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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Roy and Josie Fisher, et al.,  
Plaintiffs,  
v.  
United States of America,  
Plaintiff-Intervenors,  
v.  
Anita Lohr, et al.,  
Defendants,  
Sidney L. Sutton, et al.,  
Defendant-Intervenors,

Case No. 4:74-CV-00090-DCB

**MENDOZA PLAINTIFFS' OBJECTION  
TO THE TUCSON UNIFIED SCHOOL  
DISTRICT'S USP BUDGET FOR THE  
2016-17 SCHOOL YEAR**

Hon. David C. Bury

1 Maria Mendoza, et al.,

Case No. CV 74-204 TUC DCB

2 Plaintiffs,

3 United States of America,

4 Plaintiff-Intervenor,

5 v.

6 Tucson United School District No. One, et al.,

7 Defendants.

8  
9 **INTRODUCTION**

10 On July 12, 2016, the Tucson Unified School District, No. 1 (“TUSD” or “the  
11 District”) Governing Board approved the District’s 2016-17 School Year budget. The  
12 District failed to file a Notice of Adoption of that budget as it has in past years (*see e.g.*,  
13 Docs. 1827, 1742). Mendoza Plaintiffs therefore have attached TUSD’s Final Proposed  
14 Budget for the 2016-17 School Year (memo re comparisons in amounts budgeted,  
15 followed by budget summary forms and budget detail) as Exhibit A.

16  
17 Although a process was established under this Court’s December 22, 2015 Order to  
18 facilitate the development of the 2016-17 USP budget, Mendoza Plaintiffs have never  
19 before faced the difficulty in obtaining basic information necessary to conduct an informed  
20 review of the District’s budget as they have in the current budget development cycle.  
21 Beyond providing limited and untimely budget documents, the District was unresponsive  
22 to significant and repeated requests for information, and repeatedly demonstrated that it  
23 failed to perform the assessments of existing programs and activities that are essential for  
24 informed budget review.  
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1 For five months, TUSD ignored Mendoza Plaintiffs' requests for information  
2 regarding its examination of expenditures for the 2014-15 school year, notwithstanding  
3 repeated explanations that such responses would help Mendoza Plaintiffs understand the  
4 dramatic cuts (particularly with regard to professional development ("PD")) that were  
5 reflected across most activities in the District's draft budget. Nor did TUSD provide  
6 documents as required by the budget process, repeatedly delivering incomplete and late  
7 information, including but a single hastily-completed student support program form,  
8 notwithstanding that assessment of program efficacy should have informed the entire  
9 budget process. As further explained below, following an in-person meeting in Tucson at  
10 which the Special Master and the Plaintiffs explained the difficulties they were having in  
11 reviewing the draft budget, TUSD undertook to provide additional material but what it  
12 ultimately delivered largely failed to respond to the issues that had been raised.  
13 Compounding the Plaintiffs' and Special Master's ability to understand the budget is the  
14 fact that the District failed to timely deliver individual magnet school plans and then  
15 provided plans that were rife with problems, as shown below.

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18  
19 **ARGUMENT**

20 **Objections to the Budget Review Process**

21  
22 Notwithstanding the development of the "Expectations for the 910G Budget  
23 Development Process for 2016-17" ("Budget Process") (Doc. 1879) under this Court's  
24 December 22, 2015 Order "to improve the budget process," Plaintiffs and the Special  
25 Master faced tremendous difficulty obtaining information necessary for them to conduct an  
26 informed review of the District's 2016-17 budget.  
27  
28

1                   ***TUSD Provided Untimely and Incomplete Budget Information, Was***  
2 ***Unresponsive to Information Requests, and In Response to Concerns About Inadequate***  
3 ***Information, Provided Information of Very Limited Help and That Deviated from What***  
4 ***Was Promised***

5                   The first draft of the budget was provided on March 9, 2016.<sup>1</sup> On March 23, 2016,  
6  
7 the Mendoza Plaintiffs provided the District with MPs’ Draft #1 Comments, which were  
8 largely directed at obtaining a basic understanding of what was reflected in the budget,  
9 including an explanation for what appeared to be an unexpected and unwarranted decrease  
10 of over \$4.5 million in the total proposed USP budget when compared to the 2015-16  
11 budget of \$64 million. (*See id.*) The District never responded to MPs’ Draft #1 Comments.

