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21 **IN THE UNITED STATES DISTRICT COURT**
22 **FOR THE DISTRICT OF ARIZONA**

23 Roy and Josie Fisher, et al.,
24
25 Plaintiffs,
26 v.
27 Tucson Unified School District No. 1, et al.,
28
29 Defendants.

CV-74-0090-TUC-DCB
(Lead Case)

30 Maria Mendoza, et al.,
31
32 Plaintiffs,
33 v.
34 Tucson Unified School District No. 1, et al.,
35
36 Defendants.

CV 74-0204-TUC-DCB
(Consolidated Case)

37 **DISTRICT RESPONSE**
38 **TO MENDOZA PLAINTIFFS' OBJECTION (2275)**
39 **TO NOTICE OF FILING 3-YEAR PLUS INTEGRATION PLAN (2270)**

1 The District files this reply to the Mendoza Plaintiffs' response to the 3-Year Plus
2 Integration Plan (3-Year PIP).

3 **A. Academic Guidelines and Criteria for Magnet Schools and Programs.**

4 In September 2018, the Court outlined student achievement criteria, directed the
5 Special Master to provide the District with criteria and guidelines, and ordered the
6 District to propose an alternative measure to counter a low AzMERIT grade.¹ The Court
7 also directed the District to "review the existing criteria and standards and propose
8 modifications to address the inadequacy of the A & B AzMerit grades and to be used in
9 the future to determine magnet status." [ECF 2123, p. 26.]

10 In November, the Special Master provided five measures of "academic quality for
11 purposes of determining magnet status" based on the Court's directive, including the
12 achievement gap and school academic profiles. [ECF 2147, p. 4].

13 In December, the Court adopted these five measures and directed that "[w]hen
14 ambiguity exists between overall school performance and achievement gaps, [the Special
15 Master] will apply other factors[.]" [ECF 2158, p. 2: ("12/6/18 Order").] The Court
16 ordered the Special Master to specify and provide the "other factors...to the District for
17 their use in preparing the 3-Year Plus Improvement Plan (PIP): CMP." [*Id.* at 2].

18 Mendoza Plaintiffs assert that what the "District" proposes requires too little of its
19 magnet schools, is vaguely worded, and is insufficiently ambitious. But, the language in
20 the CMP to which the Mendoza Plaintiffs object is taken directly from the *Court-adopted*

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22 ¹ The Court outlined student achievement criteria (see ECF 2123, p. 23) ("9/6/18
23 Order"), directed the Special Master to provide the District with "express criteria and
24 guidelines for identifying a successful magnet school or program...for incorporation
25 into the CMP for future use." (*Id.* at 25), and directed the District to "propose an
26 alternative measure ... capable of countering a low AZMerit grade. For example: Is
there a means to identify C schools that are ascending, i.e., C+ schools?" (*Id.* at 24).

1 *guidelines* from December, as recommended by the Special Master in November. The
2 measures may result in some ambiguity. But the Court has already recognized and
3 addressed this issue by directing the Special Master and the District to develop “other
4 factors” to apply (“When ambiguity exists between overall school performance and
5 achievement gaps, [the Special Master] will apply other factors which are unspecified in
6 the Report”). [ECF 2158, p. 2.]

7 The Court required the District to develop an alternate school profile measure to
8 counter a low letter grade, and required the Special Master and the District to develop
9 “other factors” to apply to ambiguous situations. The District developed an alternate
10 measure and “other factors” to supplement the five Court-adopted measures. Changes
11 between measures included in the March 2019 Magnet Site Plans and measures included
12 in the August 2019 CMP reflect the ongoing evolution of these efforts.

13 The CMP measures retain the general language adopted by the Court in December
14 but, like all measures, have their benefits and flaws – some of which the Mendoza
15 Plaintiffs highlight in their objection. Rather than just listing five criteria, each school
16 has a measureable objective to meet three of six criteria. As directed by the Court, the
17 District developed an alternative measure to counteract a low letter-grade that considers
18 an ascending C or D school (measure 1). The District also developed “other factors”
19 including growth of lower-achieving students (measure 2, “bottom 25%), comparing gaps
20 between students of similar grade structures (measure 3), and specifying that the
21 achievement gap is based on comparisons to white students (measure 4).

