Bryant; Patterson, Charlotte  
**Subject:** SAC Response

Dr. Hawley and counsel: Now that the District has received everyone's feedback on the Student Assignment Committee on Grade Reconfiguration, we are submitting our responses to this feedback as part of our collaborative effort. We hope that everyone will provide feedback to our responses by Tuesday, August 18, so we can share this information with the SAC on Wednesday, August 19 at that scheduled meeting. As a reminder, we are also scheduled to have a teleconference meeting on Wednesday, August 26. We are suggesting from 1 – 2 p.m. Please let us know if this time will work for you. Finally, please do let us know if you will have any representatives coming to next Wednesday's meeting.

Thank you.

Martha

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MENDOZA PLAINTIFFS' REPLY TO THE TUSD RESPONSES TO SPECIAL MASTER AND PLAINTIFFS CONCERNS re STUDENT ASSIGNMENT COMMITTEE (SAC) ON PROPOSED GRADE RECONFIGURATION ("TUSD SAC RESPONSE")

August 18, 2015

Mendoza Plaintiffs will not here address the differences between the Plaintiffs and the District concerning the applicability of USP Section II,D,2 to the student assignment/grade reconfiguration process since that is a legal issue better discussed among the lawyers and the Special Master (and, if need be, resolved by the Court).

**Goals**

Mendoza Plaintiffs appreciate that the District has revised the goals of the SAC Committee but continue to have issues with them.

In the TUSD SAC Response, the District says that one of the revised goals is to "consider[] comprehensively each proposal in an effort to increase integration." <sup>1</sup> (TUSD SAC Response at 2; goal "f".) This goal appears to restrict the focus to the proposals now before the Committee. (And, as we discuss further below, the SAC Committee, apparently made up primarily of parents and District employees at the five schools now before the Committee is ill-equipped to identify and focus on other schools at which integration might be increased as the result of a grade reconfiguration.) Mendoza Plaintiffs recommend that the charge of the Committee (and its membership) be broadened to address the issue of whether there are additional schools in the District at which integration may be increased through the reconfiguration of their grade structures.

Mendoza Plaintiffs further note that Goal "g" is to "improve student retention." There is no comparable goal to increase integration. Mendoza Plaintiffs recommend the addition of such a goal and that it be made clear that this is to occur throughout the District.

Similarly, Goal "h" refers to attracting "non-District students ... to encourage voluntary movement to further integrate District schools." Mendoza Plaintiffs recommend that this goal be revised to make it explicit that the marketing, outreach, and recruitment efforts referred to in this goal are also directed to IN-District students whose attendance at the schools that have their grades reconfigured would increase the integration of those schools.

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<sup>1</sup> One of the schools currently before the SAC Committee is Drachman Magnet Elementary School. Under the provisions of the USP it is subject to the requirement that its "goal...shall be to achieve the definition of an integrated school" as set forth in the USP. USP, Section II, E. 2. Therefore any change in its grade configuration must further its ability to meet this express goal. Mendoza Plaintiffs therefore recommend that the goal as stated in the USP for Drachman be clearly and explicitly stated in the SAC Committee's goals and that any planned change in the grade configuration at Drachman be evaluated in the context of that goal.



Goal “d” states that the goal is to “[p]rovide grade change configurations that will be supported by the community. “ “Community” is not defined but the other goals as currently written and the composition of the SAC committee indicate that the “community” is viewed as the population currently attending one of the five schools currently before the Committee. Mendoza Plaintiffs believe this is too narrow a definition of community and recommend that it be restated to include the entire TUSD community (and that the composition of the SAC committee be changed accordingly. We also discuss below our recommendation to include stakeholders from schools in the community that will be affected by changes in grade configuration of nearby schools.)

Goal “b” refers to “provid[ing] grade configuration changes that enhance education.” As you know, one of the programmatic changes that appeared to have been integral to the prior exploration of changes in grade configurations relating to Fruchthendler and Sabino was the proposal to create an “honors program”. Mendoza Plaintiffs therefore ask if the creation of an “honors program” or any other programmatic changes are again being considered in connection with the contemplated grade reconfigurations and, if so, what they are, who is considering them, and what efforts are being made to make comparable educational experiences available to all students throughout the District? Is the “honors pathway” between Fruchthendler and Sabino that was planned when the grade reconfiguration of these two schools previously was considered still a planned programmatic offering in the current grade reconfiguration plan for the two schools? If so, how will the District provide for equal access for in-District students throughout the District to that program and what actions will it take to ensure that the District’s white students are not disproportionately the beneficiaries of that program? Has the District investigated placing such an “honors pathway” at other schools located elsewhere in the District?

Goal “l” states that “if we are successful in attracting students to stay in the district, Fruchthendler may grow and may need additional space.” Mendoza Plaintiffs have a concern and a question about this goal.

Their concern is that the focus of this and other stated goals appears to be in reaching out to families who have decided to leave the District without similarly focusing on attracting students currently attending racially concentrated schools in the District and encouraging them to be part of Fruchthendler’s anticipated growth. Mendoza Plaintiffs recommend that an effort be made to attract those current TUSD students whose presence in the school with reconfigured grades will increase the integration of that school.

Their question relates to the suggestion that Fruchthendler “may need additional space.” Both with respect to this goal and the recent NARA relating to the addition of portables at Dietz, the District has acknowledged that while hardly ideal and with the need to be very deliberate in determining for what functions and what students portables will be used, it is open to adding space through portables to its schools. Mendoza Plaintiffs therefore ask what, if any, effort was made to determine whether there are existing schools in the District WEST of Drachman that might be reconfigured from K-5 to K-6 as is being proposed for Fruchthendler and Collier (both schools in the north east quadrant of the District) to accomplish the educational benefits cited by the District when it first proposed reconfiguring

Fruchthendler so that more students attending school in the south west quadrant of the District would have the same opportunity to attend sixth grade in the school they had been attending since kindergarten as the District now is proposing be made available to the students now attending Collier and Fruchthendler?

#### **“Brief Districtwide Study on K-8 School Distribution**

Did the District do anything more than examine data and maps “ to properly identify the distribution of K-6 and K-8 schools in the District” and review its Reply to Objections re Dietz NARA as stated at page 2 of the TUSD SAC Response? If so, what? Did it look at K-5 schools in the District to determine whether there were others besides Fruchthendler and Collier, including in particular those in the south west quadrant of the District, at which the addition of a 6<sup>th</sup> grade could accomplish the educational benefits the District says will inure to the benefit of those students who are able to attend sixth grade at Fruchthendler or Collier rather than having to move to a middle school? If no such study was conducted, Mendoza Plaintiffs recommend that such a study go forward and that additional K-5 schools besides Fruchthendler and Collier be considered for grade reconfiguration.

#### **SAC Composition**

As noted above, the Mendoza Plaintiffs share the concerns expressed by the Fisher Plaintiffs concerning the composition of the SAC Committee. (While we do not believe we have received a full list of the Committee membership we have had access to copies of the sign in sheets for the two SAC Committee meetings held to date. They indicate that the Committee currently is comprised almost exclusively of parents of students attending and District employees working in the five schools currently under consideration for grade reconfiguration and that it is not representative of the larger TUSD community.) Mendoza Plaintiffs join the Fisher Plaintiffs in recommending that the composition of the Committee be expanded so that there is a full range of stakeholder participation. In particular, Mendoza Plaintiffs recommend that the Committee also include school administration and staff, as well as parents, from those schools that are most likely to be impacted by the grade configuration of nearby schools so that their perspective can be considered by the Committee and the District. They do not believe that the goal of “provid[ing] grade change configurations that will be supported by the community” (Goal “d”) can otherwise be met.