12                   Further, notwithstanding that Student Support Program Forms are essential so that  
13 the District and all parties can assess whether the student support programs that  
14 desegregation dollars fund have been effective and, therefore, whether and to what extent  
15 they should continue to be funded, the District failed to provide these forms together with  
16 its draft budget on March 9, 2016. (*See Budget Process* at 9.) It subsequently provided a  
17 single untimely Form that appeared to have been quickly prepared to meet the requirement  
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23 <sup>1</sup> In conflict with the Budget Process (at 8), requiring delivery of certain material before  
24 submission of the first draft of the budget, the District failed to provide budget forms and  
25 staffing formulas, and budget format documents by February 15, 2016. Instead, it  
26 provided incomplete formulas and budget format documents on March 8, 2016. (*See*  
27 *Mendoza Plaintiffs’ Comments Regarding USP Budget Draft #1 (“MPs’ Draft #1*  
28 *Comments”*), attached as Exhibit B, at 2.) (The District subsequently supplemented its  
staffing formulas and revised its budget forms in response to Mendoza Plaintiffs’  
objections.) Further, TUSD’s first budget draft submission included significant  
deficiencies, including no rationales for differences between the draft budget and the 2015-  
16 allocated amounts, and little “USP Funding Criteria information.” (*See MPs’ Draft #1*  
*Comments* at 3-4 (detailing further deficiencies).)

1 for a form. (See April 4, 2016 MTSS Student Support Form, attached as Exhibit C.)<sup>2</sup> To  
2 Mendoza Plaintiffs' dismay, they subsequently learned that the District had failed to  
3 prepare such forms for previously funded student support programs, apparently believing  
4 that no on-going assessment of program efficacy is required to support further funding.  
5 (See Tolleson April 11, 2016 email and related email chain, attached hereto as Exhibit D.)<sup>3</sup>  
6

7 The Parties, Special Master, and budget expert met in Tucson on April 20-21, 2016,  
8 after having received the second budget draft, to discuss outstanding budget issues and the  
9 significant cuts proposed across many desegregation activities (see MPs' Draft #1  
10 Comments). Rather than resolve differences regarding the budget, the Plaintiffs and  
11 Special Master were constrained to spend most of the time trying to get a basic  
12 understanding of what programmatic changes were reflected in the draft budget. The  
13 District then agreed to provide narrative documents to assist the Plaintiffs and Special  
14 Master in their review, including an explanation of the professional development ("PD")  
15 that the District intended to deliver in the 2016-17 school year.  
16  
17

18 The District provided the third draft of its budget on May 6, 2016. On May 10, the  
19 District provided a supplemental discipline narrative, and a desegregation budget narrative  
20 and analysis ("Budget Narrative") (attached as Exhibit E), followed on May 13 by PD  
21  
22

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23 <sup>2</sup> For example, in response to Question 2, which asks "Does the program  
24 or strategy support the current programs or strategies being implemented in the  
25 school(s)?" the District responded as follows: "Yes, we are currently following the Multi-  
26 Teired (sic) systemopf (sic) Support model in all out (sic) schools."

27 <sup>3</sup> This omission is particularly noteworthy given that during the unitary status proceedings  
28 in 2005-07, this "court was most critical of the District's efforts at gauging its progress  
toward desegregation, finding that it had 'fail[ed] to monitor, track, review and analyze the  
effectiveness' of its programs and policies and therefore had not demonstrated a good faith  
adherence to the Settlement Agreement or the constitutional principles that underlie it."  
*Fisher v. Tucson Unified School District*, 652 F. 3d 1131, 1140 (9th Cir. 2011).

1 charts. In drawing comparisons to past funding to justify what appeared to be significant  
2 funding cuts, the Budget Narrative did not reference actual *allocations* from past years;  
3 rather it referred to highly problematic “actual” figures for the 2014-15 school year  
4 (discussed below), and its estimation of “actual” expenditures for the 2015-16 school year.  
5 (See Budget Narrative.) The Budget Narrative therefore provided very limited  
6 improvement in Mendoza Plaintiffs’ understanding of the proposed budget. Moreover, the  
7 PD charts did not detail the District’s planned 2016-17 PD efforts as promised; instead,  
8 they reported such efforts for the 2015-16 school year. (See Special Master’s May 25 and  
9 June 4 emails, attached as Exhibit F.)<sup>4</sup>

12 Due to the District’s significant failure to assess on-going student support programs  
13 and provide corresponding forms, to provide timely required information, to respond to  
14 comments regarding the first budget draft, and subsequent failure to provide the documents  
15 it said it would provide to assist the Special Master and the Plaintiffs in their efforts to  
16 understand the proposed budget, Mendoza Plaintiffs’ review of the budget was  
17 significantly hampered.

