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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,  
25  
26  
27  
28

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

**MENDOZA PLAINTIFFS' RESPONSE  
TO TUSD OUTREACH AND  
RECRUITMENT ADDENDUM FOR  
MAGNET AND ALE PROGRAMS (DOC.  
2270-5)**

Hon. David C. Bury

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.

8  
9  
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 Response to TUSD’s Outreach and Recruitment Addendum for Magnet and ALE  
13 Programs (“Addendum”) (Doc. 2270-5). Mendoza Plaintiffs respectfully request that the  
14 Court consider this Response to the TUSD Addendum after having reviewed their  
15 Supplementary Responses to both the District’s 3-Year PIP and its ALE Policy Manual  
16 and ALE Progress Report because the Addendum refers to both the magnet and ALE  
17 programs and some of their response is addressed to both programs.  
18  
19

20 **Argument**

21 ***The Outreach and Recruitment Addendum Fails to Include Pro-Integrative***  
22 ***Marketing Strategies***

23 Although the District may believe that pro-integrative marketing strategies are  
24 implicit in the Addendum, Mendoza Plaintiffs were surprised to find no references to the  
25 “Knowledge Changes Everything” or any other, similar, marketing strategies to promote  
26 the benefits of diversity in the Addendum. Instead, the 2019-20 Plan for Outreach,  
27 Marketing, and Recruitment for Magnet and ALE Programs (Doc. 2270-5, Exhibit 2, at 39  
28

1 *et seq.*) says only that the messaging for the magnet program “focuses on school themes  
2 and higher achieving academic expectations for all race and ethnic populations” (*id.* at 44)  
3 and that the “messaging for ALE programs will focus on high academic achievement, and  
4 on engaging and rigorous courses that prepare students for high school and post-secondary  
5 education” (*id.* at 47).  
6

7       Mendoza Plaintiffs believe the absence of an explicit commitment to pro-integrative  
8 messaging is particularly important at this stage of the District’s implementation of the  
9 USP because it has become essential for purposes of integration not only to focus on  
10 recruiting African American and Latino students to attend schools and participate in  
11 programs in which they are underrepresented but also to recruit more white students to  
12 attend certain schools and programs in which they are underrepresented, particularly the IB  
13 program at Cholla, the dual language magnet school program at Roskruge, and the dual  
14 language self-contained GATE programs at Hollinger K-8. (As of 2018-19, all of Cholla,  
15 Roskruge, and Hollinger were racially concentrated.)<sup>1</sup>  
16  
17

18       With respect to Cholla: In its 9/6/18 Order, the Court directed the District ““to  
19 further explore how effective marketing and public education of the successful IB program  
20 at Cholla (RC) might lead to greater enrollment of White students and a decrease in its  
21 level of racial concentration, ”” adding that if a strategy was determined to be practicable,  
22 “the District shall include it in the ALE provisions [of the] Outreach and Recruitment  
23 Addendum”. (9/6/18 Order, Doc. 2123 at 79: 16-22; citation omitted.) Nothing is said in  
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26 <sup>1</sup> The only reference Mendoza Plaintiffs have seen in the Addendum to a pro-integrative  
27 strategy (and to statements of the advantages of IB and dual language programs, both  
28 discussed further below) is to the effect that television commercials “will highlight the  
advantages of GATE, IB, and dual language programs as well as student diversity and  
academic achievement.” (Doc. 2270-5 at 47.)

1 the Addendum about the District having assessed whether there are specific strategies that  
2 it could put in place to seek to increase the enrollment of white students at Cholla and  
3 nothing in the Addendum manifests a focus on encouraging white students to enroll in the  
4 IB program. (*See* Doc. 2270-5 at 11 and 40.) In fact, the only discussion of the race and  
5 ethnicity of the Cholla student body is a statement that the enrollment of African American  
6 and Latino students has increased over the last five years. (*Id.* at 11.)

8 As to Roskruge and Hollinger: Nothing in the Addendum refers to a recruitment or  
9 marketing effort that stresses the educational benefits of a bilingual education either in a  
10 dual language magnet school or in a self-contained GATE dual language program.<sup>2</sup> It  
11 may be that the District believes that the statement that magnet school marketing will focus  
12 on “school themes” is sufficient to cover such a messaging strategy for the Roskruge  
13 magnet dual language program but given the particular need to integrate Roskruge,  
14 Mendoza Plaintiffs believe that this is insufficient. Similarly, there is nothing in the  
15 Addendum to indicate that the District has adopted recruitment and marketing strategies  
16 targeted to interest more families of white students to enroll those students in the Hollinger  
17 self-contained GATE dual language program<sup>3</sup>.

