

MENDOZA PLAINTIFFS' COMMENTS REGARDING USP BUDGET DRAFT #1

March 23, 2016

The Mendoza Plaintiffs have now had the opportunity to review the proposed 2016-17 USP Budget Draft #1 ("Draft 1 Budget"), and were surprised and disappointed with what they received. When Mendoza Plaintiffs agreed the District should have additional time to provide the Draft 1 Budget materials (see footnote 1 below), they did so understanding that the District would provide a fully compliant draft budget – it did not.

Beyond the failure to provide a significant amount of information that was to have been provided by now (detailed below), the Draft 1 Budget fails to comply with the Court's December 22, 2015 Budget Order (Doc. 1879) and January 28, 2016 Amended Budget Order (Doc. 1897), and potentially the Court's March 8, 2016 Order (Doc. 1909) regarding TUSD's grade reconfiguration proposals. Specifically, the Draft 1 Budget (1) does not contemplate the expansion of the Dual Language Program the Court ordered "must be implemented in 2016-17" (Doc. 1879 at 9), (2) fails to "provide a detailed rationale for 910(G) funding for the [Pan-Asian and Refugee Student Services entries] in its proposals for the 2016-17 budget," and (3) potentially fails to propose allocations to take into account the express bussing for Drachman and Magee, and ALE and other programs at Magee (Doc. 1909 at 17-18).

Further, notwithstanding its representation to the Court that it either already is implementing the Special Master's 2014-15 Annual Report recommendations, or is in the "planning and analysis" phase, and that it will fully consider each recommendation, (TUSD Objection to the SMAR (Doc. 1902) at 1:11-15), Mendoza Plaintiffs find that the general thrust of the District's proposed allocations (or failure to allocate) are contrary to the Special Master's recommendations. That is particularly true with respect to discipline, extracurricular activities, and professional development, as detailed further below.

As occurred during the development of past budgets, Mendoza Plaintiffs have not received a significant amount of information that was to have by now been provided. For yet another year, the District's failure to provide required information has hampered Mendoza Plaintiffs' ability to conduct a meaningful review of the Draft 1 Budget. They again detail the deficiencies in the District's budget submissions and areas where the District's March 18, 2016 response re: B 1-4: Budget Forms, Staffing Formulas, Projected Enrollment fails to address Mendoza Plaintiffs' March 8, 2016 information requests below before turning to substantive comments on the Draft 1 Budget.

Because Mendoza Plaintiffs were not given a significant amount of information that the Plaintiffs and Special Master should have received and that would have facilitated their review of the Draft 1 Budget, Mendoza Plaintiffs again expressly reserve their right to raise issues about entries in subsequent drafts of the budget (even if they are identical to entries in the Draft 1 Budget).¹ They also

¹ On March 14, 2016, five days after having received the Draft 1 Budget, Mendoza Plaintiffs expressly reserved their right to review and comment on any and all proposed allocations that may be in the second budget draft due to the District's significant failures to provide required information that should have by then been provided to facilitate the Plaintiffs' and Special Master's review of the Draft 1 Budget. That communication also detailed the

regret that they will once again be constrained to report to the Court that their review of the budget was hampered by TUSD's failure to provide significant required information, which is critical to their ability to review and comment on the amounts allocated for activities in the Draft 1 Budget.

Failures to Provide Contemplated Information Under Budget Process

Budget Forms, Staffing Formulas, and Related Budget Information

On March 8, 2016, the Mendoza Plaintiffs commented on the District's untimely March 2, 2016 budget forms and staffing formulas, which should have been provided to the Plaintiffs and Special Master on February 15, 2016, and requested that all outstanding data and information be immediately provided. (See Budget Process at 9.) Following a phone call between Mendoza Plaintiffs' counsel and TUSD counsel and staff, the District responded to Mendoza Plaintiffs' March 8 email on March 18, 2016. That response does not address all of Mendoza Plaintiffs' concerns.

On March 8, Mendoza Plaintiffs requested that the District provide "the Special Master with a budget format that includes the information delineated below [in the Budget Process] for all budget drafts" as contemplated in the Budget Process (at 9). The District still has not provided those budget forms, but has instead indicated that subsequent draft budgets will have additional columns to "show the differences between the immediately prior draft and the current draft and an explanation of any variances." (See Taylor email March 18, 2016.) That does not comport with what the Budget Process requires to already have been provided. Further, even with the noted additional columns, there are remaining deficiencies with the draft two budget forms.

