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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

**SUPPLEMENT TO MENDOZA  
PLAINTIFFS' PARTIAL OBJECTION TO  
REPORT OF SPECIAL MASTER ON  
STATUS OF DRACHMAN AND  
ROSKRUGE K-8 MAGNET SCHOOLS  
(DOC. 2184) FILED FOR THE PURPOSE  
OF PUTTING NEWLY OBTAINED  
EVIDENCE BEFORE THE COURT;  
DECLARATION OF JUAN RODRIGUEZ**

Hon. David C. Bury

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1 Maria Mendoza, et al.,

Case No. CV 74-204 TUC DCB

2 Plaintiffs,

3 United States of America,

4 Plaintiff-Intervenor,

5 v.

6 Tucson United School District No. One, et  
al.,

7 Defendants.

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10 **Introduction**

11 On February 5, 2019, Mendoza Plaintiffs filed their Partial Objection to Report of  
12 Special Master on Status of Drachman and Roskruge K-8 Magnet Schools (Doc. 2189)  
13 (“Roskruge Objection”). In that document they referenced (and objected to) the Special  
14 Master’s reliance in support of his recommendation on what he reported to be the District’s  
15 position that Roskruge should lose its status as a magnet school. (Roskruge Objection at 1:  
16 20-22.) Thereafter, on February 8, 2019, Mendoza Plaintiffs received an anonymous  
17 communication from a TUSD employee providing TUSD records that document a  
18 comprehensive District plan to **maintain** Roskruge as a magnet school. (*See*  
19 accompanying Declaration of Juan Rodriguez (“Rodriguez Decl.”), Exhibit A.<sup>1</sup>)  
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25 <sup>1</sup> Given that Exhibit A consists of an email and its attachment that is inconsistently  
26 numbered because it includes excerpts from multiple documents, Mendoza Plaintiffs’  
27 reference to the page numbers of Exhibit A are to the page numbers as assigned by the  
28 Court’s ECF filing system. The District has confirmed the authenticity of the documents  
attached to the anonymous email and provided full copies of them. They are attached to  
the Rodriguez Decl. as Exhibit B. Mendoza Plaintiffs understand the yellow highlighting  
in the documents attached to the anonymous email to have been added by the person who  
sent that email.

1           Mendoza Plaintiffs now bring these materials to the Court’s attention because they  
2 call into question the sincerity of the District’s current position that Roskruge should be  
3 divested of its magnet status and suggest that the Special Master’s reliance on that current  
4 position in support of his recommendation to the Court is unfounded. Further, the contrast  
5 between the District’s current position and the substance of its own extensive internal  
6 planning to enhance Roskruge’s status as a **magnet** school confirm Mendoza Plaintiffs’  
7 concern that the District seeks to terminate Roskruge’s magnet status solely because it  
8 does not believe that Roskruge will be able to meet the USP definition of an integrated  
9 school within the next year -- and that this will impair its effort to secure unitary status --  
10 since there is no material difference between its prior extensive planning for Roskruge and  
11 its current plan except the recent decision to terminate its magnet status.<sup>2</sup>

14           The Mendoza Plaintiffs first expressed this concern when they first learned that the  
15 District had proposed eliminating Roskruge’s magnet status. At that time they wrote that  
16 the proposed action “makes no sense given that the District’s proposals to remove all  
17 attendance boundaries for the school and strengthen its dual language theme are absolutely  
18 consistent with magnet status.” *See* December 17, 2018 Comments on the District’s  
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21 <sup>2</sup> For clarity, Mendoza Plaintiffs have not argued that every magnet school must meet the  
22 USP definition of integration before the District can be found to have achieved unitary  
23 status. Even as the USP states that the “student assignment goal for all magnet schools and  
24 programs shall be to achieve the definition of an integrated school...” (USP, Section II, E,  
25 2), it also says that the District “shall recruit a racially and ethnically diverse student body  
26 to its magnet schools and programs to ensure that the schools are integrated to the greatest  
27 extent practicable.” (*Id.*) The Mendoza Plaintiffs’ quarrel with the District (as discussed  
28 more fully in the Roskruge Objection) is and remains its failure to have engaged in the sort  
of outreach and recruiting for Roskruge that could “ensure that the school[] [is] integrated  
to the greatest extent practicable.” (Because they discussed family engagement in this  
context in the Roskruge Objection and because this filing addresses new evidence, they  
note that after the Roskruge Objection was filed, the District provided a response to one of  
the requests for information addressed to the District’s 2017-18 Annual Report that asserts  
that there were more family engagement activities and more parental attendance at  
Roskruge than had been reported in that Annual Report.)