19 ***TUSD Has Failed to Provide Information Regarding TUSD’s Examination of***  
20 ***Expenditures for the 2014-15 School Year, Notwithstanding Its On-Going Reliance on***  
21 ***that Examination to Justify Its Proposed Allocations***

24 <sup>4</sup> The Special Master noted that “At the budget meeting recently we deferred discussion of  
25 professional development expenditures because we did not have analysis of who was  
26 receiving what content, how much and in what ways... Is it the case that the budget is not  
27 based on a systematic analysis of who, what, how etc.? In its response to my annual report,  
28 the District says it has evaluated professional development efforts. I implicitly asked for  
these evaluations but let me explicitly request them now.” As discussed below, per a  
Special Master recommendation, the District has indicated it will provide such information  
on August 15, 2016, and therefore presumably did NOT base its now adopted budget on a  
systematic analysis of what PD is necessary in the 2016-17 school year.

1 On January 29, 2016, TUSD provided the Plaintiffs and Special Master with the  
2 TUSD Examination of Desegregation Expenditures Year Ended June 30, 2015 (“TUSD  
3 Examination”) under USP Section X, B, 7,<sup>5</sup> attached hereto as Exhibit G.<sup>6</sup>

4 On February 22, Mendoza Plaintiffs made a number of information requests to the  
5 District regarding the TUSD Examination. (Mendoza Plaintiffs’ February 22, 2016 Email,  
6 attached as Exhibit H.)<sup>7</sup> In the five months since the Mendoza Plaintiffs made their  
7 requests, the District has failed to respond, notwithstanding that Mendoza Plaintiffs have  
8 repeatedly indicated that responsive information would help them to conduct an informed  
9 review of the District’s proposed 2016-17 Budget. (See Mendoza Plaintiffs’ Comments  
10 Regarding TUSD’s 2016-17 USP Budget Draft #3 (“MPs’ Draft #3 Comments”), attached  
11 as Exhibit I, at 2.)<sup>8</sup>

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15 <sup>5</sup> Under USP Section X, B, 7, the District’s “audit report shall indicate whether the funds  
16 allocated in the USP Budget were spent in accordance with that budget and such other  
17 information as may be necessary to provide the **Plaintiffs, the Special Master, and the**  
18 **public with full disclosure** concerning how funds allocated to the USP Budget were  
19 spent” (emphasis added). Notably, and notwithstanding that the District repeatedly refers  
20 to the examination as an “audit” (see, e.g., Form 5- Draft Comparisons, filed herewith as  
21 part of Exhibit A), the TUSD Examination is not an actual audit, as is plainly stated in the  
22 Examination itself. (See, e.g., TUSD Examination at 3.)

23 <sup>6</sup> The TUSD Examination was very difficult to understand, in large part because it was  
24 based on its acceptance of the District’s arbitrary allotment of expenditures across multiple  
25 USP activity lines that resulted from the “cross walking” that the District at many points  
26 stated makes year to year comparisons difficult. (See *id.* at 4.)

27 <sup>7</sup> Salient among Mendoza Plaintiffs’ requests were an explanation (1) for why the District  
28 allowed \$3.9 million in desegregation funds allocated in the 2014-15 USP Budget to go  
unspent, with the result that, due to state-law based restrictions on “carry over” funds,  
those funds were then lost and why the District had not consulted with the Plaintiffs or  
Special Master to determine ways in which that money could have been reallocated to  
further USP goals, and (2) for why there was such a significant amount of underspending  
on numerous USP activity lines relating to PD. (See Exhibit H.)

<sup>8</sup> Specifically, Mendoza Plaintiffs’ reminded the District of their outstanding February 22  
information requests in March 14 and March 16, 2016 emails, in their March 23 comments  
on the District’s first draft of the 2016-17 budget, during the April 20-21, 2016 Tucson  
meetings among all parties, and in MPs’ Draft #3 Comments. (See *id.*)

1           Significantly, although it failed to respond to TUSD Examination information  
2 requests, the District continues to rely on its often arbitrary and unexplained figures in its  
3 Budget Narrative and in documents that it presented to the Governing Board when it  
4 sought formal approval for the budget. (See Budget Narrative and July 12, 2016 Budget  
5 Presentation to Governing Board, attached as Exhibit J, at 38-39.)  
6

7           ***By Providing Untimely and Incomplete Draft Magnet Improvement Plans Late in***  
8 ***the Budget Process and Approving the Budgets in Those Plans, TUSD Deprived the***  
9 ***Plaintiffs and the Special Master of Any Meaningful Opportunity to Vet Them for***  
10 ***Adherence to USP Requirements and Court Orders, Expenditure Redundancy, and***  
11 ***Improper Supplantation***  
12

