

**DR. HAWLEY'S JANUARY 31, 2017 COMMENTS AND  
TUSD RESPONSES RE TRANSITION PLANS**

1. The goals for student achievement are ambitious. Only one plan seems to take into account the variations in where students are with respect to achievement within that school. Goals should be reachable. They may be, but having the same goals for virtually all schools and subjects raises the question of whether goals for each school were developed in light of past student performance. Since these plans involve a number of new programs, the so-called implementation dip phenomenon should be taken into account.

**TUSD Response 1: While the goals are similar for all schools (increasing academic achievement in E/LA and Math), the measureable objectives (and roadmaps to achieve the objectives) are site-specific. The District will take the possibility of an implementation dip into account; however, out of the new initiatives only two are new to the District (Imagine Learning and Think Through Math). These are both supplemental programs and not meant to replace instruction.**

2. I note that goals are sometimes presented as percentages and in other cases as percentage points. Choose one please to facilitate review.

**TUSD Response 2: The District has revised the plans to refer only to percentage points when addressing goals.**

3. There are many new programs that teachers are supposed implement. Many of these involve technology assisted strategies. I wonder if the level of professional development is adequate. Turning students loose on software programs, however well designed the software, seldom has the desired effects.

**TUSD Response 3: The District will provide professional development for all new software programs (Big Brainz, Think Through Math, and Imagine Learning for ELA) at all transition schools where they will be put into use.**

4. While professional development is crucial, how professional learning is facilitated is critically important. If traditional methods are used, we should not expect much payoff and student learning will suffer. In the schools the district should move aggressively to implement the standards of Learning Forward which it says it has adopted.

**TUSD Response 4: The District will continue to implement the Learning Forward standards.**

5. I believe the emphasis on professional learning communities is quite good but the success of these initiatives will depend on support teachers routinely get as they implement what they learn in working together.

6. There are many programs being introduced to facilitate teacher and student learning. Is the efficacy of these programs supported by research? One of the programs mentioned is Success Maker, a program the district is already implementing in some schools. I could not find convincing evidence that Success Maker has resulted in success (only one of 11 studies identified showed positive effects). What about the others programs being proposed?

**TUSD Response 6: Success Maker has been removed from the Ochoa plan, and it is not in any other plan. The efficacy of the other programs being proposed are supported by research.**

7. I saw a relatively little investment in leadership development in the schools, both at the principal level and beyond. Leadership has been an issue in the majority of the schools and having a full-time support person for school leaders could be a good investment.

**TUSD Response 7: Each plan includes a proposed conversion for each site's magnet coordinator into a transition coordinator who will be a member of each site's leadership team and will serve as a full-time support person for school leaders.**

8. The improvement of instruction will undoubtedly contribute to improving student behavior but at least three of the schools have experienced a significant amount of student disorder. As I recall only one plan explicitly talks about the implementation of PBIS.

**TUSD Response 8: PBIS is a district-wide initiative, thus it was not specifically addressed in most plans.**

9. In the overview of this memo, I mentioned the importance of coherence. The responsibility for implementing these plans is shared by people who inhabit an extraordinary number of different positions. In addition to teachers, principals and counselors, implementation will be the responsibility of people holding the following titles (not all of which actually appear in past budgets): RTI teacher, curriculum support coordinator, MTSS facilitator, MTSS/PBIS facilitator, community representative, CSP, instructional technology liaison, ALE mentor, instructional coach, IB coordinator, school-community services position?, AmeriCorps member, liaison, Webmaster, data coach, school improvement coach and transition coordinator. People serving this many different roles is an invitation to fragmentation of the learning opportunities students experience and a barrier to collaboration.

**TUSD Response 9: The site principal, supported by the transition coordinator, is responsible for implementation of the plan. Each school has some of the positions listed above, but no school has all of the positions listed above. The District has designed the plans, and staffed them, in a manner it deems adequate. The positions involved in**

implementation of each site's action steps work under, and will be monitored by, the principal to avoid fragmentation.

