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12

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' OPPOSITION
TO TUSD'S NOTICE AND REQUEST
FOR APPROVAL: NO-BOUNDARY
ATTENDANCE AREA FOR ROSKRUGE
TWO-WAY DUAL LANGUAGE K-8
MAGNET**

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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9
10 Pursuant to this Court’s Order of January 6, 2012 (Doc. 1350), Mendoza Plaintiffs
11 submit this Objection to TUSD’s Notice and Request for Approval: No Boundary
12 Attendance Area for Roskruge Two-Way Dual Language K-8 Magnet School (Doc. 2236)
13 (“Roskruge NARA”).
14

15 **INTRODUCTION**

16 In the Roskruge NARA¹, TUSD goes to great lengths to argue to this Court that its
17 proposal to remove Roskruge’s neighborhood K-5 grade boundary is required to combat
18 what it asserts are the negative effects of students who late-enter at grades 2 through 5 on
19 the Two Way Dual Language (“TWDL”) program at that school, and that its proposal
20 furthers adherence to its district-wide TWDL Framework. (Later in the Roskruge NARA,
21 when describing the “minimal impact” its proposal will have, TUSD admits that the total
22 number of “late-entry” students who it claims disrupt the TWDL program are
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24

25
26 ¹ Mendoza Plaintiffs recognize that during the Roskruge proposal development process,
27 TUSD was responsive to some of Mendoza Plaintiffs’ concerns, primarily by no longer
pursuing its original proposal to remove Roskruge’s magnet status.

28 ² Mendoza Plaintiffs do recognize that with respect to the 2014 Boundary Review Process,
an advisory committee there did make recommendations concerning aspects of some
options then being considered (*see* 2014 Comprehensive Boundary Plan (“CBP”) (Doc.

1 approximately 10 students out of a total enrollment of over 600. (Roskruge NARA, Doc.
2 2236, at 8: 1-2.) Such strict adherence to the TWDL Framework, the District argues, is
3 necessary to improve academic achievement at Roskruge, which will in turn make it
4 attractive to diverse families and will help integrate the school.

5
6 TUSD's proposal, however, totally ignores a number of factors that undercut its
7 arguments and demonstrate that this Court should deny its request. Prime among them is
8 the experience of Davis Dual Language Magnet Elementary School, a school that at the
9 inception of the USP received the same school-wide achievement grade of "B" as
10 Roskruge, and was similarly racially concentrated. (Both schools were reported to have
11 Latino enrollments exceeding 85%. (See, USP, Appendix III, C.) Notwithstanding that like
12 the current Roskruge K-5 it has a neighborhood boundary and no "language screener" to
13 turn away students who are not sufficiently Spanish proficient in grades 2-5, Davis is now
14 an integrated B school while TUSD has allowed Roskruge to remain a racially
15 concentrated school that now is a "C" school. As detailed below, what the Davis
16 experience reflects is that what is needed (but has been lacking) at Roskruge is aggressive
17 marketing concerning the benefits of TWDL and meaningful outreach to diverse
18 communities. Further, the Boundary Committee charged with evaluating the Roskruge
19 proposal resoundingly rejected it because, among other things, it found that the proposal
20 would actually hurt Roskruge in terms of integration, as it indeed would.

21
22 Further, notwithstanding that the District now states that it seeks a boundary change
23 in order to promote Roskruge's rigid adherence to its TWDL Framework, the District has
24 very inconsistently applied that framework across its schools (and apparently intends to
25 continue to deviate from that Framework even at Roskruge at the middle school level even
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1 if its boundary proposal is approved). Such inconsistency highlights that the proposal is a
2 significant over-reaction to the issues TUSD perceives to exist at Roskruge, including
3 those that largely of the District's own making. The District should not now seek to
4 remedy its failure to improve Roskruge's academic achievement and bring it closer to
5 integration at the cost of the Roskruge and annex neighborhood communities. As the
6 Boundary Committee members stated when the Committee voted against the proposal:
7 there is no critical need to justify the disruption and it is not in the best interest of the
8 community.
9

