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13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF ARIZONA**

15
16 Roy and Josie Fisher, et al.,
17 Plaintiffs,
18 v.
19 United States of America,
20 Plaintiff-Intervenors,
21 v.
22 Anita Lohr, et al.,
23 Defendants,
24 Sidney L. Sutton, et al.,
25 Defendant-Intervenors,
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27
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Case No. 4:74-CV-00090-DCB

**MENDOZA PLAINTIFFS' RESPONSE
TO SUPPLEMENT TO THE SPECIAL
MASTER'S ANNUAL REPORT FOR
2015-16 AND THE FILING OF THE
SPECIAL MASTER'S REPORT AND
RECOMMENDATION RE: ADVANCED
LEARNING EXPERIENCES; PARTIAL
WITHDRAWAL OF OBJECTIONS TO
SMAR AND RELATED REQUESTS
FOR RELIEF**

Hon. David C. Bury

1 Maria Mendoza, et al.,
2 Plaintiffs,
3 United States of America,
4 Plaintiff-Intervenor,
5 v.
6 Tucson United School District No. One, et
7 al.,
8 Defendants.

Case No. CV 74-204 TUC DCB

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10 **INTRODUCTION**

11 On July 17, 2017, the Mendoza Plaintiffs filed their Objections to the Special
12 Master’s 2015-16 Annual Report and Request that He Be Directed to Supplement and
13 Revise Portions Thereof (Doc. No. 2035) (“Mendoza Plaintiffs’ Objections”). Those
14 Objections included a request that the Special Master be directed to file a Report and
15 Recommendation (“R&R”) concerning Advanced Learning Experiences (“ALEs”).
16 Thereafter, on July 24, 2017, the Special Master filed a Supplement to the Special Master’s
17 Annual Report for 2015-16 (Doc. No. 2039)(“SMAR Supp.”) that included a commitment
18 to file an R&R concerning ALEs and also addressed some issues that had been raised in
19 the Fisher Plaintiffs’ Objections and Observations to the Special Master’s Annual Report
20 (Doc. 2031). On August 3, 2017, the Special Master filed his Report and
21 Recommendation Re: Advanced Learning Experiences (Doc. 2041) (“ALE R&R”).
22 Based on their review of those filings, Mendoza Plaintiffs provide the following response.
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24 Mendoza Plaintiffs will separately address the substance of the ALE R&R. Here
25 they discuss that R&R only as it relates to their objections to the SMAR.
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1 **ALE R&R**

2 The ALE R&R states on its face that it is filed in compliance with this Court’s
3 January 27, 2016 Order (Doc. 1895) relating to outstanding disputes concerning the
4 District’s ALE Plan. (ALE R&R at 3:16-4:3.) It therefore does not address the objection
5 the Mendoza Plaintiffs raised to the discussion of ALE goals in the SMAR, including its
6 discussion of goals for 2015-16, and what they perceived to be a failure of the SMAR to
7 call out inaccurate statements in the DAR about this Court’s ruling on ALE goals.
8
9 (Mendoza Plaintiffs’ Objections at 25:21- 27:8.)
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11 Accordingly, although Mendoza Plaintiffs withdraw the balance of their Objection
12 6 and the request for relief premised on that Objection (Request for Relief No. 5), they do
13 not withdraw the above-referenced portion of their Objection, that is Mendoza Plaintiffs’
14 Objections at 25:21-27:8.
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16 **GSRR**

17 The Supplement to the SMAR contains a brief discussion of the Guidelines for
18 Students’ Rights and Responsibilities (“GSRR”). *See* SMAR Supp. at 3:1-10. Although
19 that discussion does not address the substance of Mendoza Plaintiffs’ Objection No. 10
20 (Mendoza Plaintiffs’ Objections at 33:7 – 34: 24), relating to actions that the District took
21 with respect to the GSRR in 2016-17 that violated USP provisions (which, as noted in their
22 Objections, Mendoza Plaintiffs anticipate will be the subject of discussion in the Special
23 Master’s Annual Report for 2016-17), it does accomplish the clarification that Mendoza
24 Plaintiffs sought in the related Request for Relief (No. 6 of Mendoza Plaintiffs’
25 Objections at 53: 15-16.) Accordingly, Mendoza Plaintiffs withdraw Request for Relief
26 No. 6.
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TEACHER DIVERSITY

The Supplement to the SMAR discusses the Teacher Diversity Plan (SMAR Supp. at 4:5-18) but does not address the discrepancy between how the parties agreed to assess diversity and what the District reported in the DAR. *See* Mendoza Plaintiffs’ Objections at 16:15-18:17. Accordingly, the Mendoza Plaintiffs do not withdraw their Objection (No. 4) or the Request for Relief (No. 4 at 52:27-53: 3) based thereon.

They also expressly renew and reiterate so much of their Objection No. 4 as relates to the Special Master’s findings of fact relating to the number of schools that are in compliance with the agreed to standard. (Mendoza Plaintiffs’ Objections at 18:19-19:12.) In that portion of their Objection, Mendoza Plaintiffs noted that the SMAR stated that 11 schools had met the diversity standard in 2016-17 but the data with which they had been provided reflected that only ten schools had met the standard. (Mendoza Plaintiffs’ Objections at 19:7-12 and Exhibit 12 thereto.) In the Supplement to the SMAR, the Special Master now references **12** schools as having met the standard. (SMAR Supp. at 15-16.) Based on the information they received, they continue to believe that the number of schools that met the standard was 10. They therefore renew and reiterate so much of their Objection No. 4 as relates to the Special Master’s finding concerning the number of schools that met the agreed to standard for teacher diversity in 2016-17.

CONCLUSION

Based on the foregoing, with respect to the Mendoza Plaintiffs’ Objections to the 2015-16 SMAR, they respectfully:

- (A) Withdraw most of Objection No. 6 and withdraw Request for Relief No. 5

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- (B) Withdraw Request for Relief No. 6; and
- (C) Reiterate and renew Objection No. 4 and Request for Relief No. 4.

Dated: August 7, 2017

MALDEF
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/s/ Juan Rodriguez
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/s/ Lois D. Thompson
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CERTIFICATE OF SERVICE

I hereby certify that on I electronically submitted the foregoing **MENDOZA PLAINTIFFS' RESPONSE TO SUPPLEMENT TO THE SPECIAL MASTER'S ANNUAL REPORT FOR 2015-16 AND THE FILING OF THE SPECIAL MASTER'S REPORT AND RECOMMENDATION RE: ADVANCED LEARNING EXPERIENCES; PARTIAL WITHDRAWALS OF OBJECTION TO SMAR AND RELATED REQUESTS FOR RELIEF** to the Office of the Clerk of the United States District Court for the District of Arizona for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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/s/ Juan Rodriguez

Juan Rodriguez

Dated: August 7, 2017