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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’
SUPPLEMENTARY RESPONSE TO
TUSD NOTICE AND REPORT OF
COMPLIANCE: ELL ACTION PLAN
AND OBJECTION TO THE DISTRICT’S
REQUEST (DOC. 2153) THAT IT BE
AWARDED UNITARY STATUS WITH
RESPECT TO SECTION V, E, 1, B, I OF
THE USP**

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

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10 **Introduction**

11 Pursuant to the Court’s Order of September 6, 2018 (Doc. 2123) (“Sept. Order”),
12 Mendoza Plaintiffs submit this Supplementary Response to TUSD Notice and Report of
13 Compliance: ELL Action Plan (“ELL Plan”) and TUSD’s accompanying request that it be
14 awarded unitary status with respect to Section V, E, 1, B, i of the USP.

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16 Mendoza Plaintiffs object to the proposed ELL (and R-ELL [reclassified ELL])
17 student graduation goals set forth in the ELL Plan as insufficiently ambitious and
18 apparently set so that the District can “declare victory” and end Court oversight of this
19 portion of the USP. They also object to the apparent failure of the District to have assessed
20 the efficacy of the support services and strategies that it says it will “continue to
21 implement” and the lack of clarity in its further statement that it will “consider other
22 additional [but unspecified] strategies to enhance support for ELLs and R-ELLs.” (Action
23 Plan at 4 of 6.) With respect to such “additional strategies”, Mendoza Plaintiffs
24 specifically object to the District’s failure to have included parent engagement strategies
25 expressly targeted to families of ELL students in the ELL Plan, particularly given that such
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1 strategies similarly do not appear to be included in the Update to the Family and
2 Community Engagement Plan (Doc. 2154-1) that was simultaneously filed with the Court.¹

3 **The District Should Be Required to Set Higher Graduation Goals for ELL and**
4 **R-ELL Students**

5 The ELL Plan is notable for the absence of any *discussion* of graduation goals for
6 ELL and R-ELL students. Instead, it contains two charts presenting historic graduation
7 rates for ELL and R-ELL students and includes in their headings the statements that the
8 graduation goals are “at least 50% of each ELL cohort” and “at least 75%” for each R-ELL
9 cohort.² (ELL Plan, Doc. 2153-1, at 3 of 6.) The charts also report that for the 2017-18
10 school year, the District exceeded these “goals.”
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12
13 Mendoza Plaintiffs believe that it is incumbent on the District to explain and justify
14 the graduation rate goals it set forth in the ELL Plan and to explain why it should not be
15 held to higher goals than the ones it met last year. In this regard, Mendoza Plaintiffs also
16 note that the ELL Plan says that the District’s Dropout Prevention and Graduation
17 (“DPG”) Committee is to review “annual goals yearly.” They observe that the ELL Plan
18 does not appear to set “annual goals” but, rather, appears to apply the same goal to all
19 years from 2015-16 forward. More importantly, however, and as noted above, there is no
20 indication that having reviewed the outcomes for the 2017-18 school year, the committee
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24 ¹ That Update does call for newsletters and other materials to be in multiple languages and
25 references strategies for communicating with families who speak languages other than
26 English but does not otherwise address strategies to engage such families and inform them
27 of resources available to their children.

28 ² The second chart relating to the graduation rates of R-ELL students refers to the “ELL
cohort” when it recites the graduation rate goal but Mendoza Plaintiffs believe this to be a
typo and that the reference must be to the “R-ELL cohort” given the information in the
chart.

1 took any action to seek to hold the District to higher goals for this year and beyond or
2 determine why it would not be appropriate to do so.

