

1 LOIS D. THOMPSON, Cal. Bar No. 093245 (Admitted Pro Hac Vice)
lthompson@proskauer.com
2 JENNIFER L. ROCHE, Cal. Bar No. 254538 (Admitted Pro Hac Vice)
jroche@proskauer.com
3 PROSKAUER ROSE LLP
2029 Century Park East, 24th Floor
4 Los Angeles, California 90067-3010
Telephone: (310) 557-2900
5 Facsimile: (310) 557-2193

6 JUAN RODRIGUEZ, Cal. Bar No. 282081 (Admitted Pro Hac Vice)
jrodriguez@maldef.org
7 THOMAS A. SAENZ, Cal. Bar No. 159430 (Admitted Pro Hac Vice)
tsaenz@maldef.org
8 MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATIONAL FUND (MALDEF)
9 634 S. Spring St.
11th Floor
10 Telephone: (213) 629-2512 ext. 121
Facsimile: (213) 629-0266

11 Attorneys for Mendoza Plaintiffs
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,
25

Case No. 4:74-CV-00090-DCB

**MENDOZA PLAINTIFFS’
SUPPLEMENTAL RESPONSE TO TUSD
NOTICE OF FILING: ELL ACTION
PLAN FOR DROPOUT PREVENTION
(DOC. 2261) AND OBJECTION TO
DISTRICT’S REQUEST THAT IT BE
AWARDED PARTIAL UNITARY
STATUS WITH RESPECT TO SECTION
V,E,1,B,i OF THE USP**

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 Pursuant to this Court’s Orders of September 6, 2018 (“9/6/18 Order”) (Doc. 2123),
11 July 26, 2019 (Doc. 2243), and September 6, 2019 (Doc. 2271), Mendoza Plaintiffs submit
12 this Supplemental Response to TUSD’s Notice of Filing: ELL Action Plan for Dropout
13 Prevention (“ELL Action Plan”) (Doc. 2261-1).
14

15 **Argument**

16 ***The District Must be Required to Update the ELL Action Plan and***
17 ***Demonstrate That it Actually is Implementing Those***
18 ***Portions of the Plan That Call for Annual Goal Review and Plan***
19 ***Adjustment Before This Court Considers the District’s Request for Partial***
Unitary Status

20 Notwithstanding that we are now in the 2019-20 school year and notwithstanding
21 that the ELL Action Plan states both that annual goals will be reviewed yearly (ELL
22 Action Plan, Doc. 2261-1, at 4) and that TUSD uses “goal setting and evaluation as critical
23 tools for databased decisions and identifying gaps for improvement in subsequent cycles”
24 (*id.* at 2), the ELL Action Plan sets out graduation rate goals and dropout prevention goals
25 only through the 2017-18 school year. (*Id.* at 3.) Not only is the absence of goals itself a
26 concern; that absence suggests that goals were not in fact reviewed after the 2017-18
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1 school year (or after the 2018-19 school year) and calls into question whether the District
2 in fact complied with its undertaking to use “goal setting and evaluation as critical tools for
3 databased decisions and identifying gaps for improvement in subsequent cycles.” (*Id.*)

4 Mendoza Plaintiffs do not further address the subject of graduation goals here in
5 light of this Court’s Order requiring the District to determine during its annual review
6 whether the “ELL dropout goal is sufficiently ambitious” and to file a Supplemental
7 Notice of Compliance together with its 2018-19 Annual Report. (9/10/19 Order at 3:13-
8 20.)
9

10 ***The District Should be Required to Include the Status of Efforts to***
11 ***Strengthen Sheltered Content Classes That it Reported Was in Process in***
12 ***its December 2018 Filing in an Updated ELL Action Plan***

13 In the ELL Action Plan it filed in December 2018, the District listed sheltered
14 content classes in math as one of the strategies it was pursuing to increase the graduation
15 rate for its ELL students. It wrote: “In August 2018, staff initiated a survey to identify all
16 existing sheltered content classes for the 2018-19 year. Staff is now working with schools
17 to develop formal processes to evaluate successes and failures of the program in the
18 various schools. The external research and current internal data and information will be
19 used by staff to strengthen both existing sheltered content classes, and the expended
20 sheltered content classes for the 2019-20 school year. Administrators at select sites will
21 receive training on strategies to look for while observing sheltered content classes”
22 (Doc. 2153-1 at 6.) The identical language appears in the ELL Action Plan filed with the
23 Court on August 30, 2019. (Doc. 2261-1 at 7.) Given the passage of time, the District
24 should be required to update this portion of the Plan to indicate whether formal processes
25 to evaluate successes and failures of the program have in fact been developed and put in
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1 place, whether sheltered content classes were indeed strengthened during the 2018-19
2 school year, whether administrators at select sites have in fact received the referenced
3 training, and whether, based on all of the foregoing, the District has determined if further
4 “adjustments” (*id.* at 4) are warranted in this support strategy.
5

6 7 **Conclusion**

8 For the reasons set forth above Mendoza Plaintiffs respectfully request the Court to
9 require TUSD to update the ELL Action Plan in the areas set forth above and to
10 demonstrate that it is indeed monitoring implementation of the Plan in the manner to which
11 it committed in the Plan and that it deny the District’s request that it be granted partial
12 unitary status with respect to Section V, E, 1, B, i of the USP.¹ In an excess of caution,
13 Mendoza Plaintiffs respectfully invite the Court’s attention to their earlier objections to
14 such requests by the District and to their Motion to Stay (Doc. 2186), expressly incorporate
15 herein the arguments set forth in those pleadings, and also note this Court’s statement
16 when it denied that Motion that it will not again reach the question of unitary status until
17 after the District’s Executive Summary filing and the proceedings relating thereto.
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27 ¹ In expressly addressing the District’s recent submission with respect to a portion of
28 Section V, E, 1, B, i of the USP, Mendoza Plaintiffs do not intend to waive, and hereby
retain, their claim that the District has not yet attained unitary status with respect to any
portion of the USP.

Dated: September 20, 2019

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MALDEF
JUAN RODRIGUEZ
THOMAS A. SAENZ

/s/ Juan Rodriguez
Attorney for Mendoza Plaintiffs

PROSKAUER ROSE LLP
LOIS D. THOMPSON
JENNIFER L. ROCHE

/s/ Lois D. Thompson
Attorney for Mendoza Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on September 20,2019, I electronically submitted the foregoing **MENDOZA PLAINTIFFS’ SUPPLEMENTAL RESPONSE TO TUSD NOTICE OF FILING: ELL ACTION PLAN FOR DROPOUT PREVENTION AND OBJECTION TO DISTRICT’S REQUEST THAT IT BE AWARDED PARTIAL UNITARY STATUS WITH RESPECT TO SECTION V,E,1,B,i OF THE USP (DOC. 2261)** 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:

P. Bruce Converse
bconverse@dickinsonwright.com
Timothy W. Overton
toverton@dickinsonwright.com

Samuel Brown
samuel.brown@tusd1.org

Robert S. Ross
Robert.Ross@tusd1.org

Rubin Salter, Jr.
rsjr@aol.com

Kristian H. Salter
kristian.salter@azbar.org

James Eichner
james.eichner@usdoj.gov

Shaheena Simons
shaheena.simons@usdoj.gov

Peter Beauchamp
peter.beauchamp@usdoj.gov

Special Master Dr. Willis D. Hawley
wdh@umd.edu

/s/ Juan Rodriguez

Dated: September 20, 2019