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12  
13 **IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

14 Roy and Josie Fisher, et al.,  
15 Plaintiffs

16 v.

17 United States of America,  
18 Plaintiff-Intervenor,

19 v.

20 Anita Lohr, et al.,  
21 Defendants,

22 Sidney L. Sutton, et al.,  
23 Defendants-Intervenors,

24 Maria Mendoza, et al.  
25 Plaintiffs,

26 United States of America,  
27 Plaintiff-Intervenor,

28 v.

Tucson Unified School District No. One, et al.  
Defendants.

CV 74-90 TUC DCB  
(Lead Case)

**MOTION TO AMEND ORDER  
ON GRADE  
RECONFIGURATION (ECF 1909)**

CV 74-204 TUC DCB  
(Consolidated Case)

1 The District respectfully requests the Court amend its order on the District’s grade  
2 reconfiguration proposals (ECF 1909)(the “Order”) to correct the record in certain  
3 particulars as set out below.

4 1. The Order states that “[a]t Magee Middle School, the 23% district-wide  
5 Anglo student average means that Anglo students should be at least 38% of the student  
6 body” and “if Anglo student enrollment falls below 38% Magee would not be integrated.”  
7 Order at 14. **The exact opposite is true under the terms of the Unitary Status Plan**  
8 **(“USP”) (ECF 1713).** Under the USP, an “Integrated School” is one in which “no racial or  
9 ethnic group varies from the district average for that grade level (Elementary School,  
10 Middle School, K-8, High School) by more than +/- 15 percentage points.” USP at 8. The  
11 average Anglo student enrollment for the middle school level in the District is 23%.  
12 Because Anglo student enrollment at Magee is currently *above* 38%, it does not qualify as  
13 an Integrated School, and thus Magee’s Anglo student population *must be reduced* to 38%  
14 or below in order for Magee to meet the USP definition of an Integrated School.<sup>1</sup>

15 2. The Order states that “Roberts-Naylor is a racially concentrated school[.]”  
16 Order at 6. **However, Roberts-Naylor is not a racially concentrated school under the**  
17 **USP.** Under the USP, a “racially concentrated school is any school in which any racial or  
18 ethnic group exceeds 70% of the school’s total enrollment.” But no racial or ethnic group  
19 exceeds 70% of the total enrollment at Roberts-Naylor, both in SY 2014-15, and again this  
20 year.<sup>2</sup> Though Roberts-Naylor is currently a few students away from qualifying as  
21 “integrated,” it is not “racially concentrated.”

22 3. The Order states that “[t]he 62% district-wide Hispanic student average  
23 means that Hispanic students may make up 47% to 70% of the student population without  
24 Magee being considered racially concentrated.” Order at 14. However, under the USP,

25 \_\_\_\_\_  
26 <sup>1</sup> Based on SY 2015-16 40th day date, Magee’s Anglo student enrollment is 48%, making it the TUSD middle  
27 school with the highest percentage of Anglo students. That is why efforts have been focused on increasing the non-  
28 Anglo student population as a percentage of total school population, to bring it closer to Integrated School status.

<sup>2</sup> Roberts-Naylor student population by race and ethnicity for SY 2014-15 appears in the District’s Annual  
Report, ECF 1848-5 at 96.

1 “racial concentration” is an absolute amount set at 70% of total school enrollment  
2 regardless of District student population. “Integration” is measured by comparison to  
3 average District student population at that grade level, with an upper limit of 70% of the  
4 population. The District average Middle School Latino population is 60% (not 62% as  
5 stated in the Order), and thus to qualify as **integrated** a middle school’s Latino population  
6 must be 45% to 70% of the total school enrollment.<sup>3</sup> Again, the term “racially  
7 concentrated” is not the same as “integrated” under the USP.

8 4. The Order stated that “TUSD students cannot attend Borman unless their  
9 parents or grandparents are in the military.” Order at 3. However, **there is no military**  
10 **base or other requirement that limits attendance at Borman** to students whose parents  
11 or grandparents are in the military. Borman students are almost exclusively children or  
12 grandchildren of service members, or of employees or affiliates of Davis-Monthan Air  
13 Force Base (ECF 1869 at 9:12-13), but there is no requirement of such affiliation.

14 5. The Order states: “Except for Drachman, TUSD has not considered the option  
15 of moving Anglo students south. TUSD has not considered whether improvements could be  
16 made to any schools centrally located or to the south of the District which would make them  
17 attractive K-8 schools for Anglo students residing on the north side of the District.” Order  
18 at 16. Over the past few years, and on an ongoing basis, the District has considered and  
19 implemented improvements at K-8 magnet schools located centrally (Booth-Fickett K-8)  
20 and to the south of the District (Roskruge K-8 and Safford K-8) for the specific purpose of  
21 making them attractive to Anglo students residing on the north side of the District. The  
22 District has also considered, proposed, and is in the process of analyzing whether  
23 improvements or changes to Cavett Elementary School and/or Catalina High School would  
24 make them more attractive to all families including Anglo students who would move south  
25 to attend those schools.

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27 \_\_\_\_\_  
28 <sup>3</sup> The average District Middle School Latino population for SY 2014-15 appears in the District’s Annual Report, ECF 1848-5 at 96.

1 The District respectfully requests the Court amend its order to correct the foregoing  
2 issues. It is vital that all parties are using the same analyses and data in analyzing questions  
3 of integration – particularly as the District embarks on finalizing and implementing  
4 additional integration initiatives.

5 Respectfully submitted on April 1, 2016.

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