10
11 Yet another factor that undercuts the District's argument is the position of the
12 Boundary Committee. As Mendoza Plaintiffs demonstrate below, given the role of the
13 Boundary Committee under the District's own policies and regulations, this Court should
14 accord its vote and its rationale far more weight than does TUSD in its NARA submission
15 (and than it apparently did in its decision-making process). TUSD also over ruled the
16 Boundary Committee's view about what should be the "alternate" school for displaced
17 Roskruge neighborhood and annex students who either elected not to enter the TWDL
18 program who failed to qualify after second grade. Mendoza Plaintiffs do not believe this
19 Court need reach this issue since they believe the proposed boundary change should be
20 rejected. Nonetheless, they show below that the Boundary Committee's vote in favor of
21 Hughes rather than Cragin should be respected by the Court and mandated of the District
22 should the Court determine to approve the requested boundary change.
23
24

25 **ARGUMENT**

26
27 *The Boundary Committee, Charged Under TUSD Policies and Regulations with*
28 *Developing and Reporting Boundary Recommendations to its Superintendent, Rejected the*

1 *Roskruge Proposal as Unnecessarily Disruptive, Among Other Concerns; TUSD Largely*
2 *Ignores the Recommendation and Overly Relies on the Sentiments of TUSD Teachers*

3 According to TUSD, “[p]ursuant to Governing Board Policy JC, the District staff
4 formed boundary and advisory committees to develop and evaluate [Roskruge] options.”
5 (Roskruge NARA at 6:1-2) Yet, tellingly, unless this Court carefully reviewed Roskruge
6 NARA attachments (Doc. 2236-1), it would be unable to tell from the Roskruge NARA
7 that the TUSD’s Boundary Committee, charged under Governing Board Policy JC-R with
8 “[c]reat[ing],” “refin[ing],” and “[p]repar[ing] a report of boundary recommendations for
9 the Superintendent,” (see TUSD Board Policy JC-R (regulation implementing Policy JC)
10 attached as Exhibit A) resoundingly rejected the proposal to remove the Roskruge
11 neighborhood boundary by a vote of twelve to six. (See Roskruge NARA, Attachment 4 at
12 2.) It similarly rejected the removal of neighborhood boundaries for the Roskruge annex
13 area (Richey) by a vote of ten to seven. (*Id.*) The Roskruge NARA instead focuses
14 entirely on what it says was the Advisory Committee’s recommendation to approve the
15 Roskruge proposal. But that committee is charged under Policy JC-R only with a
16 preliminary evaluation and development of options for the Boundary Committee to
17 consider (and no responsibilities directly tied to recommendations).²
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23 ² Mendoza Plaintiffs do recognize that with respect to the 2014 Boundary Review Process,
24 an advisory committee there did make recommendations concerning aspects of some
25 options then being considered (see 2014 Comprehensive Boundary Plan (“CBP”) (Doc.
26 1686-5), Appendix J). However, this Court need conduct only a cursory review of the
27 CBP to understand the leading role boundary committees are to play (and indeed in the
28 past have played) in the development and recommending of boundary proposals (as
contemplated under TUSD policies JC and JC-R and as was true with the CBP), and that
the Roskruge boundary Advisory Committee played the primary (and seemingly inflated)
role with respect to the Roskruge proposal recommendations in a manner inconsistent with
TUSD’s own policy. (Compare CBP, Section 4 “Boundary Committee Recommendation,
at pages 16-42, with Roskruge NARA.)

1 Among the reasons the Boundary Committee rejected the Roskruge proposal is that
2 there “is no pressing academic or facilities need to disrupt the school,” committee
3 members were not “convinced the families wanted a change,” they “didn’t think it was in
4 the best interest of the community,” “the Richey community does not need another change
5 in their home school,” and “[t]his plan does not help integration.” (Roskruge NARA,
6 Attachment 4 at 3 and Attachment 3 at ECF 19³.) Notably, the Roskruge NARA and
7 accompanying material is utterly silent on the views of the Richey community inclusive of
8 the Pascua Yaqui Tribe whose students attended Roskruge as part of the Roskruge
9 neighborhood “annex” following the closure of Richey Elementary School (*see* Roskruge
10 NARA, Attachment 2 at 2 and Attachment 3 at ECF 26) and whose families may well
11 experience the adverse effects of a second boundary change under the District’s proposal.
12
13

