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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)

23 **DISTRICT RESPONSE**
24 **TO PLAINTIFFS' OBJECTION (2279)**
25 **TO NOTICE AND REPORT OF COMPLIANCE:**
26 **INTERNET ACCESS (2263)**

1 The testing data submitted by the District regarding internet access establishes
2 beyond genuine dispute that: (a) there is no disparity in the availability of internet access
3 anywhere in the District, and (b) the entire system is overdesigned with significantly more
4 capacity than is needed at every level at every school:

5 **A. Wireless Access Within Each School:** Every school has the same type of
6 wireless access points, installed to the same minimum density standards. Though each
7 wireless access point can handle over 100 student devices at a time, the minimum density
8 standard in all schools is one wireless access point for every 30 classroom seats. The
9 District checks the installation throughout each school for coverage and strength of signal.
10 Geographic coverage issues may increase the number of wireless access points. The
11 District submitted the results of the most recent survey in a series of coverage maps, which
12 show the signal coverage superimposed on a map of each school. [ECF 2263-1, pp. 101-
13 203.] Thus, the data transmission equipment at every school has far more than sufficient
14 capacity for peak school data needs and geographic coverage within the school.

15 **B. Internet Access from Each School to the Main District Internet**
16 **Connection:** Each school has equipment of the same type and with the same capacity
17 connecting the school to the main District internet connection. The capacity of the
18 connection from each school to the District is 1 gigabit per second. During the 2018-19
19 school year, the highest instantaneous use by any school as a whole was 637 megabits per
20 second, or about 64% of capacity. So each school has the same capacity — across the
21 entire District — and that capacity is more than any school needed.

22 The Mendoza Plaintiffs do not and cannot challenge the current data showing no
23 disparity in internet access among District schools. Instead, the Mendoza Plaintiffs point
24 to a budget document from two and a half years ago, during the 2016-17 school year,
25

1 before the District upgraded its internet access system. The document accurately notes
2 that the District was seeking to upgrade the system, using funds from the FCC E-rate
3 program and the District’s own capital funds.

4 The plans came to fruition. The District did receive E-rate funds, and invested
5 funds of its own, for a comprehensive District-wide system upgrade, installing better and
6 stronger wireless access points in place of its old units.¹ The greater capacity and range
7 of the newer model wireless access points actually purchased and installed meant that the
8 District could design and install to a standard of one for every 30 classroom seats, with
9 substantial excess capacity at that level.² The data capacity for *each* of the newer wireless
10 access points is more than most schools actually use for the entire school.

11 The District conducted a system-wide test of speed and coverage during AzMERIT
12 testing in the spring of 2018 (the most intensive period of internet use each year). The test
13 was repeated again in the spring of 2019, also during AzMERIT testing. The result, seen
14 in two years of testing by the District, is a system that is now completely unitary and
15 significantly *overdesigned*.

16 Although the Court’s Order dated September 6, 2018 (Doc. 2123) occurred after
17 the District had already undertaken this broad overhaul of its systems, the Order was
18 based on the Special Master’s report, which in turn was based on the 2016-17 school year,
19 which reflected the District’s system prior to the upgrade. The Court therefore ordered
20 the District to “review the updated TCI, and to the extent inadequate internet speeds
21 disproportionately affect Racially Concentrated schools, . . . develop a plan for correcting
22

23 ¹ In SY2017-18, the District received approximately \$1.8 million in E-rate funds, and
24 invested approximately \$460,000 of its own.

25 ² The Cisco model AIR-AP2702I-UXK9 wireless access point has substantially more
26 throughput capacity and coverage than older models, substantially reducing the number
of wireless access points needed to carry any given load.

1 the disproportionality by the end of SY2018-19, and submit the plan for the Special
2 Master’s review and recommendation for unitary status.” [Order, Doc. 2123, at 139:24-
3 27]. The Court further noted that internet access previously “was not included in the TCI
4 because all schools had the same level of connectivity.” [*Id.* at 139:23-24].

5 All schools again have the same level of connectivity, and thus it is again
6 unnecessary for internet access to be included in the Technology Condition Index
7 (“TCI”). Beyond that, however, the Court’s directives and underlying goal have been
8 accomplished. The District reviewed all internet access/capability data, developed a plan
9 for upgrading the District’s internet access systems, implemented that plan, *and there are*
10 *now no disparities or limitations in the systems.* All schools have the same level of
11 connectivity, and the internet access capabilities at all schools are far in excess of what
12 any school needs. All schools would score the same, were there an internet access
13 category added to the TCI. The District will continue to monitor internet usage at all its
14 schools.

15 In short, the District submitted substantial testing data demonstrating the strength
16 and uniformity of its internet access systems. [Doc. 2263-1]. The Mendoza Plaintiffs have
17 challenged neither that data nor the conclusion it compels: that all schools in the District
18 have higher levels of internet access than they need, and that there is no disparity among
19 them.

20 **Conclusion**

21 The District respectfully submits that it has complied with the Court’s orders
22 regarding internet access and has met the requirements of USP § IX.B. The District
23 requests that the Court grant unitary status in area § IX.B of District operations.
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Dated this 7th day of October, 2019.

Respectfully submitted,

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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