13           This Court originally ordered magnet school improvement plans as a means of  
14 addressing deficiencies precluding magnet schools and programs from being “true  
15 magnets.” (January 16, 2016 Magnet Order (“Magnet Order”) (Doc. 1753) at 16-17.)  
16 Notwithstanding the central importance of these plans for the improvement of TUSD’s  
17 magnets, the District did not prepare the plans in time for inclusion of their corresponding  
18 budgets in the first draft of the budget. (See MPs’ Draft 3 Comments at 5.)<sup>9</sup>  
19

20           It was not until May 6, 2016 that the District provided most magnet improvement  
21 plans together with the third draft of its budget, which it supplemented on May 26 with  
22 two inadvertently omitted plans. (See MPs’ Draft #3 Comments at 3.)<sup>10</sup> Thus, the District  
23

24  
25 <sup>9</sup> Although Mendoza Plaintiffs were informed that the second draft of the budget would  
26 reflect the addition of magnet school plan budgets, it did not. (*Id.*) Nor did the District  
27 provide the plans by April 15, 2016 as it indicated it would so that Plaintiffs “will have that  
28 information before we meet” for the April 20-21 meetings. (See TUSD’s April 8, 2016  
email, attached as Exhibit K; MPs’ Draft #3 Comments at 2-3.)

<sup>10</sup> Mendoza Plaintiffs have been informed that the District has not revised its individual  
magnet school improvement plans from those submitted to the parties on May 6 and 26,



1 hampered the Plaintiffs' and Special Master's ability to review and provide comment on  
2 those plans before having its Governing Board approve their budgets (and, inferentially,  
3 the plans themselves) when on June 28 it considered, and on July 12, 2016, it adopted the  
4 2016-17 desegregation budget. Both the Mendoza Plaintiffs and the Special Master  
5 provided comment on the plans, expressing significant programmatic and spending issues  
6 but notwithstanding their efforts to provide comment as promptly as possible under the  
7 circumstances, no revisions were made to the magnet improvement plans before their  
8 budgets were approved on July 12, 2016.

9  
10 The importance of the District's significant failure to develop magnet school  
11 improvement plans before its approval of their accompanying budgets can only be fully  
12 appreciated by understanding how inadequate those improvement plans are.<sup>11</sup>

13  
14 As an initial matter, inconsistent with the Magnet Order, the magnet school  
15 improvement plans all appear to have been based on a template rather than to have been  
16 developed to address the unique circumstances affecting the school's ability to be a "true  
17 magnet." (See Special Master's May 24, 2016 Memo re: Initial thoughts on Magnet Plans,  
18 attached as Exhibit L, at 1; Mendoza Plaintiffs' June 23, 2016 Comments Regarding  
19 TUSD's 2016-17 Magnet School Improvement Plans ("MPs' Magnet Plan Comments"),  
20 attached as Exhibit M, at 2.) Moreover, those plans reflect a significant scaling back of  
21 integration efforts, with many plans' sole reference to integration made in connection with  
22  
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24

25  
26 2016, but that it is considering whether to do so "within the next two weeks" of July 20,  
2016. (TUSD's July 20, 2016 email, attached hereto as Exhibit T.)

27 <sup>11</sup> So as not to burden the Court, Mendoza Plaintiffs do not attach the District's May drafts  
28 of the magnet school improvement plans. However, should the Court desire to review  
those plans, Mendoza Plaintiffs will of course lodge them with the Court.

1 the funding of magnet coordinators; while others reference “integration” in reference to  
2 otherwise vague or tenuous undertakings. (*See* MPs’ Magnet Plan Comments at 3.)

3 Further, with regard to both integration and academic achievement, the 2016-17  
4 improvement plans eliminated a great deal of data and goal information<sup>12</sup>, which was  
5 included in the 2015-16 plans and that is essential to assess magnet school or program  
6 improvement. (*See Id.*) As the Court well knows, magnet school status is an issue that in  
7 2015 received considerable public attention; yet, the 2016-17 improvement plans omit key  
8 information that would help the public (the parties and the Court) assess schools’ efforts  
9 and progress in meeting their goals upon which retention of magnet status depends.  
10