22 <sup>2</sup> Mendoza Plaintiffs recognize that dual language programs occupy a unique status under  
23 the USP, not formally categorized as ALEs (except to the extent particular dual language  
24 programs are GATE programs as well) and not covered by the Outreach and Recruitment  
25 Addendum ordered by the Court unless they also are GATE or magnet programs.  
26 However, just as this Court concluded that overlap should be avoided by developing and  
27 presenting joint strategies for outreach and marketing to magnet and ALE programs, where  
28 appropriate, Mendoza Plaintiffs respectfully suggest that an overarching strategy to  
communicate the benefits of bilingual education and to recruit an integrated student body  
to participate in such programs is warranted regardless of whether the particular dual  
language school or program in issue also is a magnet or a GATE program.

<sup>3</sup> The ALE Progress Report says with respect to the subject of increasing dual language  
ALEs that it will provide “strategic marketing to identified families” (Doc. 2267-2 at 13)

1  
2 ***The Addendum Fails to Prioritize Magnet School and ALE Program***  
3 ***Outreach and Recruitment to Focus on Those Schools That are not yet***  
4 ***Integrated and Those ALE Programs in Which African American and/or***  
5 ***Latino Students Are Most Underrepresented***

6 The Addendum fails to prioritize those magnet schools that are not yet integrated  
7 and those ALEs in which African American and Latino students are most  
8 underrepresented.

9 There is virtually no discussion in the Addendum of setting any priorities for the  
10 expenditure of outreach and recruitment funds (and related marketing efforts) with respect  
11 to magnet schools. In fact the only statement of “priority” that Mendoza Plaintiffs saw  
12 was in the discussion of the 2019-20 planned television advertising campaign which after  
13 saying “[t]argeted schools include” then lists all 13 magnet schools.<sup>4</sup> (Doc. 2270-5 at 44.)  
14 They saw no statements of priority with respect to the efforts to recruit for the District’s  
15 ALEs.  
16

17 Although Mendoza Plaintiffs believe that the District should continue meaningful  
18 outreach and recruitment efforts for its integrated magnet schools and for the ALEs in  
19 which it has been most successful in recruiting African American and Latino participation,  
20 they also believe it is incumbent on the District to identify those schools that are not yet  
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24 but says nothing about using such strategic marketing to attempt to reach out to white  
25 families and reduce the racial concentration at Hollinger.

26 <sup>4</sup> The only other indication of specific linkage between an advertising outreach and  
27 particular schools that Mendoza Plaintiffs noted appears to link magnet schools with  
28 particular themes to the nature of the media in which the ads are to appear (for example  
magnet STEM-based programs advertised in media likely to reach those with a particular  
interest in STEM). (*Id.* at 45.)

1 integrated for particular attention and those ALE programs in which African American and  
2 Latino students currently are most underrepresented.

3  
4 ***The District Failed to Engage in the Assessment of its Existing Outreach and***  
5 ***Marketing Strategies That the Court Contemplated and Failed to Adopt More***  
6 ***Effective Strategies Suggested by the Surveys it did Conduct and This Court's***  
7 ***Earlier Rulings***

8 In its 9/6/18 Order, the Court referenced the District's then-current marketing and  
9 outreach strategies and concluded that the District "is now well positioned to review the  
10 effectiveness of these new initiatives" (9/6/18 Order, Doc. 2123, at 33:23-24.) It then  
11 added: "It is time for the District to assess the effectiveness of the various outreach,  
12 marketing, and recruitment strategies for its Magnet Program, which are equally effective  
13 for the ALE Program, and identify the strategies found to be most effective at promoting  
14 integration to be used by the District going forward." (*Id.* at 34:3-6.) Later in that Order, it  
15 stated: "Prior Orders of this Court have directed the District to implement family peer-to-  
16 peer recruitment strategies aimed to address the 'known unknown' factor that leads to  
17 qualified students and their families declining to participate in ALEs. (Order Doc. 2084) at  
18 6-7 (calling for peer-to-peer recruitment...and directing District to address misconceptions  
19 perpetrated by school counselors and teachers)." (*Id.* at 91: 12-17.)

20  
21  
22 The District's assessment of its existing magnet and ALE outreach and recruitment  
23 strategies consisted largely of asking parents of students currently enrolled in magnet and  
24 ALE programs how they had learned of those programs. Significantly, it did not reach out  
25 to a random sample of parents whose students are not enrolled in the programs to ascertain  
26 what if anything they know of the programs or survey parents of students who qualified for  
27  
28

1 ALEs but did not enroll about why they had declined to do so and how much outreach (and  
2 of what type) they had experienced before reaching that decision.

