

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

6 Robert S. Ross (#023430)
7 Robert.Ross@tusd1.org
Samuel E. Brown (#027474)
8 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
15 Roy and Josie Fisher, et al.,
Plaintiffs,
16 v.
17 Tucson Unified School District No. 1, et al.,
Defendants.
18
19 Maria Mendoza, et al.,
Plaintiffs,
20 v.
21 Tucson Unified School District No. 1, et al.,
Defendants.

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

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

22
23 **DISTRICT RESPONSE**
24 **TO PLAINTIFFS' OBJECTION (2287)**
25 **TO NOTICE OF COMPLIANCE**
REGARDING MASSD 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.]

7 In a subsequent order, the Court ordered the District to revise the operating plans
8 according to its directives and resubmit them. [ECF 2213 at 3-10, 17-19.] As requested,
9 the District revised the operating plans by providing a narrative explanation of the roles
10 and functions of the various key positions in these departments, addressing whether the
11 function or service provided is academic, behavioral or outreach. The revised plans also
12 identify and cross-reference other departments involved in those functions and also
13 identify whether the role of the MASSD Department in those functions is supportive,
14 supplemental or additional. The revised plans also reflect certain other changes which
15 were the result of experience with the new organizational structure during the 2018-19
16 school year, the first year in which the structure was in place. The revised MASSD plan
17 was submitted to the Court on August 30, 2019. [ECF 2265-2.]

18 **A. Relation of the Operating Plan to the Strategic Plan**

19 Alignment and consistency in the implementation of an asset-based model
20 continues to drive the work of the MASSD to impact Mexican American/Latino students
21 and parents district wide. The MASSD Operating Plan reinforces a District commitment
22 of resources and staff to an asset-based approach of student services.

23 The Mendoza Plaintiff's objection that the original MASSD Strategic Plan
24 ("Strategic Plan"), developed in 2018 in conjunction with the reorganization plan that
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1 guided the Departments reorganization in 2018-19 school year, has been replaced or
2 abandoned misunderstands the relationship of the two documents. The Strategic Plan still
3 serves as an expression of the overall strategy for the department.¹

4 By contrast, the Operating Plan, developed in response to the Court’s request for
5 a better understanding of how the Department operates, is intended to provide an
6 explanation of day-to-day functions, employee duties, relationships with other
7 departments. It is not intended to express long term strategy and research-based rationale,
8 which remains the province of the Strategic Plan. The MASSD Operating Plan opens as
9 follows:

10 “This Operating Plan sets out an organizational and substantive plan for the
11 delivery of student support services to Mexican American students at TUSD,
12 including ELL students, including (a) identification of the activities
13 performed by staff of the Mexican American Student Services Department,
14 (b) demonstration of how these activities are integral to the core functions of
the District, (c) specification of the qualifications that members of the
department staffs must have to perform including specific functions, (d) a
description of how staff with these qualifications can be recruited, trained
and retained.”

15 The Operating Plan describes the daily responsibilities of staff members without
16 replacing other existing MASSD functions or plans. The Operating Plan mirrors the intent
17 and language of both the MASSD Reorganization Plan and the Strategic Plan as it outlines
18 the critical comprehensive functions of the MASSD (see, e.g, Operating Plan, Section III,
19 Operations and Anticipated Outcomes, ECF 2265-2, pp. 12-14). Each goal established in
20 the MASSD Strategic Plan submitted in SY 2018-19 is outlined for continued
21 improvements to the department’s work as an asset-based approach model.

23 ¹ The Strategic Plan to which the Mendoza Plaintiffs refer is an appendix to, and
24 referenced in, to the 2018-19 Reorganization Plan, which in turn is an exhibit to the
25 Operating Plan filed at ECF 2265-2. The version of the Reorganization Plan actually filed
did not include its appendices, but that reflected only a filing decision, not a policy
decision of the District. The Strategic Plan appears in the record at ECF 2287-1.

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2 As a dynamic, living document, adjustments to the MASSD Strategic Plan are on-
3 going based on District staff monitoring and assessment with additional input from the
4 MASSD Reorganization Committee and a designated expert panel. The MASSD
5 Strategic Plan will undergo review and possible revision in SY 2019-20, as every year, in
6 collaboration with District staff and the MASSD Reorganization Committee members,
7 which developed the initial version of the detailed guide. This year's collaborative review
8 and revision has not yet begun.