22 The Court ordered the District and Special Master to develop measures of academic
23 quality, “to be used in the future to determine magnet status.” Contrary to the Mendoza
24 Plaintiffs’ assertions, these measures were not developed or presented, by the Special
25

1 Master or the District, as the “new definition of success” for magnet schools. The
2 Mendoza Plaintiffs question the sufficiency of measures representing *the minimum* a
3 magnet school must achieve to retain magnet status by mischaracterizing them as the
4 highest standard or set of “academic goals” upon which the District is content. Nowhere
5 other than the Mendoza objection are these guidelines and measures referred to as
6 “academic goals” or “definitions of success.”

7 The measures are part of a continuous, annual cycle designed to grow each magnet
8 into an academically successful and vibrant school. A “D” school that moves up to a
9 “D+,” that earns better growth for its *most needy students* than the state average growth
10 of *all students*, and that improves proficiency rates for African American and Latino
11 students has only met the measures for one year. The measures would require the school
12 to *continue* to move up in its letter grade (from a D+ to a C or higher), to *continue* to
13 educate its most needy students so they have growth exceeding the state average, and to
14 *continue* to improve proficiency rates for African American and Latino students.
15 Reaching these measures year after year will operate to “develop school-wide cultures
16 where academic excellence is valued and celebrated.” [9/6/19 Order, p. 77.]

17 The District has complied with the Court’s order to utilize the five Court-adopted
18 academic measures, to propose an alternative measure to counter a low letter-grade, and
19 to consider other factors to be applied in cases of ambiguity. As such, the Mendoza
20 Plaintiffs’ objections should be rejected.

21 **B. The District has Demonstrated Commitment and Capacity to Engage in**
22 **Continuous Magnet School Improvement.**

23 The record before this Court evidences the District’s commitment and capacity to
24 engage in a process of continuous improvement with respect to its 13 magnet schools.
25 The Court directed the District to “file the 3-Year PIP: CMP by the end of this school
26

1 year, including non-magnet integration plans for individual schools where practicable,
2 with the Outreach and Recruitment Addendum attached. This filing shall trigger
3 reconsideration of unitary status for the USP § II.E.” [ECF 2123, p. 34].

4 The District has developed, filed, and implemented the revised CMP, and it remains
5 committed to its implementation and to engaging in continuous magnet school
6 improvement.

7 In Arizona, the challenges of integrating schools are significant in part because
8 “state policy not only strongly supports charter schools but essentially incentivizes
9 suburban schools to recruit students from more diverse Districts like TUSD.” [ECF 2123,
10 p. 17, quoting the 2016-17 SMAR]. Despite these challenges, the record reflects TUSD’s
11 successful implementation of a process of *continuous improvement* since 2015-16 to
12 integrate 11 (or 12²) of 13 magnet schools. The Court noted in its 9/6/18 Order, “[i]n SY
13 2015-16...[f]our magnet schools...met the integration criteria for magnet status... .
14 Improvement plans were developed for the remainder.” *Id.* at 22. For the 9 of 13
15 remaining, un-integrated magnet schools, the District developed and implemented
16 continuous improvement plans to further integration at magnet schools. The record
17 further reflects steady, continuous improvement over the next two years: “[i]n 2016-17,
18 five magnet schools were Integrated...” and “by September 28, 2017, the District’s 40th
19 Day enrollment report reflects the addition of four more Integrated Schools...” *Id.* In
20 SY2018-19, the District added another two integrated magnet schools – Carrillo ES and

21
22 ² Although Booth-Fickett is not integrated compared to the average enrollments of all K-8
23 schools (which are disproportionately located in racially concentrated Hispanic areas,
24 artificially raising the integration “threshold” for Hispanic students), its K-5 enrollment is
25 integrated compared to elementary averages and its 6-8 enrollment is integrated
26 compared to middle school averages. The Special Master has recognized Booth-Fickett
as “an integrated K-8 school [sic] magnet school” (Doc. 2190 at 3).

1 Tucson HS. [ECF 2299-3, pp. 23-26.] The District developed, and has demonstrated the
2 commitment and capacity to implement, continuous integration improvement plans over
3 three years to grow from 4 to 11 integrated magnet schools.

4 Likewise, the record reflects the District’s commitment and capability to engage in
5 continuous academic improvement. In 2015-16, the District identified two magnet
6 schools that met both integration and academic criteria. [ECF 2123, p. 22:3-4 (citing
7 CMP, Doc. 1898 at 10).] By 2018-19, the District had identified at least four integrated
8 magnet schools that “continued to perform above their school level” (Carrillo, Davis,
9 Dodge, and Mansfeld), and one other that “made significant academic improvement”
10 (Holladay) (ECF 2298-1, p. 25).