#### **Timelines and Implementation**

Mendoza Plaintiffs believe that the District has misunderstood the import of the Special Master’s comments. He was seeking assurance that no actions are being taken or will be taken by the District to implement the proposed grade reconfigurations until such proposed reconfigurations have received the necessary approvals. The Mendoza Plaintiffs therefore recommend that the District provide such assurances.

Mendoza Plaintiffs do not agree to the change in NARA procedure or the expedited process proposed by the District. The NARA process as restated by the Court in its Order dated August 22, 2012 (Doc. No. 1385 at 2 ) plainly provides for the following filings in the following order: (1) filing of NARA;

(2) filing of party objections, if any; (3) District response to objection(s), if any; and (4) filing by the Special Master of his R&R. It then states "There shall be no further briefing; the Court shall consider the matter fully briefed and ready for disposition by the Court." Mendoza Plaintiffs recommend that the Districts adhere to the Court ordered process.

Mendoza Plaintiffs will not agree to limit their potential objections "to any contested proposals." They may have additional objections to the NARA, the DIAs, and/or the process followed by the District to develop the NARA and cannot therefore agree to such a limitation.

Mendoza Plaintiffs note that both the original and the revised DLR Group schedule they were provided and asked to comment on provides for the possibility of Governing Board action relating to the proposed grade reconfiguration on November 10, 2015. They therefore ask if the District is now proposing that all of its actions (including those of the Governing Board) will be concluded by October 20, 2015.

Once the current process is further developed and we are closer to the time of the actual filing of a NARA, Mendoza Plaintiffs may be willing to agree to an expedited NARA objection process but it is too early in the process for them to be able to do so now.

With respect to timing and process, Mendoza Plaintiffs note that in the TUSD SAC Response, the District failed to address many of the comments and questions relating to timing and process that Mendoza Plaintiffs provided in direct response to the request by the District that we review the proposed schedule and provide comments. On the numbered set of comments included as Appendix A to the TUSD SAC Response, Mendoza Plaintiffs particularly seek responses to comments 2 and 5.

**Brown, Samuel**

---

**From:** Thompson, Lois D. <lthompson@proskauer.com>  
**Sent:** Tuesday, August 25, 2015 9:04 PM  
**To:** Taylor, Martha  
**Cc:** Brown, Samuel; Tolleson, Julie; wdh@umd.edu; rsjr3@aol.com; Bhargava, Anurima (CRT); Savitsky, Zoe (CRT); Eichner, James (CRT) (James.Eichner@usdoj.gov); Juan Rodriguez (jrodriguez@MALDEF.org); wbrammer@rllaz.com; Nodine, Bryant; Patterson, Charlotte  
**Subject:** Re: SAC Agenda  
**Attachments:** 20150825 Agenda for SMP Teleconference re SAC.docx; MENDOZA PLAINTIFFS.DOCX

Dear Martha,

Mendoza Plaintiffs were extremely disappointed in the agenda you have proposed for tomorrow.

Given the wording of the agenda, we are constrained to state that while we have endeavored to offer input and recommendations in response to the material you have been providing, this is not a “collaborative” effort. The District informed the Plaintiffs that it was embarking on a plan to change the grade figurations at five specific schools. Pursuant to USP Section I,D,1 the Plaintiffs have been providing input and comments. Further, they have urged the District to comply with the requirements of USP Section II, D, 1, and the pertinent portions of the Court’s Order of May 12, 2015 including that it “**comprehensively** consider the proposal, pursuant to applicable USP criteria, in an effort to increase the integration of TUSD schools.” (Doc. 1799 at 5; emphasis added.) That they have exercised their rights under the USP and have responded to your requests for comment does not make them “collaborators” in a joint enterprise. In fact, both the Mendoza Plaintiffs and the Fisher Plaintiffs have repeatedly stated that they have grave concerns about the process in which the District now is engaged because it does not adequately address the District’s obligation to increase the integration of its schools and the requirements of USP Section II,D,2.

Therefore, with respect to the agenda:

As should be clear from a reading of the comments Mendoza Plaintiffs sent the District on August 18, 2015 (a copy of which is attached for your convenience) we continue to believe that the “goals” even as most recently amended (those attached to the agenda) do not sufficiently align with the District’s obligations under the USP and therefore recommend that the goals be among the first matters discussed.

We agree that the committee composition should be discussed in light of the concerns the Fisher and Mendoza Plaintiffs have expressed about the current committee composition and its capacity to address what we believe the USP requires be a broader mandate and set of goals.

In their comments of August 18 (which appear to have been omitted from the list of communications under “History” on your agenda), Mendoza Plaintiffs asked a number of questions and made a number of recommendations about the possible addition of other schools for reconfiguration consideration to enhance integration. Mendoza Plaintiffs believe those questions and recommendations, as well as answers to their questions about the “brief districtwide study” the District says it undertook before it made the proposals the SAC Committee now is considering should be addressed before there is any discussion of the pending five proposals. While the Mendoza Plaintiffs are prepared to offer comments and input on those proposals, because they are constrained to object to them in the context of the overall process and because their questions about programmatic changes remain unanswered, they are not and cannot be “collaborators” on those proposals, as your agenda suggests.

We were surprised to see that the agenda includes the very timeline and process for the NARA that we told you on August 18 was not acceptable to the Mendoza Plaintiffs. We therefore respectfully refer you to pages 3 and 4 of our comments of August 18 so that we do not have to take the valuable time of all participants on the call tomorrow to repeat the reasons why we declined to agree to the proposal.

**Lois D. Thompson**

Partner

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**From:** Taylor, Martha [<mailto:Martha.Taylor@tusd1.org>]  
**Sent:** Tuesday, August 25, 2015 4:47 PM  
**To:** Anurima Bhargava; James Eichner; Juan Rodriguez; Thompson, Lois D.; Rubin Salter; Willis D. Hawley; Zoe Savitsky  
**Cc:** Desegregation; Tolleson, Julie; Nodine, Bryant; Patterson, Charlotte; RLL  
**Subject:** SAC Agenda

Dr. Hawley and counsel: Please find attached the agenda for tomorrow's teleconference meeting regarding the Student Assignment Committee.

I am again including the call-in information that I sent yesterday. We look forward to talking with everyone at 1 p.m.

Topic: TUSD- SAC meeting with SM+P  
Time: Aug 26, 2015 1:00 PM (GMT-7:00) Arizona  
Join by phone:  
+1 408 638 0968 (US Toll) or +1 646 558 8656 (US Toll)  
+1 855 880 1246 (US Toll Free)  
+1 877 369 0926 (US Toll Free)  
Meeting ID: 935 205 5802

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## Brown, Samuel

---

**From:** Thompson, Lois D. <lthompson@proskauer.com>  
**Sent:** Thursday, August 27, 2015 11:20 AM  
**To:** Brown, Samuel  
**Cc:** wdh@umd.edu; rsjr3@aol.com; Savitsky, Zoe (CRT); Eichner, James (CRT) (James.Eichner@usdoj.gov); Tolleson, Julie; Taylor, Martha; Nodine, Bryant; Patterson, Charlotte; wbrammer@rllaz.com; Juan Rodriguez (jrodriguez@MALDEF.org)  
**Subject:** Re: SAC Teleconference Follow-Up  
**Categories:** BoardSuptSMPartiesIC

Dear Sam,

The following is not intended to take the place of the extensive discussion we all had on the phone yesterday but is offered in response to your request that we provide language for the District to review as it considers the comments and recommendations made yesterday concerning the goals of the SAC process and related issues.

Just as there are clear stand alone goals to “(b) Provide grade configuration changes that enhance education” and “(g) Improve student retention,” we believe there should be a stand alone goal to “(x) Increase the integration of District schools.”

Given that Drachman is a magnet school its goal, we believe. must be to attain the definition of integration in the USP.