While the District indicates that in draft two of the budget it "will explain in narrative form changes to non 910G funding sources between the immediately prior and the current draft," the District failed to address Mendoza Plaintiffs' comment that draft two is also to include, for each activity, "the allocation for the activity in the current budget year (2015-16) broken out by allocation from 910G and any other USP related funding source" (Budget Process at 11). While Mendoza Plaintiffs appreciate the development of budget "Form 5" attached to the District's March 18 email, it does not address the above issues. Indeed, Mendoza Plaintiffs' review of budget drafts would be facilitated by a form that contains the above information, as required by the Budget Process, which would allow them to do side-by-side comparisons with the proposed 2016-17 budget, rather than a running narrative of changes to non-910G funding between budget drafts, which fails to address a budget breakdown of the current

prejudicial nature of the District's failures due to the governing February 20, 2016 Review of 2015-16 910G Budget Development Process, Strengths, Weaknesses, and Recommendations for the 2016-17 910G Process ("Budget Process") provision that Plaintiffs' draft two "review and comment [is to be] limited to newly proposed allocations in Draft #2 except when new changes in proposed allocations affect specific proposals in Draft #1 or when a rationale is provided as to why the comment was not provided in Draft #1" (at 11) and the fact that Mendoza Plaintiffs would not receive the amount of time contemplated under the Budget Process to review any additional information the District may provide before their Draft 1 Budget comments are due. Mendoza Plaintiffs' March 14 email also described that their disappointment was compounded by the fact that, as they were informed by the Special Master, the March 9, 2016 due date for the Draft 1 Budget under the Budget Process reflects that the initial due date was pushed back two weeks from February 24, 2016 so that the District would have additional time to gather the information required of the Draft 1 budget.

budget year (Budget Process at 11) and which could potentially lead to confusion to the extent that it would be difficult to identify the activity to which each narrative comment pertains to.

Mendoza Plaintiffs therefore request that the District revise its budget forms or develop a form to include the information contemplated by the Budget Process, and that it provide those budget forms to the Special Master and Budget Expert for their review, as was to have occurred by February 15, 2016 (Budget Process at 9).

Draft 1 Budget Submission

As Mendoza Plaintiffs indicated in their March 14, 2016 email, “[a]s occurred during the 2015-16 budget development process, the Plaintiffs and Special Master have not been timely provided with Student Support Forms, which were to have been provided by March 9, 2016” under the Budget Process (at 9). Because these forms evaluate the effectiveness of student support programs to support USP implementation, they are absolutely crucial to Plaintiffs’ ability to meaningfully review and comment on the budget. They therefore again urge the District to immediately provide Student Support Forms to the Plaintiffs and Special Master.

Additionally, as stated in Mendoza Plaintiffs’ March 14 email, the District has utterly failed to provide rationales for any differences between the Draft 1 Budget and the “2015-16 allocated amounts, including a rationale for any non-incremental increase or decrease in funding for the activity during the current budget year (2015-16)” under the Budget Process (at 10). (See Form 3 attached to District’s March 9, 2016 email, containing no explanations for funding changes between proposed 2016-17 allocations and current budget year.) Had the District met its obligation to provide that information, Mendoza Plaintiffs believe they would have a significantly better understanding of the effect on USP implementation of the unexpected and unwarranted decrease of over \$4.5 million in the total proposed 910(G) budget when compared to the 2015-16 budget total of nearly \$64 million than that provided by the District’s March 17, 2016 response regarding the decrease.

However, as discussed further below, notwithstanding the District’s significant failure to provide these explanations, the unwarranted nature of the over \$4.5 million decrease was immediately apparent upon Mendoza Plaintiffs’ review of the Draft 1 Budget as the District proposes massive unjustifiable reductions in spending for discipline, professional development, and magnet schools, among other things, which would more than account for the unallocated 910(g) funds. (The most shocking of these unexpected and unwarranted reductions was the District’s failure to reallocate costs of Learning Supports Coordinators on discipline and dropout prevention efforts, and to FURTHER reduce funding in these areas by an additional \$1.6 million.)

Notwithstanding that Mendoza Plaintiffs believe no justifiable explanation exists for many of the proposed Draft 1 Budget reductions, they request that the District provide explanations for changes between the current budget year and the proposed budget in its budget forms, as it was to have done. If the District believes it is not feasible to do so by the time draft two of the budget is due, Mendoza Plaintiffs suggest that they instead detail that data with its draft two submission, as the Budget Process requires that data to be included in draft two as well. (Budget Process at 11.)

Mendoza Plaintiffs again call attention to the fact that the Draft 1 Budget submission omitted comments relating to position and program changes, or “USP Funding Criteria information” “for each new or expanded program in Draft #1 of the Budget.” (Budget Process at 10.) Mendoza Plaintiffs hereby repeat their March 14 request that the Student Support Forms, USP Funding Criteria information, and all other information that the District failed to provide with its Draft 1 Budget submission be immediately provided to the Plaintiffs and Special Master.