1 “Revisioning Plan” for Roskruge, a copy of which is attached to the Rodriguez Decl. as  
2 Exhibit C, at 1. The documents attached to the anonymous email serve only to heighten  
3 that concern.

#### 4 The New Roskruge Documents

5 The new Roskruge documents indicate that analysis and planning in support of the  
6 continuation of Roskruge as a magnet school was more extensive than even that suggested  
7 in the District’s 2017-18 Annual Report.<sup>3</sup> Included among the new Roskruge Documents  
8 is a Roskruge Magnet Proposal (Exhibit A at 6 *et seq.*) that on its cover recites that it was  
9 reviewed by TUSD’s Coordinated Student Assignment Committee on February 25, 2018.  
10 (*Id.* at 7.) The Roskruge Magnet Proposal states *inter alia* (at page 9) under the heading  
11 Proposed Magnet Program Theme: “Roskruge K-8 is currently a Two-Way Dual Language  
12 (TWDL) Magnet school. This proposal requests the creation of a no-boundary attendance  
13 area for K-5 students **in order to better support that theme.**” (Emphasis added.) There  
14 then follows a description of the proposed program that stresses (in bold) the intent to  
15 create a “**K-8 continuum of the existing magnet program**” (*id.* at 10; emphasis in  
16 original) and concludes under the heading Magnet Theme Rationale: “This proposal does  
17 not change the magnet theme. **The creation of a no-boundary attendance area for K-5**  
18 **students will only enhance and strengthen the existing magnet.**” (*Id.* at 12; emphasis  
19 added.)

20 Also included among the new Roskruge documents is a document labeled  
21 “Evaluation and Decision” that appears to be part of a larger “Notice of Compliance with  
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<sup>3</sup> See, TUSD 2017-18 Annual Report (“2017-18 DAR) (Doc. 2124-1) at 25-26 and  
28 Appendix II-18

1 USP Completion Plan.” (Exhibit A at 5 and 2 and Exhibit B.) That Evaluation and  
2 Decision page states *inter alia*: “Each [magnet school] proposal was presented to the ALT  
3 (Academic Leadership Team) in April and May, 2018. Based on due consideration of the  
4 various alternatives, District staff has recommended that during the 18-19 school year,  
5 staff will initiate the processes for the Governing Board approval and planning for  
6 implementation of a two-way dual language, no attendance boundary **magnet** at  
7 Roskruge.” (Emphasis added.) (A similar statement appears in Appendix II-18 of the  
8 2017-18 DAR, Doc. 2126-1, at 360 of 364, suggesting that as recently as when that Annual  
9 Report was filed on October 1, 2018, the District was committed not only to maintaining  
10 Roskruge as a magnet school but also to strengthening its theme and its capacity to attract  
11 a more diverse population by eliminating its attendance boundary.)  
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14           So far as the Mendoza Plaintiffs can determine from a comparison of the materials  
15 that the District recently has provided, including, for example, the Draft DIA for the  
16 proposed Roskruge boundary change, filed as Exhibit 1 (Doc. 2189-1) to the Roskruge  
17 Objection, and the Roskruge Magnet Proposal included among the new Roskruge  
18 documents, there are no substantive differences between the plan set forth in that Roskruge  
19 Magnet Proposal and the District’s current plans for Roskruge: in particular both envision  
20 a strengthening of the dual language program and making the school “no boundary” at the  
21 K-5 grades as well as at the 6-8 grades. In fact, the only difference appears to be the  
22 District’s new found desire to terminate Roskruge’s status as a magnet school.  
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25           Significantly, the Evaluation and Decision document states that one of the factors  
26 supporting the decision to seek to strengthen Roskruge as a magnet school was that “[t]he  
27 central location of Roskruge and its history suggest that a magnet program at that site will  
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1 substantially improve integration overall.” (Exhibit A at 5.)<sup>4</sup> This statement is consistent  
2 with and supported by the findings and recommendations of the District’s outside magnet  
3 school consultant.