The District is requiring all transition campuses to establish implementation teams that consist of the Transition Coordinator, Campus Principal and other school specific personnel necessary to implement the plans. This team will meet frequently with central magnet staff to monitor and adjust implementation initiatives and programs for effectiveness. At the District level, Assistant Superintendent Trujillo will convene transition plan organizational meetings with all professional development service providers such as PDATS for both math and ELA, IT services, etc. so that dates and times for professional development and plans for monitoring effectiveness can be established and finalized.

10. It appears that there is an absence of agreement about what the role of MTSS facilitators is. I'm reminded of the unhappy history of learning support coordinators who became utility infielders who often didn't play any particular position very well.

**TUSD Response 10: The District plans to hire 30 Restorative Practices Site Coordinators to coordinate the Response to Intervention process for discipline. This position will facilitate a weekly discipline team on each campus to review all disciplinary infractions the previous week, to identify needed interventions for repeat offenders, and to identify and respond to noted disciplinary trends on the campus. This position will also be the campus trainer for restorative practices and the campus facilitator for PBIS implementation. This addition of this position would shift the MTSS coordinator back to their primary role of the identification of and response to academic trends noted at the individual student, sub group, and whole school level.**

11. Some of the plans seek to remediate students who have not done well by repeating the class. There is evidence that this is not a productive strategy both instructionally and psychologically.

**TUSD Response 11: The District has removed the following language from Pueblo's plan:**

*Students who have failed Algebra I during 1st semester will be required to retake the class 2nd semester before advancing to Algebra II.*

**However, Algebra I is a required course. Students who fail the course must retake the course to graduate, as is true in all high schools. Pueblo will provide the strategies described in its plan to support students in passing Algebra I the first time or, where necessary, in passing it the second time.**

12. The plans appear to differ in the approach they have for family engagement but more important the 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.

**TUSD Response 12: Duly noted, part of the responsibilities of the transition coordinator will be to build sustainability by establishing these types of partnerships.**

13. The Utterback plan appears to be trying to sustain its existing performing arts program. It seems necessary that the school's approach to arts education have a more explicit academic purpose. There are "arts integration" programs that do this and TUSD has experience accordingly. But looking at the academic performance of Utterback students, there is little reason to believe that doing what has been done will make much difference and may even divert resources that could yield greater student development.

**TUSD Response 13: The District is not trying to sustain the performing arts program, but is seeking to maintain robust fine arts electives which fulfill several purposes. The Transition Plan provides adequate electives with performance opportunities for students to fully explore and to grow creatively. Just as importantly, the master schedule will be created to support content level planning for Professional Learning Communities (PLC) while students are in their elective classes. There is ample research that access to and participation in, fine and performing arts contributes to academic success.**

**MENDOZA PLAINTIFFS' JANUARY 31, 2017 COMMENTS AND  
TUSD RESPONSES RE TRANSITION PLANS**

14. 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.)

**TUSD Response 14: In its Order, the Court's finding that the District should "take steps" to encourage strategies that improve integration did not include a mandate to include the details of those steps in the Transition Plans.**

**The District has assigned this task, appropriately, to the Coordinated Student Assignment Committee (CSA)(made up of the Director of Student Assignment, the student assignment project manager, the Magnet Director, and leadership and staff from Language Acquisition, ALE, Transportation, Communications, Deseg/Legal, and Planning. The CSA will develop comprehensive strategies to improve integration at the six schools in a thoughtful and coordinated manner. The CSA is mindful that its efforts to recruit students to these six schools who would reduce racial concentration (non-Latino students) could potentially have negative impacts on District efforts to recruit these same non-Latino students to the remaining magnet schools that, under the USP, are under a specific obligation to meet the definition of an integrated school. Nonetheless, the District is making a good faith effort to comply with this provision of the Order.**

15. Dual Language

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.