TUSD Examination of Desegregation Expenditure for Year Ended June 30, 2015 (“TUSD Examination”)

It has now been over a full month since the Mendoza Plaintiffs first submitted their February 22, 2016 information requests related to the TUSD Examination. (Those requests were followed by Mendoza Plaintiffs’ March 14 reminder that they await responses from the District and the additional request that the District detail whether and to what extent the decreased funds reflected in the Draft 1 Budget relate to the underspending reflected in the TUSD Examination.) Without being provided answers to those requests, Mendoza Plaintiffs find that their review of the Draft 1 Budget is significantly hampered. By way of example, Mendoza Plaintiffs requested an explanation for “why so significant a proportion of the budgeted professional training and support dollars were not spent.” (See Mendoza Plaintiffs February 22, 2016 email.) An explanation responsive to that request could help Mendoza Plaintiffs to better understand why the District is proposing allocations for many of the professional development training and supports that are materially lower than what was budgeted for the 2015-16 school year, particularly when the Special Master has stressed the critical nature of professional development and training (see generally, Special Master’s Annual Report for 2015-16 (Doc. 1890) (“SMAR”) recommendations).

Mendoza Plaintiffs therefore again request that the District promptly respond to Mendoza Plaintiffs’ requests relating to the TUSD Examination as it will inform their review of proposed budget allocations (as explained further below).

Comments on Draft 1 Budget for the 2016-17 School Year

In reviewing the Draft 1 Budget, Mendoza Plaintiffs attempted to assess the extent to which the budget reflects required expenditures under various Court orders (e.g., Court’s March 8, 2016 Order re grade reconfiguration proposals), recommendations to the District in the SMAR (which the District indicated it is now either already implementing or conducting related additional “planning and analysis,” and each of which it will fully consider (TUSD Objection to the SMAR (Doc. 1902) at 1:11-15), and compliance with directives laid out in past Court budget orders. To the extent Mendoza Plaintiffs were able to, they organize their comments below by activity code.

In the District’s March 18, 2016 response to Mendoza Plaintiffs’ information request relating to differences in student-to-teacher ratios for M&O, desegregation, and Title 1 funding (which seem to reflect that the District intends to fund the difference in class size reflected in those ratios across all TUSD schools with 910(G) and Title 1 funds), the District indicated that the M&O ratios “are based on our consensus agreement ratios. All other funding supplements this allocation to reduce overall ratio to 1:27.” (TUSD March 18, 2016 email.) (Mendoza Plaintiffs presume that the “consensus agreement”

relates to a TUSD agreement with the Tucson Education Association.) The District's response fails to address Mendoza Plaintiffs' concern that the District appears to propose funding reduced class sizes across all TUSD schools with 910G funds. Mendoza Plaintiffs were not a party to the "consensus agreement" and have never agreed that desegregation funding should be used to reduce class sizes across all TUSD schools (compare 2015-16 Desegregation formulas attached to District's March 6, 2015 email with 2016-17 Desegregation formulas attached to District's March 18, 2016 email). Indeed, as far as Mendoza Plaintiffs can tell, the 1:27 ratio is one the District's Governing Board approved back during development of the 2014-15 budget. (See Court's Order re 2014-15 Budget (Doc. 1705) at 1, n.1.) Mendoza Plaintiffs object to the Draft 1 Budget to the extent it reflects that the District intends to fund reduced class sizes across all TUSD schools with 910G funds. They again request a District explanation for the difference in the ratios and ask whether their understanding above is correct.

80103 Court Order and Misc

The District has proposed a total approximate \$1 million allocation for court orders and miscellaneous. Mendoza Plaintiffs ask whether the District has assessed and is satisfied that that amount is sufficient to cover the costs of complying with the Court's March 8, 2016 Order (Doc. 1909) concerning the TUSD plan to use incentive "express bussing" for Anglo students from the north and east sides of the District to attend Drachman K-8 and Magee Middle school, and to add "AVID and AP programs at Magee [] and Advanced Learning Experiences (ALEs) such as GATE and pre-AP classes," and still have sufficient money allocated to comply with any other Court orders that may be issued during the 2016-17 school year?

80202 Magnet Schools

The Draft 1 budget has a placeholder until individual magnet school plans have been completed. (See Draft 1 Budget, Form 2 at 1.) That placeholder is in an amount that is about \$150,000 less than last year. (See *id.*)

However, the reallocation process that is just being completed confirms that the magnet schools had insufficient budgets this year and raises once again the question of whether they are being adequately funded and supported. Nothing about that process suggests a basis for reducing funding below what was allocated in the 2015-16 school year.

