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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’
SUPPLEMENTAL RESPONSE TO TUSD
NOTICE OF FILING: REVISED FACE
PLAN AND OBJECTION TO THE
DISTRICT’S REQUEST (DOC. 2262)
THAT IT BE AWARDED PARTIAL
UNITARY STATUS WITH RESPECT TO
SECTION VII 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: Revised FACE Plan (Docs. 2262
13 and 2262-1 (“Revised FACE Update”)), and objection to TUSD’s request that it be
14 awarded partial unitary status with respect to Section VII of the USP.
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16 Under the 9/6/18 Order, TUSD submitted its FACE Update on December 6, 2018
17 (Doc. 2154). Each of the Court’s subsequent April 10, 2019 and April 22, 2019 Orders
18 (Docs. 2213 (“4/10/19 Order”) and 2217 (“4/22/19 Order”)) mandated revisions to the
19 FACE Update, which the District has now filed as the Revised FACE Update.
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21 **Argument**

22 ***The Revised FACE Update Fails to “Reflect the Interconnectivity and***
23 ***Interrelatedness of the USP’s Various Units” Because it Still Does not Reflect***
24 ***Areas of Collaboration with MASSD, Does not Discuss ELL Engagement***
25 ***Strategies, and Fails to Clearly Delineate Roles and Responsibilities With Respect***
to Cross-Departmental Activities

26 In the 4/10/19 Order, this Court expressed its concern about the lack of discussion
27 in TUSD’s African American Student Support Department (“AASSD”) and Mexican
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1 American Student Support Department (“MASSD”) Operating Plans, the FACE Update,
2 and/or the ELL Plan of activities, programs and services that were provided as a
3 collaboration among multiple departments as follows: “the Court does not know where the
4 [AASSD and MASSD] have primary program and/or service responsibilities or where the
5 Departments supplement the delivery of student support services from another unit.”
6 (4/10/19 Order at 8:12-15.) This Court further found problematic the fact that the
7 December 6, 2018 “FACE Update identifies collaborative District-wide family
8 engagement opportunities without clarifying whether the events are initiated, sponsored,
9 and staffed, by AASSD and MASSD, with cooperation from FACE or vice a versa.” (*Id.*
10 at 11, n.6.)
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13 This Court therefore ordered that “AASSD and MASSD tasks or roles must [] be
14 identified as supportive, supplemental, or additional” and defined each of those terms for
15 the District’s use. (*Id.* at 19:7-15.) It further ordered that the “FACE Update, the ELL
16 Plan, and the AASSD and MASSD Operating Plans must all be revised to reflect the
17 interconnectivity and interrelatedness of the USP’s various units. Without such revisions,
18 the Court has no basis for assessing the efficacy of... FACE services, which are spread
19 across and between these and other USP program units and the District’s schools.” (*Id.* at
20 15:1-6.)
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23 The District appears to primarily attempt to address this Court’s concerns about the
24 need for detail on cross-departmental activities and the interconnectivity and
25 interrelatedness of USP activities through a chart attached to the Revised FACE Update as
26 Exhibit 4 (“Cross-Departmental Activity Chart” or “CDA Chart”). Unfortunately, the
27 District’s Revised FACE Update Plan and Cross-Departmental Activity Chart fail to
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1 address a number of concerns this Court identified and thus continue to inadequately
2 provide this Court with a basis for adequately assessing the District’s delivery of FACE
3 services.

4 By way of example, in the 4/22/19 Order, this Court expressly agreed with
5 Mendoza Plaintiffs’ concern that the 12/6/18 FACE Update failed to reflect, among other
6 things, that MASSD will coordinate to “[d]evelop bilingual (Spanish/English)
7 empowerment trainings with FACE staff for Mexican American/Latino parents to
8 participate in site councils, PTAs, SCPC, and Governing Board meetings.”¹ (*Id.* at 10:16-
9 11:2.) The Revised FACE Update does not detail this effort although the Cross-
10 Departmental Activity Chart appears to reference what may be this activity, with its
11 reference to “Parent involvement workshops at FRCs.”² The District description notably
12 fails to address the Court’s concerns about identification of roles and responsibilities of the
13 departments involved because it lists each of FACE and MASSD as the “Primary
14 Department” whose responsibility the District generally describes as “[p]lanning,
15 coordination, provide space, childcare, facilitate workshop, promote & recruit
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19 ¹ The Court further agreed that this omission reflected a “failure to recognize –and build
20 on- the essential role that the MASSD in fact has assumed in providing parents with the
21 tools they need to be meaningful participants at the school level and with respect to their
22 students’ education – and the absence of the very sort of coordination that the District
23 asserts is occurring.” (*Id.*)