With respect to goal (d) we believe that it should be made clear that the “affected schools” are not just the schools that are being considered for grade reconfigurations but also those schools that are likely to be affected by those grade reconfigurations through the loss of students.

The other issue which we addressed in our conversation yesterday is that if efforts to further integrate the schools now being considered for grade reconfiguration are to be successful, the larger TUSD community needs to be considered (not by having representatives from each school in the District on a committee but by having some persons on the committee who can address that larger perspective). This seems to make particular sense given the extent to which families already take advantage of open enrollment in the District and given what we now understand to be the commitment through goal (h) to reach out to in District students “to encourage voluntary movement to help further integrate District schools”. (As stated in goal (h).)

As I indicated yesterday, Mendoza Plaintiffs believe that there are obligations of the District under the USP that are separate from (although related to) the goals we were discussing.

These derive from USP Section II, D, 2. We believe that this section places two separate obligations on the District. Under II, D, 2, (vi), it must consider the effects on integration of any proposed changes. But, in addition, as stated in the last sentence of that section, “the District shall propose and evaluate various scenarios...in an effort to increase the integration of its schools.”

We listened to and appreciated the description that Bryant provided yesterday concerning his review of other schools in addition to those now before the committee that might be candidates for grade reconfiguration. We ask that he and Charlotte again undertake such a review with the particular goal of assessing whether there are any schools or combinations of schools that, were their grades reconfigured, could increase the integration of the schools. (We know you asked the plaintiffs to make such proposals and we will endeavor to do so but do note both that the USP expressly

directs the District to do this and that the District has more information available to it to make such an assessment than do we.)

Finally, as I believe we stated yesterday, to assist all concerned in evaluating the grade reconfiguration proposals, it would be helpful for the District to articulate the enhancements in education the District is seeking to attain through these reconfigurations as per goal (b).

**Lois D. Thompson**

Partner

Proskauer

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**From:** Brown, Samuel [<mailto:Samuel.Brown@tusd1.org>]  
**Sent:** Wednesday, August 26, 2015 5:48 PM  
**To:** Thompson, Lois D.; 'Juan Rodriguez'; 'Zoe Savitsky'; 'Rubin Salter Jr.'; 'Willis D. Hawley'  
**Cc:** Tolleson, Julie; [Brammer@rllaz.com](mailto:Brammer@rllaz.com); Taylor, Martha; Nodine, Bryant; Patterson, Charlotte  
**Subject:** SAC Teleconference Follow-Up

Dr. Hawley/Counsel: Thanks to everyone for participating in the teleconference today. Please provide any additional proposals within the next five days, per our agreed-upon timeline. We look forward to receiving any additional feedback or ideas pursuant to today's conversation that will help us move forward in a productive manner. Sam

---

**From:** Brown, Samuel  
**Sent:** Wednesday, August 26, 2015 1:56 PM  
**To:** Lois Thompson; Juan Rodriguez; Zoe Savitsky; Rubin Salter Jr.; Willis D. Hawley  
**Subject:** K8 Map

**Samuel Emiliano Brown**  
**Tucson Unified School District**  
520.225.6067  
520.226.6058 (fax)  
[samuel.brown@tusd1.org](mailto:samuel.brown@tusd1.org)

\*\*\*\*\*  
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**Brown, Samuel**

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**From:** Willis D. Hawley <wdh@umd.edu>  
**Sent:** Thursday, August 27, 2015 5:58 PM  
**To:** Rubin Salter, Jr.; Juan Rodriguez; Thompson, Lois D.; Bhargava, Anurima (CRT); Zoe Savitsky; James Eichner; Desegregation; TUSD  
**Subject:** Grade Reconfiguration

All,  
Here are some post meeting thoughts.

I did some consulting and reading yesterday evening that changes some of the views I shared in the meeting on the phone . I think there is a case for sixth grade additions to K-5 schools (even if there is no research), especially for poorer kids. But, as with all educational strategies, it is how it is done that counts. For example, will elementary teachers have the math skills to teach sixth grade math? Nationally, many elementary teachers don't like math and are not as effective as they need to be. And there is a case for keeping kids in the District longer. I do worry about all of the churn in the district. When teachers move around that is not usually a good thing.

The establishment of a middle school at Sabino is likely to increase the number of white and middle class students in TUSD and it will also lead to a loss of white and middle class students from Magee. This seems indisputable. This will not only result in the Magee sliding toward racial concentration but it will undermine the education of the students left behind. (In its response to my observation earlier this year related to the likely change in the socioeconomic status of the students at Magee, the District cited district-wide data on the proportion of students in the district on free and reduced lunch by race. That, of course, is irrelevant. The proportion of students at Fruchthendler (F) and Sabino—the primary areas from which middle school Sabino students would be drawn—on free and reduced meals is quite low, much lower than the proportions of such students at Magee.

I think that adding a sixth grade at Fruchtlender is a relatively easy decision, whether the Sabino MS proposal goes or not. This may result in the loss of a few students from the sixth grade at Magee but few parents not in F will want to send their students to F for a year and then transfer them to Magee. And it will not divert resources because the costs will be covered by additional state aid (but we should see these numbers).

It is desirable to increase the numbers of white students and of middle class students of all races in TUSD. How might the downsides of the Sabino middle school option be minimized and countered?

1. By substantially enriching the programs at Magee.



2. By conditioning the Sabino option on a minimum enrollment of Latino and African American students by using preferences for nonwhite students.
3. By creating a really attractive enriched option at Mansfield that tracked to an honor pathway at Tucson High..
4. ?

I don't necessarily support the Sabino MS proposal but I make these observations to open a discussion. Each of these options has serious problems.

*Strengthening Magee.* Even if Magee were lifted to a B school, why would parents not choose Sabino which is an A high school. It is hard to believe, despite the principal's assertions, that locating alternative to in-school suspension student s at Magee does not affect it attraction.

*Ensuring a Set Percentage of Nonwhite Enrollment at Sabino MS.* This would require considerable recruitment and would probably need outreach from parents in the Sabino area plus special transportation.

*The Mansfield/THS Option.* One might imagine an aggressive effort to provide an ALE at Mansfield in collaboration with UofA that is more accessible to Latino and AA families than Sabino. Have efforts ben made to develop programs jointly with university faculty and staff?

It seems to me that whatever path is taken, even if Sabino MS never happens, the slide at Magee toward racial concentration and the relatively low achievement levels of students there need to be addressed by improving educational opportunities there.

Willis D. Hawley  
Professor of Education and Public Policy  
University of Maryland  
Senior Advisor  
Southern Poverty Law Center

**Brown, Samuel**

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**From:** Savitsky, Zoe (CRT) <Zoe.Savitsky@usdoj.gov>  
**Sent:** Wednesday, September 2, 2015 11:05 AM  
**To:** Brown, Samuel; 'Lois Thompson'; 'Juan Rodriguez'; 'Rubin Salter Jr.'; 'Willis D. Hawley'  
**Cc:** Tolleson, Julie; Brammer@rllaz.com; Taylor, Martha; Nodine, Bryant; Patterson, Charlotte  
**Subject:** RE: SAC Teleconference Follow-Up

DOJ does not have any specific proposals for grade configurations at this point in the process. However, we want to reiterate our position that this process should include a serious and good-faith attempt to promote desegregation. In response to the discussion to date, we want to make our view clear that the District must not merely include promoting desegregation as a goal, but must actually think creatively and comprehensively of ways to achieve this goal. Should the process ultimately not lead to tangible integrative results, we will be looking closely to make sure that the District identified and carefully considered potential options and made reasonable efforts to achieve this goal.

