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12
13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF ARIZONA**

15 Roy and Josie Fisher, et al.,

16 Plaintiffs,

17 v.

18 United States of America,

19 Plaintiff-Intervenors,

20 v.

21 Anita Lohr, et al.,

22 Defendants,

23 Sidney L. Sutton, et al.,

24 Defendant-Intervenors,

Case No. 4:74-CV-00090-DCB

**MENDOZA PLAINTIFFS' RESPONSE
TO TUSD NOTICE OF OBJECTION
(DOC. 2161) TO THE SPECIAL
MASTER'S REPORT ON MAGNET
SCHOOLS (DOC. 2147)**

Hon. David C. Bury

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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

9
10 **Introduction**

11 Pursuant to Section V, 4, b of the Order Appointing Special Master (Doc. 1350),
12 Mendoza Plaintiffs submit the following Response to the TUSD Notice of Objection (Doc.
13 2161) to the Special Master’s Report on Magnet Schools (Doc. 2147) [“SM Magnet
14 School Report”] (and, by extension, to so much of this Court’s Order of December 12,
15 2018 (Doc. 2161) as adopted the portions of the SM Magnet School Report to which it
16 now objects). In submitting this Response, Mendoza Plaintiffs are mindful that TUSD has
17 stated it is not seeking reconsideration or modification of the Court’s Order. However,
18 given the nature of the District’s objection and the extent to which it ignores the record in
19 this case, they determined that a response was required.

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21
22 In its objection, the District argues that academic achievement is not relevant to
23 magnet status (Notice of Objection [“Objection”] at 2:23-25) and suggests that what it
24 terms “the Court’s approach” (*id.* at 4:3) is rooted in the Court’s “most recent order.” (*Id.*
25 at 4:2.) In fact, however, it is rooted in the District’s own Comprehensive Magnet Plan
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28

1 and has been integral to all parties' assessment of magnet school progress and success for
2 years.

3 **The Place of Academic Achievement in the District's Magnet School Plans and**
4 **the Record in This Case**

5 The District's Comprehensive Magnet School Plan, on its website as of December
6 13, 2018 and filed with the Court (as Doc. 1898) on January 28, 2016, states on its very
7 first page under the heading "Overview":
8

9 As the District moves toward unitary status, TUSD's Magnet
10 Department is committed to magnet schools becoming integrated
11 and high achieving. To do so, specific goals have been created that
12 will address the issues surrounding integration and student achievement....

13 [T]here are five student achievement goals: 1. A magnet school
14 must be an A or B school as defined by the Arizona Department of
15 Education school letter grade system. 2. Students in magnet schools will
16 score higher than the state median in reading and math on the state
17 assessment. 3. Students in magnet schools show higher growth than the
18 state median growth in math and reading. 4. Magnet schools will secure
19 the growth of the bottom 25% of the students at the school at a rate
20 higher than the state median growth of the bottom 25%. 5. Magnet schools
21 will reduce achievement gaps between the racial groups so that
22 achievement gaps between racial groups are less than those in
23 schools not participating in magnet programs.

24 Doc. 1898 at page 7 of 279; see also, *id.* at 15 of 279: "Student achievement data will
25 be the second determining factor in identifying possible magnet elimination."¹

26 Significantly, prior to the adoption of the January 2016 Comprehensive Magnet
27 Plan, the District had proposed magnet plans that also included goals for academic
28 achievement. These were discussed at length in the Court's Order of January 16, 2015

1 So that there will be no confusion or misunderstanding going forward, Mendoza
Plaintiffs also reiterate that they have and will continue to object to elimination of magnet
status when they believe that the District has failed to provide a magnet school with the
resources needed to attain the stated goals.

1 (Doc. 1753.) Of particular note given the District’s new objection, the Court, when it
2 recited the academic goals the District was setting for magnet schools, observed: “TUSD
3 does not object to adding the Mendoza Plaintiffs’ proposed standard: ‘the achievement
4 gaps between the racial groups participating in magnet programs is less than the
5 achievement gaps between racial groups not participating in magnet programs.’ ” (Doc.
6 1753 at 9:16-10:2.)
7

8 Additionally, when this Court in 2015 directed the preparation of magnet school
9 improvement plans to implement the provisions of the Comprehensive Magnet Plan it
10 expressly relied on and cited the work of the District’s outside consultant, Education
11 Consulting Services, which had prepared an extensive review of TUSD’s magnet schools.
12 (The consultants’ report was filed as Exhibit 1 to Doc. 1738.) Referencing that
13 consultants’ report, the Court wrote:
14

15 Integration and student achievement are linked together because
16 the goal of a magnet school is by definition ‘to attract a racially
17 diverse student body by creating a school so distinctive and
18 appealing – so magnetic – that it will draw a diverse range of
19 families from throughout the community eager to enroll their
20 children, even if it means having them bused to a different,
21 and perhaps, distant neighborhood. To do so, the magnet
22 schools must offer educational programs of high caliber that are
23 not available in other area schools.’ (2001 Magnet Study (Doc.
24 1738 [Exhibit 1] at 3.) In the best magnet schools, the
25 magnet components, many of which are associated with
26 effective schools, add up to higher student achievement. *Id.*
27 In other words, high academic standards will draw students
28 to a magnet school, and an effective magnet program will
improve student achievement.

Doc. 1753 at 10:3-12.

Conclusion

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2 For the reasons set forth above and as more fully demonstrated in the cited plans,
3 studies, and orders, this Court and the Special Master should reject the District's new-
4 found objection to the consideration of academic achievement in assessing the
5 effectiveness of its magnet schools.
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8 Dated: December 14, 2018
9

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CERTIFICATE OF SERVICE

I hereby certify that on I electronically submitted the foregoing MENDOZA PLAINTIFFS' RESPONSE TO TUSD NOTICE OF OBJECTION (DOC. 2161) TO THE SPECIAL MASTER'S REPORT ON MAGNET SCHOOLS (DOC. 2147) 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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Dated: December 14, 2018