On March 3, 2016, the Special Master provided the District's proposal to reallocate over \$850,000 that magnet schools subject to the magnet school stipulation and order had not spent because budgeted (and essential) staff positions had not been filled or were not timely filled. With one exception discussed further below, each proposed reallocation related to an existing and unfunded need at the school. This suggests a significant underfunding of magnet school needs (and, notably, we only see numbers for the magnet schools subject to the magnet school stipulation and order for which

reallocations were proposed) and suggests that magnet school improvement plans need to be carefully vetted to be sure that those proposed 2016-17 allocations are indeed as robust as they need to be to permit the schools to move toward their mandated objectives.

With respect to Utterback, the initial proposed reallocation involved legitimate needed repairs to the school's auditorium but raised issues of priority and appropriate allocation between the 910(G) budget and the M&O budget. (See Reallocation Proposals attached to Special Master's March 3, 2016 email.) When Mendoza Plaintiffs questioned the allocation between the two budgets and suggested that reallocated money should in the first instance go to efforts to increase student achievement (see Mendoza Plaintiffs' March 9, 2016 email) and later that the District should revise funding for the proposal so that an appropriate amount of 910(G) funds be used to supplement repairs with the remainder to fund efforts to increase achievement (see Mendoza Plaintiffs' March 10 and March 17, 2016 emails), the school promptly provided a reallocation proposal for needed technology (see TUSD's March 18, 2016 email and attached revised proposal). However, the needed repairs to Utterback's auditorium remain to be addressed.

Mendoza Plaintiffs therefore, yet again, request responses to their questions regarding Utterback first asked on March 10, and repeated on March 17, 2016. They also again request that, with appropriate allocations between the 910(G) budget and the M&O budget, the sums to achieve the upgrades to the auditorium be included in the 2016-17 budget if they are not already there. (Given the severity of the problems in the auditorium, Mendoza Plaintiffs question why some amount of the unspent allocation for the multi-year facilities plan in 2014-15 (\$149,848 per the TUSD Examination) was not spent on the Utterback auditorium in 2014-15.)

80402 Outreach, Recruitment, and Retention Plan

Over the past several months, within the context of the magnet stipulation requiring that the District fill vacancies at the magnet schools covered by the stipulation, the Plaintiffs and Special Master have repeatedly heard from the District about its difficulties in filling vacancies. Mendoza Plaintiffs therefore expected to see an increase in proposed spending under this activity to recruit more Latino and African American teachers to work for and continue their employment with TUSD. The District has instead proposed a reduction of almost \$142,000. (Draft 1 Budget, Form 1 at 1.)

Mendoza Plaintiffs have trouble understanding this proposed reduction in light of the ongoing consideration of various forms of incentives to attract teachers with particular skills including bilingual education and teachers with dual certifications, or to attract teachers to take hard-to-fill positions. Indeed, the Special Master recommended various incentives, including financial incentives, to motivate teachers to voluntarily transfer schools in his proposal to address school level faculty disparities. (See Special Master's March 17, 2016 email and attachment re: Court Order re Racial Disparities among faculty.) Before the Plaintiffs and Special Master can meaningfully address this budget allocation, they need to understand what the District's hiring and retention plan for the 2016-17 school year is and how it intends to use incentives. Mendoza Plaintiffs therefore request an explanation of what these efforts

will look like. Because this seems like an area appropriate for discussion at the all-party meeting planned for April, Mendoza Plaintiffs request that this topic be added to the agenda (and suggest that it be discussed together with the Fishers Plaintiffs' related agenda item #6 detailed in their March 18, 2016 email.) Mendoza Plaintiffs will separately email the parties and Special Master with their proposed addition of this agenda item, along with other items they wish to discuss at the meeting.

80409, 80415 80508, 80903 Professional Development related to USP, PLCs, CRCs and Student Engagement, and Technology

Mendoza Plaintiffs' review of the Draft 1 Budget as it relates to Professional Development is an area in which Mendoza Plaintiffs were particularly hampered by the District's failure to respond to Mendoza Plaintiffs' February 22, 2016 information requests regarding the TUSD Examination. They particularly asked "why so significant a proportion of the budgeted professional development training and support dollars were not spent." Without knowing the District's rationale for having failed to spend approved professional development spending, it is difficult for Mendoza Plaintiffs to carefully assess the proposed expenditures for 2016-17. They are concerned, however, that the District is proposing allocations in areas of professional training and support that are smaller than that that was budgeted in the 2015-16 school year, at the same time that the Special Master has been urging the District to focus on the insufficiency of training and support (*see e.g.*, SMAR at 20, 28-9, 33).