3 What it did learn from the surveys that it did conduct was that “*many* magnet and  
4 ALE parents cited their own personal experience or knowledge of the programs. This was  
5 particularly true for GATE parents, many of whom were GATE students themselves.”  
6 (Addendum, Doc. 2270-5, at 5; emphasis added.) Mendoza Plaintiffs suggest that this  
7 finding both calls into question the efficacy of the outreach channels that the District has  
8 been using and, given that until recently enrollment in the District’s GATE (and other  
9 ALE) programs was disproportionately white, suggests that a system in which personal  
10 knowledge of or parental participation in GATE programs is the basis for current  
11 enrollment means that the District must adopt outreach and recruitment strategies that are  
12 particularly targeted to parents who lack that personal knowledge and experience,  
13 specifically those who are African American and Latino, if it is to provide the equal access  
14 to the District’s ALEs that is mandated by the USP.

15 Although the District did determine to make some changes in its outreach and  
16 recruitment strategies based on its surveys and interviews with ALE subject matter experts,  
17 “to offer more interactions to families from the school sites” particularly because site-  
18 based events attract more attendees than district-wide events (*id.* at 7-8), it does not appear  
19 to have adopted the peer-to-peer recruitment strategies ordered by the Court. In fact the  
20 only peer-to-peer strategy referenced at all in the 2019-20 Plan for Outreach, Marketing  
21 and Recruitment for Magnet and ALE Programs is a statement that UHS African American  
22 and Latino families will call 8<sup>th</sup> grade families of African American and Latino students  
23 who have qualified for UHS admission to answer questions. (*Id.* at 42.)

1 The ALE Policy Manual, under its discussion of recruitment for GATE, says only  
2 that peer-to-peer programs are provided for families during open houses and other parent  
3 events, and through the GATE website (ALE Policy Manual, Doc. 2267-1 at 13) but no  
4 further information about these programs is provided, it is not carried forward into the  
5 Outreach and Recruitment Addendum, and even this statement is not included in the Policy  
6 Manual discussion of recruitment for other ALEs. The ALE Progress Report, while  
7 referencing this Court's earlier Order that the "District should recruit parents of children  
8 participating successfully in particular ALEs to recruit others to participate" (Doc. 2267-2  
9 at 26, n. 23, citing Doc. 2084 at 18), does not in fact describe the implementation of such a  
10 strategy for its GATE programs (and again appears to omit recruitment for all other  
11 ALEs). Instead, it describes open houses and other events at which parents in attendance  
12 have the opportunity to meet and hear from parents of students enrolled in the program and  
13 at which enrolled students make presentations, and "videotaped testimonials of student  
14 experiences...that are shared with parents on the District website and at events." (*Id.* at  
15 26.) Mendoza Plaintiffs respectfully suggest that while these efforts may be of some  
16 value, they are not instances in which parents of children participating successfully in  
17 particular ALEs have been specifically recruited to recruit others to participate in those  
18 programs.  
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### 23 **Conclusion**

24 For the reasons set forth above Mendoza Plaintiffs respectfully request the Court to  
25 hold that the District has failed to comply with its 9/6/18 Order relating to an Outreach and  
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1 Recruitment Addendum for Magnet and ALE Programs and deny the District's request that  
2 it be granted partial unitary status with respect to Sections II and V, A of the USP.<sup>5</sup> In an  
3 excess of caution, Mendoza Plaintiffs respectfully invite the Court's attention to their  
4 earlier objections to such requests by the District and to their Motion to Stay (Doc. 2186),  
5 expressly incorporate herein the arguments set forth in those pleadings, and also note this  
6 Court's statement when it denied that Motion that it will not again reach the question of  
7 unitary status until after the District's Executive Summary filing and the proceedings  
8 relating thereto.  
9  
10  
11

12 Dated: September 20, 2019

13  
14 MALDEF  
15 JUAN RODRIGUEZ  
16 THOMAS A. SAENZ

17 /s/ Juan Rodriguez  
18 Attorney for Mendoza Plaintiffs

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22 /s/ Lois D. Thompson  
23 Attorney for Mendoza Plaintiffs  
24  
25  
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27 <sup>5</sup> In expressly addressing the District's submission with respect portions of Sections II and  
28 V,A 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.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 20, 2019, I electronically submitted the foregoing **MENDOZA PLAINTIFFS' RESPONSE TO TUSD OUTREACH AND RECRUITMENT ADDENDUM FOR MAGNET AND ALE PROGRAMS (DOC. 2270-5)** 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: September 20, 2019