**TUSD Response 15: The District has noted the Mendoza Plaintiffs’ concerns.**

16. IB

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.

**TUSD Response 16: The District has noted the Mendoza Plaintiffs’ concerns.**

17. Utterback

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).

**TUSD Response 17: See response to 13 above**

## 18. 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.)

**TUSD Response 18: See response to 12 above**

## 19. 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.

**TUSD Response 19: While the 2017-18 Transition Plans describe actions to be taken prior to and during the 2017-18 school year, several activities described in the Plans are already underway. Examples include improving PLCs, professional development in Tier I instruction, and training on data-driven instruction.**

## 20. 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 ambitious [foot note omitted] and reflect the statement made in the 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.

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 [footnote omitted] between the District's white students and those who are members of the Plaintiff Classes.

**TUSD Response to 20: The District agrees with Dr. Hawley that the "goals for student achievement are ambitious." In November of 2015, Dr. Hawley recommended the development of Transition Plans that "address how best to meet the needs of underachieving students and the possible continuation of exemplary programs." [ECF 1864 at 4]. Later that month, the Court adopted the recommendation, reiterating that the transition plans "should address how best to meet the needs of students in schools that are at risk of not meeting the standards for academic achievement identified in the CMP. [ECF 1870 at 10]. Thus, for over 15-months the District has designed, and redesigned, transition plans based on Dr. Hawley's recommendation (which did not include, specifically, reducing the achievement gap at these schools, if such gap even exists)<sup>1</sup>.**

**Collectively, the student populations at these six schools are over 80% African American and Latino students – the strategies to be incorporated in the plans are designed to "meet the needs of underachieving students" as recommended by Dr. Hawley and adopted by the Court.**

**The District will review the goals and measures when the 2016-17 AzMERIT scores are released and as is standard practice, the District will continue to review achievement gap data.**

## 21. Repeating Classes

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<sup>1</sup> Cholla, for example, has what would be deemed a "negative achievement gap" – Latino students outperform white students. Ochoa, for example, has three white students in six grades; Utterback has 23 white students in three grades – these are not big enough numbers to constitute a representative sample.



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.)

**TUSD Response 21: See response 11, above.**

## 22. Safford Tier II Interventions

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 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.

**TUSD Response 22: The intervention class is an additional class; students are not pulled out of their regular classrooms.**

## 23. Training

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.)

**TUSD Response 23: The Mendoza Plaintiffs’ questions are not related to the content of, or the current or future implementation of, the six transition plans at issue but are focused on districtwide strategies and approaches to PD. To the extent the Mendoza Plaintiffs believe this is a funding issue, the appropriate time and place for such response would be in relation to the budget. The District will therefore not respond to this question in the context of the transition plans.**

#### 24. Dual-Language and Spanish-Language 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 principals<sup>3</sup> 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 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 nonmagnet 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.

**TUSD Response 24: The TWDL Plan was developed in the spring. That the TWDL Plan did not mention Ochoa or Pueblo for expansion is irrelevant: both schools were still magnet schools at the time the plan was developed. The District has assessed, and will continue to assess, the capacity of Ochoa (and central support) to initiate a dual language program at Ochoa. Currently, Ochoa has the necessary staffing, resources, and infrastructure to implement a TWDL program at the point of entry only, two kindergarten classes. Still, important commitments made and steps identified in the TWDL access plan have not been followed, such as the parent survey for Ochoa. After conducting additional assessments, the District may revise its proposal to make 2017-18 a planning year.<sup>2</sup>**

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<sup>2</sup> In July 2015, Mendoza Plaintiffs complained to the Court that “the number of schools offering dual language programs and overall enrollment in the programs has substantially declined” [ECF 1829 at 5]. Four months ago, they submitted “concerns” and “noted their disappointment” that the District was not moving quickly enough to expand access to dual language programs. The Ochoa proposal will increase the number of schools offering dual language programs and increase the numbers of participating students.