The District proposes to reduce USP-Related PD and Support by about \$390,000, CRC and Student Engagement PD by about \$42,000, and Technology PD for Classroom Staff by about \$31,000, while eliminating the PLC Training allocation of about \$277,000 from 2015-16. (Draft 1 Budget, Form 2 at 1-2.) Student Engagement PD is the single most important area of PD affecting USP implementation and student engagement in the classroom, and given the significant CRC expansions the District has agreed, and is now mandated by Court order, to provide under the CRC stipulation (detailed further below), Mendoza Plaintiffs do not believe that the proposed reduction is justifiable and therefore object to it.

Mendoza Plaintiffs were surprised and disappointed to see the \$31,000 proposed reduction for Technology PD for Classroom Staff when the Special Master reported that in 2014-15 on-site technology support was not provided, only seven out of over 80 sites received a technology PD needs assessment, and that a mere 134 teachers took related online courses (which the Mendoza Plaintiffs have previously noted are not as effective as in-person training). (SMAR at 33.) Indeed, the Special Master recommended that "teachers and administrators have to learn more about how to effectively utilize technology... [the] needs assessment should drive professional development at the school and individual level" and that Teacher Technology Liaisons should provide support at the site-level. (*Id.*) The need for technology PD is further underscored by the fact that the District has recently proposed and moved forward with over \$400,000 in magnet fund reallocations for technology equipment (in addition to the revised Utterback proposal of over \$60,000 for computers and printers). (*See* Special Master's March 3,

2016 email and attached reallocation proposal; TUSD's March 18, 2016 email.) Mendoza Plaintiffs therefore do not believe the proposed allocation is justifiable and object to it.

Mendoza Plaintiffs also do not understand how the District can assert that it will require zero dollars for PLC training, which it purports to be a "one-time cost" (Draft 1 Budget, Form 2 at 2), when they understand PLC training to be an ongoing cost. Indeed, the USP requires professional development training for "all newly-hired or promoted certificated staff, administrators and paraprofessional" (USP Section IV, J, 2) and in the 2014-15 school year, the District hired 20 new principals (see DAR re 2014-15 SY (Doc. 1848) at IV-80; SMAR at 15). Will new principals in the 2016-17 school year not be trained on PLCs? Mendoza Plaintiffs need explanation from the District for its elimination of this allocation before they can provide further comment and/or an objection.

As stated above, Mendoza Plaintiffs' review of professional development proposed allocations was hampered by the District's failure to provide responses regarding the TUSD examination. Thus, Mendoza Plaintiffs do not understand on what basis the District could possibly conclude that the USP-related PD and Support proposed reduction of over one-third the amount allocated in 2015-16 is justified. Indeed, Mendoza Plaintiffs would expect no significant change to such funding in the 2016-17 school year. Mendoza Plaintiffs request a District explanation for this proposed reduction and again urge the District to promptly provide a response to Mendoza Plaintiffs' outstanding information requests on the TUSD Examination.

80410 80412 First-Year Teacher Plan and New Teacher Induction Program

In the 2014-15 school year, no mentoring support was provided under the First-Year Teacher Plan ("FYTP") in the 2014-15 school year, and a mere 12% of New Teacher Induction Program ("NTIP") participants received mentoring under that plan. (See SMAR at 16.) Moreover, the District revised its FYTP to eliminate mentoring support without consulting the Plaintiffs under USP Section I, D, 1. (See DAR re 2014-15 SY at IV-90.) The Draft 1 Budget, Form 1 indicates that with regard to the FYTP, "Teacher Mentors moved to 80412," the activity code for the NTIP. While Mendoza Plaintiffs do not see a total proposed reduction to the total allocation to these two programs from the current budget year, they request confirmation that the District intends to provide mentoring under both the FYTP and NTIP.

80414 Aspiring Teachers Plan

Mendoza Plaintiffs request explanation for the reduced allocation for this activity. They further ask the District what it plans to do to improve the Leadership Prep Academy program so that more Latino and African American participants get appointed to leadership positions with TUSD given that the program "yielded only one non-white appointee in 2014-15" and the Special Master recommends that TUSD "assess its selection process." (SMAR at 19.)

80501 ALE Access and Recruitment Plan

USP Section V, A requires that the District expand opportunities and ensure equal access for Latino and African American students to participate in ALEs, including AP classes. The data indicates that while the number of students taking AP exams increased by about 266 in TUSD between 2013 and 2015, that increase is almost entirely attributable to UHS, which observed an increase of 414 students taking AP exams in the same period.² In fact, the number of students taking AP courses in all of TUSD's high schools (except for Pueblo which had a modest increase of less than 30) DECLINED. To provide an equitable opportunity for Latino and African American students not attending UHS to take AP exams, the allocation for access to ALE courses (and the accompanying support through AP summer "boot camps" and related programs) should be increased. Instead, the District is proposing a decrease of almost \$900,000 in ALE access and recruitment. (Draft 1 Budget, Form 2 at 2.)

