

1 RUBIN SALTER, JR.  
2 Law Office of Rubin Salter, Jr.  
3 177 N. Church Avenue  
4 Suite 903  
5 Telephone: (520) 623-5706  
6 Facsimile: (520) 623-1716  
7 State Bar No. 01710 / PCC No. 50532  
8 Email: [rsjr3@aol.com](mailto:rsjr3@aol.com)

9 Attorney for Fisher Plaintiffs

10  
11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF ARIZONA**

13 Roy and Josie Fisher, et al.,  
14 Plaintiffs,

15 United States of America.

16 Plaintiff-Intervenors,

17 v.

18 Anita Lohr, et al.,

19 Defendants,

20 Sidney L. Sutton, et al.,

21 Defendant-Intervenors,

22  
23 Maria Mendoza, et al.,

24 Plaintiffs,

25 United States of America,

26 Plaintiff-Intervenor,

27 v.  
28

Case No. 4:74-CV-00090-DCB  
(Lead Case)

**FISHER PLAINTIFFS' OBJECTION  
TO NOTICE AND REQUEST FOR  
APPROVAL NO-BOUNDARY  
ATTENDANCE AREA FOR  
ROSKRUGE TWO-DUAL  
LANGUAGE K-8 MAGNET SCHOOL  
[DOC. 2236]**

Case No. CV 74-204 TUC DCB  
(Consolidated Case)

1  
2 Tucson Unified School District No. One, et  
3 al.,  
4  
5 Defendants.

Hon. David C. Bury

6  
7 **INTRODUCTION**

8 The Fisher Plaintiffs hereby submit this Objection to Tucson Unified School District, No.  
9 1 (“TUSD” or the “District”) Notice and Request for Approval No-Boundary Attendance Area for  
10 Roskruge Two-Way Dual Language K-8 Magnet School filed on July 16, 2019.

11 **ARGUMENT**

12 TUSD’s Operations Program Manager presented the Roskruge Boundary Proposal  
13 (“Proposal”) to the Governing Board on July 9, 2019. The stated purpose in eliminating the  
14 attendance area for Roskruge Bilingual Magnet K-8 is to strengthen the dual-language program.  
15 The Proposal calls for a Spanish proficiency test that all students enrolling after first grade will  
16 have to take in order to demonstrate Spanish proficiency. The premise is that students enrolling  
17 after first grade will be near or at grade level Spanish proficiency and will be able to fully  
18 participate in the learning process. The Spanish proficiency exam should alleviate “lack of  
19 academic progress that non-Spanish speakers experience. Although it is called a two-way dual  
20 language program, the emphasis seems to be that incoming students are proficient in Spanish.  
21 Nowhere in this Proposal is there any statement about the need for students to be proficient in  
22 English. Based on this, there is a good chance that students enrolling in this program will probably  
23 be Hispanic, so any statement about improving integration is without basis.

24 The District does not present any data indicating that there are non-Hispanic students who  
25 are proficient in Spanish who are interested in enrolling in Roskruge.

26 The District is willing to do this regardless of the effect it will have on integration at the  
27 school and the displacement of neighborhood students.

28 The Fisher Plaintiffs do not support this change for several reasons. **First**, the Proposal

1 will displace the Roskrug neighborhood students. The neighborhood students include the Richey  
2 Elementary Neighborhood students who were displaced when Richey was closed. **Second**, the  
3 Boundary Committee overwhelmingly voted against the change and the District has decided to  
4 ignore that. **Third**, the Boundary Committee was forced to vote on a receiving school for these  
5 displaced students and the vote was for Hughes Elementary. However, the District ignored that  
6 vote also and has designated Cragin as the receiving school for these students.

7 It appears that TUSD had decided what they were going to do before they convened the  
8 Committee and without any supporting data for the statement that “academic achievement would  
9 increase and integration would improve over time”. One Roskrug teacher stated that “two-way  
10 dual language should be a choice and not forced on students just because we are their neighborhood  
11 school. This statement is indicative of the disregard for the neighborhood.

12 Roskrug 6-8 was designated a Bilingual Magnet, but Roskrug K-5 was supposed to  
13 remain a regular K-5 school. Over time, the District has introduced the bilingual aspect to the  
14 entire school. This is why of the 120 neighborhood students living in the Roskrug and Richey  
15 attendance areas, only 64 attend Roskrug because the school does not offer a regular English  
16 program. To say that the Proposal supports parental choice ignores the fact that the District has  
17 taken away the choice for their students to attend their neighborhood unless they want their  
18 students to learn Spanish and with the change in parameters, unless they are already proficient in  
19 Spanish.

