

1 **TUCSON UNIFIED SCHOOL DISTRICT**  
 LEGAL DEPARTMENT  
 2 1010 E. TENTH STREET  
 TUCSON, AZ 85719  
 3 (520) 225-6040  
 Robert S. Ross (State Bar No. 023430)  
 4 Robert.Ross@tusd1.org  
 Samuel E. Brown (State Bar No. 027474)  
 5 Samuel.Brown@tusd1.org

6 **STEPTOE & JOHNSON LLP**  
 201 East Washington Street, Suite 1600  
 7 Phoenix, Arizona 85004-2382  
 Telephone: (602) 257-5200  
 8 Facsimile: (602) 257-5299  
 P. Bruce Converse (005868)  
 9 bconverse@steptoe.com  
 Timothy W. Overton (State Bar No. 025669)  
 10 toverton@steptoe.com

11 *Attorneys for Tucson Unified School District No. 1*

12  
 13 **IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

|   |   |
|---|---|
| 15 Roy and Josie Fisher, et al.,<br>Plaintiffs,<br>16 v.<br>17 Tucson Unified School District No. 1, et<br>18 al.,<br>Defendants. | 4:74-cv-00090-DCB<br>(Lead Case)        |
| 19 Maria Mendoza, et al.<br>Plaintiffs,<br>20 v.<br>21 Tucson Unified School District No. 1, et<br>22 al.,<br>Defendants.         | CV 74-204 TUC DCB<br>(ConsolidatedCase) |

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 24 **TUSD’S RESPONSE**  
 25 **TO THE SPECIAL MASTER’S REPORT**  
**ON THE STATUS OF DRACHMAN AND ROSKRUGE**  
 26 **and**  
 27 **RESONSE TO THE MENDOZA PLAINTIFFS’**  
 28 **PARTIAL OBJECTION**

1 Roskruge occupies a unique position under the Unitary Status Plan. It is both a  
2 magnet school under Section II, and a Two-Way Dual Language school under Section V.  
3 It is one of the District's oldest and most historic schools, and many generations of  
4 Tucsonians have attended school here – many of them as magnet students. For these  
5 reasons, the subject of magnet removal is difficult for many stakeholders, including the  
6 Mendoza Plaintiffs and the District.

7 On November 15, 2018, the Special Master issued a report and recommendation  
8 placing Roskruge among five magnet schools in danger of losing magnet status. The report  
9 identified Roskruge as a school “in need of revitalization”, noted “there is little chance” it  
10 could become integrated, and recommended that rather than considering it “as a magnet  
11 school” the District should ensure that it “play an important role in a comprehensive dual  
12 language plan.” [ECF 2147 at 8-9.] On December 6, 2018, the Court adopted the  
13 recommendations, finding “the Special Master may recommend to the Court that any  
14 particular school shall lose its magnet status” during the spring of 2019 [ECF 2158.]

15 Given Roskruge's unique position under the USP and its historical significance in  
16 Tucson, the District sought to both improve the school's academic performance and  
17 increase its long-term stability, reducing community concerns about possible resource  
18 reductions and negative community impacts. Thus, the District developed a proposal that  
19 would continue – and strengthen – the TWDL program while retaining 910(G) funding as a  
20 dual language program (rather than as a magnet program), advancing the academic  
21 performance of the school, and strengthening the pathway from elementary TWDL  
22 programs and the fidelity of the model's implementation. The proposal seeks to accomplish  
23 all of this without adverse consequences for students currently attending the school  
24 (withdrawal would take effect in SY2020-21, with a transition occurring in SY 2019-20).

25 Recognizing that the magnet proposal triggers the USP section I.D.1 and the NARA  
26 process, the District initiated these processes by sending materials and timelines to all  
27 parties on February 1, 2019. See Exhibit 1 (email and attachments).

Tucson Unified School District – Legal Department  
1010 East 10<sup>th</sup> Street, Room 24  
Tucson, Arizona 85719  
Telephone: (520) 225-6040

1           Simply put, the District is in the process of making a “hard decision[] necessary to  
2 operate an effective Magnet Program” (see Order 2123 at 28:6-7) by proposing the removal  
3 of the magnet at Roskruge, while at the same time developing a way forward for Roskruge  
4 that meets multiple goals for stakeholders, and key objectives under the USP.