Thanks so much,

Zoe & Jim

---

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Civil Rights Division  
Educational Opportunities Section  
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NW Washington, DC 20530

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**From:** Brown, Samuel [<mailto:Samuel.Brown@tusd1.org>]  
**Sent:** Wednesday, August 26, 2015 8:48 PM  
**To:** 'Lois Thompson'; 'Juan Rodriguez'; Savitsky, Zoe (CRT); 'Rubin Salter Jr.'; 'Willis D. Hawley'  
**Cc:** Tolleson, Julie; [Brammer@rllaz.com](mailto:Brammer@rllaz.com); Taylor, Martha; Nodine, Bryant; Patterson, Charlotte  
**Subject:** SAC Teleconference Follow-Up

Dr. Hawley/Counsel: Thanks to everyone for participating in the teleconference today. Please provide any additional proposals within the next five days, per our agreed-upon timeline. We look forward to receiving any additional feedback or ideas pursuant to today's conversation that will help us move forward in a productive manner. Sam

---

**From:** Brown, Samuel  
**Sent:** Wednesday, August 26, 2015 1:56 PM  
**To:** Lois Thompson; Juan Rodriguez; Zoe Savitsky; Rubin Salter Jr.; Willis D. Hawley  
**Subject:** K8 Map

**Brown, Samuel**

---

**From:** Rubin Salter, Jr. <rsjr3@aol.com>  
**Sent:** Friday, September 18, 2015 3:28 PM  
**To:** Taylor, Martha  
**Cc:** shahidah.rasul@va.gov; james.eichner@usdoj.gov; jrodriguez@maldef.org; lthompson@proskauer.com; wdh@umd.edu; zoe.savitsky@usdoj.gov; Desegregation; tusd@rllaz.com; Tolleson, Julie; Nodine, Bryant; Patterson, Charlotte; rsjr3@aol.com  
**Subject:** Re: Grade Reconfiguration Proposal

Dear Ms. Taylor, Special Master Hawley, and Counsel:

The Fisher Plaintiffs write with the following concerns:

The Fisher Plaintiffs were unaware of a meeting held on Saturday, August 29, 2015. I did not attend any conference call held on that Saturday (the 29th), if one did indeed take place. Was Ms. Taylor referring instead to Wednesday, August 26, 2015?

The Fisher Plaintiffs believe it is not possible for the District to formulate a grade reconfiguration proposal without having all the essential information prior to developing such a proposal.

I believe that the USP and Court Orders set time limits and the length of time that Plaintiffs shall have to respond or comment on the proposed documents.

It is unrealistic to expect responses from the Fisher Plaintiffs when the District does not have the requisite information relating to the proposal for grade reconfiguration. Fisher Plaintiffs find it difficult to understand how the District can make proposals without having the requisite information upon which to base these proposals.

Fisher Plaintiffs surely cannot be expected to submit their responses by Monday, October 5, 2015 when the Fisher Plaintiffs are unsure of the accuracy or authenticity of the District's proposal.

Fisher Plaintiffs reserve our right to submit comments on the proposal for reconfiguration until the Fisher Plaintiffs have in their possession a DIA/NARA that was developed after the USP conference of October 5, 2015.

Rubin

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-----Original Message-----

From: Taylor, Martha <Martha.Taylor@tusd1.org>

To: Anurima Bhargava <anurima.bhargava@usdoj.gov>; James Eichner <james.eichner@usdoj.gov>; Juan Rodriguez <jrodriguez@maldef.org>; Lois Thompson <lthompson@proskauer.com>; Rubin Salter <rsjr3@aol.com>; Willis D. Hawley <wdh@umd.edu>; Zoe Savitsky <zoe.savitsky@usdoj.gov>

Cc: Desegregation <deseg@tusd1.org>; RLL <tusd@rllaz.com>; Tolleson, Julie <Julie.Tolleson@tusd1.org>; Nodine, Bryant <Bryant.Nodine@tusd1.org>; Patterson, Charlotte <Charlotte.Patterson@tusd1.org>

Sent: Fri, Sep 18, 2015 10:52 am

Subject: Grade Reconfiguration Proposal

Dr. Hawley and counsel: Based on the meeting held on August 29 to discuss the grade reconfiguration proposal, we have been developing a modified proposal in lieu of a formal DIA/NARA. Based on your feedback and input, we are continuing to finalize the proposal and will send to you next Friday, September 25. Per our agreement at the teleconference, please submit your responses to the proposal no later than Monday, October 5. We will request that this topic be placed on the agenda for the USP Conference on that day. A formal DIA/NARA will be developed after the USP conference based on our collaboration and submitted in mid-October.

Thank you.

Martha

**Brown, Samuel**

---

**From:** Eichner, James (CRT) <James.Eichner@usdoj.gov>  
**Sent:** Friday, October 2, 2015 7:38 AM  
**To:** Brown, Samuel; Juan Rodriguez; Lois Thompson; Rubin Salter Jr.; Simons, Shaheena (CRT)  
**Cc:** Taylor, Martha; Tolleson, Julie; Brammer@rllaz.com; TUSD; Desegregation; Nodine, Bryant; Patterson, Charlotte; Eichner, James (CRT)  
**Subject:** RE: Grade Configuration Proposals and Draft DIAs

Sam –

Thank you for sharing the District's proposals for grade reconfigurations. DOJ has a question on the proposals.

Appendix A discusses the possibility of changing Cavett ES from K-5 to K-6 and adding a junior high to Catalina HS. The analysis states that this change would have a positive integrative effect.

Is the District currently proposing to make this change? If so, what is the status of that proposal? If not, why not?

We wanted to flag this issue now to give the District time to respond before we meet next week but since we know everyone at the District is probably very busy preparing for next week's meetings we are happy to wait until the grade configuration discussion on Tuesday to hear the District's answers to these questions.

Thanks.

Jim

---

**From:** Brown, Samuel [<mailto:Samuel.Brown@tusd1.org>]  
**Sent:** Friday, September 25, 2015 6:59 PM  
**To:** Eichner, James (CRT); Juan Rodriguez; Lois Thompson; Rubin Salter Jr.; Simons, Shaheena (CRT)  
**Cc:** Taylor, Martha; Tolleson, Julie; [Brammer@rllaz.com](mailto:Brammer@rllaz.com); TUSD; Desegregation; Nodine, Bryant; Patterson, Charlotte  
**Subject:** Grade Configuration Proposals and Draft DIAs

Dr. Hawley/Counsel: As stated last week, please find attached the District's proposals for grade reconfigurations, including draft DIAs. As discussed during our teleconference, and as mentioned in Martha's email last week, we ask that you submit your responses no later than ten days from today – by Monday October 5, 2015. We will discuss your responses during the in-person conference in October. Based on your feedback, we hope to submit a final set of DIAs and a request for approval on or around October 9, 2015 as indicated in the initial timeline. We will, of course, copy all parties on this submission. Thanks, have a great weekend - Sam

**Brown, Samuel**

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**From:** Juan Rodriguez <jrodriguez@MALDEF.org>  
**Sent:** Friday, October 2, 2015 6:56 PM  
**To:** Brown, Samuel; 'Eichner, James (CRT)'; Lois Thompson; Rubin Salter Jr.; Simons, Shaheena (CRT)  
**Cc:** Taylor, Martha; Tolleson, Julie; Brammer@rllaz.com; TUSD; Desegregation; Nodine, Bryant; Patterson, Charlotte; Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov); Willis D. Hawley  
**Subject:** RE: Grade Configuration Proposals and Draft DIAs  
**Attachments:** Mendoza Plaintiffs Comments to TUSD\_s September 25 Grade Reconfiguration Proposals 10-2-15.pdf  
**Categories:** ACTION

Please find attached Mendoza Plaintiffs' comments. I have looped in Dr. Hawley and Zoe.