#### 20 **A. Proposal Development Process**

21 The District states that it has spent two years developing a proposal to strengthen the  
22 TWDL program at Roskrug and to ensure students are at the best school for their educational  
23 interests. It was not until the last three months of this process that the District established the  
24 Boundary and Advisory Committee’s evaluating options. The District knew what it wanted to do  
25 and by developing the Advisory Committee, made up entirely of TUSD employees, they  
26 guaranteed that there would be a group supporting the plan, even if the Boundary Committee did  
27 not. The Advisory Committee did not meet with the Boundary Committee to hear their concerns,  
28 so they made their decision based solely on District information.

1 **B. Home School for Roskruge and Richey Area Students Not Interested in TWDL**

2 Once the parents objected to the Proposal, the District changed the original plan to grandfather in  
3 all current students even if they did not pass the proficiency exam. Any new neighborhood  
4 students entering after the 2<sup>nd</sup> grade will have to meet the language requirement.

5 They have also insured the parents that K-5 neighborhood students will get free  
6 transportation to Cragin and Richey students have been promised transportation to Roskruge and  
7 Tucson High. The Proposal does not indicate whether this transportation will be by school bus or  
8 by a city bus pass.

9 **C. Desegregation Impact Analysis**

10 “The District has determined that this action will have minimal immediate impact, but there  
11 is a potential for long-term positive impact at Roskruge. There is not data to support this statement.  
12 No parent surveys have been done to determine whether parents whose children can pass the  
13 proficiency test are willing to send their students to Roskruge. No parent surveys have been done  
14 to determine if there are any Spanish speaking, non-Hispanic students who are willing to attend  
15 Roskruge. The District’s statement that over time there will be integration is based entirely on  
16 hope.

17 **D. Teachers and Other Stakeholders Support the Proposal**

18 The Richey parents are overwhelmingly against the Proposal, as are the Fisher and  
19 Mendoza Plaintiffs, so this statement is misleading.

20 **E. Stakeholder Engagement**

21 The Stakeholders voted overwhelmingly in favor of keeping Roskruge a neighborhood school.

22 **CONCLUSION**

23 **The Roskruge Boundary Proposal will negatively affect the ability of Roskruge to become**  
24 **an integrated** school, because the students who will be able to pass the Spanish proficiency exam  
25 will in all probability be Hispanic students. The District has presented no evidence to contradict  
26 this statement. Consequently “over time”, Roskruge will most likely become 100% Hispanic.

27 The Fisher Plaintiffs respectfully request that the Court deny TUSD’s Notice and Request  
28 for Approval No-Boundary Attendance Area for Roskruge Two-Way Dual Language K-8 Magnet

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

School.

Dated: August 1, 2019.

/s/ Rubin Salter, Jr.  
RUBIN SALTER, JR.  
Attorney for Fisher Plaintiffs

**CERTIFICATE OF SERVICE**

1  
2 I hereby certify that on August 1, 2019, I electronically submitted the foregoing **FISHER**  
3 **PLAINTIFFS' OBJECTION TO NOTICE AND REQUEST FOR APPROVAL NO-**  
4 **BOUNDARY ATTENDANCE AREA FOR ROSKRUGE TWO-DUAL LANGUAGE K-8**  
5 **MAGNET SCHOOL [DOC. 2236]** to the Office of the Clerk of the United States District Court  
6 for the District of Arizona for filing and transmittal of a Notice of Electronic Filing to the following  
7 CM/ECT registrants:

8 P. Bruce Converse  
9 [bconverse@dickinsonwright.com](mailto:bconverse@dickinsonwright.com)

10 Timothy W. Overton  
11 [toverton@dickinsonwright.com](mailto:toverton@dickinsonwright.com)

12 Samuel Brown  
13 [Samuel.brown@tusd1.org](mailto:Samuel.brown@tusd1.org)

14 Robert S. Ross  
15 [Robert.Ros@tusd1.org](mailto:Robert.Ros@tusd1.org)

16 Lois D. Thompson  
17 [lthompson@proskauer.com](mailto:lthompson@proskauer.com)

18 Jennifer L. Roche  
19 [jroche@proskauer.com](mailto:jroche@proskauer.com)

20 Juan Rodriguez  
21 [jrodiguez@maldef.org](mailto:jrodiguez@maldef.org)

22 Thomas A. Saenz  
23 [tsaenz@maldef.org](mailto:tsaenz@maldef.org)

24 James Eichner  
25 [James.eichner@usdoj.gov](mailto:James.eichner@usdoj.gov)

26 Shaheena Simons  
27 [Shaheena.simons@usdoj.gov](mailto:Shaheena.simons@usdoj.gov)

28 Peter Beauchamp  
[peter.beauchamp@usdoj.gov](mailto:peter.beauchamp@usdoj.gov)

Special Master Dr. Willis D. Hawley  
[wdh@umd.edu](mailto:wdh@umd.edu)

/s/ Lourdes Molina

Dated: August 1, 2019.