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12 *Tucson Unified School District No. 1*

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

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)

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23 **SECOND SUPPLEMENTAL NOTICE AND REPORT OF COMPLIANCE:**  
24 **INCLUSIVE SCHOOL ENVIRONMENTS**  
25 **AND CULTURES OF CIVILITY**  
26 **(Orders 2123, 2217, and 2273)**

1 **A. Studies.**

2 The Special Master recommended (ECF 2096 at 55) and the Court ordered (ECF  
3 2123 at 123-124) the District to assess the levels of inclusiveness and civility experienced  
4 by students at the District. The District did so, collaborating with the Special Master on  
5 the design of the study, and reported the results to the Court and parties in its initial  
6 Notice and Report of Compliance on December 6, 2018. [ECF 2156-1.] The study  
7 reported high levels of inclusivity among students, and no appreciable differences in  
8 those levels by race or ethnic group. Based on the study, the Special Master concluded  
9 that “inclusiveness and bullying are not serious problems in TUSD.” [ECF 2195, p.3.].  
10 As noted by the Court, no objection was raised regarding the study or its conclusions.  
11 [ECF 2217 at 14.]

12 The District believed that the high levels of inclusivity and civility reported, and  
13 the fact that the results did not differ materially by race or ethnicity, were the best  
14 evidence of the effectiveness of the strategies employed by the District to foster  
15 inclusiveness and civility, and obviated the current need for a study of the effectiveness  
16 of those strategies. [ECF 2156.] The Court disagreed, and ordered the District to  
17 undertake a study of the effectiveness of the current strategies, and determine if there  
18 were other strategies that should be employed. [ECF 2217 at 14.]

19 Accordingly, the District conducted a study of the effectiveness of the current  
20 strategies, and identified other strategies that could be employed if the high levels of  
21 inclusiveness experienced by the District began to drop. This second study was again  
22 designed in collaboration with the Special Master. In particular, District staff met with  
23 the Special Master to discuss the approach to the study when he visited the District in  
24 May, 2019. The District then subsequently provided a draft of the completed study for  
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1 his review in late May and June, 2019. The Special Master provided helpful comments  
2 and suggestions, which the District incorporated into the final version of the study. The  
3 study was filed on July 1, 2019, as an exhibit to the District’s supplemental notice of  
4 compliance. [ECF 2232 and 2232-1.]

5 The study concluded that the strategies currently utilized by the District are  
6 generally recognized as effective and best practices, used in one form or another by other  
7 districts which have also reported positive results from use of these strategies. The study  
8 also identified additional practices that could be employed. The District believed that this  
9 second study came as close to meeting the purpose of the Court’s order as possible, and,  
10 from the Special Master’s comments during the collaboration, the District believed that  
11 he was satisfied with this second study. Indeed, in his subsequent Report and  
12 Recommendation (ECF 2254), Special Master noted that

13 “It would be extraordinarily difficult to conduct the study mandated by the  
14 Court for the following reasons:

- 15 1. In most schools in the District, three or four of the strategies are being  
16 implemented simultaneously. It is, therefore, difficult to determine the  
relative weight of each of the practices.
- 17 2. The practices each school uses are determined by the problems that  
need to be addressed.
- 18 3. Individual teachers will implement these practices in different ways  
19 so in order to understand their effects it would be necessary to record  
variations in teacher behaviors.

20 It would, however, be possible – though not easy – to study the effects of  
21 pilot interventions such as the District’s experiment with restorative  
processes as instruction.

22 [ECF 2254, pp.2-3.]

23 The Court subsequently ordered the District to conduct a “study of the effects of  
24 the pilot intervention program using restorative processes as instruction and identify  
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1 positive and negative outliers among schools to determine whether there are common  
2 practices being implemented in either regard.” [ECF 2273, p. 18.]

3 The District has once again collaborated with the Special Master on the design and  
4 implementation of this third study. The Special Master has reviewed the results of the  
5 study, offered suggestions which were adopted by the District, and has approved of the  
6 study. A copy of the study is attached as Exhibit A. The District believes that this  
7 combined effort, through three studies, in an area in which all parties concede that  
8 original study shows that the District does not have a material problem, more than meets  
9 the purpose of the order and the requirements of the law.