11  
12 Important for purposes of the budget, the magnet plans raise significant  
13 supplantation issues as many schools propose that salaries of librarians and some teachers  
14 be funded with desegregation funds based on the District’s assertion that those teachers  
15 would allow others to meet in Professional Learning Communities. (*Id.* at 5-6.) Other  
16 schools propose having positions wholly unrelated to the school’s magnet theme funded  
17 with 910G funds notwithstanding that those positions would have to be funded even if the  
18 schools were not magnets.<sup>13</sup> (*Id.* at 6.) Together these items mislead the public as to the  
19 amount that is to be spent on magnet schools in their pursuit of “true magnet” status and  
20 distort the overall budget.<sup>14</sup> Further, the pervasiveness of the issues identified above  
21  
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23

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24 <sup>12</sup> Notably, five schools revised their 2016-17 academic achievement letter grade goals as  
25 detailed in the 2015-16 improvement plans to bring them *below* the letter grades that  
already were achieved. (*See id.* at 4.)

26 <sup>13</sup> Further, there are significant capital expenses in the improvement plans that should be  
27 justified in relation to the District’s facilities plan, and not proposed within magnet school  
improvement plans. (*Id.* at 7-8.)

28 <sup>14</sup> Mendoza Plaintiffs’ Magnet Plan Comments raise additional issues that generally reflect  
the District’s failure to premise magnet plans on any assessment of the effectiveness of

1 demonstrates that the District has not reviewed the magnet plans with the attention and  
2 oversight required to guide magnet schools to achieving “true magnet” status.

3 ***Notwithstanding the SM’s and Mendoza Plaintiffs’ Long-Outstanding Concerns,***  
4 ***the District Apparently Failed to Assess its PD Efforts or to Develop a Systematic Plan***  
5 ***for PD Delivery on Which to Premise PD Budget Allocations***  
6

7 In the past school year, the Special Master and Mendoza Plaintiffs have consistently  
8 raised concerns about the adequacy of the District’s PD efforts and whether the District  
9 conducts any assessment on the effectiveness of those efforts. In his Annual Report for the  
10 2014-15 School Year (“SMAR”) (Doc. 1890), the Special Master expressed concern that  
11 “There is apparently no systematic assessment of the relative effectiveness of different  
12 approaches to professional development.”<sup>15 16</sup> (SMAR at 18.)

14 In response to the SMAR recommendation that the District “[a]ssess the extent to  
15 which various approaches to professional development meet the District’s own statement  
16 of principles for the design of effective professional development” (SMAR at 20), the

18  
19 strategies employed in 2015-16 and central administration’s lack of attention to magnet  
20 school plans and performance, including the failure of the dual language magnet schools’  
plans to reflect the recommendations made by the District’s Dual Language consultant.  
(*See id.* at 9-10.)

21 <sup>15</sup> Indeed, the Special Master had repeatedly expressed this very concern to the District  
22 through drafts of the SMAR on November 16, 18, and 20, 2015, and January 7, 2016. (*See*  
Doc. 1912-1 at 13, 36, 59, 99; Doc 1912 at 3, n.3.)

23 <sup>16</sup> Mendoza Plaintiffs do not here detail each specific type of professional development  
24 about which they or the Special Master have raised concerns. However, it should be noted  
25 that the District has in 2016 undertaken to re-write its student code of conduct so as to  
26 address significant discipline issues it has been facing across many of its schools. Given  
27 the current development of the new code, the discipline issues TUSD has faced, and the  
28 inconsistent understanding and application of PBIS across TUSD schools (SMAR at 28),  
discipline is an area in which adequate professional development will be absolutely  
crucial. As discussed below, it therefore is troubling that the District has not conducted  
any assessment of professional development, planned out the delivery of such training, and  
that these issues apparently will not be addressed until after the budget and school year  
commence.

1 District asserted that “[o]n an ongoing basis, the District assesses the relative effectiveness  
2 of different approaches to professional development.” (See TUSD April 26, 2016 Memo  
3 re: Response to SM’s Annual Report Recommendations to the District (“TUSD’s SMAR  
4 Response”), attached hereto as Exhibit N.)

5  
6 On April 28, 2016, Mendoza Plaintiffs expressly requested from the District such  
7 assessments in relation to 2016-17 PD plans. (See Mendoza Plaintiffs’ Response to  
8 TUSD’s SMAR Response, attached as Exhibit O, at 4.) The Special Master also commented  
9 on TUSD’s SMAR Response, observing that “Despite my continual questions about the  
10 efficacy of professional development as it is delivered in TUSD, *no District staff member*  
11 *has ever provided me with evidence that any approach to PD used in TUSD is effective... I*  
12 *request that these be shared with the plaintiffs and me.”* (See SM’s April 29, 2016 Memo  
13 re: Comments on the District’s Response to My Annual Report Recommendations,  
14 attached as Exhibit P (emphasis added).) The District responded to neither the Special  
15 Master’s nor the Mendoza Plaintiffs’ request.

