

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

11 Robert S. Ross (#023430)
12 Samuel E. Brown (#027474)
13 **TUCSON UNIFIED SCHOOL DISTRICT**
14 **LEGAL DEPARTMENT**
15 1010 East Tenth Street
16 Tucson, Arizona 85719
17 Robert.Ross@tusd1.org
18 Samuel.Brown@tusd1.org
19 Phone: (520) 225-6040
20 *Attorneys for defendant*
21 *Tucson Unified School District No. 1*

22
23 **IN THE UNITED STATES DISTRICT COURT**
24 **FOR THE DISTRICT OF ARIZONA**

25 Roy and Josie Fisher, et al.,
26 Plaintiffs,
27 v.
28 Tucson Unified School District No. 1, et al.,
29 Defendants.
30 Maria Mendoza, et al.,
31 Plaintiffs,
32 v.
33 Tucson Unified School District No. 1, et al.,
34 Defendants.

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

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

35
36 **TUSD RESPONSE**
37 **TO MENDOZA PLAINTIFFS' OBJECTIONS (2286)**
38 **TO NOTICE OF FILING PLANS FOR**
39 **CULTURALLY RELEVANT COURSES (2259)**

1 The Court directed the District to prepare and file a plan for culturally relevant
2 courses, a related professional learning plan, and a multicultural curriculum plan. [ECF
3 2123 at 140, 151.] The District filed the plans on schedule on August 30, 2019. [ECF
4 2286.]

5 The plan for culturally relevant courses is in three parts, beginning with (a) an
6 overview of the program, identifying the purpose of the program, key roles, department
7 structure, responsibilities, and terminology, continuing with (b) a status report on the
8 program as of the end of SY2018-19, and concluding with (c) a plan for the next five
9 years. The plan is comprehensive, research-based, and practical, without so much detail
10 that it instantly becomes dated, or so little that it does not function as a guide for
11 operations.

12 There is no dispute that the District’s program for culturally relevant curriculum
13 and instruction is extraordinarily successful. It is likely the strongest such program in the
14 entire country, and regularly held up as a model for other districts.¹ The current program
15 director has worked hard to develop fruitful relationships with the key authorities in the
16 field, reflected in the very well attended national Summer Institute hosted by the District
17 for the last several years.² The District’s CR program has grown rapidly over the last few
18 years, and now reaches nearly all schools at all levels throughout the District. The Court
19
20

21
22 ¹ The Special Master noted that “TUSD may be the only school district to make CRP
23 integral to its conception of effective teaching regardless of the subject being taught.”
24 (ECF 2096, at p. 48.) The Special Master reported that the CRPI Department’s culturally
relevant course program “has been shown to make a significant difference in academic
performance.” (ECF 2213 at p. 5).

25 ² This summer’s program and speakers are described in Appendix V-37 to the District’s
most recent annual report, appearing in the record at ECF 2302-7, pp. 72-89.

1 has noted the history of the District in this area, and confirmed that there is no question
2 about the District's commitment to continue the program beyond unitary status.³

3 Moreover, the Mendoza plaintiffs do not raise any substantive objection about the
4 actual operations of the CR program – the methodology, the content, the staffing, the
5 instruction, and the resulting growth of the program. The Mendoza Plaintiffs' objections
6 appear to be driven more by a desire to be told again what they already know from other
7 District plans: the ALE Policy Manual reports that UHS did add the culturally relevant
8 AP course, and the CRC Plan here refers to that course, but the Mendoza Plaintiffs want
9 more – they want the CRC Plan to actually say again what is reported elsewhere: the
10 course is in fact being run at UHS. They know that the CRPI Department works with
11 MASS Department, because it says so in the MASSD operating plan, and because the
12 CRC Plan specifies that the CRPI director and program coordinator engage in “intra-
13 district collaboration with departments as needed,” but they apparently want CRPI to say
14 the words “we work with MASSD” in its plan too. This is not a program that is
15 floundering, without a strong sense of mission and direction. This is a program that is
16 staffed leanly, with well-defined roles.

