

MENDOZA PLAINTIFFS' COMMENTS ON THE TRANSITION PLANS FOR SCHOOLS LOSING
MAGNET STATUS

January 31, 2017

Preliminary Statement

Achievement

In its Order dated December 27, 2016 (Doc. 1983) concerning withdrawal of magnet status, the Court observed that the Special Master's recommendation contained "no discussion whatsoever of the academic achievements of any of these schools" and "no assertion that the academic measures for these schools have improved." (Doc. 1983 at 3, n.2 and at 3:6-7.) The transition plans that have been developed and filed with the Court now document how poor the academic achievement has been in the six subject schools. Mendoza Plaintiffs leave for another day a discussion of what such poor academic performance reveals about the absence of meaningful District support for these magnet schools, including with respect to efforts to implement their prior improvement plans. Mendoza Plaintiffs support the focus on increasing academic achievement reflected in the transition plans but have a number of observations about the District's proposals in this regard that they detail below.

Integration

Mendoza Plaintiffs also are extremely concerned that the individual plans and the District's overall introductory statement of its approach to the plans is absolutely silent on the subject of integration (and, with one exception (Cholla), discussion of incentive transportation to promote integration). Yet, in its Order, the Court could not have been more direct:

"[T]o be clear, the Court reiterates that the withdrawal of magnet status from these schools shall not have a negative impact on their students. The Mendoza Plaintiffs are 100 percent correct: '[T]he failure of the subject schools to achieve integration criteria set forth in the USP should not relieve them (or the District) of on-going efforts to increase integration at those schools particularly given that every one of them is reported to be racially concentrated in the District's most recent Annual Report....The District should take steps to encourage open enrollment at these schools by students whose presence would reduce the racial

concentration at these schools and should continue to advertise the possibility of qualifying for free transportation under the USP.” (Doc. 1983 at 4:19-5:1.)

Efforts to encourage integration at each of these schools (and the District’s overall support for those efforts) should be detailed in the plans and the introductory overview. (Given the absence of any reference to integration in the material submitted by the District, there is nothing further Mendoza Plaintiffs can say in commenting on that material. Their failure to further address this essential subject in the balance of their comments should not be understood to diminish the importance of this issue and their concerns with respect to it in any way.)

Programs

Mendoza Plaintiffs remain strong supporters of dual language programs as meaningful advanced learning experiences and vehicles to advance integration. However, they have serious concerns about the proposals in the Ochoa and Pueblo transition plans. As detailed below, the Ochoa proposal appears to “come out of left field”, not having been an element of the Two Way Dual Language (“TWDL”) Plan on which the District has been working for some time, and to present multiple significant issues including major challenges to an already challenged school that gave up its dual language program as recently as 2015 because it could not sustain it -- in a school system that, having stated its commitment to TWDL, could not succeed in hiring the projected number of teachers to launch the program at Bloom in the manner and with the timing that had been anticipated for this year. Mendoza Plaintiffs also have significant concerns about the very ambitious plan to have subject matter courses (beyond Spanish literature) taught in Spanish at Pueblo given both the need to recruit teachers with the essential skills and experience and the apparent dearth of students currently capable of participating in such courses. Mendoza Plaintiffs also have concerns about the absence of any discussion in the transition plans of how the proposed programs might be marketed and supported to enhance their integrative effect.

As discussed below, Mendoza Plaintiffs continue to support the IB Programme (including its expansion to 9th and 10th grades) at Cholla. Their major concerns center on ensuring adequate support for the program and marketing and transportation initiatives to encourage and enable a diverse student body to take advantage of that program.

Like Dr. Hawley, as expressed in his comments of today’s date, Mendoza Plaintiffs believe that as laudable as arts programs may be and as important as the arts may be to a student’s overall education, given the challenges Utterback currently is facing, its transition plan should not include an effort to sustain a program that, unfortunately, does not appear to have furthered the academic achievement of its students. They share Dr. Hawley’s concern that efforts to continue the program “may even divert resources that could yield greater student development.” (Special Master Memo of January 31, 2017 Re: Comments on Transition Plans for Former Magnets (“SM Transition Plan Memo”) at Para. 13).