**Juan Rodriguez** | Staff Attorney

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MENDOZA PLAINTIFFS' PRE-MEETING PRELIMINARY RESPONSE TO TUSD'S SEPTEMBER 25, 2015 GRADE RECONFIGURATION PROPOSALS

October 2, 2015

Mendoza Plaintiffs do not here present complete responses to the District's grade reconfiguration proposals, but intend to do so at a later time after the parties are able to discuss these proposals and have their questions answered at the meetings among the parties and Special Master on October 5 and 6 in Tucson. Mendoza Plaintiffs do however remind the District of existing concerns here, and additional concerns raised by TUSD's September 25 grade reconfiguration proposals in the hope that this will permit the District to better prepare for the up-coming meetings.

As an initial matter Mendoza Plaintiffs reiterate, as they referenced in their August 18 Response, among other communications, that they disagree with the District's reading of USP Section II,D,2 application to its grade reconfiguration process and with its statement that "[n]one of the proposals require[] a boundary change." Similarly, while they appreciate that the District has revised its Student Assignment Committee ("SAC") goals, Mendoza Plaintiffs do not understand those goal revisions to address their concerns regarding USP integration requirements.

In particular, although the revised goals include that of increasing integration of District schools, they also clearly state that a proposal need not be rejected if it fails to meet that goal. Here, as we reference below and will be prepared to discuss more fully at our meetings, as we understand it, not a single one of the proposed grade reconfigurations (with the possible exception of that for Drachman as kindergarten cohorts progress through the school) –nor the proposals taken together – are expected to increase the integration of District schools. At best, they are "neutral". And they are "neutral" only so long as one ignores the likely destabilizing effect on Magee (which is referenced below and which we also will be prepared to discuss further at our meetings) given the expectation that the addition of grade 6 at both Fruchthendler and Collier will lead to the loss of more than 20% of Magee's white student population.

Mendoza Plaintiffs, like the Department of Justice ("DOJ"), would like to understand whether the District is proposing a grade configuration change at Cavett Elementary School to change it from a K-5 to a K-6 school, and at Catalina High School to add middle school grades 7 and 8. They therefore join in the questions posed earlier today by Jim Eichner and ask that the District provide for Cavett and Catalina as well as for the other affected schools referenced in the brief discussion of this scenario in Appendix A the information and analysis that would comprise a DIA for this scenario.

Many of Mendoza Plaintiffs' concerns and objections detailed in their objection to the Fruchthendler and Sabino NARAs earlier this year (Doc. 1794) still exist with regard to the current grade reconfiguration proposals. Significant among them is the affect the proposed change would have of drawing Magee Middle School's white student population away from that school and into

Fruchthendler, which would take Fruchthendler even further away from achieving integration.<sup>1</sup> The white population at Fruchthendler currently exceeds the percentage of white students at the elementary school grade level by 42%. (See Annual Report, Appendix II-41.) Now, with the addition of the proposal to reconfigure Collier Elementary School into a K-6 school, the District indicates that the Fruchthendler and Collier proposals together could reduce the current white population at Magee Middle School by over 21%. (See Sabino DIA attached to TUSD's September 25 Grade Configuration Proposals.) Thus, under the current proposal, Collier too would move further away from achieving integration as its current white population exceeds the percentage of white students at the elementary school grade level by 39%. (See Annual Report, Appendix 11-41.)

Mendoza Plaintiffs expect that the parties will fully discuss the potentially destabilizing effects the grade configuration proposals will have on Magee Middle School when they meet with the parties and Special Master on October 5 and 6.

Mendoza Plaintiffs also note that in the Executive Summaries constituting Appendix B to the September 25 Grade Configuration Proposals, the District says that it will "mitigate" impacts on Magee by offering "enhanced ALE programs at Magee (AVID and/or partnerships with Sahuaro High School for AP or Dual-Credit courses) to attract Latino students to Magee, and to prepare African American and Latino students for success in core classes and Advanced Learning Experiences...." (Appendix B discussion of Collier, Fruchthendler and Sabino.) Mendoza Plaintiffs have concerns about an apparent willingness of the District to add such programs to Magee (a "C" school) only as a "mitigating" measure. At our meetings next week, we will urge the District to add such programs to Magee regardless of what decisions are made concerning grade reconfigurations.

In addition, Mendoza Plaintiffs do not understand on what basis the District now asserts (in each DIA except for the Drachman DIA) that the proposals will have the impact of retaining "(students who now attend non-District schools) [which] will offer additional opportunities to increase integration districtwide by broadening the pool of available students to which the District can more directly engage in marketing, outreach, and recruitment activities." (See DIAs for Borman, Collier, Fruchthendler, and Sabino attached to TUSD's September 25 Grade Reconfiguration Proposals.) Mendoza Plaintiffs have not seen anything from the District to suggest that it has analyzed whether it realistically will be able to successfully recruit these students into schools in such a way as to increase the total number of students attending integrated schools. Indeed, notwithstanding these new "opportunities" to recruit students to increase integration, Mendoza Plaintiffs have not seen any change whatsoever in the numbers reported in any DIA from the last iteration of those DIAs to suggest that the District, once it attracts non-TUSD students into the schools for which it is proposing reconfiguration changes, would be able to successfully recruit them to enroll in OTHER District schools to increase integration.

Notably, the 2014-15 student populations in schools at which the District is proposing reconfiguration changes to attract primarily white non-TUSD students already include a white student

<sup>1</sup> Under the USP, an integrated school is one in which no racial or ethnic group varies from the District average for that grade level by more than +/- 15 percentage points and in which no single racial or ethnic group exceeds 70% of the school's enrollment. (USP Section II, B, 2.)



population that exceeds the percentage of white students in the District. Notwithstanding that Drachman is a racially concentrated Latino school, the sum of students at all the schools for which the District is proposing changes is approximately: 52% white (1194 students), 33% Latino (759 students), and 8% African American (178 students). (See Annual Report, Appendix 11-41.) Thus, Mendoza Plaintiffs understand that the general thrust of the grade reconfiguration proposals is to perpetuate the non-integration at these schools, which is inconsistent with USP requirements to increase the number of integrated schools and number of students attending integrated schools. Mendoza Plaintiffs therefore believe that, taken together, the proposed grade reconfigurations fail to meet Judge Bury's admonition that the proposal be "comprehensively consider[ed], pursuant to applicable USP criteria, in an effort to increase the integration of TUSD schools. USP §II.D.2" (Order dated 5/12/15, Doc. 1799, at 5:18-21.)

As to particular schools:

The DIA for Collier says there are 30 to 40 students per grade and then has a chart entitled "Transition of Collier 5<sup>th</sup> Graders into 6<sup>th</sup> Grade which reports 35 not in TUSD and 31 in TUSD schools for a total of 66. The numbers do not seem to mesh. Is there something we have misread or misunderstood in the Collier discussion?

The DIA for Sabino says that "[r]ecruitment efforts will be aimed at attracting students who do not attend TUSD schools rather than transferring students between TUSD schools, except in cases where the District can successfully recruit middle and high school students who might otherwise attend a racially concentrated middle or high school to open enroll into Sabino to improve integration (supported by incentive transportation and express busing)."

How does the District propose to recruit only those students who might otherwise attend a racially concentrated school? And what will it do if students who do NOT attend a racially concentrated school seek through open enrollment to enroll in 7<sup>th</sup> or 8<sup>th</sup> grade (or subsequent grades) at the proposed Sabino middle school?

Having said that it would recruit students who might otherwise attend a racially concentrated middle or high school, why are no such students included in the DIA (which does have projected enrollment figures for students from non-TUSD schools located within the TUSD geographic area as well as projected enrollment figures for students from outside the TUSD geographic area)?