## 25. 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 9<sup>th</sup> 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

**TUSD Response 25: The District has noted the Mendoza Plaintiffs’ concerns, the communications department is continuing marketing efforts and Cholla is continuing to recruit.**

## 26. 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).

**TUSD Response 26: See above response 13.**

## 27. 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

**TUSD Response 27: see above response 12.**

28. 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 ongoing budget re-allocation process.)

**TUSD Response 28: See response 19, above.**

**DR. HAWLEY'S FEBRUARY 1, 2017 COMMENTS AND  
TUSD RESPONSES RE TRANSITION PLANS**

29. Timing

In my comments on the transition plans I deferred my comments on specific plans-- except for the arts initiative at Utterback. I guess I imagined a more interactive process and I think now is and not feasible. As did the Mendoza plaintiffs, I should have focused more on the urgency of action in the short run so that the basic initiatives to improve English language arts and mathematics, as well as family involvement, are fully ready to launch in August of this year. It would be desirable to have other initiatives underway as well though I have serious reservations about the proliferation of what seemed to be nonessential programs that did not have a strong research base and that cannot be implemented without significant input from consultants. I believe that the district should identify those elements of the plans that are most essential to enhancing student achievement for the lowest achieving students in particular, and to begin to the implementation process in the next month.

**TUSD Response 29: Best practices in the implementation of new programs, initiatives, and professional development require planning. Specifically, the identification of needed resources, funding sources, the identification of needed personnel, facilities preparation, parental communication, and most importantly, the re-communication of the transition school's mission to the community and the staff. Nationally renowned "leading change" experts Michael Fullan, Jim Collins, John Kotter, and Anthony Muhammad all agree that "cultural change" needs to precede "technical change" and that stakeholders must clearly understand the rationale for the recommended changes. This point serves as a perceived point of contradiction as in another area of feedback provided by the plaintiffs and the Special Master, the District is urged to "move slowly" in its pursuit of a TWDL program at Ochoa, and to utilize the 17-18 school year as a "planning year" largely for the purposes I have noted in the first few sentences of this commentary.**

**Secondly, a pre-dominant theme in both plaintiff and Special Master responses note a lack of confidence in the District's ability to successfully implement, resource, and monitor the effectiveness of suggested instructional initiatives, yet this feedback is urging the District to pursue the immediate implementation of major instructional initiatives, in the middle of a school year, skipping over several foundational steps in the implementation process. This practice has widely been identified as the predominant characteristic of a failed implementation that can lead to employee stress, low morale, and the fostering of teacher and employee resistance to the change initiative. See also response to 19, above.**

30. Consultants

To the extent that the district uses consultants with respect to new activities it sees as ongoing, the primary function of the consultants should be to enhance the district's capacity to provide continuing support.

**TUSD Response 30: Consultants will be used to strengthen and supplement professional development offered by the District. Consultants will work with school leaders, leadership teams, and staff to support practices in the areas of Tier 1 instruction and Professional Learning Communities. By training school leadership and school leaders, the District will enhance its capacity to provide continuing support. With the exception of specialized training such as Reading Recovery Certification and continued support in Balanced Literacy implementation, the District recommended-programs do not require specialized training outside of initial implementation and data analysis.**

### 31. Dual Language

I am very concerned about the proposed introduction of dual language programs at Ochoa and Pueblo. The students in the schools have tremendous needs that are unlikely to be remedied by a dual language program. It will be hard enough to undertake the initiatives that are necessary to address the needs of the large number of students performing well below the district average much less to make progress in narrowing the achievement gap. To divert energy and resources to a dual language initiative in these school seems difficult to understand. Moreover, as the Mendoza plaintiffs point out in their comments, the district is struggling to staff existing dual language programs and there is no group of suitably trained teachers just waiting to work in TUSD. It is inconceivable that dual language programs in these two schools would foster integration. If there is sufficient staffing for full-scale TWDL programs, it would be best to start such programs in schools that have a chance of becoming more integrated.