11 In November 2018, the Special Master identified Holladay, Drachman, and three
12 other magnet schools as deserving “the time – even if it is short – to *demonstrate that*
13 *they have the capability to move effectively to improve the educational opportunities*
14 *and outcomes of their students...*” (SM R&R re Magnet Schools, Doc. 2147 at 3,
15 emphasis added). The Special Master then recommended, and the Court adopted, the
16 development of *detailed plans for implementing improvements* in the five identified
17 schools. [ECF 2298-1, p. 11; ECF 2158, p. 3.] After developing and implementing their
18 plans, both Drachman and Holladay showed significant improvement on the 2019
19 AzMERIT compared to 2018:

20 Drachman

- 21 • 3rd grade ELA proficiency remained relatively constant
- 22 • 4th grade ELA proficiency improved by **15%**
- 23 • 5th grade ELA proficiency improved by **28%**
- 24 • 3rd and 4th grade math proficiency remained relatively constant

- 1 • 5th grade math proficiency improved by **14%**

2 Holladay

- 3 • 3rd grade ELA proficiency improved by **22%**
4 • 4th grade ELA proficiency improved by 9%
5 • 5th grade ELA proficiency remained relatively constant
6 • 3rd grade math proficiency improved by **27%**
7 • 4th grade math proficiency improved by **12%**
8 • 5th grade math proficiency improved by 7%

9 The Mendoza Plaintiffs take issue with the fact that the District did not provide
10 magnet school plans (MSPs) along with the CMP to demonstrate the actual
11 implementation of the magnet support cycle described in the CMP. The preliminary
12 MSPs submitted in March 2019 could not have reflected information from the August
13 2019 CMP.³ The MSPs submitted in March 2019 each state that academic achievement
14 data would be “updated based on 2019 AzMERIT data.” This information was not
15 available until the end of the CMP development and there was not time to conduct in-
16 depth analyses prior to the September 1, 2019 due date.⁴ The District has only recently
17 updated the academic data and leveling described in the plan (however, it is waiting to
18 finalize the academic portions of the MSPs until it finalizes academic criteria with the
19 Special Master, as described above).

20 ³ Mendoza Plaintiffs contend, “there is no way to determine whether Holladay’s “TBD”
21 goals have been set based on its 2019 AzMerit results...” [ECF 2275, p. 6). The
22 referenced Holladay plan states, “language in red will be updated based on 2019
23 AzMERIT data” – clearly indicating that the 2019 AzMERIT data was not yet available.

24 ⁴ Mendoza Plaintiffs allege it is hard to explain why the 2019 AzMERIT data is not
25 included in the 2019-20 MSPs “given that it is included in the plans that the District filed
26 for each non-magnet school,” referencing the non-magnet plan for Banks ES (Doc. 2275
at 7, fn. 2). The non-magnet plan for Banks includes **2018** AzMERIT data, not 2019
AzMERIT data. 2019 AzMerit data was released in September, 2019.

1 The CMP states, “[u]sing the District’s 40th day enrollment data, the Magnet
2 department will assess each magnet school based on the two measures described above
3 (Integrated school status and progress towards integration). The Magnet department
4 shares its analysis with each magnet school and, where necessary, works with magnet
5 schools to strengthen recruitment, retention, or outreach practices to improve on
6 identified deficiencies for the subsequent school year.” (CMP, Doc 2270-2 at 8).

7 The District has continued this cycle of improvement into the 2019-20 school year
8 by implementing the process described in the CMP. In the CMP, the District described
9 two key “milestones that guide the development and implementation of [MSPs]: initial
10 development mid-year for the following year’s plan (followed by budgetary and
11 resource-allocation development in the spring); and end-of year adjustment and
12 categorization” that occurs over the summer. [ECF 2270-2, p. 7.] In August, the magnet
13 department and other staff analyzed magnet data and categorized each magnet school
14 “into one of three levels for each of the magnet criteria (integration and academic
15 achievement),” as described in the CMP. Throughout the fall, the magnet department
16 continues to “analyze integration and academic data, observations and information
17 gathered from purposeful school visits, and other relevant data to identify school-specific
18 needs and adjustments to current practices or strategies in the existing Magnet School
19 Plan.” [*See id.* at 7.] This represents the second part of the three-part cycle. The District
20 has assigned levels to magnet schools for SY2019-20 to identify needed support (not to
21 determine magnet status, which occurs after 40th day data and letter grades are available).