17 The Mendoza Plaintiffs complain that there is no “comprehensive framework”
18 provided in the CR Plan. But if by “comprehensive framework” they mean the theoretical
19 underpinnings and elements of successful culturally relevant instruction, the reader is
20 referred to the section of the CR Plan entitled “Framework for Student Academic
21 Achievement.”⁴ If by “comprehensive framework” they mean the purpose of culturally
22

23 ³ E.g., ECF 2123, p. 116.

24 ⁴ ECF 2259-2, pp. 9-16. The Mendoza Plaintiffs profess not to know how the Framework
25 fits with the rest of the plan, but it is plain that the Framework sets out the theory and
research underlying the CRPI Department's approach to culturally relevant pedagogy and
instruction.

1 relevant courses and their relation to, and difference from, multicultural courses, the
2 reader is referred to the Overview section of the plan.⁵ If by “comprehensive framework”
3 they mean the plan and scope for the program in the future, the reader is referred to the
4 section of the plan entitled “The Way Forward.”⁶ Finally, if by “comprehensive
5 framework” they mean a list of CR courses and schools at this particular moment in time,
6 the reader is referred to Exhibit A attached hereto.

7 The District’s filing also included a comprehensive professional learning plan, and
8 a multicultural curriculum plan.⁷ The Mendoza Plaintiffs complain the professional
9 learning plan does not address a CRP-specific teacher evaluation instrument. But the
10 following passages from the professional learning plan do address the instrument:

11 “Participants are trained in the use of the District’s existing
12 observation/evaluation tools in evaluation and coaching of culturally
13 responsive practices. Modifications to the district evaluative tools are
14 conducted to purposefully include CRP, as needed. Administrators are
15 trained in the calibration of the tool to assess staff and faculty
16 performance. The evaluation cycle is adjusted to allow for a soft
17 evaluation including the criteria outlined in the comprehensive CRP plan.
18 Full implementation of this evaluation is to begin at the start of the
19 subsequent academic year.

20 ...

21 “Walk-through observations provide evidence of the levels of
22 implementation of the materials presented in the CRE. The CRE walk-
23 through instrument is an amalgamation of various tools previously used
24 throughout the district to measure a variety of elements, including teacher
25 use of culturally responsive practices. The primary sources most evident
26 in the walk-through instrument are TUSD’s Revised Danielson
27 Framework and the District’s culturally responsive practices framework
28 for teaching referred to as SPARKS.

29 “In alignment with the districts requirements for grants and federal
30 programs, regular walk-through observations are conducted. This data
31 provide necessary feedback to sites as well as capturing an overall

32 ⁵ ECF 2259-1, pp. 1-2.

⁶ ECF 2259-1, pp. 15-18.

⁷ The Mendoza Plaintiffs did not raise any specific objections to the multicultural plan.

1 assessment of district CRE initiatives. Teams including members of C&I,
2 Grants and Federal Programs, Student Services, and CRPI are deployed to
3 audit sites by conducting walk-through observations. Prior to the
4 observation, teams undergo a norming and orientation process. Upon
5 completion of the observation, teams debrief, scores are negotiated and an
6 average is determined for each of the categories in the tool. This data is
7 then used to inform future modifications or developments.”⁸

8 The District respectfully submits that it has complied with the Court’s orders, and
9 has met the requirements of USP § V.E.6, as shown by the record herein, including its
10 annual reports and its prior assessment of compliance. Accordingly, the District requests
11 that the Court grant unitary status in this area of District operations (USP § V.E.6).⁹

12 Dated this 30th day of August, 2019.

13 Respectfully submitted,

14 /s/P. Bruce Converse

15 P. Bruce Converse

16 Timothy W. Overton

17 **DICKINSON WRIGHT, PLLC**

18 1850 N. Central Avenue, Suite 1400

19 Phoenix, Arizona 85004-4568

20 *Attorneys for Tucson Unified School*

21 *District No. 1*

22 ⁸ ECF 2259-2, pp. 6, 8.

23 ⁹ The District submits this notice filing without waiver of its position that there is no
24 basis in fact or law for continued federal court supervision of the District in this or any
25 other area, including the requirement of preparing the attached plan, 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

I hereby certify that on the 30th day of August, 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