**District Response 31: The District will complete a comprehensive needs assessment regarding staffing, student and parent interest, the availability of professional development, and a proposed timeline for implementation including required action steps noted in the TWDL access plan. Once this needs assessment is conducted, the District will issue a final determination regarding implementation readiness (including the possibility that 2017-18 may be a planning year for Ochoa and/or Pueblo).**

### 32. Goals

I did not do a very good job of describing my position with respect to the goals being set. As I read the plans, I got the impression that in many cases the fit between identified needs and specific goals was, shall we say, loose. Those who set goals face dilemmas. They want to have high goals but if the goals are not carefully developed and achievable, they cease to have meaning or motivational value. Some issues can be addressed rather quickly, but when new programs and new capabilities are needed, implementation can be difficult. That's why planners sometimes take into account the "implementation dip" that I've mentioned in my earlier comments. It follows that it is useful to have goals that include at least another year. In assessing feasibility, the focus should be on institutional capabilities rather than assumed capabilities of students. To start school improvement efforts with the belief that students' family and community experiences will limit their success is the first step in "blaming the victim". The



people who are ultimately responsible for achieving these goals are teachers. When teachers have been significantly involved the process of setting the goals, the probability that the goals can be attained increases markedly.

**District Response 32: To ensure ownership with each school's transition plan, every school Transition Team included teacher representative(s). Each school carefully examined current academic data to identify "high" but reasonable goals. Also see District Response 1. Each transition plan contains school wide goals and strategic focus areas aligned to the school's spring 2016 student achievement data as noted by the spring 2016 administration of AZMERIT for ELA and Math. Strategic focus areas contain clearly communicated action steps and the stakeholders and teams responsible for implementing these action steps.**

**FISHER PLAINTIFFS' FEBRUARY 1, 2017 COMMENTS AND  
TUSD RESPONSES RE TRANSITION PLANS**

33. African American students

We have some general concerns about the plans as a whole and some specific concerns about the individual school plans. A common factor in each of the plans is the inattention to the academic needs of African American students. No African American student at Ochoa achieved mastery in math or language arts. At Robison, Safford and Cholla, African American students are in the lowest performance level. We can only guess at their level of performance at Pueblo since those statistics were not included in the plan. However, not one of the school plans specifically identifies strategies to address this achievement gap.

The plans need to delineate how they will identify African American students who are not progressing, what interventions will be used and how they will assess progress. These students require focused attention to insure that they receive the instruction and assistance needed for success.

**District Response 33: Each plan addresses academic interventions to meet the needs of all students who have not met proficiency level according to state standards. See also, Response 20, above.**

34. Tier I Instruction

Another overall concern is the lack of attention paid to improving Tier I instruction, other than having teachers review Danielson protocol. How will this be delivered and how will it be monitored. Is each principal adequately trained to observe and supervise teachers' use of the strategies? Each school lists intervention and remediation programs, but nothing is said about improving classroom instruction. If teachers continue doing what they have been doing, there is no reason to expect different results. The plans need to outline how the principals at each school will identify teachers in need of professional development to improve instructional delivery. It is far better for students to be taught effectively from the beginning than to have to do intervention and remediation. The District plans to bring in Solution Tree to provide professional development. We need to know more about this program. What will the program provide, how will the training be delivered and how frequent will personnel from Solution Tree work with school personnel. A lot of emphasis is placed on principal walkthroughs. What training will be done with these principals to insure that they know what to look for in these class visits?

**District Response 34: The District is committed to ensuring high quality Tier 1 instruction. Each plan includes teacher training and time during the school day to implement the PLC cycle. During PLC time, teachers will evaluate student work, build and analyze common formative assessments, and analyze benchmark assessments. The results from this work will guide teachers as they develop more effective instructional strategies, to plan new lessons, and to identify students who need additional time and support for learning.**

**The District is currently working to identify transition schools' PLC needs and to work with Solution Tree to design professional development that is differentiated to meet each school's specific needs. All TUSD principals receive training on how to evaluate Tier 1 instructional strategies. Principals work throughout the school year within a cadre to sharpen these skills. Solution Tree will provide two-day trainings on PLCs to school leadership teams.**

### 35. On-line Interventions

A third general concern is the multiple on-line interventions that are being planned. We would like to know more about the approach and success rates of Big Brainz, Think Through Math and Reading Apprenticeship. We also question whether the schools have the technology needed to adequately implement these programs and what kind of certified personnel will work with students using these programs.

