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13 UNITED STATES DISTRICT COURT
 14 DISTRICT OF ARIZONA

Roy and Josie Fisher, et al., Plaintiffs,	4:74-cv-00090-DCB (Lead Case)
v.	
Tucson Unified School District No. 1, et al., Defendants.	

Maria Mendoza, et al., Plaintiffs,	CV 74-204 TUC DCB (Consolidated Case)
v.	
Tucson Unified School District No. 1, et al. Defendants.	

24 **TUSD’S RESPONSE**
 25 **TO**
SPECIAL MASTER’S ANNUAL REPORT SY 2015-16 [ECF 2026]

Introduction and Summary

1 The District respectfully responds to the analysis and assessment in the Special
2 Master's Annual Report for SY2015-16 ("SMAR") [ECF 2026]. The District agrees
3 with many of the Special Master's assessments and conclusions. However, there are a
4 number of statements with which the District disagrees. In this response, the District
5 addresses two key sections of the report that appear to include incomplete or incorrect
6 information.
7

Section II: Student Assignment

8 Contrary to the Special Master's assertion, there is ample evidence that the
9 District has worked hard to integrate its schools, but faces many headwinds that
10 necessarily limit the success of that effort, including the demography of its student
11 population, residential patterns within the District, the pure size of the District (which
12 limits the effectiveness of offering transportation), and the statutory availability of other
13 alternatives to District schools. But the effort was intense, and did produce results.
14 During SY 15-16, the District took hundreds of actions to further integrate schools, as
15 reported in the 2015-16 Annual Report. For example:
16

- 17 • Facilitating a Student Assignment Committee (including Plaintiff representation)
18 to develop and propose grade reconfigurations at Borman and Drachman Magnet
19 so that more students "have the opportunity to attend an integrated school" (USP
20 §II(A)(1)). *See* AR 15-16, pp. X-369-70 [ECF 1958-1, pp. 398-99].
- 21 • Revising the application and selection process to create integrated entry grades at
22 multiple schools. *See* AR 15-16, p. II-14 [ECF 1958-1, p. 43].
- 23 • Developing and Implementing Express Shuttles. *See* AR 15-16, p. III-60 [ECF
24 1958-1, p. 89].
- 25 • Rolling out the Enrollment Bus to increase marketing, outreach, and recruitment
26 efforts. *See* AR 15-16, p. II-47 [ECF 1958-1, p. 76].
- 27 • Expanding ALE/GATE opportunities (Wheeler ES and Roberts-Naylor K-8) in a
28 manner that promotes integration. *Id.*

- 1 • Expanding Dual-Language opportunities (Bloom ES) in a manner that promotes
2 integration. Id.
- 3 • Developing and rolling out three targeted marketing and recruitment campaigns
4 (the Positive Reinforcement Campaign, the Priority Enrollment Campaign, and
5 the Continuing Enrollment Campaign). See AR 15-16, p. II-16 [ECF 1958-1, p.
6 45].
- 7 • Directing more than 1,000 individual site tours and recruitment events at the 19
8 magnet schools in 2015-16. See AR 15-16, p. II-18 [ECF 1958-1, p. 47]
- 9 • Receiving multiple awards for magnet schools and programs.¹ See AR 15-16, p.
10 II-19 [ECF 1958-1, p. 48].
- 11 • Developing and implementing a process for monitoring, evaluation, continuous
12 improvement, and professional development for magnet programs and schools.
13 See AR 15-16, pp. II-21 to 25 [ECF 1958-1, pp. 50-54].
- 14 • Compliance with the November 2015 magnet stipulation to address magnet
15 issues including site budgets, integration initiatives, and magnet teacher
16 vacancies (including a months-long effort to develop a plan for addressing
17 magnet teacher hiring and retention through incentives and aggressive recruiting).
18 See AR 15-16, p. II-27 to 28 [ECF 1958-1, pp. 56-57].
- 19 • Development of 19 individual magnet site plans [ECF 1819] and a
20 Comprehensive Magnet Plan [ECF 1898] in SY 2015-16; and the development of
21 six magnet transition plans [ECF 1984] and thirteen revised magnet site plans in
22 SY 2016-17.
- 23 • Making improvements in Marketing, Outreach, and Recruitment, including but
24 not limited to the development of school tour videos, school website upgrades,

25 ¹ The U.S. Department of Education recognized Drachman K-8 as a Blue Ribbon
26 Magnet School. The Arizona Educational Foundation recognized Carrillo K-5 Magnet
27 Elementary School and Dodge Traditional Magnet Middle School as A+ Schools of
28 Excellence. During the annual Magnet Schools of America (MSA) conference in Miami, MSA
awarded four Merit Awards to TUSD’s Davis and Ochoa elementary schools, Mansfeld Middle
School, and Tucson High Magnet School—the only awards given in Arizona.

1 the #TeamTUSD campaign, participation in dozens of community events, and
 2 significant improvements of TUSD's marketing presence on social media. *See*
 3 AR 15-16, p. II-35 to 40 [ECF 1958-1, pp. 64-69].