Family Engagement

It appears that the District included sections on family and community engagement in these plans in response to the Mendoza Plaintiffs' concern that such components be included and the Court's express admonition that this topic be addressed in the transition plans. (See, Doc. 1983 at 4: 8-18.) However, with the exception of the Cholla plan (that also warrants some further revision, as discussed below), the schools all appear to be following the same rote approach that is not likely to succeed in engaging the parent community and empowering parents to effectively advocate for their students. Further, as noted by Dr. Hawley: "[T]he strategies listed are not consistent with the development of true partnerships in which educators learn from parents about their children and use that knowledge to improve instruction and motivate their students." (SM Transition Plan Memo at Para. 12.)

Timing

Virtually all of the activity set forth in the proposed transition plans is to commence in July or August 2017 or immediately after the commencement of the school year. Mendoza Plaintiffs believe that is too late in terms of necessary hiring, training, and preparation and urge the District to begin the transition immediately.

Achievement and Professional Development

Mendoza Plaintiffs discuss these topics together because professional development is so entwined with the efforts to increase student achievement.

While mindful of Dr. Hawley's comment concerning the goals set in the plans (SM Transition Plan Memo, Para. 1), Mendoza Plaintiffs are concerned that the goals for increasing math and ELA scores are not sufficiently ambitious¹ and reflect the statement made in the

¹ Schools talk about raising scores by 5, 10, or 15% (often on a very low base of past achievement) but in some instances set no specific goals. Thus, for example, the Robison plan says that there will be an otherwise unspecified "decrease in the number of students needing Tier II instruction" and (in one of the rare references to the achievement gap in these plans) that "the achievement gap between racial groups will decrease" (but provides no indication of by how much). (Robison Plan at page 51 of 158 of Doc. 1984-1.) Actual expected outcomes rather than general aspirations should be stated throughout the plans. Further, Dr. Hawley's comments on ambitious goals notwithstanding, Mendoza Plaintiffs cannot agree that goals like that of Pueblo High to raise Algebra scores for "proficiency" from 8.1% to 13.1% and Algebra II scores for "proficiency" from 4.4% to 9.9% (meaning that 90% of the students taking Algebra II end the year NOT proficient) are "ambitious." (Pueblo Plan at 141 of 158, Doc. 1984-1.) Nor do they understand the basis for setting as a goal that enrollment at Pueblo in AVID, dual enrollment, and AP classes (apparently taken together) will increase by only 5% each year. (*Id.* at 142.) (Mendoza Plaintiffs presume the reference to "dual enrollment" was intended to be a reference to Dual Credit courses.) Similarly, they cannot agree that a goal of raising ELA scores of third graders at Safford in the proficient range from 10.4% to 20.4% (Safford Plan at 64 of

Robison plan: “[O]ur students are facing socio-economic challenges **that limit their** academic and social **goals.**” (Robison Transition Plan at page 43 of 158 of Doc. 1984-1; emphasis added.) Mendoza Plaintiffs believe this statement and the transition plans that appear to reflect the thinking in that statement fail to recognize the importance of setting high expectations. It may be that some of the difference between Dr. Hawley’s comment on goals and the Mendoza Plaintiffs’ view is accounted for by the fact that, as also noted by Dr. Hawley, there is little variation between schools in the goals that have been set. (*Id.*) In addition, with only rare exceptions, the expressed goals fail to address the need to close the achievement gap between the District’s African American and Latino students and its white students. Mendoza Plaintiffs understand that intra school comparative data cannot be used for this purpose since the six schools have so few white students. They therefore believe that in setting goals and measuring success the plans should focus on achievement not only within each school but also as compared to District-wide outcomes, with specific focus on assessing the narrowing of the achievement gap.²