**District Response 35: The District provided comprehensive support for campuses as they considered programs for inclusion in their transition plans. For each of the supplemental programs include in transition plans, an in-depth review was completed that included an evaluation of effectiveness using a rubric, current research, resources required, and recommended methodology for effective implementation. These "Student Support Criteria" reviews were undertaken by District specialists with expertise in ELA and math curriculum and resources (the Student Support Criteria forms were submitted with the Draft 1 Narrative). Both ELA and Math content specialists were present during transition planning in order to support transition campuses, provide a review the programs, and cooperatively analyze their benefits on a site-by-site basis.**

**In November, the District attempted to describe these programs in detail in November through its Assistant Superintendent Dr. Trujillo. This presentation included some of the details the Fisher Plaintiffs are now requesting but, unfortunately, Dr. Trujillo was unable to complete this presentation. Counsel for the Fisher Plaintiffs received a copy of Dr. Trujillo's informational power point and, if requested, Dr. Trujillo is ready and willing to meet to review the details of specific strategies.**

### 36. Curriculum

Our final overall concern has to do with the curriculum as a whole. What are the reading, math and writing programs at each school? Is the curriculum aligned with the Standards and AZ Merits? A lot of attention is being given to PLC's. Our question is will each school be mandated to provide adequate time for teachers to work in these teams and what training and supervision will be included.

**District Response 36: All TUSD schools, including magnet and transition schools, follow the District's curriculum. This includes a Scope and Sequence, Curriculum Map, and**

**Blueprint of standards that are expected to be implemented with fidelity at each site. District curricula align with the Arizona College and Career Readiness Standards and prepare students for grade level appropriate assessments. District benchmark assessments are created using SchoolCity assessment item banks; analysis of benchmarks compared with state assessments show a high correlation between student achievement on both tests. At each school, the District will embed PLC time within the master schedule so that all teachers receive adequate time to meet. Solution Tree and District-led training will be included. PLCs are supervised primary by each school's principal with support from the Magnet Department.**

**In November, the District attempted to describe these programs in detail in November through its Assistant Superintendent Dr. Trujillo. This presentation included some of the details the Fisher Plaintiffs are now requesting but, unfortunately, Dr. Trujillo was unable to complete this presentation. Counsel for the Fisher Plaintiffs received a copy of Dr. Trujillo's informational power point and, if requested, Dr. Trujillo is ready and willing to meet to review the details of specific strategies.**

37. Ochoa

A stated goal for Ochoa is to move their dual language program towards 90% Spanish instruction and 10% English instruction. What is being done for non-Spanish speaking students? What are the plans for including African American students in the AVID program? What we really need to know is how the school plans to address the academic achievement deficiencies for all of its students and specifically African American students? The dual language program has not helped the students the majority of students achieve mastery and especially not the African American students. What changes are being made to effectively teach the students?

**District Response 37: The Ochoa plan describes in detail several strategies outlining what is "being done for non-Spanish speaking students" to address academic achievement. The District is not proposing AVID at Ochoa. The dual-language program does not yet exist at Ochoa. See also Response 31, above.**

38. Robison

Robison's plan addresses instruction remedies for ELL students, but does not address strategies for African American students although they are performing at the lowest level. The use of Reading Recovery is noted. What we would like to know is how will students be selected for this intervention?