Mendoza Plaintiffs could not determine what programs or initiatives the District proposes to be reduced or eliminated under this activity because the budget sets forth only positions in this section and fails to provide any explanations. Given the breadth of this Section of the USP covering a large amount of ALEs, and within the context of Tully's transformation as a GATE magnet school, Mendoza Plaintiffs ask that the District explain the basis for the proposed reductions, including the reduction of 18.06 FTEs under this activity (*see id.*) and how it relates to its ALE efforts.

80502 UHS Admissions/Outreach/Recruitment

The District proposes a very significant reduction of over \$340,000 to this activity from the current budget year to \$45,618 for the 2016-17 school year. (Draft 1 Budget, Form 2 at 2.) Mendoza Plaintiffs cannot tell from the budget detail in Form 3 what outreach and recruitment efforts the District is proposing to reduce or eliminate. They also do not have a sense of what the District plans in this area for the 2016-17 school year (e.g., summer programs, BOOST program, payment of AP exam costs for low-income students). They therefore request that the District detail the reasons why it is proposing such a significant reduction for this activity, and what programs or initiatives would be reduced or eliminated under its proposal.

80504 Dual Language Programs

As noted above, the District's proposed allocations related to the Dual Language program fail to take account of the Court's December 22, 2015 Budget Order (Doc. 1879 at 9) requiring that the District develop a plan to increase student access to Dual Language programs, which "must be implemented in 2016-17," and the Court's reaffirmation of the relevant directives in its amended Order of January 28, 2016 (Doc. 1897 at 9). Specifically, so far as Mendoza Plaintiffs can tell, the Draft 1 Budget contains

² The information cited was provided to Mendoza Plaintiffs by an Arizona Daily Star reporter investigating TUSD student participation in AP examination between the 2013 and 2015 years.

essentially the same entries as the Dual Language entries for the 2015-16 Budget that we previously indicated do not constitute the building and expansion of the program, but rather the ongoing costs of the unexpanded programs at the same number of schools (or fewer) than in prior years. (See Draft 1 Budget, Form 3 at 25.) Indeed, the “TUSD Dual Language Enrollment: 2013-2015” dated May 13, 2015 and provided on May 15, 2016 indicates that “McCorkle and Mission View changing the DL grade levels to build capacity.” Yet, the Draft 1 Budget reflects a decrease in Dual Language FTEs at McCorkle and no change in FTE at Mission View. (See *Id.* at 24.) Thus, plainly, no increase in capacity has occurred or appears to be anticipated or planned for the 2016-17 school year, in violation of the two Court orders cited above. Mendoza Plaintiffs therefore object to the proposed Dual Language allocations and request that they be revised to reflect that the District will comply with the Court’s orders to expand the Dual Language program in 2016-17.

80506, 80511-13, 80602-03, 80605, 80702, 80704 Pan-Asian/Refugee Student Services

The Court’s Amended Budget Order regarding the 2015-16 budget (Doc. 1897) mandates that “[t]he District shall examine the issue of 910(G) funding for “Pan-Asian and Refugee Student Services” (Asian and/or Pacific Island and Refugee Student Services Department (APIRSSD)), including refugee students from Africa and Latin America, in the context of the current study being done assessing the roles played by the African-American Student Services Department and the Mexican-American Student Services Department. The District must provide a detailed rationale for 910(G) funding for the APIRSSD in its proposals for the 2016-17 Budget.”

There are allocations for the APIRSSD across each of the activities for which an activity code has been provided above. For each of those proposed allocations, there is no “detailed rationale for 910(G) funding for the APIRSSD,” in violation of the Court’s Order. Mendoza Plaintiffs request prompt receipt of those detailed rationales.

80506 Dropout Prevention and Retention Plan, and 80601-3 and 80605-07 Relating to Discipline

(Failure to Reallocate Costs of Learning Support Coordinators (LSCs))

The Plaintiffs and the Special Master did not challenge the efficacy of the LSC position for the purpose of having the costs of the LSC positions eliminated from the budget. Rather, it was to have the funds that had been ineffectively spent on that position reallocated to far more effectively train school personnel with respect to restorative practices and PBIS, implement those discipline programs, train on and implement the GSRR, monitor discipline data, and implement the dropout prevention and retention plan. Given the discipline issues that have confronted the District in the last year, the on-going revision of the GSRR, the questions that have been raised and continue to be raised by the Plaintiffs and the Special Master concerning the ISS and DAEP programs, and the District’s obligations under the USP, it is shocking that the District has not used the opportunity provided by the elimination of the LSC positions

to comprehensively address discipline and dropout prevention in this budget cycle. Instead, it has swept almost \$3.9 million in its Draft 1 Budget from the 2015-16 budget (Activities ## 80506, 80601-03, 80605-07).