14 Indeed, the Roskruge NARA relies heavily on the sentiments of TUSD staff
15 members (including those that served on the Advisory Committee) while minimizing the
16 opinions and votes of the Boundary Committee that analyzed the proposal over several
17 months. (Considering staff feedback is of course appropriate, but staff is just one set of
18 stakeholders, among many, whose opinions and concerns TUSD must consider.)
19
20 Tellingly, TUSD asserts “overwhelming support for the proposal from parents and
21 teachers,” yet the written feedback to which it cites is overwhelmingly made up of staff
22 members, and the only three individuals described definitively as a “[p]arent” **all** opposed
23 the proposal. (Roskruge NARA, Attachment 3.) Moreover, while the District attached a
24 letter with 17 teacher signees in support of the proposal (to Attachment 3, titled
25
26

27 ³ Where TUSD attachment pages are not numbered, Mendoza Plaintiffs refer to “ECF”
28 page numbers reflecting the page numbers assigned by this Court’s electronic filing
system.

1 “Stakeholder feedback,”) it notably failed to include a letter with 24 parent signees in
2 opposition to the proposal that was sent directly to TUSD Board members. (See March 6,
3 2019 Letter and attached cover email to TUSD Board members, attached as Exhibit B
4 (also stating that “[m]any of us have been treated with lack of respect and dignity because
5 of our opposition to what is being recommended by the Administration.”))⁴
6

7 *The Success Experienced at Davis Elementary School, an Integrated Bilingual Magnet*
8 *School That Was As Racially Concentrated as Roskruge at the Inception of the USP,*
9 *Demonstrates That the District Can Improve Roskruge Academic Achievement and*
10 *Integration Without Rigidly Adhering to Portions of the TWDL Framework and Disrupting*
11 *the Roskruge and Roskruge “Annex” Neighborhoods*

12 Contrary to the general premise of the Roskruge proposal, Davis Bilingual Magnet
13 School’s success demonstrates that TUSD can succeed in terms of both magnet school
14 academic achievement and integration without so rigidly applying portions of its TWDL
15 Framework as reflected in the Roskruge NARA proposal. Indeed, the success at Davis - a
16 bilingual magnet school, with attendance boundaries, and no screener - as compared to the
17 experience at Roskruge seemingly reflects that Roskruge’s past lack of progress in
18 achievement and integration is the greater result of TUSD’s lack of attention to it than it is
19 to claimed lack of fidelity to the TWDL Framework. It therefore is inequitable to move
20 forward a proposal that would have the Roskruge community pay the price for TUSD’s
21 lack of attention to the school,
22

23 At the inception of the USP, Davis and Roskruge were similarly positioned as “B”
24 dual language schools (see Doc. 1803 at 178, 264) that were racially concentrated with
25 Latino students comprising just over 85% of each schools’ enrollment (Doc. 1549-5 at 2-
26

27 _____
28 ⁴ A copy of the cover email and parent letter was provided to the Mendoza Plaintiffs. They
have no reason to believe that the email or letter are not authentic documents.

1 3). Only Davis, however, has across the years successfully moved towards being, and it
2 currently is, an integrated school – 40th day enrollment at Davis in the 2018-19 school
3 year was as follows: 63% Latino, 24% White, 7 % African American. (See TUSD
4 Enrollment 40th Day 2018-19 attached as Exhibit C.) In contrast, Roskruge remains
5 racially concentrated in the 2018-19 school year with its enrollment being 79% Latino, 8%
6 White, and 3% African American. (*Id.* at 2.) (If one looks only at the total entering
7 Kindergarten class in 2018-19, Davis’s enrollment was 59% Latino, 29% White, and 8%
8 African American, while Roskruge’s entering class was 81% Latino, 8% White and 0%
9 African American. (See 2018-19 40th day Enrollment by Magnet School, Enrollment
10 Status and Grade attached as Exhibit D.))⁵

13 Thus, the data suggests that with District attention and focused efforts, Roskruge
14 can make meaningful progress toward integration and improved academic achievement
15 without eliminating the school’s K-5 boundary. That the District has not sufficiently
16 articulated and promoted the goal of advancing integration at Roskruge is evidenced by the
17 letter Roskruge parents sent to the Governing Board in which they expressed a lack of
18 awareness of Roskruge’s “integration deficiencies,” stating “had we known.. we would
19 have demanded the hiring of a magnet coordinator early on in the school year – last school
20 year and from our vantage point it was allowed to remain vacant by all levels of the
21 institution.”. (Exhibit B; See also transcript of TUSD July 9, 2019 TUSD Board Meeting
22 at time 4:10:30 (Board Member Leila Counts describing that “I put my child [who is a
23
24
25