**District Response 38: Reading Recovery is a literacy intervention that provides one-on-one or small group instruction for first grade students who have the lowest proficiency in reading. It incorporates strategies that have been identified by the National Reading Panel as being necessary for effective reading instruction including phonemic awareness, phonics, guided oral reading, comprehension, and fluency.**

**Reading Recovery uses a standardized assessment tool to assess need for program inclusion and student progress. Research shows that achievement gaps are greatly reduced or closed across varying racial and ethnic groups, socioeconomic groups, and for ELL students.**

**In November, the District attempted to describe this program in detail in November through its Assistant Superintendent Dr. Trujillo. This presentation included the information the Fisher Plaintiffs are now requesting but, unfortunately, Dr. Trujillo was unable to complete this presentation. Counsel for the Fisher Plaintiffs received a copy of Dr. Trujillo's informational power point and, if requested, Dr. Trujillo is ready and willing to meet to review this response.**

39. Safford

The school plans to use teaching assistants during the summer to support learning. Is there any plan to use teaching assistants during the school year and if so, at what grade levels. Will the common assessments be aligned with Standards and AZMerits? To address classroom management the school plans to utilize Fred Jones Training. To be most effective the teachers should receive this training prior to the start of the school year, so that on the first day of school teachers are in sync with their knowledge, their classroom expectations and consequence.

**District Response 39: Safford's transition plan includes support for teachers in the form of teaching assistants both during the school year and the summer. These teacher assistants will support learning with small group instruction and enrichment activities while the teacher works with students who need focused interventions and re-teaching. Regarding common assessments, all tests, both formative and summative, are aligned with Arizona College and Career Readiness Standards. Fred Jones Training is a District initiative and the timeline for roll-out has been determined by the District's professional development department with the goal of provide training for all District employees.**

**Safford is committed to establishing a sustainable model of professional development. The model proposed by Safford's transition plan will provide training for two exemplary teachers to attend the three-day training on Classroom-Instructional Management that will be held in June 2017. These teachers will then be coached by District mentors before conducting a 12 session Tools for Teaching – Classroom Instructional Management with all staff members throughout the 2017-18 school year. This is a twelve-session training that is ideally conducted over a period of time so that teachers may use the methods learned in their classrooms, reflect with colleagues, and build on skills over time.**

40. Utterback – African American Students

Again, no specific attention is paid to African American students. The school has AVID classes, but we need to know how students are selected for the classes and why all African American students are not in the classes since they are in the lowest percent when it comes to

academic achievement. AVID is aimed at students at average or below average performance, so based on the performance of African American students, they should all be in the AVID classes. This would require funding for training of additional teachers.

**District Response 40: AVID is an elective, not a required intervention. Because it is an elective, students make the choice to enroll. However, the African American Student Success Specialists has been working diligently to identify African American students who would most benefit from AVID and to highly encourage them to take advantage of this elective offering. By broadening this elective base next year, even more students will have the ability to choose an AVID class. Currently, 37 African American students are enrolled at Utterback, accounting for 8.4% of the school's total enrollment. However, out of the 71 student currently enrolled in AVID classes, 10 are African American (14.1%).**

**In addition, all Utterback students receive AVID strategies in every class. These strategies include Cornell note taking strategies, CLOSE reading strategies, Socratic seminars, and support in WICOR (writing, inquiry, collaboration, organization, and reading to learn). At the beginning of the year, every student on campus receives an AVID binder that includes resources needed including a spiral notebook for Cornell notes, dividers for each class, and paper to reinforce AVID strategies school wide.**

41. Utterback – Fred Jones

The school also plans to utilize Fred Jones Training to address classroom management. Again, this training needs to happen before the start of the school year and needs to be repeated annually for teachers new to the school.

**District Response 41: This is a District initiative and the timeline for roll-out has been determined by the district's professional development department with the goal of provide training for all district employees. During the 2016-17 School Year, Utterback will have sent four struggling teachers through the Fred Jones training. Two exemplary teachers will be sent in June, with the intention of providing modeling and sharing best practices on campus as the District continues to roll-out this initiative.**

42. Utterback – Fine Arts

They indicate a desire to continue the fine arts classes, but these classes are not currently funded to serve all students and the material and equipment necessary for the curriculum do not exist at the needed levels.