5           The Special Master’s most recent report concurs with most of the District proposal,  
6 and adds recommendations for transitioning Roskruge out of magnet status while sustaining  
7 its dual language program. It makes no mention about “retaining” magnet status, other than  
8 recommending that status not be removed immediately this year. [ECF 2184.]

9           The Mendoza Plaintiffs, in their “partial” objection to that most recent report, request  
10 that the Court modify the Special Master’s recommendation in subtle but problematic ways.  
11 First, the Special Master made no recommendation regarding magnet status for Roskruge  
12 for the 2019-20 school year; the Mendoza Plaintiffs seek to add this to his recommendation.  
13 The Mendoza Plaintiffs do not include in their modified formulation of the recommendation  
14 the stipulations included by the Special Master regarding transition to a two-way dual  
15 language school that is not a magnet.

16           Perhaps most problematically, the Mendoza Plaintiffs seek to add a provision  
17 ordering that the District “take no actions and make no statements that are inconsistent”  
18 with Roskruge’s current magnet status. This provision, if adopted by the Court, would  
19 hamstring District efforts to develop and refine the way forward for Roskruge with the  
20 school community. Moreover, the precedent that would be set by such an order would chill  
21 open and transparent communication by prohibiting the District from communicating  
22 openly with the Roskruge school community (or others in the future) about a potential  
23 magnet withdrawal because statements made in such communication may be seen as  
24 “inconsistent” with the school’s existing magnet status. Such a request is troubling for  
25 obvious reasons.

26           The District is actively working with site leadership, central leadership, parents,  
27 staff, the Roskruge PTA, the Roskruge School Site Council, and the plaintiffs and Special  
28

1 Master through the I.D.1, II.D.2, and NARA processes and community forums. These  
 2 processes and forums are vital to developing the plan for a long-term way forward for  
 3 Roskruge that (a) will include their input, (b) will ensure continued commitment to two-way  
 4 dual language, (c) will continue to provide adequate funding for the school's key programs,  
 5 and (d) will include the continuation of efforts to further improve integration. In these  
 6 meetings and conversations, statements **must** be made that could be seen as "inconsistent"  
 7 with continued magnet status at Roskruge.

8 The Mendoza Plaintiffs also request that the Court modify the Special Master's  
 9 stipulations regarding the potential transition for Roskruge. The stipulations need no  
 10 modification. The District has reduced the racial concentration of Latino students at  
 11 Roskruge from 85% to 79%, almost doubled the numbers of African American students  
 12 (from 10 to 18), and more than doubled the numbers of Anglo students (from 20 to 49) over  
 13 the past six years. The District has developed integration plans in the Roskruge Magnet Site  
 14 Plan (submitted to Plaintiffs on February 8, 2019), and is developing strategies to promote  
 15 integration in the 3-Year PIP:CMP, as directed by the Court.

16 The USP calls for a process to withdraw magnet status (§X.C.3). The District is  
 17 following that process (see Ex. 1). The District is already developing and implementing  
 18 plans to *further* integrate Roskruge. The requested directive to create a third integration  
 19 plan is unnecessary, unwarranted, and duplicative. The request to limit communication  
 20 between the District and its stakeholders (including the Special Master and the Plaintiffs), if  
 21 approved, would create less transparency and more confusion among students, parents, and  
 22 teachers. For these reasons, the Court should deny the Mendoza requests.

23 **Respectfully submitted on February 12, 2019.**

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 25 **LEGAL DEPARTMENT**

26 s/ Samuel E. Brown  
 27 Robert S. Ross  
 Samuel E. Brown  
 Attorneys for Tucson Unified School District No. 1

**STEPTOE & JOHNSON LLP**

P. Bruce Converse

Paul K. Charlton

Timothy W. Overton

Attorneys for Tucson Unified School District No. 1

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Telephone: (520) 225-6040

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**Certificate of Service**

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2 **ORIGINAL** of the foregoing filed via the CM/ECF Electronic Notification System and  
3 transmittal of a Notice of Electronic Filing provided to all parties that have filed a notice of  
4 appearance in the District Court Case.

5  
6 s/ Samuel E. Brown

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