16  
17  
18 As discussed above, the Plaintiffs and Special Master raised concerns about their  
19 ability to understand the District’s PD approach for the 2016-17 school year at the April  
20 Tucson meeting.<sup>17</sup> However, the document that the District promised at the meeting to  
21 help clarify its PD approach for 2016-17 instead merely recited PD delivered in the 2015-  
22 16 school year (and was devoid of any assessment). (See Exhibit F.) The Special Master  
23 twice (on May 25 and June 4, 2016) repeated his request for the evaluations the District  
24  
25

26 <sup>17</sup> Mendoza Plaintiffs additionally raised their significant concerns regarding their inability  
27 to understand the District’s PD budget and approach in MPs’ Draft #1 Comments and  
28 MPs’ Draft #3 Comments (as it relates to USP training, professional learning  
communities, culturally relevant courses and student engagement, multicultural  
curriculum, and the use of technology).

1 had asserted it conducted on PD efforts. (*See Id.*) The District did not respond to those  
2 requests.

3 The District now asserts that it will describe its PD approach by August 15, 2016  
4 (TUSD's June 29, 2016 "Final Budget Responses"<sup>18</sup> ("TUSD's Responses") attached  
5 hereto as Exhibit Q), which is a date that is over six weeks into the budget year, over a  
6 month after TUSD Governing Board approval of the budget, after the start of the school  
7 year, and after delivery of whatever summer PD now is occurring. Plainly, despite its  
8 assertions to the contrary, that the District failed to provide any assessment of its PD  
9 efforts, even after repeated requests and expressed concerns over many months,  
10 demonstrates that the District did not conduct such assessments and that it therefore failed  
11 to premise its PD budget allocations on them.

12  
13  
14 ***Due to the District's Failure to Timely Provide Information and Respond to***  
15 ***Expressed Concerns, Plaintiffs and the Special Master Face the Prospect of Receiving***  
16 ***Essential Explanations for Budget Entries and TUSD Efforts to Address Admitted***  
17 ***Inadequacies After this Court Rules on the 2016-17 Budget Even Though the Budget***  
18 ***Process Plainly Contemplates that These Matters Are to be Addressed as Part of the***  
19 ***Budget Development Process***  
20  
21

22 Under USP Section X, B, 1, the Special Master provided his June 17, 2016 Report  
23 to the Parties with Respect to the Adequacy of the District's USP Budget for 2016-17  
24

25 That the District has named this document "Final Budget Responses" is misleading as that  
26 document represents the only budget responses the District provided that address the  
27 concerns contained in Mendoza Plaintiffs' budget comments. Mendoza Plaintiffs note that  
28 on June 20, 2016, the SM provided the Plaintiffs with a District document containing  
responses to MPs' Draft #3 Comments which the District provided to only him one week  
earlier on June 13, 2016. Mendoza Plaintiffs do not understand why the District did not  
provide those responses directly to them.

1 (“SM’s Budget Report”) (attached hereto as Exhibit R) in which he indicates he will  
2 recommend to this Court that the District provide additional budget information because  
3 the “initial timelines were not met and the level of information provided by the District has  
4 left the plaintiffs and the SM unable to make reasoned judgments about the adequacy of  
5 expenditures.” Specifically, the Special Master proposes that the District detail its planned  
6 PD by August 15, 2016 and explain how it will invest “the more than \$7 million that it  
7 wishes to allocate to student behavior, engagement and discipline” by September 1, 2016.  
8 Plainly, such explanations to allow the “plaintiffs and the Special Master [] to make  
9 reasoned judgments about the adequacy of expenditures” should have been provided in the  
10 development of the budget approved by the District on July 12.  
11  
12

13 Further, rather than address the adequacy of budget allocations through the budget  
14 process, the District has proposed to address some issues raised by the Special Master and  
15 Plaintiffs through reallocations of unexpended desegregation funds during the school year  
16 by adding such issues to its “reallocation priority list.” (*See* TUSD’s Responses.)  
17 Specifically, the District proposes to address allocation issues relating to the Dual  
18 Language Access Plan<sup>19</sup>, FTE allocations related to each of the ALE Plan and Culturally  
19  
20

