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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Roy and Josie Fisher, et al.,
 Plaintiffs
and
United States of America,
 Plaintiff-Intervenor,
v.
Tucson Unified School District, et al.,
 Defendants,
and
Sidney L. Sutton, et al.,
 Defendants-Intervenors,

No. CV-74-00090-TUC-DCB

Maria Mendoza, et al.,
 Plaintiffs,
and
United States of America,
 Plaintiff-Intervenor,
v.
Tucson Unified School District, et al.
 Defendants.

No. CV-74-0204-TUC-DCB

ORDER

Unitary Status Plan (USP) Budget SY 2018-2019: Adopted

1 The Tucson Unified School District (TUSD) Governing Board approved the 2018-
2 2019 USP budget and filed it with the Court on July 16, 2018. The Mendoza Plaintiffs
3 filed an objection with the Court that the District’s magnet schools were previously and
4 continue to be underfunded. (Mendoza Objection (Doc. 2118 at 2.) Complaining the
5 Special Master mischaracterized their objections, (Budget Cover Letter (Doc. 2117-2) at
6 12), the Mendoza Plaintiffs explain they are not merely advocating magnet funding be
7 increased year-to-year. Rather, Mendoza Plaintiffs believe magnet school funding,
8 especially for those schools that must raise student achievement, has been and remains
9 inadequate. (Mendoza Objection (Doc. 2118) at 3.) Proof for such claims are supported
10 by identical budgets from the 2017-2018 school year, with some schools’ budgets being
11 replicated in the 2018-2019 school year. *Id.* at 3-4. Without adequate funding, Mendoza
12 Plaintiffs argue that magnet schools will not serve their intended purpose – to promote
13 integration.

14 The Mendoza Plaintiffs, without stating them, assert “certain express objections,”
15 as made in prior years, to the inclusion in the Tucson Magnet School budget of \$12,500
16 for an assistant curator. *Id.* at 4. The Court presumes the Mendoza Plaintiffs are
17 challenging the \$12,500 § 910G¹ funding for the magnet curator as improper supplanting.
18 As the Court recalls, 910G funds can only be used to supplement not to supplant other
19 non-910G funding sources. *See* (Order (Doc. 1705) at 3) (discussing the purpose of 910G
20 funds as being to implement activities required by a court order of desegregation). If
21 magnet schools are a major, and arguably primary, component of the USP for attaining
22 integration, the promotion of those magnet schools, including the success of the program
23 and its students, is essential and recruitment is equally important. The Unitary Status Plan
24 (USP) holds the District responsible for developing, implementing and operating
25 successful recruitment and marketing plans for each magnet school. *See* Order (Doc.
26 2123 at 33) (retaining jurisdiction over USP Outreach and Recruitment in context of

27 ¹ Ariz. Rev. Stat. Ann. § 15-910G.
28

1 assessing unitary status subsequent to the filing of the 3-Year Plus Integration Plan:
2 Comprehensive Magnet Plan (3-Year PIP: CMP) The Court finds that the curator is a key
3 component to marketing and recruiting students for Tucson High's art driven magnet
4 program which is essential to Tucson High's integration efforts. (TUSD Response (Doc.
5 2122) at 3.)

6 The District's Response filed August 6, 2018, argues that the budget considers a
7 variety of competing needs and the Mendoza's objections should be overruled because
8 they do not consider all funding sources and lack specific recommendations. *Id.* As for
9 the funding sources, the District includes a chart, displaying the amount of 910G funds
10 coupled with Title I funds that the Mendoza Plaintiffs do not mention in their objections.
11 *Id.* at 2. With respect to specific schools suffering from inadequate funding mentioned in
12 the Mendoza Plaintiff's objections, such as Booth-Fickett and Palo Verde, the combined
13 budget for those schools equal \$1,203,841 and \$793,363 respectively. *Id.* These amounts
14 include the addition of the Title I funds with the 910G funds.² The District also contends
15 that simply because the budgets are the same or less than previous years does not make
16 them *de facto* inadequate without an analysis of all funding sources and an analysis of
17 what schools spent in prior years. *Id.* at 3. The District argues that more money does not
18 equal improved academic performance and references one school in the district,
19 Drachman, that ranked highest in budget but lowest in English Language Arts (ELA)
20 growth. *Id.* at 3.

21 This Court has emphasized in previous Orders the importance of magnet schools
22 within the District. The Court's recent Order found unitary status has been attained only
23 in part, and recognized that magnet schools are the District's primary mechanism for
24 achieving integration and rejected, based on the existing record, the conclusion that
25 budget capacity does not exist to adequately resource and staff new and future magnet
26 programs. (Order (Doc. 2123) at 31.) Integration and student achievement are understood

27
28 ² The Chart also shows an additional \$166,259 of Title I funds allocated for
Drachman which the Mendoza Plaintiffs did not include in their \$452,261 total budget,
making the combined budget \$618,520.

1 to have a direct correlation with one another because the goal of a magnet school is to
2 “attract a racially diverse student body...” and high academic standards draw students to
3 magnet schools, and an effective magnet program will improve student achievement.
4 (Order (Doc. 2123 at 31.)

5 The Court is not prepared to engage in an analysis regarding adequate funding
6 based solely on the budget numbers, combined or otherwise. Pursuant to the directives
7 issued by this Court in the Unitary Status Order, the District is currently engaged in
8 developing future plans for its schools and magnet program.³ This information will
9 inform the budget discussion. In the future, Plaintiffs should be able to identify specific
10 activities, programs and/or positions that justify more funding at specific magnet schools
11 and the Court will be better able to consider any representation by the District regarding
12 budget constraints. As for now, the Court reemphasizes the importance of adequately
13 funding magnet schools, including programs to improve academic achievement, because
14 these schools are the Districts’ primary mechanism for attaining integration.

15 As for the \$12,500 budget allocated for the Tucson High curator, the District links
16 it to integration because the District allocated \$25,000 for a designated person(s) to
17 ensure magnet related events and activities are prevalent at the 630,000 square foot
18 school. (TUSD Response (Doc. 2122) at 4.) The tasks delegated to the curator include
19 increasing magnet signage to strengthen magnet theme visibility to improve effectiveness
20 and recruitment efforts. The curator is responsible for displaying and celebrating students
21 work throughout the hallways. The District argues such exhibits are crucial to integration
22 because magnet tours are given to potential students and their families; 236 magnet tours
23 were provided in the 2017-2018 school year. (TUSD Response (Doc 2122) at 4.) The
24 Court agrees with the District that the curator budget promotes integration at Tucson
25 High and commends the District for improving and increasing recruitment this past year.
26 (Order (Doc. 2123) at 33) (citing 2016-17 DAR describing new 2016-17 Outreach and
27 Recruitment developments)). The Court approves the District’s \$25,000 budget for a

28 ³ 3-Year PIP:CMP to be completed by September 1, 2019.

1 curator at Tucson High to be split-funded between 910G funds and other non-910G
2 funds. The Court approves the USP budget filed on July 16, 2018 (Doc. 2117).

3 **Accordingly,**

4 **IT IS ORDERED** that the Court approves the 2018-19 USP Budget (Doc. 2117).

5 Dated this 20th day of November, 2018.

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Honorable David C. Bury
United States District Judge