## Brown, Samuel

---

**From:** Eichner, James (CRT) <James.Eichner@usdoj.gov>  
**Sent:** Monday, October 12, 2015 7:43 AM  
**To:** Brown, Samuel; Juan Rodriguez; Lois Thompson; Rubin Salter Jr.; Simons, Shaheena (CRT); TUSD; Savitsky, Zoe (CRT); Willis D. Hawley  
**Cc:** Tolleson, Julie; Taylor, Martha; Brammer@rllaz.com; Desegregation; TUSD; Nodine, Bryant; Patterson, Charlotte; Eichner, James (CRT)  
**Subject:** RE: Grade Reconfiguration Proposals  
**Categories:** ACTION

Sam –

The Department of Justice does not object to any of the current grade configuration proposals because we have seen no evidence that they materially negatively impact the District's desegregation efforts or otherwise violate the USP.

The Department of Justice will expect, should the grade configuration proposals lead to more students attending TUSD as intended, TUSD to explore ways of using the addition of these students to increase desegregation and otherwise support implementation of the USP.

The United States will also expect the District to continue to examine the possibility of changing Cavett Elementary School from K-5 to K-6 and adding a junior high to Catalina HS and to make a decision on this possible grade configuration change giving due weight to the prospect of such a change advancing TUSD's desegregation efforts.

Please let me know if you have any questions about this.

Jim

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**From:** Brown, Samuel [<mailto:Samuel.Brown@tusd1.org>]  
**Sent:** Friday, October 09, 2015 8:01 PM  
**To:** Eichner, James (CRT); Juan Rodriguez; Lois Thompson; Rubin Salter Jr.; Simons, Shaheena (CRT); TUSD; Savitsky, Zoe (CRT); Willis D. Hawley  
**Cc:** Tolleson, Julie; Taylor, Martha; [Brammer@rllaz.com](mailto:Brammer@rllaz.com); Desegregation; TUSD; Nodine, Bryant; Patterson, Charlotte  
**Subject:** Grade Reconfiguration Proposals

Counsel/Dr Hawley: I want to thank you for taking the time out this week to discuss your positions on this matter – we appreciate your input and feedback. Pursuant to the timeline, we were scheduled to submit revised requests for approval and revised DIAs today based on feedback which was to be received by Monday October 5. Unfortunately, we were unable to get feedback from everyone until Wednesday and Thursday. As such, we will need more time to develop revised proposals/DIAs. We are still scheduled to present information to the Governing Board on Tuesday October 20 – for information only, no vote. Please submit any remaining comments, concerns, or objections no later than the close of business next Friday October 16. Pursuant to our process discussions, we will provide the Governing Board with copies of your submissions, and we will consider your written submissions in finalizing the presentation of information to the Board. To be clear, these proposals are not going to the Board for vote on the 20<sup>th</sup>, they will be presented for information only – along with any written submissions from the Special Master and Plaintiffs that are received by 5pm next Friday

Have a great weekend – thanks, Sam

## Brown, Samuel

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**From:** Juan Rodriguez <jrodriguez@MALDEF.org>  
**Sent:** Friday, October 16, 2015 4:36 PM  
**To:** Brown, Samuel; James Eichner; Lois Thompson; Rubin Salter Jr.; Shaheena Simons (shaheena.simons@usdoj.gov); TUSD; Zoe Savitsky; Willis D. Hawley  
**Cc:** Tolleson, Julie; Taylor, Martha; Brammer@rllaz.com; Desegregation; TUSD; Nodine, Bryant; Patterson, Charlotte  
**Subject:** RE: Grade Reconfiguration Proposals  
**Attachments:** Mendoza Plaintiffs' Comments re Grade Reconfig Proposals 10.16.15.pdf  
**Categories:** ACTION

Please see attached.

**Juan Rodriguez** | Staff Attorney

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**From:** Brown, Samuel [<mailto:Samuel.Brown@tusd1.org>]  
**Sent:** Friday, October 09, 2015 5:01 PM  
**To:** James Eichner; Juan Rodriguez; Lois Thompson; Rubin Salter Jr.; Shaheena Simons ([shaheena.simons@usdoj.gov](mailto:shaheena.simons@usdoj.gov)); TUSD; Zoe Savitsky; Willis D. Hawley  
**Cc:** Tolleson, Julie; Taylor, Martha; [Brammer@rllaz.com](mailto:Brammer@rllaz.com); Desegregation; TUSD; Nodine, Bryant; Patterson, Charlotte  
**Subject:** Grade Reconfiguration Proposals

Counsel/Dr Hawley: I want to thank you for taking the time out this week to discuss your positions on this matter – we appreciate your input and feedback. Pursuant to the timeline, we were scheduled to submit revised requests for approval and revised DIAs today based on feedback which was to be received by Monday October 5. Unfortunately, we were unable to get feedback from everyone until Wednesday and Thursday. As such, we will need more time to develop revised proposals/DIAs. We are still scheduled to present information to the Governing Board on Tuesday October 20 – for information only, no vote. Please submit any remaining comments, concerns, or objections no later than the close of business next Friday October 16. Pursuant to our process discussions, we will provide the Governing Board with copies of your submissions, and we will consider your written submissions in finalizing the presentation of information to the Board. To be clear, these proposals are not going to the Board for vote on the 20<sup>th</sup>, they will be presented for information only – along with any written submissions from the Special Master and Plaintiffs that are received by 5pm next Friday.

Have a great weekend – thanks, Sam

MENDOZA PLAINTIFFS' COMMENTS AND OBJECTIONS REGARDING TUSD'S GRADE RECONFIGURATION PROPOSALS

October 16, 2015

Mendoza Plaintiffs submit these comments as a supplement to their October 2, 2015 comments, based on the District's September 25, 2015 version of its grade reconfiguration proposals and after the parties' and Special Master's meeting in Tucson, for the Governing Board's consideration as it reviews the District's Grade Reconfiguration Proposals for information purposes.

Given that USP Section II,D,2 requires the District to "propose and evaluate various scenarios, with, at minimum, the Plaintiffs and the Special Master in an effort to increase the integration of its schools," Mendoza Plaintiffs look forward to the District's development of proposals to reconfigure Cavett from a K-5 to a K-6 Elementary School, and add a junior high (that is 7<sup>th</sup> and 8<sup>th</sup> grades) to Catalina High School, which the District indicates would have a positive integrative effect, particularly as none of the current grade reconfiguration proposals (with the possible exception of Drachman), nor the proposals taken together, are expected to increase the integration of TUSD's schools. Mendoza Plaintiffs also look forward to the receiving additional information regarding express busses to serve as incentive transportation in relation to these proposals and "mitigation" measures directed at Magee middle school, which they understand the District to currently be further developing.

**Borman and Drachman**

Mendoza Plaintiffs currently have no objection to the proposal to reconfigure Borman Elementary School from a K-5 to a K-8 school. They similarly have no objection to the proposal to change Drachman K-6 into a K-8 school, so long as Drachman, as a magnet school, continues to work toward meeting its integration goals detailed in its magnet improvement plan.

**Fruchthendler, Collier, and Sabino**

Mendoza Plaintiffs continue to have significant concerns regarding the impact that the Fruchthendler, Collier, and Sabino proposals would have on Magee Middle School, and therefore object to them. The Fruchthendler and Collier proposals are expected to draw white TUSD students that would otherwise attend Magee Middle School into Fruchthendler and Collier, thereby taking those schools further away from achieving integration. (Fruchthendler's and Collier's white student population currently *exceeds* the percentage of white students at TUSD's Elementary School level by 42% and 39%, respectively. (See Annual Report, Appendix 11-41.)) Together, the Collier and Fruchthendler proposals could reduce the white population at Magee by over 21%, a population the District expects would entirely transition to Sabino were it to reconfigure as proposed. (See Sabino DIA, Appendix C to September 25, 2015 Grade Reconfiguration Proposals). Moreover, Mendoza Plaintiffs have not yet seen any details of the measures the District is considering that would make them think that the District realistically can target and recruit the non-TUSD white students who would join District schools under the proposals to attend schools at which their enrollment would increase integration.