24 ² Both clarification and confusion is provided by the MASSD Operating Plan which says
25 that the Parent Outreach & Empowerment Program Specialist “develops and implements
26 bilingual (Spanish/English) empowerment trainings with FACE staff for Mexican
27 American/Latino parents to participate in site councils, PTAs, SCPC, and Governing
28 Board meetings. These workshops are given at school sites [not referenced in the CDA
Chart] and the Family Centers, with the FACE Department supplying facilities (if at the
Family Centers), transportation and child care.” (Doc. 2265-2 at 6-7.) Even as the CDA
Chart lists both FACE and MASSD as the “Primary Department”, the MASSD Operation
Plan says that the services described are ones in which the MASSD Department is
fulfilling “supportive and/or additional tasks” (*id.* at 7) since, as described below, in
footnote 3, the Revised FACE Update and CDA Chart use different nomenclature than the
MASSD Operating Plan.

1 participants.” (*Id.*) Such description of roles and responsibilities is unlikely to clarify this
2 Court’s concern about “whether the event[is] initiated, sponsored, and staffed, by AASSD
3 and MASSD with cooperation from FACE or vice a versa.” (*Id.* at 11, n.6.)

4 Indeed, this Court need conduct only a cursory review of the Cross-Departmental
5 Activity Chart to see that there are a significant number of activities for which two or three
6 departments are designated as the “primary department” (and that therefore are described
7 as having the same responsibilities) or which omit a description of responsibilities for
8 primary or supporting departments. (CDA Chart.) Further, the Cross-Departmental
9 Activity Chart appears to entirely omit activities expressly cited (but only generally
10 described) in the Revised FACE Update as activities FACE provides in collaboration with
11 MASSD and/or AASD, including “College Academy for Parents”, the “Palo Verde
12 Neighborhood Collaborative”, and tutoring services, and therefore has failed to provide the
13 information this Court expressly requested.³ (*Compare* Revised FACE Update at 11, 12-
14 13 *with* CDA Chart.)

15 Further, in the 4/10/19 Order, this Court expressed particular concern that the
16 December 6, 2018 FACE Update “never mentions ELL students, except perhaps indirectly
17 by calling for newsletters and other materials to be in multiple languages and by
18 referencing strategies for communicating with families who speak languages other than
19 English.” (4/10/19 Order at 11:3-6.) Similarly, other than a single perfunctory assertion
20 that the “ELL Dropout Prevention plan contains family engagement strategies” (Revised
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³ Mendoza Plaintiffs note that notwithstanding that this Court defined the terms by which it ordered TUSD to identify AASSD and MASSD tasks (“supportive, supplemental, or additional”), the Cross Departmental Activity Chart fails to make such distinctions and simply describes all non-primary roles as “Supporting”. (CDA Chart.)

1 FACE Update at 12), the Revised FACE Update and Cross Departmental Activity Chart
2 never mention ELL students or make any reference to the ELL Action Plan. While
3 Mendoza Plaintiffs recognize that the Revised Face Update makes a small number of
4 *general* references to collaboration with the Language Acquisition Department, to the
5 availability of materials in languages other than English, and to the fact that the National
6 Network for Partnership Schools (“NNPS”) Leadership Institute, with which TUSD is
7 working, has family engagement guidelines “with special attention to communications and
8 connections of new immigrant groups... with diverse cultural and linguistic backgrounds,”
9 the Revised FACE Update fails to identify or commit to implementing any of what it says
10 are the NNPS “examples of promising practices” (*id.* at 9) or to manifest a coherent
11 approach to engaging the families of ELL students. Mendoza Plaintiffs’ concern about this
12 omission is heightened given that the ELL Action Plan the District recently filed expressly,
13 and with a certain degree of circularity, asserts that “[t]he District’s FACE Plan details the
14 family engagement guidelines ” that “apply to families of ELL students as well as other
15 families, and the Language Acquisition department works with the [FACE] department to
16 ensure that site-based engagement activities are designed to reach ELL PHLOTE⁴
17 [Primary Home Language Other than English] families... .” (Doc. 2261-1 at 6.) Yet, as
18 noted, the only reference to ELLs in the Revised Face Update is an assertion that the ELL
19 Plan contains “family engagement strategies.” (Revised FACE Update at 12.)