They also are very concerned about language in the plans that states that students will be “required” to increase their academic performance. (*See, e.g.,* Ochoa Plan at page 2 of 158 and Cholla Plan at page 6 of 158 of Doc. 1984-1.) This lawsuit has never imposed performance requirements **on** the members of the Plaintiff Classes; rather, it has placed, and continues to place, requirements **on the Defendant school district** to engage in actions that will lead to improved academic performance by the students who are members of the Plaintiff Classes. Mendoza Plaintiffs do not consider the referenced language to be merely inartful or immaterial to the action portions of the transition plans but, rather, important windows into the thinking that undergirds the plans and that must be revised if those plans are to be successful in achieving meaningful improvements in student achievement and significant narrowing of the achievement gap between the District’s white students and those who are members of the Plaintiff Classes.

Like the Special Master, the Mendoza Plaintiffs disagree with plans that “seek to remediate students who have not done well by repeating the class [given the] evidence that this is not a productive strategy both instructionally and psychologically.” (SM Transition Plan Memo at Para. 11.) Mendoza Plaintiffs have consistently questioned approaches based on a deficit model and/or that stigmatize students. In that regard, they are particularly concerned about portions of the Safford Plan relating to Tier II interventions for students in the lower 25% of achievement that seems to suggest that they will be pulled out of their regular classrooms or

158, Doc. 1984-1) (meaning that 4/5ths of the third grade class is NOT proficient) should be considered “ambitious.”

² They also are confused by goals like those set forth in the Safford plan that refer to raising the ELA and math scores in the proficient range on the AzMerit for students at the school by 10% and then separately state that the ELA and math scores in the proficient range will increase by 10% for African American and Native American students. (Safford Plan at 64 of 158, Doc. 1984-1.) That does not seem to suggest a goal of closing of the achievement gap. It may be that further clarification or attention to the statement of such goals is required.

assigned to separate classes. (Safford Plan at 68 of 158, Doc. 1984-1.) Again, it may be that the intention is not clearly stated and Mendoza Plaintiffs are mistaken. However, to the extent that such pull out or separation is contemplated in this or other plans, Mendoza Plaintiffs object to such an approach as unnecessarily stigmatizing and ineffective.

Activities to increase academic achievement include such straightforward undertakings as the preparation of daily lesson plans and training on Tier I instructional strategies, focusing on modeling, scaffolding instruction, questioning strategies, etc. (See, e.g., Ochoa Plan at 28-29 of 158 and Utterback Plan at 101-02 of 158 of Doc. 1984-1.) For much of this training, consultants are to be employed. (*Id.*) While Mendoza Plaintiffs do not challenge the decision to engage such consultants based on the District's presumed determination that it lacks the capacity to effectively accomplish adequate training using its own staff, they question how such critically important training has been accomplished in the past in the absence of such consultants and ask how the training process is being internalized going forward so that cost savings and efficiencies can be attained in the future. (And they are concerned to the extent it has become necessary for the District to argue that 910(G) funds now must be expended to support the sort of training for schools in transition that should long since have occurred.)

Programs

Dual Language and Spanish Language Content Programs

While Mendoza Plaintiffs have long supported and advocated for the expansion of Dual Language programs as a meaningful ALE and tool to advance integration, they have significant concerns about the viability of successful implementation of the proposed Dual Language and Spanish language content programs at Ochoa and Pueblo.

Mendoza Plaintiffs were surprised to see the District propose introduction of a new Dual Language program for the 2017-18 school year at Ochoa Elementary School given that they do not ever remember the District suggesting that the program was viable at this Elementary School. Indeed, there is no mention or contemplation of the program at Ochoa in the TUSD Two Way Dual Language (TWDL) Access Plan ("TWDL Access Plan") or Two-Way Dual Language Program Review ("TWDL Review") developed by its Dual Language consultant, Ms. Rosa G. Molina. (See November 10, 2016 TWDL Access Plan; May 6, 2016 TWDL Review.) Given the many months from the time the District's consultant developed her TWDL Review recommendations and development of the final TWDL Access Plan, and the seemingly abrupt proposal to introduce the program at Ochoa, Mendoza Plaintiffs are unclear concerning the extent to which the District vetted the viability of its proposal by assessing whether it is consistent with the TWDL Review recommendations.