**Brown, Samuel**

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**From:** Rubin Salter, Jr. <rsjr3@aol.com>  
**Sent:** Monday, October 19, 2015 4:57 PM  
**To:** Tolleson, Julie; Taylor, Martha; Brammer@rllaz.com; Desegregation; Nodine, Bryant; Patterson, Charlotte; jrodriguez@MALDEF.org; Brown, Samuel; james.eichner@usdoj.gov; lthompson@proskauer.com; shaheena.simons@usdoj.gov; TUSD@rllaz.com; zoe.savitsky@usdoj.gov; wdh@umd.edu  
**Subject:** Re: Grade Reconfiguration Proposals  
**Attachments:** 15.08.10.fisher.preliminary.objection.sac.pdf

Dear Sam:

Please find attached the Fisher Plaintiffs' 08/10/15 objection to the grade reconfigurations proposed by the TUSD Student Assignment Committee (SAC) (originally addressed to Martha Taylor).

Because nothing in the District's subsequent revision of the SAC's goals or its desegregation impact analyses has alleviated the fundamental concerns raised in the Fisher Plaintiffs' 08/10/15 objection, please consider that objection renewed by copy of this email.

I understand that you had asked to receive new plaintiff feedback by the 16th, but I hope you will be able to share the attached, previously circulated five-page objection - in its entirety - with the TUSD Governing Board (GB) before it meets on the 20th to ensure that the GB members understand why the Fisher Plaintiffs find the proposed grade reconfigurations objectionable.

Sincerely,

Rubin Salter, Jr.

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Monday August 10, 2015

Attention: Martha Taylor

Dear Martha:

The Fisher Plaintiffs have completed a preliminary review of the material uploaded to the District's Student Assignment Committee (SAC) folder. Based on that review, the Fisher Plaintiffs, by copy of this email, join the Mendoza Plaintiffs and the Department of Justice (DOJ) in their objection to the current goals and guidelines set for the SAC (see Thompson 08/05/15 and Eichner 08/07/15 emails).

The SAC clearly fails to assign due priority to the District's desegregation obligations under the Unitary Status Plan (USP) and clearly fails to involve the type and degree of input from the plaintiffs and the Special Master (SM) contemplated under the USP and the Court's 05/12/15 order interpreting the applicable provisions of the USP. Additionally, the composition of the SAC is clearly unrepresentative of the full spectrum of stakeholders impacted by the proposed changes.

The overwhelming majority of SAC members appear to be Tucson Unified School District (TUSD) employees and/or the parents of students attending the schools proposing the grade reconfigurations. While employees and parents initiating or endorsing the proposals certainly deserve a seat at the table, their participation should be balanced by a full range of stakeholder participation. The Committee's membership bias raises the concern that the Committee may reach foregone conclusions behind the trappings of stakeholder participation afforded by the professional management of the DLR Group.

The District's desegregation impact analyses (DIAs) claim that the proposed changes will "have virtually no impact on" the racial and ethnic profile of the impacted schools (see inter alia the Borman K-8 DIA uploaded to the DLR site). The District explains that the enrollment projections made in its DIAs "are estimates based on current patterns of choice" (idem). As the Fisher Plaintiffs noted in their 04/23/15 objection to the proposed grade reconfigurations at Fruchthendler and Sabino, the projected continuation of current school choice patterns (chiefly patterns of White Flight) is unwarranted.

Patterns of White Flight do not exist in a policy vacuum. The District has the means to implement policies that can influence future school choice patterns in ways that can make integration a reality. And the District has the legal duty, under the USP and controlling Ninth Circuit authority, to do just that, a duty that the District unfortunately seems unwilling to uphold.

The District is legally empowered and obliged to consider and take affirmative steps to counteract - not cater to - the phenomenon of White Flight, both without and within the District. The “grassroots” initiatives of identifiably White schools, like Fruchthendler and Borman, to recapture predominantly White enrollment (under the cover of ostensibly neutral grade reconfigurations) violate both the letter and the spirit of the student assignment provisions of the USP and the equal protections safeguarded by the Supreme Court’s landmark Civil Rights decisions in *Brown* and its progeny.

The District’s proposed reconfiguration of Borman K-5 as a K-8 school suffers from the same shortcomings as the District's past efforts to reopen Lowell Smith ES as a MS. Like Borman ES, the Lowell Smith campus is located on the Davis-Monthan (DM) Air Force Base. The District first petitioned the Court to reopen the (then) recently closed Lowell Smith ES as a MS on 03/07/07 (see document number 1189 filed 03/07/07). On 03/15/07 and 04/09/07, the Fisher and the Mendoza Plaintiffs filed their respective responses in opposition to the proposed reopening as violative of the District's desegregation obligations (see document numbers 1190 filed 03/15/07 and 1195 filed 04/09/07). On 05/10/07, the Court agreed with the Plaintiffs' arguments and denied the District's petition, explaining that:

The Court finds that reopening Smith Elementary School as a middle school has an adverse affect on ongoing desegregation obligations because it is inconsistent with on-going efforts to reduce segregation in TUSD's schools [...]. Reopening Smith School as a middle school removes a segment of the existing community assigned to Naylor Middle School, thereby, decreasing its base of concerned parents. Attendance by DM students at other TUSD schools and charter schools has had precisely this result. To the extent that TUSD is attempting to bring charter students back into its fold, this may benefit the Naylor Middle School. Conversely, it is not in the best interest of the community for TUSD to authorize non-minority DM students to attend other TUSD schools instead of Naylor Middle School [...]. In light of the evidence that Naylor Middle School, with a predominately minority student body, is seriously failing to educate its student body, it is highly

suspect for TUSD to carve out a separate non-minority educational system for a group of these students that are predominately non-minority. Fisher Mendoza [is] a desegregation case, which at its core is based on the principle that separate schools will not provide equal education (at pages 4-5 of document number 1209 filed 05/10/07 emphasis added).

Undeterred, the District returned the following year to notify the Court that it was still "exploring ways to re-open Smith" (at page 3 of document number 1264 filed 04/10/08). The District explained that it hoped to reopen Smith to recapture an estimated 500 students lost under State open-enrollment laws facilitating the flight of (predominantly White) Davis-Monthan-area students to neighboring districts and charter schools (*idem* at 4). On 04/16/08, the Mendoza Plaintiffs filed a response opposing the second attempt to reopen Smith as still very much in violation of the District's desegregation obligations (see document number 1267 filed 04/16/08).

Yet again, the District seeks to win back DM-area enrollment lost to neighboring districts and charter schools, this time by reconfiguring Borman K-5 into what would very likely become an identifiably White K-8 school. The plaintiffs and the Court have already considered, and rejected, the District's constitutionally unsound approach to recapturing enrollment lost to White Flight. On 04/14/15, the District filed a notice and request for the Court's approval (NARA) of the reconfiguration of grade levels at Fruchthendler ES and Sabino HS (see document number 1789 filed 04/14/15). In that NARA, the District explained that:

A high percentage of middle school aged students living in the area surrounding Fruchthendler Elementary School ("Fruchthendler") and Sabino High School ("Sabino") do not attend TUSD schools for grades 6 through 8. Some area students attend the nearest TUSD middle school, Magee, but many students who leave TUSD after fifth grade for middle school outside the district do not return at all. As a result, TUSD loses funding, and the decline of its Anglo student population is exacerbated (thereby frustrating efforts to recruit Anglo students to other TUSD schools for integration purposes) (*idem* at 2).