9 **B. Title Change for CRC Tutors**

10 The Operating Plan reflects a change in the title of the college students who serve
11 as mentors in CRC classrooms to help middle and high school students build cultural and
12 academic identities, an asset-based approach. These students are now referred to as CRC
13 College Mentors, rather than CRC Tutors, to more aptly describe their role and to
14 eliminate any confusion arising from the former title that these college student were
15 actually providing tutoring services. The District wishes to make clear that only qualified
16 certified staff tutor students for intervention and enrichment.

17 **C. The Shift Away from Direct Services.**

18 The Operating Plan reflects the current direct services duties of the program
19 specialists, in addition to their program-related work. In this first quarter of SY19-20,
20 direct services currently take about 30% of the time of program specialists. The
21 Department intends to reduce the proportion of their time devoted to direct services as
22 time goes on, consistent with the shift to the asset-based model. When the reorganization
23 began in SY2018-19, the MASS Department had planned to be further along in the shift
24 away from direct services by now, but it has proven more difficult than expected: both
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1 parents and school staff continued to expect the MASSD to be involved in direct student
2 services, and the process of changing those expectations without creating undue
3 disruption has taken more time than anticipated. The MASS Department expects the a
4 gradual release of direct student interventions through the MTSS model by all Program
5 Specialists to be fully implemented either by the end of SY 2019-20, or early SY2020-
6 21. This is a critical move towards institutionalizing an asset-based approach to serve
7 Mexican American/Latino students.

8 This gradual release approach at designated sites, to address the demands of sites
9 and continuity of services for specific students, was developed through collaboration
10 within the MASSD Reorganization Planning committee inclusive of a Mendoza Plaintiff
11 representative, a member of the Special Master's Implementation Committee, and District
12 leadership during SY2017-18 for reorganization implementation in SY 2018-19. During
13 the 1st quarter of SY 2019-20, up to 30 percent of the role of Program Specialists in all
14 targeted programmatic areas support site interventions in collaboration with the MTSS
15 team. A description of the extent of the types of interventions is outlined in the MASSD
16 Operating Plan (ECF 2265-2, pg. 4) model initiated with the implementation of the
17 MASSD Reorganization in SY 2018-19 with input from the MASSD Reorganization
18 Planning committee.

19 Assignment of the MASSD Program Specialist to particular sites is determined
20 through educational outcome indicators including discipline, demographic, and
21 assessment data. As Program Specialists have targeted programmatic areas, each site is
22 assigned in relation to the specific role. Two sites have been determined through
23 evaluation by the MASSD Director to 1) target the specific programmatic area efforts of
24 each designated Program Specialist and 2) provide bilingual advocacy for Mexican
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1 American/Latino students and parents through a consistent on-site MASSD presence. The
2 two Program Specialists with certified teaching backgrounds provide direct model
3 instruction for teachers and work one-on-one with students in need of academic support
4 in English and Spanish. Direct behavioral services are facilitated by both the Behavior
5 Specialist and Program Specialist who is currently a licensed social worker. Other
6 Program Specialists may provide academic and behavior support via mentoring and refer
7 students in need of Tier 3 interventions to qualified MASSD staff.

8 Currently, MASSD staff utilize Clarity software to work in collaboration with the
9 site MTSS team to develop student intervention plans, document follow up and
10 monitoring progress. The District is transitioning to a more efficient use of Synergy to
11 track student intervention plans, at which point, MASSD staff will be trained to
12 effectively input individual student progress. The Director and MASSD staff continue to
13 monitor program effectiveness in collaboration with the District Assessment &
14 Evaluation Department as outlined in the Reorganization and Strategic Plan.

15 **D. Duties of the Director and Program Coordinator**

16 Contrary to the Mendoza Plaintiffs assertion, the most recent version of the
17 Operating Plan does not leave out the positions of the department director and program
18 coordinator. Those positions are described in Exhibit 2 to the Operating Plan, which sets
19 out goals and qualifications of all positions in the MASS Department.² The District
20 merely did not include them in the narrative portion of the plan, because the District
21 understood the Court to want a description of the way the line employees functioned on
22 a day-to-day basis, and interacted with other departments, so the Court could address its
23 concerns about waste and duplication.

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² ECF2265-2, p. 37.

