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13	UNITED STATES DISTRICT COURT	
14	DISTRICT OF ARIZONA	
15	Roy and Josie Fisher, et al.,	4:74-cv-00090-DCB (Lead Case)
16	Plaintiffs, vs.	(Lead Case)
17		
18	Tucson Unified School District No. 1, et al.,	
19	Defendants.	
20	Maria Mendoza, et al.,	CV 74-204 TUC DCB
21	Plaintiffs,	(Consolidated Case)
22	VS.	
23	Tucson Unified School District No. 1, et al.	
24	Defendants.	
25		
26		

DISTRICT REPLY TO OBJECTIONS TO ITS
NOTICE AND REPORT OF COMPLIANCE:
INCLUSIVE SCHOOL ENVIRONMENTS AND CULTURES OF CIVILITY

The Court directed the District to prepare and file a notice and report of compliance with its directives maintaining inclusive school environments fostering cultures of civility, and a professional learning plan relating to these areas. [ECF 2123 at 123–24, 151.] The District filed its notice of compliance setting out the activities undertaken by the District, and the professional learning plan, on December 6, 2018. [ECF 2156, 2156-1, and 2156-2.]

The Special Master and the Court had directed the District to undertake a study of general inclusiveness and bullying. [ECF 2096, at 55; ECF 2123 at 123–24.] The District undertook the study; a copy of the report on the study was attached to the District's filing (ECF 2156-1). As set out in the report, the study found that students felt broad and high levels of student inclusiveness throughout the District. Perhaps more importantly, the level of inclusivity felt by students did not differ markedly between racial and ethnic groups. Based on the report, the District concluded that there is not a broad or systemic problem with its existing strategies and approaches to inclusive school environments and fostering cultures of civility.

The Mendoza Plaintiffs object because they claim the District did not study or propose new strategies for increasing inclusiveness. However, the Special Master's completion plan required identification and implementation of additional strategies only "[i]f the data suggests that the levels of inclusiveness need to be improved and/or these perceptions vary by race." [ECF 2096, at 55.] As noted above, the data do not meet these criteria, and the District is continuing to implement its current strategies, which include continuous monitoring, regular professional learning and individual trouble spots with focused additional support and training, all as set out in the professional learning plan (ECF 2156-2).

¹ Contrary to the Mendoza Plaintiffs' claim, there are no "relatively high" instances of bullying shown by the study. There are only some schools that show somewhat more than others, as would always be the case when surveying students at over 80 schools. The overall levels of bullying are not high.

The choice of whether professional learning is delivered by consultants or salaried District staff, as the Mendoza Plaintiffs complain, is and should be a matter committed to the sound discretion of the District's educators, and is utterly devoid of any constitutional dimension, particularly in the absence of any evidence (or even the claim) that either (a) the District has a greater inclusiveness problem than any other school district, or (b) the inclusiveness in 2018 is someway causally connected to the discriminatory conduct which ended in the District more than fifty years ago.

The Mendoza Plaintiffs also complain that the professional learning plan does not include provisions for feedback to determine whether the teachers are employing the techniques that are taught. But there is ample feedback—the continued monitoring of students' sense of inclusiveness through the annual administration of the student survey on which the study was based. If inclusiveness values remain high, as they are, then teachers are doing what is needed. If inclusiveness values were to drop materially over a significant period (either in a single school or throughout the District) then the District would have the information necessary to target the issue and take remedial action. Moreover, annual teacher evaluations, using the approved evaluation rubric, provide an additional basis for assessment on use of tools for inclusive schools environments and cultures of civility.²

The issue is not whether more could be done, or whether inclusiveness could be even higher than it is already. There is always more that can be done. But resources are finite, and the data show that there is no significant issue with overall inclusivity – certainly nothing meriting the extraordinary remedy of continued court supervision. The District respectfully submits that it has complied with the USP and the Court's orders regarding inclusive school environments, and requests that the Court grant partial unitary status in this area of District operations (USP § V.F).

² See, generally, evaluation rubric at ECF 2130-2 at 17–61; specifically, domain 1b, at 20, domain 2a, at 30, and domain 2d, at 26.

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1	RESPECTFULLY SUBMITTED this 22nd day of January, 2019.	
2	STEPTOE & JOHNSON LLP	
3	By /s/ P. Bruce Converse P. Bruce Converse	
4 5	P. Bruce Converse Timothy W. Overton	
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CERTIFICATE OF SERVICE

The foregoing document was filed with the Court electronically through the CM/ECF system this 22nd day of January 2019, causing all parties or counsel to be served by electronic means, as more fully reflected in the Notice of Electronic Filing.

/s/ Diane Linn

Employee of Steptoe & Johnson LLP

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