3 **The District Should Set Forth Its Rationale for Continuing the Services and**
4 **Strategies It Already Had in Place and Be Required to Add a Family Engagement**
5 **Component to Those Strategies**

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7 Mendoza Plaintiffs appreciate that the District is reporting increasing graduation
8 rates for its Latino ELL and R-ELL students and recent improvement in the dropout rate.
9 (The graduation record is more uneven for its African American students.) (ELL Plan,
10 Doc. 2153-1, at 3 of 6.) That very well may suggest that major changes were not required
11 in the services and strategies the District already had in place. However, given that the
12 DPG Committee is charged with making adjustments to the ELL Plan “as needed based on
13 data, goals, and information” (ELL Plan, Doc. 2153-1, at 3 of 6) and that the District was
14 under Court direction to file an “ELL Action Plan” (Sept. Order, Doc. 2123, at 150: 10-
15 11), Mendoza Plaintiffs believe that the ELL Plan should have included discussion of the
16 historical levels of participation in the nine services and strategies already in place and
17 some assessment of their efficacy or outcomes before the District determined to continue
18 to pursue all of them (and add no others). (Mendoza Plaintiffs do note that there are
19 enhancements to some of those strategies in the ELL Plan in particular with respect to
20 sheltered content classes. (ELL Plan, Doc. 2153-1, at 6 of 6.))

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24 Of particular concern to the Mendoza Plaintiffs is the absence in the ELL Plan of
25 any family engagement strategies directly focused on the parents and guardians of ELL
26 students. They have reviewed the District’s Update to Family and Community
27 Engagement Plan (Doc. 2154-1) (“Updated FACE Plan”) and, except for the limited
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1 references to communication in languages other than English noted above in footnote 1,
2 see no such outreach and strategies in that plan. In their objections to that Updated FACE
3 Plan, Mendoza Plaintiffs comment on that omission. They also address it here because
4 the absence of such strategies in the ELL Plan underscores yet another issue. The Mexican
5 American Student Services Department (“MASSD”) Operating Plan (Doc. 2151-2) does
6 have some strategies specifically directed to the families of ELL students (that, Mendoza
7 Plaintiffs assert, should be clearly cross referenced in the Updated FACE Plan and the
8 subject of meaningful collaboration between the District’s family engagement personnel
9 and the staff of the MASSD). But so far as the Mendoza Plaintiffs have been able to
10 determine, the African American Student Services Department Operating Plan (Doc. 2151-
11 1) does not. Therefore, unless the ELL Plan is revised to address the omission, there is no
12 District plan of which the Mendoza Plaintiffs are aware that specifically recognizes the
13 importance of engaged African American ELL families to their students’ success,
14 including reduced absenteeism, reduced dropout rates, and ultimate high school
15 graduation.³

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19 With respect to Latino parents, the Mendoza Plaintiffs also note that they have
20 informed the District of programs that specifically work with Latino parents and parents of
21 ELLs including PIQE (Parent Institute for Quality Education), which, they understand, has
22 held sessions in Phoenix. They remain available to work with the District to identify other
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27 ³ Mendoza Plaintiffs recognize that they do not speak for the class of African American
28 students and their families; however, it has often fallen to them to address the needs of all
ELL students in the District given the large proportion who are Spanish speaking and
members of the class they do represent.

1 programs that provide such assistance if the District determines that it could benefit from
2 outside resources in this area.

3 **Conclusion**

4 This Court should deny the District's request for a finding that it has attained
5 unitary status with respect to USP Section V, E, 1, b, I,⁴ and should require TUSD to (1)
6 revise the section on goals in the ELL Plan to set more ambitious goals for the graduation
7 rates of its ELL and R-ELL students; (2) explain the basis for its decision to continue the
8 services and strategies set forth in its ELL Plan and, if warranted, revise those services and
9 strategies as its analysis of participation and outcomes may suggest; and (3) add a section
10 to the ELL Plan addressing the engagement of ELL families in their children's education
11 and academic success.
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27 ⁴ In making this request, Mendoza Plaintiffs do not intend to waive, and hereby retain,
28 their claim that the District has not yet attained unitary status with respect to any portion of
the USP.

Dated: January 7, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2019 I electronically submitted the foregoing **MENDOZA PLAINTIFFS'SUPPLEMENTARY RESPONSE TO TUSD NOTICE AND REPORT OF COMPLIANCE: ELL ACTION PLAN AND OBJECTION TO THE DISTRICT'S REQUEST (DOC. 2153) THAT IT BE AWARDED UNITARY STATUS WITH RESPECT TO SECTION V, E, 1, B, i OF THE USP** 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: January 7, 2019

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