26 _____
27 ⁵Mendoza Plaintiffs have previously discussed the District’s failure to adequately support
28 Roskruge. See, e.g., Mendoza Plaintiffs’ Partial Objection to Report of Special Master on
Status of Drachman and Roskruge K-8 Middle Schools, Doc. 2189, at 5:1- 6:28. They
respectfully invite the Court’s attention to that discussion rather than repeat it here.

1 white student] on the waiting list at Roskruge... I was sick of waiting... and emailed a
 2 board member asking about other options... They [eventually] got into Bloom... We are
 3 turning away so many families every year that would help us integrate.”⁶

4 Similarly, with respect to academic achievement, Davis and Roskruge were
 5 similarly positioned as “B” dual language schools at the time the USP was adopted (*see*
 6 Doc. 1803 at 178, 264), but since that time, while Davis has maintained that achievement
 7 status, the District has allowed Roskruge to become a “C” school (Roskruge NARA,
 8 attachment 4, at 5).⁷

9 Thus, as is true with Davis, with appropriate focused attention and resources, the
 10 District can achieve the academic achievement and movement toward integration it
 11 believes its proposal will bring to Roskruge without the disruption that may result from
 12 removing attendance boundaries at the K-5 grades and implementation of a screener.
 13
 14
 15

16 *TUSD Inconsistently Applies the TWDL Framework by Having Single Strand Dual*
 17 *Language Schools, Having Failed to Implement a Screener at any Dual Language School*

18 ⁶ Mendoza Plaintiffs do not understand why Ms. Counts’ daughter was on a waiting list for
 19 Roskruge since the school does not appear to have been oversubscribed in the grades for
 20 which Bloom has the dual language option available. (*Compare* TUSD 2017-18 Annual
 21 Report showing Roskruge oversubscribed only at grade 6 (Appendix II-1, Doc. 2126-1 at
 22 3) and TUSD website listing TWDL program locations and indicating that Bloom
 23 currently offers TWDL opportunities only through K-3.) What is significant is the
 24 perception of a Governing Board member that the District is turning students away from
 25 Roskruge who, if enrolled, would contribute to the integration of the student body.

26 ⁷ TUSD appears to suggest that the point-of-entry issue has not negatively affected
 27 academic performance at Davis because its students tend to stay through 5th grade and its
 28 attendance boundary is smaller than that of Roskruge. (Roskruge NARA at 4.) Noticeably
 absent, however, is any actual data concerning how many *late-entry* students across grades
 2-5 at Davis relative to its total enrollment there were. However, regardless of what that
 number is, TUSD’s apparent argument appears to dramatically inflate the claimed
 disruption and overall impact on Roskruge’s academic standing caused by what the
 District itself states are approximately ten students out of over 600 students in the total
 school and 266 (or 3%) at the K-5 level. (Roskruge NARA at 8). Further, Mendoza
 Plaintiffs do not understand how the District would conclude that Roskruge’s academic
 performance is suffering due to these approximately ten children being insufficiently
 fluent in Spanish and not to other issues. .

1 *up to Now, and by Ignoring That Implementation of a Non-TWDL Spanish Language*
2 *Strand Especially at the Middle School (Grade 6-8 Level) is Equally a Part of the TWDL*
3 *Framework it Says it is Trying to Implement as the Screener it Proposes*

4 Mendoza Plaintiffs do not understand the District's rationale for its boundary
5 proposal -- that is, to achieve what it claims will be strict adherence to its TWDL model --
6 given the lack of consistency with which the District applies the framework across TUSD
7 schools. The District has had the option to use a dual language screener across its schools
8 but has not done so in past years (notwithstanding that its dual language expert, Rosa
9 Molina, provided her recommendations in spring 2016) at any TWDL schools. Further, to
10 date, it appears not to have decided what that screener will be.⁸ (Indeed, as discussed
11 further below, it could have avoided the issues that it asserts exist at the 6-8 grade levels
12 as a consequence of having supposedly unprepared or unwilling Spanish speakers at those
13 grade levels had it implemented a screener at the 6-8 grades and coupled it with a non-
14 TWDL strand as contemplated in the TWDL Framework.)

