

P. Bruce Converse (#005868)
bconverse@dickinsonwright.com
Timothy W. Overton (#025669)
toverton@dickinsonwright.com
DICKINSON WRIGHT PLLC
1850 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004-4568
courtdocs@dickinsonwright.com
Phone: (602) 285-5000
Fax: (844) 670-6009

Robert S. Ross (#023430)
Robert.Ross@tusd1.org
Samuel E. Brown (#027474)
Samuel.Brown@tusd1.org
TUCSON UNIFIED SCHOOL DISTRICT
LEGAL DEPARTMENT
1010 East Tenth Street
Tucson, Arizona 85719
Phone: (520) 225-6040
Attorneys for defendant
Tucson Unified School District No. 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Roy and Josie Fisher, et al., Plaintiffs, v. Tucson Unified School District No. 1, et al., Defendants.
Maria Mendoza, et al., Plaintiffs, v. Tucson Unified School District No. 1, et al., Defendants.

4:74-cv-0090-DCB
(Lead Case)

4:74-cv-0204 TUC DCB
(Consolidated Case)

DISTRICT'S RESPONSE
TO FISHER PLAINTIFFS' OBJECTION (2276)
TO NOTICE OF COMPLIANCE
REGARDING AASSD OPERATING PLAN (2265)

1 The Court directed the District to prepare and file a notice and report of compliance
2 with its directive to prepare plans for operating the African American Student Services
3 Department (AASSD) and Mexican American Student Services Department (MASSD)
4 beyond a declaration of unitary status. [ECF 2123 at 121-22, 150.] The District prepared
5 and filed those departmental operating plans on December 6, 2018. [ECF 2151-1 and
6 2151-2, respectively.] The Fisher Plaintiffs did not file any objection to the AASSD
7 Operating Plan submitted by the District.

8 In a subsequent order, the Court ordered the District to revise the operating plans
9 according to its directives and resubmit them. [ECF 2213 at 3-10, 17-19.] As requested,
10 the District revised the operating plans by providing a narrative explanation of the roles
11 and functions of the various key positions in these departments, addressing whether the
12 function or service provided is academic, behavioral or outreach, and also identifying
13 whether the roles of the department in those functions is supportive, supplemental or
14 additional. The revised plans also identify and cross-reference other departments involved
15 in those functions. The revised plans also reflect other directives from the Court, including
16 the requirement of a bachelors' degree for all AASSD staff, and revised and clarified
17 roles. The revised AASSD plan was submitted to the Court on August 30, 2019. [ECF
18 2265-1.]

19 The Fisher Plaintiffs filed a combined objection to all of the District's completion
20 plans, which principally set out a general and unfounded attack on the District not here
21 addressed,¹ but did include a small section objecting to the revised AASSD operating
22 plan. [ECF 2276, pp. 6-8.] This objection does not address the particular revisions to the
23

24
25 ¹ The District briefly addresses these other arguments in its separate Response to Fisher
26 Plaintiffs' Objections, filed of even date herewith.

1 AASSD operating plan directed by the Court, but rather include a series of seven
2 demands.

3 Several of these demands are already been included in the revised AASSD
4 operating plan, which the Fisher Plaintiffs have not apparently reviewed closely. First, a
5 bachelor's degree is already a requirement for all positions in the AASS Department,
6 excepting only the administrative and activity assistants. Second, the director of the
7 department already reports directly to the Assistant Superintendent for Curriculum and
8 Instruction. Third, the director already files periodic reports.² Fourth, the District did
9 invite the Fisher Plaintiffs representatives to participate onn hiring panels for positions in
10 the department, and they declined. Fifth, the department does follow and use research
11 and evidence-based plans to realize its broad goal of improving academic outcomes for
12 African American students.³

13 Finally, the department went through a comprehensive review of its structure
14 during 2018, using a consultant suggested and approved by counsel for the Fisher
15 Plaintiffs (Trayben Associates). The operating plan represents the results of that review,
16 with a structure specifically approved by the consultants. From SY2014-15 to SY2018-
17 19, in addition to its director, the department had 10-14 student success coaches (some
18 with a bachelor degree) and two behavioral specialists. The new structure has a director,
19

20 ² As noted above, the District reports annually on the operations of the department in its
21 Annual Report. In addition, it reports annually on student achievement (which is only
22 measured annually by the state test), graduation rates, dropout rates (all annual figures),
23 and does already provide quarterly discipline reports to the Department of Justice. The
24 Fisher Plaintiffs demand "quarterly reports," without specifying what they wish reported
25 on quarterly, or what benefit would be provided by quarterly reports. In this context, the
26 District does not understand what else the Fisher Plaintiffs need.

³ Improving academic outcomes is a broader and more appropriate goal than merely
closing the achievement gap, which is only one measure of success. Improving
graduation rates, reducing dropouts and retentions, improving overall academic
importance, reducing the severity and frequency of discipline are all part of the broad
aspects of improved outcomes for African American students.

1 program coordinator, four program specialists, four RTI specialists (certified teachers),
2 two behavioral specialists, and five student success coaches, all of whom have a
3 bachelor's degree, and experience in the position. The District respectfully submits that
4 the restructuring which has taken place over the last year and a half has provided the "new
5 department" that the Fisher Plaintiffs demand.

6 As noted above, the District has recently gone through the process of rehiring for
7 a number of positions in the department. However, the District respectfully declines to
8 require that its current director re-apply for his job as demanded by the Fisher Plaintiffs.
9 The District does not believe that it is either necessary or appropriate for USP purposes
10 for the Court to get involved in hiring or dismissal of particular individuals.

11 **Conclusion**

12 The District respectfully submits that it has complied with the Court's orders
13 regarding the operating plan for the African American Student Services Department,
14 and has met the requirements set out in USP § V.E.7, as shown by the record herein,
15 including its annual reports on student support services.⁴ Accordingly, the District
16 requests that the Court grant unitary status in this area of District operations (USP §
17 V.E.7).⁵

21 ⁴ Compliance with USP student support services requirements is addressed in the record
22 at the following specific locations incorporated herein by reference: ECF 2057-1, pp. 275-
23 319 and appendices cited therein; ECF 2124-1, pp. 89-111 and appendices cited therein;
24 ECF 2075-5, pp. 94-182 and documents cited therein.

25 ⁵ The District submits this notice filing without waiver of its position that there is no basis
in fact or law for continued federal court supervision of the District in this or any other
area, given the findings of Judge Frey in 1978, subsequent rulings of this Court, and the
record herein. The District recognizes that the Court has overruled these objections, but
wishes to make clear that they are preserved for appeal.

1 Dated this 7th day of October, 2019.

2 Respectfully submitted,

3 /s/ P. Bruce Converse

4 P. Bruce Converse

5 Timothy W. Overton

6 **DICKINSON WRIGHT, PLLC**

7 1850 N. Central Avenue, Suite 1400

8 Phoenix, Arizona 85004-4568

9 *Attorneys for Tucson Unified School*
10 *District No. 1*
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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of October, 2019, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic filing to all CM/ECF registrants.

/s/ P. Bruce Converse