22 Mendoza Plaintiffs’ assert that the final MSPs are needed to determine if budget
23 allocations have compromised magnet program integrity. In its budget order, the Court
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1 directed the District to provide “the same comparison for each Magnet School that it
2 provided here for Holladay ES.” [ECF 2272, p. 6.] The District has done so.

3 The District respectfully requests that the Court approve the CMP:PIP based on the
4 District’s compliance with its directives related to the CMP:PIP, and its demonstrated
5 commitment to the continuous improvement of magnet schools.

6
7 **C. The District has Demonstrated Effective Use of its Walkthrough Protocols (WTP).**

8 The Court stated that the District would be afforded “ample time to establish an
9 effective WTP.” [ECF 2123, p. 19.] The CMP describes the established protocols. The
10 District’s Annual Report establishes an effective WTP for magnet schools. In its Annual
11 Report, the District reports that two of eight major magnet milestones focus on
12 implementing an effective WTP:

13 (4) In collaboration with the District Support & Innovation Team, continue
14 to assess instruction at each magnet school using the District Walk-through
15 Protocol at least once per semester; identify strengths and refinements to
determine areas for growth; and

16 (6) based on trends identified in District Walk-through Protocols, provide
17 professional development for magnet principals, magnet coordinators, and
other school facilitators to support quality Tier 1 core instruction and
meaningful work of the PLC Collaborative Teacher Team.

18 [ECF 2298-1, pp.18-19.] Thus, 25% of the magnet department’s major milestones for the
19 year involved the process of conducting walkthroughs, assessing instruction, identifying
20 strengths and weaknesses, and then using that information to inform professional learning
21 needs and for supporting classroom instruction and PLC collaborative teacher teams.

22 Still, the WTP is but one component of the overall support cycle for magnet schools
23 that includes oversight, supervision, observation, and professional learning and support.
24 The CMP describes how the magnet department “analyzes integration and academic data,
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1 observations and information gathered from purposeful school visits, and other relevant
2 data to identify school-specific needs and adjustments to current practices or strategies.”
3 [ECF 2270-2, p. 7.] The CMP further describes how the magnet department differentiates
4 the level of support to magnet schools based on need, including the frequency of
5 purposeful site-visits (see *id.* at 10) and staff utilization of “coaching-feedback protocols
6 to strengthen instructional infrastructure by observing, evaluating, and providing
7 feedback” on best practices, support provided directly to teachers in real-time (*id.* at 9-
8 10). Staff also meets with the principal and other relevant staff to “discuss purposeful
9 school visit findings...” [ECF 2270-2, p. 11].

10 The District’s annual report also reflects the interconnectedness of the WTP:

11 Assistant superintendents continued to participate within their
12 region with school classroom walk-throughs along with
13 Magnet department and Title I staff during SY2018-19. These
14 walk-throughs led to greater understanding of magnet school
academic needs, informed professional development, and
assisted in as identifying necessary support and resources for
SY2018-19 and future years.

15 [ECF 2298-1, pp. 25-26]. Moreover, “[w]alkthrough teams were represented by several
16 departments, such as Grants and Federal Programs, Student Equity, Language
17 Acquisition, the Magnet Department, Curriculum Development, and Advanced Learning
18 Experiences.” [ECF 2299-2, p. 10.] Appendix II-14 of the 2018-19 DAR provides a
19 thorough summary of the WTP at magnet and transition sites in 2018-19. [ECF 2299-2,
20 p. 10.]

21 **D. The District has Demonstrated Success in Integrating Magnet Schools.**

22 The District has integrated 12 of its 13 magnet schools using marketing, outreach,
23 and recruitment strategies that have proven effective. Here, the Mendoza Plaintiffs
24 complain that the District is replicating successful strategies by including identical
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1 integration strategies from a successfully integrated school, Holladay, into the magnet
2 site plan of an unintegrated school, Roskruge.⁵

3 The Mendoza Plaintiffs then conclude that because the Roskruge plan replicates
4 best practices from Holladay, that the District does not support integration efforts at
5 Roskruge and has not yet demonstrated a commitment and capability to engage in
6 continuous improvement. If replicating practices at one of 13 magnet schools is evidence
7 of a lack of commitment and capability, then the fact that the District has *integrated eight*
8 *additional magnet schools in three years* must serve as overwhelming evidence of the
9 District's commitment and capability to engage in a process of continuous improvement
10 related to integration.