15
16
17 Mendoza Plaintiffs further note that contrary to what appears to be an implicit
18 assertion that Roskruge must maintain two TWDL strands at K-5 as all other dual language
19 elementary schools do (presumably under the TWDL Framework)⁹, there are other dual
20 language schools in the District that do not have two such strands. (Annual Report for the
21
22

23 ⁸ Mendoza Plaintiffs are concerned that the Special Master and the plaintiffs have not been
24 provided with a copy of the screener, but have been informed that it will be designed to
25 provide flexibility and discretion in determining which students would be successful and
26 therefore should be admitted into the program. They do not understand the nature of this
27 "flexibility" or why it would not result in a use of discretion that disfavors some students
28 or how the screener will be applied to, for example, students with disabilities.

⁹ Specifically, TUSD states that "[o]ther TWDL schools have two dual language classroom
strands and a non-dual language strand. Roskruge... can only accommodate two grade
strands." (Roskruge NARA at 2:11-14.)

1 2017-18 School Year (Doc. 2124-1 at V-67 (four of nine dual language schools had two
2 strands as of 2017-18); TUSD Response to RFI 1624 (asserting Van Buskirk¹⁰ and Mission
3 View are too small to have two TWDL strands).) While Mendoza Plaintiffs understand
4 that there is a slow effort to introduce second strands at some TWDL schools and that two
5 strands per grade is the preferred approach, they also understand such efforts are not
6 planned at some dual language schools. They therefore do not understand why the District
7 so rigidly insists on adherence to the TWDL model at Roskruge.¹¹

9 With respect to the middle school component of Roskruge (grades 6 through 8),
10 TUSD cites to its TWDL Access Plan (Doc. 2061-6) as requiring a two classroom TWDL
11 structure, to which much of its Roskruge NARA proposals, including the use of a screener,
12 are directed. Under that TWDL Access Plan, the District convened a task force that
13 developed the “comprehensive TWDL Framework” that the TWDL Access Plan describes
14 as “the foundation for the TWDL program districtwide.” (Doc. 2061-6 at 3-4.) With
15 respect to the middle school level (grades six through eight) structure, the TWDL
16 Framework states the following:
17
18

19
20 ¹⁰ Mendoza Plaintiffs further understand from the Van Buskirk website (at
21 <http://www.tusd1.org/vanbuskirk/Dual-Language>) that the dual language courses offered
22 there are not true TWDL classes as contemplated by the TWDL Framework, but that they
23 instead are ELD (English Language Development) classes that “support[] the acquisition
24 of the English language by non-native speakers of English.”

25 ¹¹ Mendoza Plaintiffs proposed the addition of a third strand to augment the K-5 TWDL
26 program by offering students the opportunity to study Spanish but not in an “immersion”
27 or dual language setting. *See* Mendoza Plaintiffs’ Suggestion to Revision Roskruge as a
28 World Language Academy Magnet School (Mendoza Plaintiffs’ Roskruge Suggestion),
attached to the Roskruge NARA at 61. The District dismissed the suggestion, saying that
Roskruge lacks the physical capacity to add such a strand and evidencing no interest in
exploring alternative programmatic approaches to both enhance the achievement and
integration levels of the school while avoiding a boundary change. Yet, in the past,
Roskruge accommodated more students than it does today. (*See* TUSD 2015-16 Annual
Report, Doc. 1960-1, Appendix II-4, reporting Roskruge enrollment of 716 as compared to
the current enrollment of 614 reflected in the Roskruge NARA DIA, Doc. 2236-2 at 2)

1 TUSD middle schools are reorganizing the middle school schedule to offer
2 more than just a TWDL strand. Students without TWDL experience
3 should be given the option of taking high school equivalent Spanish
4 courses for English speakers... All students at this level must have the
5 opportunity to engage in formal second language study.
6

7
8 (*See* TWDL Framework, downloaded from TUSD website, attached as Exhibit E, at 26.)