**District Response 42: The District supports fine and performing arts classes continuing as electives at Utterback. The only other electives that are available to students are Physical Education and AVID. The District will propose three electives and a \$75,000 allocation to pay for materials to be shared by Fine and Performing Arts and AVID classrooms. Additional funding for AVID is provided through the ALE department. This level of**

**funding is adequate to support these electives. The District seeks clarification of what is meant by the term “needed levels” and an explanation of the basis for the assumption that these programs are not (or will not be) funded at “needed levels.”**

43. Utterback - Substitutes

The continued existence of long term substitutes negatively affects the instruction that students receive. Non classroom personnel who are certified should be placed in the classroom, so that all classrooms have a certified teacher. There is also a need for at least two content area teachers per grade level.

**District Response 43: The District is in agreement that staffing classrooms with certified teachers is essential for quality student instruction. Priority recruitment, placement, and incentive bonuses for teachers are offered. All positions are currently advertised.**

**Utterback has attended every single job fair available for the last two years. There are two long term subs currently in place; one teaches fine arts and has a Master’s degree in fine arts, while the other is an 8<sup>th</sup> grade science teacher who has been with Utterback for the last three years and knows the students, systems, and curriculum.**

44. Cholla

Again, African American students are at the lowest level academically. How will the principal insure consistency in assessment and utilization of benchmark data? Since the school plans to continue the IB program, we need information on the success of the program, the number of students of color in the program and the cost of the program. We also want to know how many African American students are enrolled in AVID.

**District Response 44: As shown in the data provided in their transition plan, African American students do not achieve at the lowest level at Cholla. The District and Cholla High School are committed to raising achievement levels for all students.**

45. Pueblo – African American Students

The school did not include the performance levels in their plan, so we do not know how African American students are actually faring. Based on the performance of African American students at the other schools and in the District overall, it is safe to assume that there is an achievement gap between African American students and the total population.

**District Response 45: The Cholla plan includes this information and the Pueblo team has reviewed this information. The District will include more in-depth data on African American and Hispanic students in its revised transition plan for Pueblo.**

46. Pueblo – Reading Apprenticeship

The school plans to use Reading Apprenticeship. It is not clear which students will receive this intervention.

**District Response 46: All students will receive the literacy support strategies that are part of the Reading Apprenticeship© (RA) program. Reading Apprenticeship© offers students with varying experiences, abilities, and identities meaningful opportunities to engage in the social practice of reading, writing and thinking across the disciplines.**

47. Pueblo – Dual Language

The school plans to expand its dual language programs. We ask the same question that we did with Ochoa. What evidence is there that this approach is being successful in teaching the Standards and preparing students for success on AZ Merits? Also, how many African American students are enrolled in the dual language program?

**District Response 47: There is ample, research-based evidence that dual language programs improve academic achievement. However, the District has not conducted an independent evaluation of the success of dual language programs in teaching “the Standards” or “preparing students for success on AzMerit.” Currently, there is one African American student enrolled in dual language at Pueblo (Note: there are only 42 African American students total at Pueblo, approx. ten per grade level).**

48. General Comment

The District has put together five plans with a variety of stated approaches, but no indication of how the plans will be evaluated, how frequently students will be assessed and whether the curriculum is aligned to the Standards and AZMerits. The lack of across the District consistency in programs and instruction dilutes the effectiveness of instructional delivery for all students. There is a need for across the board consistency in approach to teaching and the programs used. For example, Pueblo is planning to use Reading Apprenticeship which is a good program but better suited for middle school. Perhaps, it is something that should also be used at Safford and Utterback. Both of these schools feed into Pueblo.

**District Response 48: The District attempted to describe these details and Dr. Trujillo is ready and willing to meet to discuss further.**