

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

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

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE DISTRICT OF ARIZONA**

14 Roy and Josie Fisher, et al.,  
15 Plaintiffs,  
16 v.  
17 Tucson Unified School District No. 1, et al.,  
18 Defendants.  
19 Maria Mendoza, et al.,  
20 Plaintiffs,  
21 v.  
22 Tucson Unified School District No. 1, et al.,  
23 Defendants.

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

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

24 **DISTRICT'S RESPONSE**  
25 **TO PLAINTIFFS' OBJECTIONS (2278)**  
26 **TO NOTICE AND REPORT OF COMPLIANCE: FCI SCORES (2264)**

1 In its order dated September 6, 2018 (ECF 2123), the Court ordered the District to  
2 switch its calculation of FCI scores back to the original category weights set out in the  
3 2015 Multi-Year Facilities Plan. In fact, by the time the Court's Order came out, the  
4 District had already switched back to the original category weights (it did so by the spring  
5 of 2018). Appendix IX-1 to the District's 2017-18 Annual Report showed that the District  
6 used and reported FCI scores for SY2017-18 *using those original category weights* (ECF  
7 2136-1, pp. 2-6, copy attached as Exhibit A).

8 The Mendoza Plaintiffs' only complaint regarding the District's Notice of  
9 Compliance is that the District demonstrated its compliance by citing to the 2017-18  
10 report, and not more recent data. More recent data has now just been filed on October 1,  
11 2019, as an appendix to the District's 2018-19 Annual Report: Appendix IX-2 sets out  
12 the most recent FCI scores, *again using the original category weights* for the calculation  
13 of the scores (ECF 2308-1, pp. 12-14, copy attached as Exhibit B).

14 The Mendoza Plaintiffs raise no other real objections. They protest the format of  
15 the slightly different index the District used with its original submissions for 2015-16 and  
16 2016-17, and the time it would take the Mendoza Plaintiffs to calculate FCI scores  
17 themselves based on that data [FCI Response, Doc. 2278, at 1 n.1], but this is irrelevant,  
18 given that: (a) the District has gone back to the original format required by the Court and  
19 (b) the District has performed all necessary calculations on the data it submitted.<sup>1</sup>  
20

21  
22 <sup>1</sup> Though it is irrelevant, undersigned counsel recalculated the FCI scores using the  
23 original weights, from the data in the reports, *in less than 10 minutes* by simply (a)  
24 copying the raw data from the PDF report into an Excel spreadsheet, (b) creating a  
25 formula for the FCI for the first school (simply adding the categories using the original  
26 weights), and then (c) copying the formula down through the table for all schools. This  
whole dispute is over a calculation that the Mendoza Plaintiffs could have performed in  
less than 10 minutes using an Excel spreadsheet and data provided in every year's annual  
report.

1 By continuing to dwell on the format of data submitted two years ago — data that  
2 has long since been conformed to the prior format — the Mendoza Plaintiffs highlight the  
3 fact that they have no valid, current objections to the District’s attaining unitary status in  
4 the area of FCI scores. The Mendoza Plaintiffs, who had full access to the data the District  
5 was required to file, have apparently found no fault with the data itself.

6 **Conclusion**

7 The District has now for two successive annual reports used FCI scores calculated  
8 using the original category weights as requested by the Mendoza Plaintiffs. The Court  
9 noted, as to FCI scores, that “the Special Master finds no evidence that Racially  
10 Concentrated schools have lower scores than non-racially concentrated schools.” This  
11 conclusion was based both on reporting by the District and on the Special Master’s  
12 independent study of District schools. [Order, Doc. 2123, at 139:3-7]. Accordingly, the  
13 District respectfully submits that it has complied with the Court’s orders regarding FCI  
14 scores, and has met the requirements of USP § IX.A. The District renews its request that  
15 the Court grant unitary status in area § IX.A of District operations.

16 Dated this 7<sup>th</sup> day of October, 2019.

17 Respectfully submitted,

18 /s/P. Bruce Converse

19 P. Bruce Converse

20 Timothy W. Overton

21 **DICKINSON WRIGHT, PLLC**

22 1850 N. Central Avenue, Suite 1400

23 Phoenix, Arizona 85004-4568

24 *Attorneys for Tucson Unified School*

25 *District No. 1*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7th day of October, 2019, I electronically transmitted the attached 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* \_\_\_\_\_