9 The TWDL Framework further includes a chart for the middle school “programmatic
10 pathways for TUSD students in Spanish instruction” that includes a strand for “English
11 speaker without TWDL program.” (*Id.* at 27.) TUSD continues to ignore the TWDL
12 Framework’s express programmatic component calling for a non-TWDL strand even as it
13 rigidly pushes for the use of a screener at grades 2 through 8 to support two TWDL strands
14 at Roskrige and insists that it will not admit students who enter the program after second
15 grade, including in a non TWDL strand 6th grade, who are unable to pass the screener
16 (Roskrige NARA at 2.) Yet a second TWDL strand and screener is not of greater
17 programmatic significance than the non-TWDL strand called for at the middle school
18 grades. Mendoza Plaintiffs suggested to TUSD that it consider implementing a non-
19 TWDL strand at Roskrige which would not exclude neighborhood students and would
20 provide greater options and flexibility to those students who would like the benefits of
21 studying the Spanish language in a non-immersion setting. (*See* Mendoza Plaintiffs’
22 proposal at Roskrige NARA, attachment 3 at ECF 60-62.) The District, without
23 explanation, rejected Mendoza Plaintiffs’ suggestions; it was not until the District filed the
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28

1 Roskruge NARA that Mendoza Plaintiffs learned of the “District Response[s]” to their
2 proposals included in attachment 3 at ECF 60-62.

3 The District has failed to address the Mendoza Plaintiffs’ further observation that
4 notwithstanding that the TWDL program contemplates that all teachers in the program
5 hold a bilingual endorsement, Roskruge posted teacher job announcements stating only
6 that bilingual education endorsement is “preferred” (rather than required). (*Id.*)
7

8 Mendoza Plaintiffs therefore remain concerned and respectfully suggest that what
9 appears to be selective embrace of the preferred TWDL Framework should not undergird a
10 boundary change.
11

12 *TUSD’s Roskruge NARA Approach to Increasing Integration Is of Concern to the*
13 *Extent it Suggests TUSD Will Not Aggressively Recruit Diverse Students to Attend the*
14 *School and Because it Appears to Ignore the Fact that its Proposed Approach) Likely Will*
15 *Exacerbate Racial Concentration at the Middle School Level*

16 In the Roskruge NARA, TUSD asserts that “[w]hile the boundary change will not
17 affect integration immediately, the District designed the proposal to improve academic
18 achievement over time, thereby increasing the school’s attractiveness for future magnet
19 students that will in turn improve integration.” (Roskruge NARA at 4:18-20, 7:16-19.)
20

21 Mendoza Plaintiffs are greatly concerned with what appears to be a suggestion in this
22 statement and throughout the Roskruge NARA that TUSD will not proactively seek to
23 integrate the school by focusing on recruiting efforts for its kindergarten, first, and sixth
24 grades in the near term but will instead hope that it can achieve increased academic
25 performance and that this will lead to greater integration sometime in the future.
26

27 Regardless of whether this Court ultimately approves the Roskruge NARA, nothing
28 relieves the TUSD from making aggressive efforts now to recruit diverse students to enroll

1 at the kindergarten, first, and sixth grade levels at Roskruge. Indeed, as a magnet school -
 2 - TUSD's primary vehicle for furthering integration-- it is of utmost importance that
 3 aggressive recruitment efforts be the primary focus of TUSD integration efforts at
 4 Roskruge.

5
 6 In this regard, Mendoza Plaintiffs note that, as reflected in the chart below, the
 7 District did experience some improvement moving Roskruge towards integration since
 8 inception of the USP notwithstanding some rocky years along the way.

9 **Roskruge Student Enrollment 2012-13 through 2018-19**

	Latino	White	African American	Source (by row)
10 2012-13	85.4%	3%	1.1%	Doc. 1803 at 261
11 2013-14	83.5	3.5	1.7	Doc. 1803 at 261
12 2014-15	83.2	4.5	2.2	Doc. 1803 at 261
13 2015-16	78	7	4	Doc. 1960-1
14 2016-17	85.09	5.23	1.75	Exhibit D
15 2017-18	76	7	6	Exhibit D
16 2018-19	78	9	3	Exhibit D

17
 18 Plainly, as the data reflects, Roskruge can make progress toward integration and the
 19 District must continue aggressive recruitment efforts regardless of whether the Roskruge
 20 kindergarten through 5th grade levels ultimately have an attendance boundary.