Indeed, given the TWDL Review recommendations and steps outlined for program development and implementation in the TWDL Access Plan (and the setbacks experienced in getting the program off the ground at Bloom Elementary School), as discussed further below, it is clear that introduction of the Dual Language program would present multiple significant challenges at this school that has already faced challenges implementing a Dual Language program. The parties will recall that the District implemented a Dual Language program at

Ochoa, which enrolled a total of 44 students in the 2014 school year but was closed in 2015 as a result of “Ochoa not being able to sustain the program with teachers.” (See TUSD Dual Language Enrollment: 2013-2015, attached to M. Taylor May 15, 2015 email.) Mendoza Plaintiffs are concerned that Ochoa may again face issues sustaining the program with properly certified instructors, particularly given that just last year the District apparently had trouble hiring a second Dual Language teacher at Bloom Elementary in time to send the Bloom Dual Language teachers and Bloom principal to the National Two Way Bilingual Immersion Conference as had been contemplated in the TWDL Access Plan. (See S. Brown June 29, 2016 email; TWDL Access Plan at 3.) Further, Mendoza Plaintiffs concern is compounded by the fact that it is not clear to them that the District has recruited the bilingual education endorsed teachers to sustain its current Dual Language programs. Thus, Mendoza Plaintiffs fear that the proposed Dual Language program at Ochoa may meet the same fate as the program the District attempted to implement at Ochoa in 2014.

Similar to Ochoa’s situation, Pueblo also was not contemplated in the TWDL Access Plan or TWDL Review as a school at which the Dual Language program could be introduced. Mendoza Plaintiffs are concerned that the District will also face issues recruiting properly endorsed teachers for its ambitious proposed introduction of a structured program for content classes (including math, science, and social studies) in Spanish at Pueblo in 2017-18. Such a proposal would require teachers that are not only proficient bi-literate teachers, they would have to adequately know content vocabulary and be able to explain content processes in Spanish. While Mendoza Plaintiffs support the expansion of Dual Language programs at TUSD schools, they remain concerned that the District will face significant teacher recruitment issues as a result of its very ambitious timeline to introduce Dual Language programs at Ochoa and Pueblo in 2017-18.

Further, it is completely unclear to Mendoza Plaintiffs how the proposed Ochoa and Pueblo Dual Language expansions fit in with the District’s TWDL Access Plan and TWDL Review, or whether the steps for Dual Language program expansion contemplated in those documents were taken with respect to these transition plan proposals. First, with respect to Ochoa, it is not at all clear that the Dual Language proposal resulted from the planned community interest survey of parents of 4 year old students that the District says is to occur “before establishing a new program at any of the proposed sites.” (TWDL Access Plan at 3 and 10.) Thus, it is not clear that the District has assessed whether it has the number of students capable and interested in Dual Language courses at Ochoa to develop and sustain the proposed programs. This is of particular concern because the District indicates that at Ochoa it will seek to specifically recruit classrooms with “1/3 native speakers, 1/3 bilingual speaking students and 1/3 native English speakers,” yet no demographic data on the current enrollment of such students is provided. Nor have Mendoza Plaintiffs seen anything in Pueblo’s transition plan to suggest that it has the students capable and interested in Spanish language courses for what appears to be a minimum of three proposed content classes (math, science and social studies) in 2017-18.

Second, Mendoza Plaintiffs are concerned that they see nothing in the transition plans regarding how the District intends to market its planned Ochoa and Pueblo Dual Language

expansions. Indeed, the TWDL Access Plan contemplates the development of “marketing materials for each new site by January 2017,” which presumably has not occurred for the proposed Ochoa and Pueblo programs which have only recently been proposed. Thus, given the challenges these schools would face in teacher and student recruitment (among other areas) associated with starting new Dual Language programs, these schools are already behind with respect to the TWDL Access plan timeline for program expansion and are therefore at a disadvantage with respect to other Dual Language programs with which they may compete.