10 **B. Identification of Strategies to Be Used in the Future.**

11 The Court also directed the District to “collaborate with the Special Master to  
12 identify strategies to be used in the future at schools that need improvement.” The  
13 second study by District (ECF 2232-1), designed and conducted in collaboration with the  
14 Special Master, addressed the issue of identification of strategies to be used in the future  
15 in Part B. As noted above, District staff met with the Special Master to discuss the  
16 approach to this study when he visited the District during the week of May 6, 2019. The  
17 District then subsequently provided a draft of the completed study for his review. The  
18 Special Master provided helpful comments and suggestions on the draft of the study,  
19 which the District incorporated into the final version of the study. The study identified a  
20 broad type of strategies that could be employed in the future in the event that schools  
21 need improvement: the use of an actual student curriculum in social emotional learning.  
22 There are many options of such a curriculum within this broad discipline from which to  
23 select should the need arise. For the convenience of the Court, a copy of that study is  
24 attached as Exhibit B.

1 **C. Professional Learning Plan.**

2 Although the Court's initial order reviewing the notice of compliance in April,  
3 2019 (ECF 2217) did not mention the professional learning plan for inclusiveness and  
4 cultures of civility filed with the District's initial Notice of Compliance last December  
5 (ECF 2156-2), the Court's most recent order directed the District to "collaborate with the  
6 Special Master to develop a professional learning plan for preparing District staff to  
7 implement the District's program to create and maintain school environments of  
8 inclusiveness and civility." [ECF 2273, p. 18.]

9 The District has undertaken this collaboration with the Special Master. Although  
10 the Court directed the District to prepare both an inclusivity/civility professional learning  
11 plan, and a discipline professional learning plan, in reality the discipline plan completely  
12 overlaps the inclusivity/civility plan: all of the training to create and maintain inclusive  
13 school environments is included within, and a subset of, the training the District provides  
14 to reduce the incidence of discipline by preventive means.<sup>1</sup>

15 Thus, although the District prepared and filed a separate Professional Learning  
16 Plan for Inclusivity and Cultures of Civility on December 6, 2018, as ordered, it  
17 continued to work on the inclusivity professional plan as it worked on the broader overall  
18 discipline professional learning plan through the spring and summer of 2019. The District  
19 presented its ideas to the Special Master in a meeting in early May, 2019, at which the  
20 Special Master provided suggestions and shared perspectives. The District took these  
21 comments and suggestions back and worked further on the combined plan, and ultimately

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22 <sup>1</sup> Discipline training involves other elements in addition to those related to inclusiveness  
23 and civility: the Code of Conduct, discipline procedure and other training on dealing with  
24 incidents once they have happened. But the strategies for reduction of discipline through  
25 prevention of incidents include the all of strategies used to create and maintain inclusive  
school environments and civility.

1 provided a draft of a combined plan to the Special Master. The Special Master reviewed  
2 the draft combined plan, and once again provided helpful suggestions and comments.  
3 The District incorporated those suggestions in the final Combined Discipline/Inclusivity  
4 Professional Learning plan, which was filed as part of the Notice of Completion  
5 regarding discipline, on August 30, 2019 (ECF2266-2). A copy of the final Combined  
6 Discipline/Inclusivity Professional Learning plan is also attached hereto as Exhibit C.

7 The plan includes a narrative explanation of the theory and approach to  
8 professional learning in these areas, chart showing discipline/inclusiveness professional  
9 learning conducted in SY2018-19, as well as a chart showing discipline/inclusiveness  
10 professional learning planned for SY2019-20.

11 **D. Youth Uprising.**

12 The District wishes to assure the Court and the Special Master that it will not use  
13 or engage “Youth UpRising.” The District is not even sure where the Special Master and  
14 the Court got the idea that the District had used, worked with or even considered Youth  
15 UpRising. Based on a review of its website, Youth UpRising appears to be a youth club  
16 that serves as a “neighborhood hub program” in East Oakland, California, whose mission  
17 is to “to transform East Oakland into a healthy and economically robust community,”  
18 providing a range of services to that community. It appears to be limited to Alameda  
19 County, California.

20 **Conclusion**

21 For the foregoing reasons, the District respectfully submits that it has complied  
22 with the Court’s orders, and requests that the Court grant partial unitary status in this area  
23 of District operations (USP § V.F).<sup>2</sup>

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24 <sup>2</sup> The District submits this notice and report without waiver of its objections that there is  
25 no basis in fact or law for continued federal court supervision of the District in this or any

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Dated this 10<sup>th</sup> day of October, 2019.

Respectfully submitted,

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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, and that they are the subject of a pending appeal before the 9th Circuit.

**CERTIFICATE OF SERVICE**

1 I hereby certify that on the 10<sup>th</sup> day of October, 2019, I electronically transmitted  
2 the attached foregoing document to the Clerk's Office using the CM/ECF System for filing  
3 and transmittal of a Notice of Electronic filing to all CM/ECF registrants.  
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5 /s/ P. Bruce Converse  
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