21
 22 Mendoza Plaintiffs further add that given the express "objective" of the Roskruge
 23 proposal to "increase access for 5th graders from other K-5 TWDL programs" (Roskruge
 24
 25
 26
 27
 28

1 NARA, Attachment 5 at 2) by reducing the number of Roskruge students who would go
2 from 5th grade to 6th grade, the desegregation impact analysis TUSD conducted seemingly
3 ignores what is likely to be a negative impact on integration in concluding that the
4 proposal would have “minimal immediate impact.” (Roskruge NARA at 7:16-19.)
5 Indeed, of the five TWDL Elementary Schools whose 5th graders TUSD would greater
6 target to attend Roskruge grades 6-8, four were even more racially concentrated than
7 Roskruge in the 2018-19 school year. In 2018-19, Roskruge Latino enrollment was 79%,
8 while the Latino enrollment at the sending elementary schools were as follows: Van
9 Buskirk (92%), Mission View (89%), Grijalva (86%), White (82%) and Bloom (42%) [at
10 present Bloom only offers TWDL through third grade]. (Exhibit C TUSD Enrollment 40th
11 day 2018-19.)
12
13

14 Significantly, Bloom, the only school among these that is not more racially
15 concentrated than Roskruge is also the furthest away at approximately 9.7 miles¹² (thus
16 suggesting that Roskruge may be an unattractive and distant option, and that the TWDL
17 students who ultimately would attend Roskruge under TUSD’s proposal are less likely to
18 come from Bloom or reflect that school’s racial composition). In contrast, the two most
19 racially concentrated of these schools, Mission View and Van Buskirk, are also the closest
20 to Roskruge at 3.9 and 4.6 miles, respectively. Thus, it appears that one prime objective of
21 the Roskruge proposal necessarily will involve bringing in what are likely to be greater
22 concentrations of Latinos than that which currently exists at Roskruge and that Roskruge
23 will therefore be taken further away from integration. Indeed, the negative impact the
24
25
26

27 ¹² Mendoza Plaintiffs determined the distances from each of Bloom, Mission View, and
28 Van Buskirk to Roskruge by using the shortest route identified through google maps (at <https://www.google.com/maps>).

1 proposal would have on integration is among the reasons given by individuals, including
2 Boundary Committee members, for opposing the Roskruge proposal. (Roskruge NARA,
3 Attachment 3 at (49) (Boundary Committee member stating “[t]his plan does not help
4 integration. It does just the opposite.... Those who do not want to attend a dual language
5 school [already] find other schools. So why put these neighborhoods through this
6 boundary change.”; at 16 (“Keeping boundaries guarantees some % of integration and
7 mixture of diversity among students.”))

8
9 Mendoza Plaintiffs also suggest that TUSD does not need to reduce the number of
10 Roskruge 5th graders transitioning to 6th grade (by removing the K-5 attendance
11 boundary) to increase TWDL 5th graders’ access to Roskruge. Instead, TUSD could
12 simply expand the sixth through eighth grades at Roskruge given that Roskruge enrollment
13 currently is at 614 (Roskruge DIA at 3), that its design capacity is 650, and that in the past,
14 it enrolled 716 students (Doc. 1960-1, Appendix II-4). Indeed, Mendoza Plaintiffs believe
15 that the District can accomplish increased TWDL 5th graders’ access to Roskruge and
16 moving Roskruge toward integration if it couples six through eighth grade expansion with
17 the aggressive recruitment efforts, something it should do regardless of whether Roskruge
18 K-5 maintains its attendance boundary.

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22 *The TUSD Roskruge NARA Proposal’s “Alternate School” Designation for*
23 *Students who Would no Longer be Able to Attend Roskruge Under the Proposal Reflects*
24 *Disparate Treatment that Disfavors Roskruge/Richey Area Students in Favor of Other*
25 *Students (Including Those Who May Not be TUSD Students)*

26 The Roskruge NARA identifies Cragin as the “most viable option” for the
27 “approximately 10 future neighborhood students” who no longer would be able to enroll at
28 Roskruge under the District’s proposal (Roskruge NARA at 5, 8). However, the

1 designation of Cragin as Roskruge neighborhood students' "alternate school" reflects
2 TUSD's rejection of its Boundary Committee's recommendation that Hughes Elementary
3 School is the best "alternate school" option¹³ and is disparate and inequitable treatment of
4 Roskruge/Richey neighborhood students.