21  
22 <sup>19</sup> As Mendoza Plaintiffs expressed in their objections to the District’s USP Budget for the  
23 2015-16 school year (*see* Doc. 1829 at 3-5), the District is not and has not adequately been  
24 addressing its obligation to “build and expand its Dual Language programs in order to  
25 provide more students throughout the District with opportunities to enroll in these  
26 programs” (USP Section V, C), as the number of schools offering Dual Language  
27 programs and enrollment in such programs have significantly and consistently declined  
28 since the 2012 school year. (*See* Doc. 1829-2 (TUSD document detailing enrollment in  
Dual Language programs by year and school).) While Mendoza Plaintiffs understand that  
TUSD will expand the program to Bloom Elementary in the 2016-17 school year, and that  
it will provide a “Dual Language Access Plan” for program expansion for Plaintiff and  
Special Master review (*see* TUSD Responses at 3), that the District proposes to address  
“associated costs” of such a significant, long-outstanding and unmet obligation through a  
“reallocation priority list” highlights the inappropriateness and problematic nature of that  
proposal.

1 Relevant Courses, Outreach Recruitment, and Retention Plan, and Utterback auditorium  
2 repairs by placing each of those items on the “Reallocation Priority List.” (*See id.* at 2-4,  
3 7, and 9.)

4 The Special Master observed that the District’s proposed “Reallocation Priority  
5 List” raises issues regarding material alteration to the reallocation process the parties  
6 agreed to and would allow the District to avoid committing to resolving issues identified  
7 by the Plaintiffs and Special Master.<sup>20</sup> (SM’s Budget Report at 9.) Nor, of course, does the  
8 District state how it ultimately will determine which “priority” item is to be funded among  
9 so many “priority” items when and if allocated funds are not expended.  
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12 In its Order of June 7, 2013, this Court described the role of the Special Master and  
13 Plaintiffs in the development of the USP budget: “The Special Master and the Plaintiffs’  
14 role in this case regarding the desegregation budget is more than ‘spectators shouting from  
15 the sidelines,’ they are charged with offering advice regarding program efficacy relative to  
16 the USP.” (June 7, 2013 Order (Doc. 1477) at 3.) As discussed above, due to the  
17 District’s failure to conduct assessments as to the efficacy of its student support programs  
18 and desegregation efforts, and its failure to timely provide the Plaintiffs and Special Master  
19 with the information required for them to conduct an informed review of the budget, the  
20 District has stripped the Plaintiffs and Special Master of their roles in the budget process as  
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24 <sup>20</sup> The Special Master specifically stated the following: “First, it alters the budget  
25 reallocation process agreed to by the parties. Second, when the need arises for reallocation,  
26 these funds may not yet be available. Third, it creates an incentive to hold off on low  
27 priority expenditures to ensure that the relatively high priority issues that the District has  
28 identified it would address with this strategy could be dealt with. Fourth, it allows the  
District to avoid making a commitment to dealing with issues the Special Master and/or  
the plaintiffs consider important. In short, the strategy that the District proposes is highly  
problematic and should not be common practice moving forward.” (SM’s Budget Report  
at 9.) Mendoza Plaintiffs fully agree with the Special Master in this regard.

1 delineated by this Court. Indeed, throughout this budget process, the District has narrowed  
2 the Plaintiffs' and Special Master's role to spectators who shout from the sidelines, "What  
3 is happening in the budget?"

4 For the reasons discussed above, Mendoza Plaintiffs respectfully request that this  
5 Court order that the Special Master report to it monthly on the progress of the budget  
6 process commencing on March 15 of all subsequent budget years and require the District  
7 to respond in writing shared with the Special Master and all parties to all Plaintiff and  
8 Special Master comments to draft budgets within 30 days of receipt thereof so that they  
9 may play their role in the budget process delineated by the USP and this Court.  
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12 **Additional, Specific Objections to the Budget**

13 *Magnet Schools*

14 Mendoza Plaintiffs object to the District's reduction of over half the funds allocated  
15 in 2015-16 to its magnet department in its 2016-17 budget. (*See* Exhibit A, Form 3 at 23  
16 (over a 55% reduction to \$220, 812).)