11 **E. The District has Complied with this Court's Order to Develop Non-Magnet**
12 **Integration Plans.**

13 The District designed non-magnet integration plans specifically around known,
14 effective practices for improving integration based on years of implementing successful
15 strategies at magnet schools to improve integration. The plans, taken as a whole, reflect
16 a cohesive, overall approach to the District's efforts to prioritize the creation of integrated
17 schools and integrating racially concentrated schools.

18 The Mendoza Plaintiffs argue that the strategies in the Robins K-8 plan "are
19 primarily directed to families whose children already are enrolled in the school rather
20 than targeted to potential new enrollees." [ECF 2275, pp.9-10). However, the Robins K-
21 8 plan reveals significant efforts to target potential new enrollees. In attempting to argue
22 that the Robins strategies are not directed to new enrollees, the Mendoza Plaintiffs

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24 ⁵ It is likely that if the District did not implement Holladay's successful strategies at
25 Roskruge, the plaintiffs would be objecting that the District is not working to replicate best
26 practices.

1 conveniently ignore multiple references to “new families,” that the carnival is “advertised
2 and open to the entire surrounding community,” and that the family pizza event is
3 “supported by the presence of SCS.” SCS is the TUSD School Community Services
4 department with primary responsibility for outreach and recruitment to support
5 integration through the enrollment bus, the 1010 Family Center, and other strategies.

6 The Mendoza Plaintiffs also argue that the Lineweaver plan has only one marketing
7 and recruitment strategy – to participate in the GATE and ALE outreach and recruitment
8 activities, of which there are dozens. It was not necessary for Lineweaver to list all of
9 the GATE and ALE activities; it was sufficient to reflect their strategy to participate in
10 those dozens of activities.

11 Tellingly, among 275 pages of non-magnet integration and academic improvement
12 plans, Mendoza Plaintiffs identified one paragraph and one sentence as evidence that the
13 plans do not reflect an overall districtwide approach that prioritizes the creation of
14 integrated schools and integrating racially concentrated schools. Integrating racially
15 concentrated schools is difficult, as recognized by the Court, “[i]t may be the natural
16 consequence of this comprehensive inquiry that the District identifies schools that are
17 currently and in the future may always be Racially Concentrated or never Integrated.”
18 [ECF 2123, p. 32.]

19 A full review of the CIP, including the comprehensive study and the non-magnet
20 integration plans, reveals the District’s overall approach. The Comprehensive Study
21 states its primary purpose as identifying potential magnet schools *and* informing “the
22 development of other key components of the CIP, *including non-magnet school*
23 *integration and academic plans*, and the transportation plan.” [ECF 2270-1, p. 11]. The
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1 Study goes on to explain how its results informed the development of non-magnet
2 integration plans:

3 The committee used the results of the comprehensive study to
4 determine whether non-Magnet candidate schools could
5 become integrated and where integration was not practicable.
6 In completing this assessment, the committee grouped schools
7 according to a number of characteristics. These factors
8 included the location and number of students needed to
9 integrate, the academic performance of the school, the design
10 capacity of the school, whether a school was over-subscribed,
11 and proximity to other schools competing for the same targeted
12 demographic populations.

13 [Id. at 11.] The school groupings, based on detailed analyses of the various factors
14 described above, are included in the non-magnet plan filing. The District grouped schools
15 according to their “integration potential” *precisely* for the overall purpose of identifying
16 schools, including racially concentrated schools, with the potential to become integrated
17 schools (see ECF 2270-3 at 4). The District identifies nine schools with high potential
18 for integration, two of which are racially concentrated (Maxwell K-8 and Robins K-8).
19 The District has prioritized the creation of integrated schools, and integrating racially
20 concentrated schools where practicable.

21 What emerges is a set of 69 individual integration and academic plans that vary in
22 their approaches in a manner that aligns with their potential for integration and other
23 factors. But, all of which are based on the same foundational factors that have shown to
24 improve integration in TUSD: transportation; marketing, outreach, and recruitment; and
25 academic achievement. These threads permeate all 69 plans and form the foundation for
26 the District’s overall approach.