5
6 While the District's Boundary Committee, at the District's direction, considered
7 each of Cragin and Hughes Elementary Schools as potential alternate schools, its
8 designation of Hughes as the "first choice" reflected that it is the preferable option for
9 Roskruge/Richey neighborhood students. Indeed, Cragin and Hughes are each integrated,
10 but Cragin is a "C" school while Hughes is an "A" school. (Roskruge NARA, Attachment
11 4 at 7, 10.) Further, unlike Cragin, Hughes and Roskruge share an attendance boundary
12 border thus making Hughes the closest school to the Roskruge students who would be
13 affected by this District proposal. (*Id.* at 1.) Indeed, while the Boundary Committee
14 rejected the overarching proposal to remove attendance boundaries, it voted that Hughes
15 should be the "receiving school" as to each of the Roskruge and Roskruge Annex area
16 students who no longer would be able to enroll at Roskruge. (*Id.* at 2 (*e.g.*, as to Roskruge
17 Neighborhood area, 16 votes for Hughes and 11 for Cragin).) Tellingly, Boundary
18 Committee members' rationale for voting to make Hughes the first choice alternate school
19 focused on the benefit to Roskruge area students who would have to attend it under the
20 Roskruge proposal. (*Id.* at 4 (*compare* rationale for Hughes as alternate school: "high
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26 ¹³ Mendoza Plaintiffs hasten to add that the Boundary Committee rejected the proposal to
27 remove attendance boundaries from each of the Roskruge neighborhood and annex areas.
28 Notwithstanding such vote, the Boundary Committee was required to vote on preferred
"Receiving schools" under the process the District imposed on the Committee. (Boundary
Committee Recommendations and Rationale, Roskruge NARA, Attachment 4 at 2.)

1 performing school,” “‘A’ school,” “closest school,” “many resources” *with* rationale for
2 Cragin: “similar demographic,” “most capacity” “Cragin is in need of students”.)

3 Notwithstanding the Boundary Committee’s recommendation, the District
4 seemingly rejected Hughes as the alternate school because according to TUSD it has “[n]o
5 capacity [for the “approximately 10 future students”] without turning away open-
6 enrollment students -- there is a waiting list; students who apply and don’t get in leave
7 TUSD.” (*Id.* at 7.) Thus, as part of the Roskruge NARA, TUSD rejects any risk that
8 Hughes waitlisted students (some of whom may well be out of District students not
9 enrolled in a TUSD school) may leave TUSD schools (or in the case of non-District
10 residents opt for some other non-District school), but it does not share the same concern
11 that the Roskruge area students who no longer would be able to go to Roskruge may leave
12 TUSD. Therefore, contrary to the District’s assertion, the designation of Cragin as the
13 “alternate school” does not “[m]inim[ize the] impact to future Roskruge and Richey
14 neighborhood students”. Had TUSD truly wanted to minimize the negative impact of its
15 proposal on these students, it would have followed the Boundary Committee’s
16 recommendation that Hughes be designated the alternate school, even if it meant that ten
17 students waitlisted at Hughes would be unable to enroll in that school.

22 **CONCLUSION**

23 For the reasons set forth above, Mendoza Plaintiffs respectfully request that this
24 Court decline to approve the TUSD request to remove attendance boundaries from
25 Roskruge grades K-5. In the event this Court does decide to approve the request, they
26 respectfully request that it require TUSD to (a) create a third strand for non TWDL
27 students in the Roskruge 6-8 grades as set forth in the TWDL Framework; (b) designate
28

1 Hughes the “alternate” school for students in the existing Roskruge neighborhood and
2 “annex” Roskruge K-5 boundaries who decline to attend Roskruge and (c) that it require
3 the District to develop and implement an aggressive program to identify and recruit a more
4 diverse student body at the school’s kindergarten, first and sixth grade levels.
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7

8 Dated: August 5, 2019
9

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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2019, I electronically submitted the foregoing **MENDOZA PLAINTIFFS’ OPPOSITION TO TUSD’S NOTICE AND REQUEST FOR APPROVAL: NO-BOUNDARY ATTENDANCE AREA FOR ROSKRUGE TWO-WAY DUAL LANGUAGE K-8 MAGNET** 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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