Compounding the issue of the lack of any marketing information is the fact that, notwithstanding the Court’s reminder that withdrawal of magnet status does not relieve these schools from introducing efforts to integrate their schools, no mention is made of how the District will market the Dual Language expansions in an effort to increase integration – in fact, no mention of integration is made at all in these transition plans. Indeed, the District appears not to have explored the potential of these programs to integrate Ochoa and Pueblo. (See January 20, 2017 2017-2018 USP Budget Narrative at 31 (the Ochoa “expansion[is] intended to improve academic achievement”).)

Third, there are a number of actions contemplated in the TWDL Access Plan for existing Dual Language programs for which no information is provided in the Ochoa and Pueblo transition plans that highlight what appears to be an inability to develop and implement successful Dual Language programs at Pueblo and Ochoa by the beginning of the 2017-18 school year. For example, there is no mention in Pueblo’s or Ochoa’s transition plan of the programmatic pathways that “clearly outlines the program from elementary to high school” which the District said it would develop for all Dual Language schools by July 2016. (TWDL Access Plan at 2.) Nor is it clear that Pueblo and Ochoa are in a position to be able to develop their TWDL school handbook by March 2017 as contemplated in the TWDL Access Plan (at 5). Further, the Dual Language teachers (if any have already been recruited) and principals³ of Ochoa and Pueblo presumably have not and will not be able to participate in the “Mandatory Training” that is to occur in December, February, and March and cover “Dual Language instructional strategies, instructional resources, and Guiding Principles.” (*Id.* at 9.)

As described above and consistent with the TWDL Access Plan and TWDL Review, there are many challenges and issues in introducing and expanding successful Dual Language programs at TUSD schools. While Mendoza Plaintiffs are encouraged to see the District consider Dual Language expansions beyond those detailed in the TWDL Access Plan, they are concerned that the District has not thought out the viability of introducing those programs by

³ This issue is further compounded for Ochoa because at present it has an interim principal. Initiation of a program like the TWDL program requires significant principal “buy in” and commitment. Yet, it is unclear whether the principal now at Ochoa will even be there next year, what the views will be of a full time principal also charged with making significant improvements in the academic achievement of all students at the school, or, in the circumstances, whether a principal will be able to attend the National Two Way Bilingual Immersion Conference, as was expressly planned before the program was introduced at Bloom (and which is to occur this year).

for the 2017-18 school year and fear an inadequate roll-out of those programs in the coming school year. Indeed, the TWDL Review and TWDL Access Plan expressly acknowledged that significant time is required to adequately develop and implement new Dual Language programs as it had contemplated that potential new programs at Dietz and Marshal –Pueblo and Ochoa being noticeably absent as potential schools for Dual Language expansion- would have to be “decide[d] on [] by November 2016 to align to the district’s enrollment procedures and begin the opening of program procedures” for introduction in the 2017-18 school year. (*Id.* at 2.) The proposed Ochoa and Pueblo Dual Language and Spanish language content programs would thus have months of catching up to do at a time when those schools are facing transitions to non-magnet schools and are implementing other transition plan programs and efforts.

While Mendoza Plaintiffs welcome any additional information the District may have regarding the concerns they have expressed here, Mendoza Plaintiffs currently cannot support the proposed Dual Language and Spanish language content expansions at Ochoa and Pueblo for the 2017-18 school year. They urge the District to not rush through the proposed program expansion, but to instead thoroughly assess the viability of introducing and maintaining Dual Language and Spanish language content programs at these schools (including as a vehicle for integration), and if it determines that it can successfully introduce the programs and what will be required for such an expansion, that it propose Dual Language and Spanish language content programs at Ochoa and Pueblo for the 2018-19 school year.