The Court has held that, “[g]iven today’s choices, student assignment strategies
aimed at remediating segregation are more limited, less direct, and less effective.” [ECF

1 2123, p. 15.] Still, the District has continued its efforts to prioritize integration at all of
2 its schools – even those with low potential to integrate.⁶

3 Outside the context of magnet schools, the Special Master has already determined
4 that “[t]he District has done those things with respect to student assignments that it was
5 required to do by the USP...” [ECF 2096, p. 8.] The Court has recognized the Special
6 Master’s reporting related to the District’s efforts to improve integration districtwide,
7 which “*he attributes to the cumulative effect of more productive implementation of*
8 *provisions of the USP and the relevant action plan for integration, such as the District’s*
9 *recent undertaking to advise families of research showing the benefits of an integrated*
10 *education and its creation of an Integration Initiative. He reports that integration is*
11 *trending up.*” [ECF 2123, p. 16 (emphasis added).]

12 Given this background, and the current effort to develop and implement 69
13 individual school integration plans, the District respectfully requests Court approval of
14 the non-magnet integration plans over plaintiffs’ objections.

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19 ⁶ The District notes that in this regard – developing strategies for *all* non-magnet schools,
20 even those with a low potential to integrate – the District has gone above and beyond the
21 Court’s order. The Court directed the District to “identify the non-magnet strategies, *if*
22 *any*, that would improve integration at that school and adopt school specific integration
23 plans,” and “what non-magnet undertakings, *if any*, are practicable to reduce racial
24 concentration and promote integration.” [ECF 2123, pp. 31-32.] Thus, the Court
25 considered that there may be schools, such as those with low-potential to integrate, where
no strategies or undertakings could be put to use to reduce racial concentration and promote
integration. Still, the District developed strategies for every single non-magnet school,
even the low-potential schools where non-magnet strategies are not likely to reduce racial
concentration significantly or achieve integration.

1 **F. The District has Complied with this Court’s Order to Develop a**
2 **Transportation Plan.**

3 The Court directed the District to “include a transportation plan in the 3-Year PIP:
4 CMP, considering it as a budget item and a criterion for assessing the strength or weakness
5 of potential candidates for future designations as magnet or Integrated schools.” [ECF
6 2123, p. 32.] The Court noted that the purpose of the 3-Year PIP: CMP is “sustainability,
7 with geographically and demographically focused transportation plans that limit costs
8 while at the same time maximizing transportation’s impact on integration or student
9 achievement.” [ECF 2123, p. 32.]

10 Accordingly, the District assessed transportation comprehensively to develop a
11 sustainable plan that supported existing strategies that have proven successful (magnet
12 transportation and express shuttles) and that included an exciting new strategy (revised
13 incentive transportation). The District designed the plan to outline high-level, sustainable
14 transportation strategies that are geographically and demographically focused, that limit
15 costs, and that maximize transportation’s impact on integration and reducing racial
16 concentration, as described below. The plan also reduces the current transportation
17 burden on Latino students from incentive transportation that only moves from west to east
18 (as racially concentrated schools are located in the southern and western portions of the
19 District).

20 The Mendoza Plaintiffs allege the plan includes a description of existing
21 transportation strategies, a change the District is exploring, three express shuttles, an
22 undertaking to save money by using a single bus to serve multiple schools, and a statement
23 that flexible routing and target marketing may prove effective to capture students to
24 improve integration. This is not an accurate representation of the plan.

1 As described below, the plan is much more than the minimized
2 mischaracterization provided by the Mendoza Plaintiffs.⁷

3 **G. The Plan does more than merely describe existing transportation strategies.**

4 The Court ordered that transportation “must inform *future plans*.” [ECF 2123, p.
5 32.] Thus, the plan reiterates the District’s commitment to continue to provide free
6 transportation to magnet schools as part of an overall transportation strategy to continue
7 to support the 12 of 13 integrated magnet schools that now exist in the District, in part, as
8 a result of the success of free magnet transportation.