24 Tellingly, in the section concerning “FACE Department Support for Other
25 Departments,” the Revised FACE Update generally asserts that the FACE department
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27 ⁴ Mendoza Plaintiffs saw no reference to PHLOTE, or PHLOTE family and students in the
28 Revised FACE Plan.

1 provides the Language Acquisition Department (“LAD”) (as well as a few others) with
2 “guidance and support... [for] family engagement events and needs” “including event co-
3 ordination, use of the Family Resource Centers, and provision of child care and
4 transportation services.” (Revised FACE Update at 11-12.) Yet, the Cross-Departmental
5 Activity Chart lists no activities at all for which the FACE department provides any
6 support for the Language Acquisition Department (or vice-versa), and does not provide the
7 information this Court expressly requested. (CDA Chart.) Further, as discussed in
8 Mendoza Plaintiffs’ supplemental response concerning the AASSD and MASSD
9 Operating Plans, the LAD website and ELL Action Plan suggest that the LAD, FACE
10 Department, and MASSD and AASSD might successfully collaborate, for example, to
11 present parent information sessions in Spanish and other appropriate languages to explain
12 the ELL process to affected families. However, as discussed above, the activity in the
13 Cross-Departmental Chart that seemingly reflects this activity is deficient and further
14 makes no reference to the LAD.
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18 For these reasons, Mendoza Plaintiffs respectfully submit that the Revised FACE
19 Update fails to comply with this Court’s 4/10/19 Order.
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21 ***The District has Failed to “Immediately” Ensure that School Websites’ Family***
22 ***Engagement Information is Updated***

23 In the 4/22/19 Order, this Court ordered the District to “immediately ensure that
24 each school’s website includes an updated newsletter and a current schedule for site
25 counsel, PTA, SCPC, and Governing Board meetings, updated contact information for
26 these committees and boards, and any relevant trainings to promote participation.”
27 (4/22/19 Order at 4:13-16.) From Mendoza Plaintiffs’ review of TUSD school websites,
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1 while the District has made some improvement, further progress is needed to comply with
2 this Court's 4/22/19 Order.

3 As an initial matter, Mendoza Plaintiffs were puzzled by the District's assertion in
4 Exhibit 2 of the Revised FACE Update ("Website Report")⁵ that the District has a plan in
5 place for "full implementation" of the Court's directives concerning school websites "by
6 the beginning of SY2019-20." (Website Report at 42; *see also id.* at 43 ("anticipated
7 completion date of July 31, 2019").) Notwithstanding the month between the "full
8 implementation" "completion date" and the filing date of the Revised FACE Update, the
9 Website Report failed to detail whether TUSD in fact fully implemented the Court's
10 directives or, if not, include a progress report and explanation of why the deadline had not
11 been met. While it plainly is the responsibility of the District to report the status of its
12 compliance to the Court, Mendoza Plaintiffs have undertaken a review of elementary and
13 K-8 school family engagement websites and have identified a number of issues suggesting
14 the District has much work to do to comply with the 4/22/18 Order.

15 Attached as Exhibit A is a chart prepared during the week of September 16, 2019,
16 detailing Mendoza Plaintiffs' findings with respect to the four "new pages" the District
17 says were added to provide the information required in the 4/22/18 Order: School Site
18 Councils, Family Engagement Teams, PTO/Other Parent Groups, and Newsletters.
19 (Website Report at 44.) With respect to the "updated newsletter" this Court required be
20 posted on school websites (4/22/18 Order at 4:13-16), Mendoza Plaintiffs generally found
21 that while most elementary and K-8 schools did indeed have updated newsletters, some
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⁵ Because the pages of the Website Report are not numbered, Mendoza Plaintiffs reference ECF page numbers for that report.

1 schools did not (*e.g.*, Safford’s most recent newsletter dated January 8, 2018, Hollinger’s
2 most recent newsletter dated January 2019). (Exhibit A.)