Cholla IB

As stated above and elsewhere, Mendoza Plaintiffs support the IB program at Cholla and its continuation – indeed its expansion –as Cholla transitions from magnet status. In that regard they have the following concerns.

The 2015-16 Annual Report stated (at pages V-155) that Cholla was interested in expanding its 9th and 10th grade offerings to implement the IB Middle Years Programme for 9th and 10th grade students. Mendoza Plaintiffs did not see confirmation that this has happened or is to occur in the 2017-18 school year and therefore request confirmation in that regard. The Annual Report also stated that Cholla proposed to apply for IB Career-related Programme (CP) for SY 2017-18 as part of its goal of becoming a full IB World School (*id.* at V-156), and repeats that aspiration in its transition plan (at page 116 of 158, Doc. 1984-1). However, the transition plan is not clear that that will occur. To the extent there may be any ambiguity or lack of clarity in this regard in the plan, Mendoza Plaintiffs recommend that it be addressed and that Cholla’s participation in the CP be confirmed.

The Cholla plan references continued transportation so that students throughout the District can participate in the IB program and the revision of marketing materials. (*Id.* at 136.) With respect to both these undertakings, Mendoza Plaintiffs recommend that particular effort be made to use the marketing outreach and the availability of transportation to continue to pursue increased integration at the school

Utterback Fine Arts

As noted above, like Dr. Hawley, Mendoza Plaintiffs believe that as laudable as arts programs may be and as important as the arts may be to a student's overall education, given the challenges Utterback currently is facing and its apparent failure to have integrated its arts program into its overall learning/academic program, its transition plan should not include an effort to sustain a program that, unfortunately, does not appear to have furthered the academic achievement of its students. They share Dr. Hawley's concern that efforts to continue the program "may even divert resources that could yield greater student development." (Special Master Memo of January 31, 2017 Re: Comments on Transition Plans for Former Magnets ("SM Transition Plan Memo") at Para. 13).

Family Engagement

As noted above, the Mendoza Plaintiffs share the view expressed by Dr. Hawley that the family engagement strategies set forth in the plans "are not consistent with the development of true partnerships in which educators learn from parents about their children and use that knowledge to improve instruction and motivate their students." (SM Transition Plan Memo at Para. 12.) To the contrary, the plans (which appear to be based on a common template) focus far more on introducing families to community groups and services. While such endeavors may be laudable, they do not provide information to parents about what is occurring in their students' classrooms or provide them with the information and resources to advocate for their students. Of the plans, that for Cholla (which has a number of additional elements beyond those that appear to be from the common template) comes closest to including the essential elements of a family engagement plan. Mendoza Plaintiffs therefore suggest that the District start with the Cholla plan to create meaningful family engagement plans for all six transition schools.

Timing

With the exception of the Safford plan, all the school plans provide for transition plan activities to commence in July and August of 2017 at the earliest. (Most notable in this regard is the Utterback plan that has little particularization of when activity will occur and instead states that virtually everything will occur at some otherwise unspecified time in the "2017-18 school year"). Mendoza Plaintiffs believe that transition must start immediately if it is to be successful and again note in that regard that the Safford plan, alone, seems to recognize this with, for example, the statement that it will begin addressing hiring needs as early as January 2017, create a new bell schedule in February 2017, etc. (*See, e.g., Safford Plan at page 66 of 158, Doc. 1984-1.*)

Consistent with their concern that family engagement and stakeholder communication are essential to the success of the transition plans, Mendoza Plaintiffs are particularly concerned that the plans generally do not provide for communication about the plans until May 2017 and do not provide for the hiring of an outreach liaison (even at Safford) until August 2017

“to plan, implement, and oversee all family and community engagement activities.” (*See, e.g.*, Cholla Plan at Page 36 of 158, Doc. 1984-1.) Mendoza Plaintiffs believe that such planning (and implementation) should occur well before the start of school. (And to the extent starting the process sooner raises budget issues that they should be addressed immediately by the District, including in the on-going budget re-allocation process.)