4 In its Tucson Magnet School Evaluation Final Report dated November 11, 2016  
5 (Appendix II-31 to the 2016-17 TUSD Annual Report, Doc. 2058-3) (“the Marzano  
6 Report”), the Marzano Research Group recommended that any new magnet school created  
7 by the District be opened in the central region of the District and observed that parental  
8 preference to send children to a magnet school in the District’s central region was “more  
9 consistent across racial and ethnic groups than preference for other regions [of the  
10 District].” (*Id.* at 118 of 268.) Significantly, in its Annual Report, the District  
11 acknowledged these findings with its statement that among the factors influencing the  
12 proposal to implement a no-boundary, two-way dual language magnet at Roskruge was  
13 “[the] Marzano Report considerations, including central location.” (2017-18 DAR,  
14 Appendix II-18 at 359 of 364.)

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18 The Marzano Report findings and the District’s embrace of them also calls into  
19 question the District’s new assertion in its Draft DIA that it is seeking to withdraw magnet  
20 status from Roskruge because there are six other magnet schools serving students in the K-  
21 8 grades in the central region and that these schools are “recruiting from the same pool of  
22 non-Latino students in the downtown area (and beyond) to integrate their schools.”  
23 (Roskruge Objection, Exhibit 1 at 2.) Further, even as it now seeks to justify withdrawal  
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<sup>4</sup> Interestingly, the District slightly revised this statement in its Annual Report to read as follows: “The central location of Roskruge and its history suggest that a *no-boundary* magnet program at that site will substantially improve integration overall.” (2017-18 DAR, Appendix II at 360 of 364; emphasis added.)

1 of magnet status from Roskruge on the grounds that Davis K-5 elementary school, which  
2 is integrated and is about one mile from Roskruge, offers the same theme as Roskruge, it  
3 ignores the fact that the pathway for the fifth graders graduating from the Davis K-5  
4 magnet dual language program is to the Roskruge sixth grade.  
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6 **Conclusion**

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8 For the reasons set forth above and in the Roskruge Objection, this Court should  
9 clarify that Roskruge is to maintain its status as a magnet school and direct the District to  
10 expeditiously develop and implement a plan supplemental to the Roskruge Magnet  
11 Program Proposal it already has prepared to integrate the school, including, but not limited  
12 to, communicating the educational benefits of a bilingual education to the families of  
13 potential students and to the larger school community.  
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16 Dated: February 14, 2019

17 /s/ Lois D. Thompson  
18 Attorney for Mendoza Plaintiffs  
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**Declaration of Juan Rodriguez**

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I, Juan Rodriguez, declare as follows:

(1) I am a staff attorney with the Mexican American Legal Defense and Educational Fund (“MALDEF”) and one of the lawyers representing the Mendoza Plaintiffs in the captioned matter. I submit this declaration in support of the Supplement to Mendoza Plaintiffs’ Partial Objection to Report of Special Master on Status of Drachman and Roskrug K-8 Magnet Schools (Doc. 2184) Filed for the Purpose of Putting Newly Obtained Evidence Before the Court. The facts set forth below are based on my own personal knowledge. If called to testify as a witness, I could and would testify competently thereto.

(2) On Friday, February 8, 2019, the email and accompanying documents attached hereto as Exhibit A were received at the MALDEF offices addressed to members of its communications team (Sandra Hernandez and Antonio Marcano) and then forwarded to me and MALDEF President and General Counsel Thomas A. Saenz. The yellow highlighting in the documents was in those documents when they were received.

(3) Attached as Exhibit B is the Complete Notice of Compliance with USP Completion Plan document that TUSD counsel Samuel E. Brown sent to me



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after I wrote to ask him whether the documents attached to the anonymous email were authentic

(4) Attached as Exhibit C is a copy of Mendoza Plaintiffs’ Comments on the District’s “Revisioning Plan” for Roskruge and “Revitalization Plan” for Booth-Fickett dated December 17, 2018.

Dated: February 14, 2019

s/ Juan Rodriguez  
Juan Rodriguez

**CERTIFICATE OF SERVICE**

I hereby certify that on February 14, 2019, I electronically submitted the foregoing **SUPPLEMENT TO MENDOZA PLAINTIFFS' PARTIAL OBJECTION TO REPORT OF SPECIAL MASTER ON STATUS OF DRACHMAN AND ROSKRUGE K-8 MAGNET SCHOOLS (DOC. 2184) FILED FOR THE PURPOSE OF PUTTING NEWLY OBTAINED EVIDENCE BEFORE THE COURT; DECLARATION OF JUAN RODRIGUEZ** 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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/s/ Juan Rodriguez

Dated: February 14, 2019

Juan Rodriguez