1 Lest there be any question, though somewhat obviously, the director and program
2 coordinator are critical parts of managing the line employees of the department. In
3 addition, substantive duties, as outlined in Exhibit 2 to the Operation Plan, form an
4 essential part of the department's role and mission. The continued role and responsibilities
5 of the department's director and program coordinator are listed below.

6 **Director**

7 Position Goal:

8 Strategically lead in the planning, development, implementation, and
9 evaluation of programmatic strategies to meet the vision, mission, and
10 goals of the Department.

11 Duties:

- 12 • Supervise staff to implement department mission, goals, and
13 objectives.
 - 14 • Plan and oversee implementation of specific strategies to improve
15 academic achievement of Mexican American/Latino students
16 including direct student services, mentoring, increasing student
17 retention, and college-going rates.
 - 18 • Participates in the internal Culturally Responsive Practices (CRP)
19 committee to develop, implement, and internally monitor the CRP PD
20 Plan.
 - 21 • Develop community partnerships including advocacy organizations,
22 local colleges, and universities.
 - 23 • Collaborate with relevant District departments to foster equity.
- 24
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- 1 • Serve as member of the Expert Educator Committee, TUSD CRP
2 Committee, community advisory boards and committees.

3 **Program Coordinator**

4 Position Goal:

5 Assist the Director in the implementation of programmatic strategies
6 to improve Mexican American/Latino student academic achievement
7 and educational outcomes.

8 Duties:

- 9 • Develop and disseminate Spanish/English bilingual promotional
10 materials for the Department on college & career readiness, Advanced
11 Learning Experiences (ALE) offerings, credit recovery opportunities,
12 social development, and community partnerships.
 - 13 • Collaborate with in-district & community resources as a department
14 liaison for advocacy.
 - 15 • Analyze district-wide data to ensure student academic progress to
16 provide support strategies for parents and sites.
 - 17 • Assist Director in grant writing for alternative funding sources and
18 coordination of department initiatives.
 - 19 • Provide consultations, trainings, and evaluations of social/behavioral
20 interventions and district-wide discipline patterns.
 - 21 • Support the CRPID to facilitate CRP Professional Developments
22 (PDs) district wide as a member of the CRP PD team.
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E. Support for ELL Students and Engagement of Spanish-Speaking Families

1 The MASSD has successfully implemented the specific support of ELLs with the
2 expansion of services through the reorganization. All Program Specialists are able to
3 support students and parents in both English and Spanish. MASSD staff advocate for
4 ELLs in ELD programs and provide support groups for undocumented Spanish-speaking
5 students. Spanish/English bilingual communications from the Department are sent
6 district-wide consistently to update and engage parents in events and programs impacting
7 students.

8 The Mexican American Parent Advisory Council has over twenty parents who are
9 both English and Spanish speaking to represent a strong parent voice district-wide to
10 consult the District's Superintendent and the MASSD in critical decision-making matters.
11 Additionally, the MASSD ensures full parent participation at Department hosted events
12 with bilingual staff and interpreters as needed.

13 The MASSD continues to work collaboratively with the LAD and FACE to
14 support their efforts to monitor and revise relevant plans and advocate for parental and
15 student access to an equitable education.

Conclusion

17 The District respectfully submits that it has complied with the Court's orders
18 regarding the operating plan for the Mexican American Student Services Department, and
19 has met the requirements set out in USP § V.E.8, as shown by the record herein,
20 including its annual reports on student support services.³ Accordingly, the District
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24 ³ Compliance with USP student support services requirements is addressed in the record
25 at the following specific locations incorporated herein by reference: ECF 2057-1, pp. 275-319 and appendices cited therein; ECF 2124-1, pp. 89-111 and appendices cited therein; ECF 2075-5, pp. 94-182 and documents cited therein.

1 requests that the Court grant unitary status in this area of District operations (USP §
2 V.E.8).⁴

3 Dated this 7th day of October, 2019.

4 Respectfully submitted,

5 /s/ P. Bruce Converse

6 P. Bruce Converse

7 Timothy W. Overton

8 **DICKINSON WRIGHT, PLLC**

9 1850 N. Central Avenue, Suite 1400

10 Phoenix, Arizona 85004-4568

11 *Attorneys for Tucson Unified School*

12 *District No. 1*

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⁴ 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.

CERTIFICATE OF SERVICE

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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