9 _____
10 ⁷ The Mendoza Plaintiffs provide an unsubstantiated claim that within the plan, by use of
11 the word “revealed,” the District “admits” to having never developed information related
12 to distances, locations or movements of target populations, or integration. [ECF 2275, p.
13 11.] This is a curious claim, given that within the first 18 months after the USP’s adoption
in 2013, the District provided more than 150 pages of reports and plans including and
developed upon precisely this type of information:

- 14 • a 70-page demographic and enrollment report (*see* February 28, 2013 “Demographic
15 and Enrollment Analysis” (Applied Economics) [ECF 1683-3].)
16 • a 10-page data report tracking the movement of students in and out of TUSD to assess
17 possible impacts of inter-district transfers on the District’s ability to integrate (*see*
18 August 2, 2013 Report, “Number of Students Transferring In and Out of TUSD
19 Schools by Year and Entity/Transaction Type [ECF. 1550-10].)
20 • an 88-page Comprehensive Boundary Plan developed by a boundary committee *that*
included Mendoza Plaintiff counsel, and that included advocacy of “a variety of
strategies to improve integration, including boundary adjustments, programs, the
relocation of school campus and transportation.” (*see* August 2014 Comprehensive
Boundary Plan [ECF 1686-5].)

21 These occurred during the *first* full school year of USP implementation, and were
22 followed by at least a dozen Desegregation Impact Analyses that factored projected
23 movements of target populations, and magnet/transportation studies on travel distances
and travel times for targeted populations.

24 That the current study, in a long line of similar studies, reports, and plans, “revealed”
25 valuable information is by no stretch of the imagination an admission that the District
had not, in six years, develop similar information.

1 **H. The District’s revised incentive transportation is precisely the type of**
2 **information requested by the Court to be included in the transportation plan.**

3 The District does more than merely provide a general description of a change; it
4 proposes a revision to one of two *primary USP strategies* for using transportation to
5 improve integration, incentive transportation. The District’s proposed revision of
6 incentive transportation is “based on the results of the comprehensive study”
7 (Transportation plan, Doc. 2270-1) and uses “geographically and demographically
8 focused” information in that it utilizes detailed, neighborhood analyses to create incentive
9 zones based on specific geographic areas (identified through the study), that contain
10 significant numbers of targeted demographic students (recruitable students). Rather than
11 exclusively “incentivizing” mostly Latino students to leave Racially Concentrated
12 boundaries to attend more-integrated schools, this step would encourage mostly non-
13 Latino students from targeted areas to consider high-achieving, racially concentrated
14 schools to both improve integration and reduce racial concentration, as the District has
15 successfully done at multiple magnet schools that were racially concentrated in the past
16 (including Carrillo, Drachman, Bonillas, Tucson High, and Mansfeld magnets). Building
17 on the success of magnet transportation, which primarily flows west to east, the District
18 seeks to revise incentive transportation in the future to also allow east to west movement.

19 The plan highlights that revised incentive transportation may “take the form of a
20 regular route, or an express shuttle route. The District can limit costs by combining
21 incentive and magnet routes that are picking up from the same hub point and delivering
22 students to the same area.” [ECF2270-4, p. 3.] The plan also specifically states that the
23 District “will seek to utilize express shuttles to go west to east (from racially concentrated
24 areas) *and from east to west as an incentive for recruiting and enrolling targeted students*
25 *in “incentive zones” to help integrate non-magnet schools.*” (*Id.* at 4). By doing so, the
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1 District is not only planning to revise incentive transportation, but to combine the revised
2 strategy with “express shuttles,” which the Court identified as a “viable non-magnet
3 strateg[y]” to promote integration.” [ECF 2123, p. 31.] This component of the plan is
4 far more than merely a change the District is exploring, and highlights the District’s plans
5 to implement many more than just “three express shuttles,” and to use them specifically
6 to integrate non-magnet schools as suggested by this Court.

7 **I. The District has developed a budget-neutral transportation plan.**

8 Mendoza Plaintiffs object to the plan’s treatment of budget implications in
9 “general terms.” The District took heed to the Court’s directives that transportation is a
10 driving force fiscally, that plans must factor in budgetary costs and constraints, and that
11 the transportation plan should be considered as a budget item. Most important, as the
12 District continues to expand equity programs (TWDL, AVID, CRC, etc.), and has
13 developed stronger financial controls to ensure 910G funds are utilized to their full
14 capacity, budget capacity which develops during the year has been greatly reduced. This
15 forced the District to develop a budget-neutral transportation approach to improving
16 integration. Accordingly, the plan states that it includes “information on ... limiting
17 transportation costs while maximizing transportation impacts on integration,” and that
18 “District can limit costs by combining incentive and magnet routes that are picking up
19 from the same hub point and delivering students to the same area.”