Indeed, Mendoza Plaintiffs isolated the costs of all LSC position allocations for dropout preventions and all discipline activities in the 2015-16 school year³ and determined the sum of those costs to be under \$2.3 million. Thus, not only did the District fail to reallocate the cost of the LSCs in these areas, it further reduced funding to these activities by about \$1.6 million thereby proposing to dramatically cut USP dropout prevention and discipline activities at the very time it should further invest in the areas, as the Plaintiffs and Special Master all understood the District would upon the termination of the LSC position. Notably, the District has reduced 910(G) allocations through the discipline activities (Activities ## 80601-07) from \$3.1 million in 2015-16 to under a half million in the Draft 1 Budget. (See Draft 1 Budget, Form 2 at 2-3.) Mendoza Plaintiffs therefore find themselves concluding that the District is in effect attempting to abandon its dropout prevention and discipline obligations under the USP.

As noted above, given that the District has undertaken to rewrite the GSRR, Mendoza Plaintiffs expected to see larger allocations to discipline. Indeed, the District must train teachers on implementation of the GSRR rewrite currently underway, provide informational assemblies to parents and students across all schools (USP Section VI, D, 2), and will have to translate the rewrite in all major languages (USP Section D, 1). Moreover, as the parties well know, the Special Master has stressed the importance of professional development including with respect to discipline, particularly as TUSD schools do not consistently apply PBIS and apparently have different understanding of its essential components throughout the District. (See SMAR at 28.) Further, the District reported that in the 2014-15 school year, 250 potentially improper suspensions occurred at nine of ten High Schools, seven Middle Schools, seven K-8s, and seven Elementary Schools as a result of the failure to limit them “ongoing and escalating” misbehavior or failure to first attempt other intervention (principals fundamental to the version of the GSRR then in effect), (see Responses to Mendoza Plaintiffs Requests for Information Relating to the TUSD 2014-15 Annual Report (Part 3 of 3) dated December 17, 2015 at 2),⁴ highlighting the need for more effective discipline training. Yet, within this context, the District proposes to cut its discipline training for sites (Activity # 80603) by about 97% from \$317,375 in 2015-16 to \$9,847. (Draft 1 Budget, Form 2 at 2.)

Similarly, the District proposes to reduce allocations to discipline data monitoring (Activity # 80605) by over 98% to a mere \$15,163. (*Id.*) Notably, the District made a “commitment” that “central and site leadership will continually monitor discipline data using the data dashboard” and that “each site will have a PBIS team responsible for reviewing discipline data each month, separate from the MTSS team, which will be reviewing academic, behavior, and other intervention data each month... [and]

³ Mendoza Plaintiffs used the excel version of the Final USP Budget for the 2015-16 school year that was presented to and approved by the Governing Board as sent by the District on June 19, 2016. Those allocations were not affected by the Court’s December 22, 2015 Order (Doc. 1879) or its January 28, 2016 Amended Order (Doc. 1897).

⁴ Notably, while the District failed to identify the number of the suspensions that it determined were in fact improper, it conceded that at each of the 30 schools above at least one of the suspensions was found to be improper. (*Id.*)

address identified disparities” in the 2015-16 school year. (TUSD Annual Report (“DAR”) for 2014-15 School Year (Doc. 1848) at VI-254-55.) While Mendoza Plaintiffs are unclear on the extent to which the District followed through with its “commitments” in 2015-16, it is clear that the District has now abandoned these USP mandated data monitoring commitments.

The District proposes to eliminate all allocations for Discipline-related corrective action plans (Activity # 80606). This is an area in which Mendoza Plaintiffs have had doubts about whether the District is complying with the USP, as it has in the past purported to present corrective action plans for “teachers engaged in behavior that violated disciplinary policy or practice, discriminated against students in the administration of discipline, or constituted the administration of discipline in a racially or ethnically disproportionate manner” (DAR re 2014-15 SY at VI-250-251; Appendix VI-42 to DAR re 2014-15) as required by USP Section VI, F, 2-3, and later contradictorily stated that “[d]ata was not kept on the number of teachers or administrators identified as administering discipline in a [] disproportionate manner... No teachers or administrators were placed on formal corrective action plans... sites were placed” on such plans. (See Responses to Mendoza Plaintiffs Requests for Information Relating to the TUSD 2014-15 Annual Report (Part 3 of 3) dated December 17, 2015 at 3.) The District now appears to abandon its obligations to identify sites, administrators and teacher administering discipline in a racially/ethnically disproportionate manner and develop corrective actions plans to address those issues.