- 4 • Making significant efforts to support integration through transportation. *See* AR
 5 15-16, p. II-48 to 50 [ECF 1958-1, pp. 77-79].
- 6 • Expanding activity buses to support student enrollment at magnet and integrated
 7 schools. *See* AR 15-16, p. III-60 to 61 [ECF 1958-1, pp. 89-90].

8 Additionally, the District has made significant progress in integrating its schools.
 9 Between 2015-16 and 2016-17, half of all District schools (41 of 82) either met the USP
 10 definition of an Integrated School (17 schools) or were "highly diverse" (24 schools).²

11 The SMAR complaints that "almost half of the District's students attend schools
 12 that are 70% or more of a single race." But the District is 61% Latino. The fact that the
 13 District has a significant number of schools with 70% or more of a single race is
 14 inevitable without compulsory student assignment based on race or ethnicity.
 15 Nevertheless, and despite the significant demographic and geographic challenges
 16 recognized in the SMAR and identified in desegregation cases around the country, the
 17 District's progress toward integration has been steady. For example:

- 18 • Of the 34 Racially Concentrated schools referenced in the SMAR, the District
 19 has reduced the racial concentration of Latino students at more than half (20
 20 schools).³ Nine of the schools have "integrated" entry-level grades.

21 ² A "highly diverse" school is one that does not meet the USP definition of Integration
 22 but has a student population that includes two racial/ethnic groups over thirty percent, or three
 23 racial/ethnic groups over twenty percent.

24 ³ *Racial Concentration Reduced by more than 5%:* Tully ES (74% to 64%); Robison
 25 ES (83% to 74%); Maldonado ES (86% to 78%); Davis ES (82% to 75%); Holladay (70% to
 26 63%); Carrillo ES (85% to 79%); Maxwell K-8 (81% to 75%); Bonillas ES (76% to 71%);
 27 Cavett ES (86% to 81%); Mansfield MS (78% to 73%); Roskrige K-8 (82% to 78%). *Racial*
 28 *Concentration Reduced by less than 5%:* Grijalva ES (87% to 84%); Ochoa ES (83% to 80%);
 Drachman K-8 (73% to 71%); Hollinger K-8 (90% to 88%); Miller ES (82% to 80%); Lynn-
 Urquides ES (92% to 91%); Van Buskirk ES (90% to 89%); White ES (82% to 81%); Valencia
 MS (80% to 79%).

- 1 • In 2013-14, there were 15 Racially Concentrated magnet schools. Since then:
 - 2 ○ 12 of 15 reduced racial concentration (6 of 12 by five percent or more)
 - 3 ○ Two have become Integrated (Holladay ES and Tully ES)
 - 4 ○ Six are within five percentage points from eliminating racial
 - 5 concentration⁴

6 Finally, although the Special Master and Plaintiffs disagreed with and opposed
7 the District's magnet proposals, the District did propose several new magnet programs.
8 For example, the 2013-15 Magnet Plan [ECF 1686-8, pp. 99-151] included proposals for
9 several new magnets to begin in 2015-16 or 2016-17, including:

- 10 • Dual-Language Magnets at Catalina HS, Kellond ES, and Dietz K-8;
- 11 • a Technology Magnet at Roberts Naylor K-8;
- 12 • an Early Middle College Magnet at Santa Rita HS;
- 13 • a STEM Magnet at Mansfeld MS; and
- 14 • a Performing Arts Magnet at Cragin ES (designed to feed a more-integrated
15 student population into Utterback to help it further integrate).

16 Although the Special Master and Plaintiffs believe the District could or should
17 have done some things differently, it is clear that the District has given significant and
18 substantial efforts to integrate its schools and, based on those efforts, has seen steady
19 improvements in the integration of its schools.

20 **Section VI: Discipline**

21 While the SMAR recognizes that overall the District has made considerable
22 progress in reducing disciplinary actions in the District, including in reducing
23 disproportionality in discipline related to African American students, the SMAR states
24 that the District "seeks to define exclusionary discipline as a long-term out of school but
25 no other form of suspension." SMAR at 23-24. The District respectfully submits that it

26 ⁴ Bonillas ES (71%), Davis ES (75%), Robison ES (74%), Drachman K-8 (71%),
27 Mansfeld MS (73%), and Tucson HS (72%).

1 does not seek to change the definition of exclusionary discipline. Indeed, the District
2 separates the data it provides to the plaintiffs and Special Master by each disciplinary
3 category, including in-school discipline, in-school suspension, short-term out of school
4 suspension and long-term out of school suspension, as recognized in the SMAR, which
5 allows the Plaintiffs, Special Master and Court to analyze all discipline data. SMAR,
6 23:4-7.⁵ As recognized in the SMAR, much of the dramatic reduction in discipline
7 occurred with in-school suspensions dropping 78% and long-term suspensions dropping
8 more than 50%. SMAR, 23:9-13.