On 04/23/15, the Fisher and Mendoza Plaintiffs filed memoranda opposing the proposed reconfiguration (see documents number 1791 and 1794 filed 04/23/15). On 05/12/15, the Court issued an order denying the District's request, explaining that:

The record reflects that the student assignments proposed by TUSD were not considered in the context of the four integration strategies required by the USP: attendance boundaries, pairing and clustering of schools; magnet schools and programs; and open enrollment. (USP § II.1.) Because the proposed student assignments involve the creation of an honors program, the USP, section V, requires the District to also consider Plaintiffs' concerns regarding equal access. There is nothing about a NARA proposal to change student assignments to exempt it from the USP requirement that the District, the parties, and the Special Master comprehensively consider the proposal, pursuant to applicable USP criteria, in an effort to increase the integration of TUSD schools. USP § II.D.2. Plans and strategies are now in place, pursuant to the USP, for addressing student assignments, but this NARA fails to reflect how the Fruchthendler-Sabino Honors Pipeline plan fits into these plans and strategies, and if not, why (at page 5 of document number 1799 filed 05/12/15 emphasis added).

The Fisher Plaintiffs remain extremely concerned by the District's continued efforts to reconfigure grade levels at Fruchthendler ES and Sabino HS. Their concerns are motivated in equal parts by the District's decision to insulate the work of the SAC from the input of the plaintiffs and the SM and the District's erroneous assumption that it has no obligation to recognize and counteract the harmful effects of White flight in its student assignment plans. The Supreme Court has long held that "a student assignment plan is not acceptable merely because it appears to be neutral, for such a plan may fail to counteract the continuing effects of past school segregation" (Swann v Board of Education, 402 U.S. 1 1971). In Swann, the Court found that "racially neutral assignment plans proposed by school authorities to a district court may be inadequate; such plans may fail to counteract the continuing effects of past school segregation resulting from discriminatory location of school sites" (idem).

Under federal law, a school district operating under a federal desegregation order carries an affirmative obligation to account for the legacy of discriminatory practices when fashioning its student assignment policies and plans. The seeming “neutrality” of the District’s proposed student assignment “honors pipeline” from Fruchthendler to Sabino is absurd when the pipeline is designed to provide privileged programming to the historically privileged class of predominantly high SES White students residing in the Sabino attendance area. It is extremely unsettling that the District again proposes to alleviate White flight from the District by endorsing White flight within the District. The Fisher Plaintiffs are extremely disappointed that the District, rather than exploring ways to increase the diversity at schools like Magee and Roberts/Naylor, again propose intradistrict White flight as way to recapture enrollment currently lost to interdistrict White flight.

Sincerely,

Rubin Salter, Jr.

**Brown, Samuel**

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**From:** Willis D. Hawley <wdh@umd.edu>  
**Sent:** Monday, October 19, 2015 5:41 PM  
**To:** Rubin Salter, Jr.; jrodriguez@MALDEF.org; lthompson@proskauer.com; shaheena simons (shaheena.simons@usdoj.gov); Savitsky, Zoe (CRT); James.Eichner@usdoj.gov; Desegregation; tusd@rllaz.com  
**Subject:** Grade reconfiguration  
**Attachments:** USP Grade Reconfiguration 10-19 version (2).docx

**I apologize for the lateness of this response. My position on Sabino middle school and Frichthendler is the same as it has been. The others follow from concerns I have expressed or the absence thereof. Please see attached.**

Willis D. Hawley  
Professor of Education and Public Policy  
University of Maryland  
Senior Advisor  
Southern Poverty Law Center

**October 19, 2015**

**To: Parties**

**From: Bill Hawley**

**Re: Proposed Grade Reconfiguration**

**General Comments**

Financial Analysis

The District was requested to provide a financial analysis of the effects of these grade reconfigurations. Such an analysis would presumably examine costs and revenue streams required for implementation. Instead, the District tells us nothing about the revenue that would be derived from bringing new students into the District and discusses only the cost of transportation and physical facilities. To be sure, such analysis is not easy but neither is it mysterious. Teachers have to be hired support services provided, etc. Revenue varies with the context and the particular students recruited. Costs of implementation are higher when most of the students coming into the District and up in one or two schools. Both revenue and costs are higher depending on student characteristics. In short, we cannot tell from the information provided whether the result of grade reconfiguration will be positive or negative much less how much of each.

Rationale

There appear to be four major reasons for grade reconfiguration. First, there might be opportunities for increased integration. This justification has little merit except for one case. Second, we might make better use of existing facilities. But we do not know whether this will reduce overcrowding in some schools or ultimately provide the justification for closing others. Third, increasing the size of some schools could lead to greater curriculum choices for students, but no specifics are given. Fourth, moving to K-8 eliminates a significant transition time to middle schools and research on this matter is generally positive. But we know much less about whether the transition from fifth grade to middle school has any different effects than the transition from sixth-grade to middle school.

### The Issue of Stability

In the absence of a compelling reason for grade reconfiguration, the possibility that changing schools within TUSD will cause families to rethink whether they should select options other than TUSD should be considered.

### **My Positions**

#### Support

I support the proposal to create a K-8 school at **Cavett** because it will likely have a small integrative effect.

I support the creations of a K-8 school at **Borman**.

I support the addition of a sixth-grade to **Collier** and **Fruchthendler**. In the case of Fruchthendler, this could have a small negative effect on the enrollment of white students at Magee but the numbers will be small. And it may be, that a positive experience for one's sixth-grader will increase confidence about sending one's student to Magee, especially if the quality of Magee is enhanced.

### Reservations

Drachman is an exceptional school with unique educational program. While it is racially concentrated its entry class is not (though the margin is tight). My concern is that there are very few Montessori middle schools; given the popularity of Montessori in the early grades this should be a caution. Only a few teachers at Drachman are Montessori-qualified and one wonders how middle school teachers would be certified as Montessori trained.

I find it hard to build a case that a Montessori middle school at Drachman would become integrated. On the other hand, I find it believable that the middle school grades would be racially concentrated given the schools from which they would

draw and that this in turn would affect decisions made to enroll one's children in the early grades.

"If it's not broke, don't fix it". Adding new grades developed with an undefined curriculum will surely take away from the expertise that could be applied to the current grade structure. In my discussions with the principal, he said that if they cannot be a K-8 school they do not want to be K-6. By what logic would one want to be K-8 but not K-6? Only the logic of a good soldier.

### Opposition

I oppose the development of a middle school at Sabino. Actually, the District appears to be proposing a 7-12 school. In its earlier proposal this spring, the District argued that it would keep middle school students in high school students were quite separate now it argues that the former will have the advantage of taking courses available to high school students. And, it is more than a bit disquieting to contemplate the engagement of middle school students in the activities of high school students both during and after the school day.

But the major reason for opposing this proposal is its certain negative effect on Magee and the students in that school. The District makes the unusual argument that by reducing the number of white and middle-class students at Magee, Latino and African-American students who remain will benefit.\* I have never heard such an argument in all of the years I worked on desegregation issues. The proposed changes in the demography at Magee will undermine the diversity and rigor of the curriculum and almost certainly cause white parents now satisfied with Magee to look elsewhere. Magee needs to be strengthened not weakened.

The District's analysis of the loss of white students from Magee is almost certainly understated. One cannot extrapolate from current data when there is an entirely new context within which parents will be making choices. And consider the differences in the apparent quality of the choices-- a middle school embedded in an A high school compared to a C school not only serves a greater number of relative low income students but serves as a site for an in school suspension program serving other schools in the district.

The District argues that by providing express buses to Sabino middle school from the central and western sections of the District, integration could be achieved. But my understanding is that this option has been tried and abandoned. And, the proposition could be tested by providing such buses to Fructhender or Collier. The more than \$300,000 involved in transportation costs alone could make a big difference is invested well in Magee middle school instead.

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\*When I asserted last spring that those leaving Magee would be middle-class, the District pointed out that there were many students into the white students into USD on free and reduced cost meals. That, of course, is a non sequitur. Only small numbers of students in the northeastern section of the District received free and reduced cost meals.