TUSD also proposes to eliminate all allocations for the replication of successful site-based strategies (Activity # 80607) (see Draft 1 Budget, Form 2 at 3), notwithstanding that the Special Master recommended (and the District indicated it would at a minimum “fully consider” (TUSD Objection to the SMAR (Doc. 1902) at 1:11-15)) that the District “more systematically identify effective practices for reducing discipline problems, including behaviors by teachers [who] were able to create learning environments in the classrooms” (SMAR at 29). Indeed, the Special Master asserted that the District’s practice in 2015-16 of once inviting “two principals to share what they have done” and the central administration “one on one [work] with principals” “do not seem to meet the requirements of the USP.” (*Id.*) Contrary to the Special Master’s recommendation, the District apparently now proposes to abandon all efforts in this area.

Mendoza Plaintiffs struggle to understand how such unjustifiable proposed reductions to dropout prevention and discipline could be compatible with a District determined to in good faith eliminate the vestiges of past racial discrimination. They vehemently object to the dramatic reductions in these areas and believe the District owes the Plaintiffs, the Special Master (and every family whose children attend TUSD schools) an explanation of how it will effectively provide for discipline and dropout prevention in the 2016-17 school year.

80508 CRC and Student Engagement PD and 80510 Culturally Relevant Courses

The District is proposing a reduction of \$41,676 for CRC and Student Engagement professional development and an additional reduction of \$92,142 for Culturally Relevant Courses from the current

school year. (Draft 1 Budget, Form 3 at 32-33.) Mendoza Plaintiffs do not understand why the District would reduce funding for student engagement PD when it is the area of professional development that is most central to student engagement and effective USP implementation in the classroom. Nor do they believe that the proposed reductions totaling over \$130,000 to the CRC program and accompanying PD is justifiable given that under the CRC stipulation and Court Order (Docs. 1761 and 1768), the District is to expand: CRC offerings in high schools, 8th grade language arts CRCs at each of the eleven K-8s, 8th grade Social Science in half of its K-8s, and six additional elementary schools are to infuse CR literature to satisfy English language arts content standards in language arts and social studies. (Doc. 1761, Exhibit 2 at 7-11.) They therefore object to these proposed reductions.

80801 Extracurricular Activities

In the SMAR, the Special Master recommended that the District “significantly increase opportunities for participation in clubs, especially at the high school level and clubs that would complement in-school learning,” that “tutoring should be provided by certified personnel whenever possible,” and that TUSD should try to “significantly increase the proportion of respondents to relevant surveys.” (SMAR at 31-32.) Notwithstanding these recommendations, the District proposes to reduce spending on Extracurricular Activities by over \$54,000. (Draft 1 Budget, Form 3 at 67.) Mendoza Plaintiffs do not understand the Draft 1 Budget to reflect that the District is following the Special Master’s recommendations in this regard. Because the Draft 1 Budget appears instead to indicate that the District is acting contrary to the Special Master’s recommendation and the best interests of its Latino and African American students with respect to participation in extracurricular activities, Mendoza Plaintiffs object to the reduced Extracurricular Activities proposed allocations.

80509 Multicultural Curriculum

The District proposes a reduction of \$153,910 from the current budget year for multicultural curriculum. Mendoza Plaintiffs do not understand what accounts for that reduction, particularly as it suggests the District is not expanding these courses, and Mendoza Plaintiffs have in the past repeatedly requested that the District make efforts to expand multicultural curriculum beyond fine arts courses. They therefore request an explanation for the reduced allocation for this activity.

80511 Targeted Academic Interventions and Supports

Due to the District’s failure to provide any explanations regarding the proposed elimination of most schools’ allocations under this activity (which were relatively low in 2015-16), Mendoza Plaintiffs do not understand what the effect of these proposals would be on the District’s ability to implement targeted academic interventions. They are further confused by the fact that Erickson, Kellond, and UHS all still have proposed allocations under this activity. (See Draft 1 Budget, Form 3 at 35, 37.) Mendoza

Plaintiffs therefore request an explanation of what is occurring with respect to targeted academic interventions, and for the increased allocation of over \$1.3 million for Erickson under this activity (*id.* at 35), which they presume to be an erroneous entry.

80512 Quarterly Information Events

Under USP Section V, E, 7, d., the District is to hold quarterly events at each school or cluster of schools to provide families with information about student academic progress, ALEs, and college preparation. Given this mandate and the District's obligations to increase opportunities for Latino and African American students to participate in ALEs, Mendoza Plaintiffs ask what accounts for the significant drop of over 90% of the proposed allocation for this activity from the current budget year (to \$27,853) (Draft 1 Budget, Form 2 at 2)?

80704 Translation and Interpretation Services

Mendoza Plaintiffs are confused by the almost tripling of the proposed allocation for this activity from the 2015-16 school year, particularly as they do not understand any potential translation for the revised GSRR currently being developed to belong under this activity. They therefore ask what accounts for this proposed increase?