18 TUSD's plan for magnet schools is the "USP's key component for integration."  
19 (Magnet Order at 12.) As this Court is aware, the Mendoza Plaintiffs have had ongoing  
20 concerns that "existing magnet schools have been starved of leadership and adequate  
21 resources for over 30 years, making it difficult to assess which magnet plans might  
22 succeed with proper support." (*Id.* at 15.) Indeed, in the last few months, the Mendoza  
23 Plaintiffs have repeatedly raised with the District their concern "that no one in TUSD's  
24 central administration views him or herself as responsible for magnet school performance  
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1 and therefore has ‘ownership’ of the information relating to those schools.”<sup>21</sup> (MPs’  
 2 Magnet Plan Comments at 2.) Moreover, review of the District’s magnet plans, (which  
 3 raise serious concerns regarding adequacy of proposed integration efforts and a general  
 4 lack of administration oversight given the amount and nature of issues they raise), and the  
 5 District’s proposed 55% budget cut, have heightened Mendoza Plaintiffs’ concern.<sup>22</sup>  
 6

7 It makes little sense that the District would cut by over half the budget of a  
 8 department that apparently has been unable to provide adequate oversight in the  
 9 development of magnet plans, fill teacher vacancies, or, apparently, infuse the magnet  
 10 school effort with the energy needed to attain success. Indeed, when coupled with the lack  
 11 of integrative initiatives contained in magnet improvement plans, the District’s reduction  
 12 suggests it is not taking seriously its “key component for integration.” Mendoza Plaintiffs  
 13 therefore object to this reduction and request that this Court order the District to, at a  
 14 minimum, allocate \$493,486 to its central magnet department, which is the adjusted budget  
 15 amount allocated to the department in 2015-16. (See Exhibit A, Form 3 at 23.)  
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18 *Advanced Learning Experiences (“ALEs”): Advanced Placement (“AP”)*

19 *Classes and Examinations*  
 20

21 \_\_\_\_\_  
 22 <sup>21</sup> Significantly, the magnet school study the District commissioned in 2011 discussed the  
 23 critical importance of a central magnet school office or department to serve, inter alia, as  
 24 an advocate for magnet schools as well as to coordinate a district program for marketing  
 25 and recruitment for magnet schools, collect data for periodic magnet school program  
 26 evaluations, monitor the quality of the magnet program in each school, provide magnet  
 27 related professional development, etc. (TUSD Comprehensive Magnet Program Review,  
 28 Education Consulting Services, December 2011, at 15.)

<sup>22</sup> Further compounding Mendoza Plaintiffs’ concern is the fact that significant issues  
 regarding teacher vacancies at magnet schools persisted throughout the Spring 2016  
 semester (notwithstanding that the magnet stipulation (Doc. 1865) in part delayed the  
 process of removal of magnet status because of the District’s failure to fill such vacancies  
 (see November 19, 2015 Order adopting the magnet stipulation (Doc. 1870) at 3)) (see  
 MPs’ Magnet Plan Comments at 2.)

1 USP Section V, A, c requires expansion of Latino and African American student  
2 enrollment in ALEs, including AP classes.<sup>23</sup> However, as this Court is aware, Mendoza  
3 Plaintiffs believe the District has failed to address the disparity in the number of Latino  
4 and African American students taking and passing AP examinations. (See January 22,  
5 2016 Order (Doc. 1895) at 4.; Doc. 1795-2 (District document demonstrating disparity).)  
6 Further, Mendoza Plaintiffs now understand that the net increase in students taking AP  
7 exams at TUSD is primarily the result of significant increased test-taking at UHS, while  
8 eight of the nine other TUSD high schools have experienced a decrease in students taking  
9 AP exams. (See Mendoza Plaintiffs' January 26, 2016 email, attached as Exhibit S.)  
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12 Rather than address this continuing and escalating concern, the District appears to  
13 have reduced the number of AP classes it offered in 2015-16, a reduction which it  
14 apparently intends to carry into the 2016-17 school year. (See TUSD Responses at 2.)  
15 Plainly, such reduction is not occurring at UHS, but reflects a failure to adequately address  
16 the District's obligation to increase African American and Latino enrollment in AP classes  
17 in its other high schools, , and to increase the number of such students both taking and  
18 passing AP Exams. Mendoza Plaintiffs therefore respectfully request that this Court order  
19 the District to increase the ALE portion of the 2016-17 budget to reflect that it will  
20 introduce more AP classes to address the above-identified disparities.  
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### 23 CONCLUSION

24 For the reasons discussed above, Mendoza Plaintiffs request that this Court fully  
25 grant their requested relief.  
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28 <sup>23</sup> The District has expressed some commitment to such increased enrollment (see ALE  
Supplement (Doc. 1788) at 11).

Dated: July 22, 2016

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 22, 2016, I electronically submitted the foregoing Mendoza Plaintiffs' Objection to the Tucson Unified School District's USP Budget for the 2016-17 School Year to the Office of the Clerk of the United States District Court for the District of Arizona for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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