3 Further, with respect to the Court’s directive that websites provide site council
4 information, including contact information, TUSD’s elementary and K-8 schools widely
5 vary in their level of compliance although Mendoza Plaintiffs generally found that most
6 schools failed to identify site council members or provide contact information for the
7 council. (Exhibit A.) For example, some schools like Blenman and Davis Elementary
8 Schools did identify site council members, but failed to comply with the Court’s directive
9 that contact information for the group be provided. Further, Cavett, for example, identifies
10 site council members composed entirely of TUSD staff, with a “family” constituency
11 “TBA” notwithstanding that Cavett has a site council meeting scheduled for September 25,
12 2019. (*See* Cavett School Council Member List and site council webpage, attached
13 together as Exhibit B.) For many other schools, including Bloom, Booth-Fickett, Carrillo,
14 and Cragin no site council for 2019-2020 is identified. Tellingly, the webpage
15 corresponding to Cragin’s “Site Council” is almost entirely blank, lacking any information
16 about the membership of a site council, or contact information for a site council; instead,
17 the webpage consists entirely of a calendar noting that a “Site Council Meeting” was held
18 on September 18, 2019. (*See* Cragin Elementary “Site Council” webpage screenshot,
19 attached as Exhibit C.)

20 Similarly, with respect to parent teacher (and other) organizations, many school
21 websites (including those of Bonillas, Howell, and Holladay), simply provided no
22 information about the organization, including current members, contact information, or a
23 schedule of meetings. (Exhibit A.) Similar to Cragin’s site council webpage, Booth-

1 Fickett’s parent teacher organization webpage contains no information concerning that
2 organization’s membership or contact information, yet that organization has a meeting
3 scheduled for September 23, 2019 and makes reference to an August 2019 meeting having
4 been held. (See Booth-Fickett “PTO” webpage screenshot, attached as Exhibit D.)⁶
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6 Finally, notwithstanding this Court’s recognition that school websites “are at the
7 forefront of family and community engagement” (4/22/19 Order at 4:8-10) and
8 compounding the obstacle to family engagement presented by the lack of information on
9 site-based organizations as detailed above, Mendoza Plaintiffs did not see on any school
10 webpage, including on school calendars, any “schedule for... relevant trainings to promote
11 participation” in site-based organizations. (See *id.* at 4:13-16.) Indeed, Mendoza Plaintiffs
12 also could not identify any such trainings at TUSD’s Family Engagement Centers
13 (“FEC”s) from the FEC calendar of events that the District says is “representative” of the
14 activities occurring at FECs. (See Revised FACE Update at 9; Exhibit 3 to Revised FACE
15 Update (FEC “Schedule of Workshops and Events”).)
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18 Plainly, the foregoing does not reflect that TUSD is in “full compliance” with this
19 Court’s order that it “immediately ensure that each school’s website include an updated
20 newsletter and a current schedule for site counsel PTA... updated contact information for
21 these committees and boards, and any relevant trainings to promote participation.”
22 Mendoza Plaintiffs therefore respectfully submit that TUSD should be directed to provide
23 this Court with a progress report that clearly delineates its schools’ actual compliance with
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28 ⁶ Mendoza Plaintiffs further note that many TUSD schools also do not provide information
on Family Engagement Teams (Exhibit A).

1 this Court's 4/22/19 directives concerning school websites, and a revised schedule of when
2 it will be in "full compliance" with these directives.

3
4 **Conclusion**

5 For the reasons set forth above, Mendoza Plaintiffs respectfully request the Court to
6 hold that the District has failed to comply with its 9/6/2018 and 4/22/19 Order relating to
7 Family and Community Engagement and deny the District's request that it be granted
8 partial unitary status with respect to USP Section VII.⁷ In an excess of caution, Mendoza
9 Plaintiffs respectfully invite the Court's attention to their earlier objections to such requests
10 by the district and to their Motion to Stay (Doc. 2186), expressly incorporate herein the
11 arguments set forth in those pleadings, and also note this Court's statement when it denied
12 that Motion that it will not again reach the question of unitary status until after the
13 District's Executive Summary filing and the proceedings relating thereto.
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27 ⁷ In expressly addressing the District's recent submission with respect to Section VII of the
28 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 23, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2019, I electronically submitted the foregoing **MENDOZA PLAINTIFFS' SUPPLEMENTAL RESPONSE TO TUSD NOTICE OF FILING: REVISED FACE PLAN AND OBJECTION TO THE DISTRICT'S REQUEST (DOC. 2262) THAT IT BE AWARDED PARTIAL UNITARY STATUS WITH RESPECT TO SECTION VII OF THE USP** 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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Dated: September 23, 2019