20 The plan refers to budgets in the most general terms because it is based on a very
21 general concept: maximize integration through transportation in a budget-neutral manner
22 in recognition of the Court’s concerns related to transportation costs.

1 **J. The District has developed a “plan” which it will implement once approved by**
2 **the Court.**

3 Mendoza Plaintiffs object that the District did not develop 69 individual
4 transportation plans (one for each non-magnet school). The District uses words like
5 routing “may be necessary” and “consider express shuttles” in anticipation of approval
6 by the Court.

7 Mendoza Plaintiffs again assert the plan does not address the potential cost of
8 providing additional transportation to certain schools, and assume that the District cannot
9 afford to provide additional transportation to these schools. Their assumption is not
10 correct. There is very little if any cost associated with combining incentive and magnet
11 routes that are picking up from the same hub point and delivering students to the same
12 area, as described above.

13 **K. The PIP:CMP includes school-based and District-based strategies.**

14 The PIP:CMP is a comprehensive plan with interconnected components. The
15 District did not repeat in the non-magnet integration plans (which focus on school-level
16 integration strategies) that which is already stated in the transportation plan (which
17 focuses on district-level transportation strategies). The Mendoza Plaintiffs assumption –
18 that staff working on both plans were not working in conjunction – is not correct. The
19 Santa Rita, Sabino, and Roskruge principals, and relevant staff, are well aware of their
20 express shuttle efforts, and the existing or potential for these efforts to improve
21 integration. The Santa Rita and Sabino principals routinely utilize the express shuttles as
22 selling points to potential students, and both schools engaged in a massive effort to bring
23 8th graders from racially concentrated schools to Sabino and Santa Rita in SY2018-19, in
24 express shuttles, to tour the high schools and consider enrollment. (See ECF 2298-1,
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1 pp.31-32). The District will conduct similar efforts with the Roskruge principal this fall
2 and winter.

3 The Mendoza Plaintiffs mistakenly assert the Roskruge express bus route “was not
4 created until early September 2019, well after recruiting for this school year had ended.”
5 In fact, the District created (more appropriately, identified, the route in the spring of 2019,
6 but did not begin promoting it because there were no available seats at Roskruge by the
7 time the Court ruled in late-February. By then, Roskruge enrollment had already been
8 filled for SY2019-20 (see “Summary of Lottery Results in Oversubscribed Schools
9 SY2018-2019,” 2018-19 DAR, Doc. 2299-1 at 2). Developing and promoting an express
10 shuttle for the 2019-20 school year in the spring would have only raised hopes of parents
11 whose applications would have been denied because the seats had already been filled,
12 creating a disastrous public relations issue for the District, the school, and future efforts
13 to recruit and promote integration. For the same reasons, Roskruge did not include the
14 express bus in its MSP.

15 **L. The District has tracked, and will continue to track, express shuttle ridership.**

16 The Mendoza Plaintiffs argue the District’s statement that it “will track” express
17 shuttle ridership as evidence that the District has not been tracking such ridership. The
18 District *has monitored*, and will continue to monitor, ridership of the Sabino express
19 bus, by race. Based on the numbers and race of riders in SY2018-19, the District is
20 continuing the express bus in SY2019-20.

21 The District has monitored ridership of the Drachman express bus, by race.
22 Based on the numbers and race of riders, the District has discontinued this bus.

23 The District *has monitored*, and will continue to monitor, ridership of the Santa
24 Rita express bus, by race. In SY2018-19, Santa Rita (a non-magnet school) became an
25

1 integrated school. In SY2018-19, all five students who rode the bus contributed to
2 Santa Rita's integration. Four of these five students were Hispanic and, due to the small
3 size of Santa Rita, all four contributed *directly* to the school becoming an Integrated
4 School. The District will continue to grow ridership at Santa Rita as it did with Sabino,
5 which also started with very low numbers.

6 **Conclusion**

7 For the foregoing reasons, the Mendoza Plaintiff objections should be rejected.
8 The District has complied with the Court's directives, and should be declared unitary.

9 Dated this 7th day of October, 2019.

10 Respectfully submitted,

11 /s/ P. Bruce Converse

12 P. Bruce Converse

13 Timothy W. Overton

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18 *District No. 1*

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 _____