9 Additionally, while the SMAR correctly states that the District has taken a
10 proactive approach to discipline in part by placing greater emphasis on positive
11 behavioral interventions and supports (PBIS); [SMAR, 25:12-14] the SMAR incorrectly
12 states that “it was not until the fall term of 2016 that the District developed a protocol or
13 set of guidelines that spelled out the essential elements of PBIS”. SMAR, 23:17-22.
14 The District respectfully submits that it established protocols and guidelines that spelled
15 out the essential elements of PBIS in SY 2013-14. *See* AR 13-14, pp. 150-51 [ECF
16 1686, pp. 160-61] (explaining the essential elements of PBIS and the District’s strategy
17 for implementing, utilizing and improving PBIS). The District continued to train its
18 personnel on the essential elements of PBIS in SY 2014-15, including by utilizing
19 Learning Support Coordinators and the Instructional Leadership Academy to provide
20 structured PBIS trainings. *See* AR 14-15, p. xiv [ECF 1918-1, p. 16.] And although the
21 District made noticeable improvements in SY 15-16, the fall term of 2016 was not the
22 first time the District developed a protocol or set of guidelines that spelled out the
23 essential elements of PBIS.

24 The SMAR also questions the adequacy of PBIS training based on an apparent
25 misunderstanding. On page 26, the SMAR describes the District’s identification of 122
26 LSC hours of restorative practices and PBIS training in 2015 as if such training was

27 ⁵ See also District’s Annual Report for SY 2015-16, pp. VI293-302 (ECF 1958-1, pp.
28 322-332).

1 offered only to 122 staff members. This is not the case. Instead, the District's LSCs
2 formally logged 122 hours of PBIS professional development they made available to
3 multiple personnel at a time. Moreover, this was not the only PBIS training done in the
4 District. For example, as explained in AR 15-16:

5 The District also incorporated PBIS concepts into
6 site- and department-specific PBIS trainings. Some schools
7 incorporated PBIS concepts and strategies into their teacher
8 training, including, but not limited to, PBIS matrix
9 development and PBIS school improvement. Likewise,
10 District departments incorporated PBIS concepts into
11 various trainings. The Counseling Department's training to
12 counselors included counselors' roles in implementing PBIS
13 in schools. Many of these and other trainings focused more
14 broadly on culture and climate, discipline, or classroom
15 management but also incorporated PBIS concepts, strategies
16 and best practices.

17 AR 15-16, p. VI-284 [ECF 1958-1, p. 313].

18 The SMAR also apparently misinterpreted the District's statement that it
19 identified 49 teachers who needed additional discipline training to mean that the District
20 only identified 49 teachers who needed discipline training. However, the District
21 understands that many more teachers needed discipline training, and the District utilized
22 a systemic approach to providing all teachers needed discipline training. The District
23 also identified 49 teachers who could benefit from a specific discipline training that was
24 available, and it provided that training to those individual teachers.

25 Finally, the SMAR incorrectly states that Section VI(F)(3) of the USP requires
26 the District to develop a best practices file or library. Section VI(F)(3) states:

27 If the data collected and reviewed indicates that a
28 school has been successful in managing student discipline,
the District RPPC shall examine the steps being taken at
the school to determine whether the approach adopted by
the school should be adopted by other schools within the
District, and if the RPPC determines the approach should
be replicated, the District RPPC will share the strategies
and approach with the District to consider replication at
other schools.

1 USP, p. 48 [ECF 1450, p. 49.] The District continues to comply with this section of the
2 USP in good faith by discussing successful management of student discipline with
3 teachers and administrators, and by sharing and replicating those successful approaches.

4 The SMAR suggests that “what is needed is a process for determining how
5 particular misbehaviors can be effectively addressed, evidence of the positive effects of
6 these practices, how the practices can be implemented, and who in TUSD would be
7 helpful in promoting this practice.” SMAR, p. 26. These are among the activities the
8 District continues to pursue, as discussed in AR 15-16. *See* AR 15-16, pp. VI-313-14
9 (ECF 1958-1, pp. 342-43) (District required principals to meet on a regular basis with
10 the school-site discipline team to discuss successful practices and ideas for
11 improvement; leadership directors reviewed data and identified schools that were using
12 successful strategies; directors met with assistant superintendents to review successful
13 strategies, among other things; administrators and principals identified as having
14 implemented successful practices presented various strategies and practices to their
15 peers; directors also shared successful practices in leadership meetings and via emails to
16 share those practices more broadly; an example of shared successful practices was
17 included with the annual report as Table 6.8).

18 DATED this 17th day of July, 2017.

19 **STEPTOE & JOHNSON LLP**

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CERTIFICATE OF SERVICE

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2 The foregoing document was filed with the Court electronically through the
3 CM/ECF system this 17th day of July, 2017, causing all parties or counsel to be served
4 by electronic means, as more fully reflected in the Notice of Electronic Filing.
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6
7 s/ Beth Hardin
8 Employee of Steptoe & Johnson LLP
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