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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Roy and Josie Fisher, et al.,

Plaintiffs,

v.

United States of America,

Plaintiff-Intervenors,

v.

Anita Lohr, et al.,

Defendants,

Sidney L. Sutton, et al.,

Defendant-Intervenors,

Case No. 4:74-CV-00090-DCB

**MENDOZA PLAINTIFFS’
SUPPLEMENTAL RESPONSE TO TUSD
SUPPLEMENTAL NOTICE OF
COMPLIANCE: GOALS FOR ELL
DROPOUT AND GRADUATION RATES
(DOC. 2310) AND OBJECTION TO
DISTRICT’S REQUEST THAT IT BE
AWARDED PARTIAL UNITARY
STATUS WITH RESPECT TO SECTION
V,E,1,B,i OF THE USP**

Hon. David C. Bury

1 Maria Mendoza, et al.,

Case No. CV 74-204 TUC DCB

2 Plaintiffs,

3 United States of America,

4 Plaintiff-Intervenor,

5 v.

6 Tucson United School District No. One, et
al.,

7 Defendants.

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10 Pursuant to this Court’s Orders of September 6, 2018 (“9/6/18 Order”) (Doc. 2123)
11 and September 27, 2019 (Doc. 2294), Mendoza Plaintiffs submit this Supplemental
12 Response to TUSD’s Supplemental Notice of Compliance: Goals for ELL Dropout and
13 Graduation Rates (Doc. 2310).
14

15 **Introduction**

16 In response to this Court’s order that the TUSD Dropout and Graduation (“DPG”)
17 Committee “reconsider the [ELL] dropout goal to determine whether it is sufficiently
18 ambitious” (4/22/19 Order, Doc. 2217, at 5:20-21; 9/10/19 Order, Doc. 2273, at 3:16-20),
19 TUSD filed a document (Doc. 2310-1, Annual Goals and Project Monitoring) that not
20 only reports on the results of that ordered reconsideration but also sets forth graduation
21 rates for all students, including TUSD ELL students, dropout rates for all TUSD African
22 American and Latino students, including ELL students, and, in addition, provides data on
23 attendance rates for all students. Because this additional information provides further
24 evidence that the District has not complied with its undertaking to use “ ‘goal setting and
25 evaluation as critical tools for databased decisions and identifying gaps for improvement in
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1 subsequent cycles' ”, as the Mendoza Plaintiffs asserted in their Supplemental Response to
 2 TUSD Notice of Filing: ELL Action Plan for Dropout Prevention (Doc. 2281 at 2:26-3:3,
 3 quoting the District’s ELL Action Plan filing (Doc. 2261-1)), Mendoza Plaintiffs will
 4 discuss that additional information¹ below but first they will address the portion of the
 5 District’s filing that explicitly responds to the Court’s directive concerning ELL dropout
 6 goals.
 7

8 **Argument**

9 ***The District’s Statement of its ELL Dropout Goal Underscores a Problem*** 10 ***with its Overall Approach to Goal Setting and Assessment of Actual Results***

11 The District reports that its DPG Committee determined that an ELL dropout goal
 12 that is equal to or better than the non-ELL dropout goal is sufficiently ambitious. (Doc.
 13 2310-1 at 4.)² However, the Annual Goals and Progress Monitoring document of which
 14 that statement is a part fails to state what the dropout goal for 2019-20 is for its non-ELL
 15 students and no such goal is stated in the text of the 2018-19 Annual Report. (Doc. 2298-1
 16 at 85.) Therefore, there is no standard against which the ELL dropout goal can be
 17 measured.
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20 ¹ To the extent the District may argue that this discussion goes beyond the directive that it
 21 revisit the graduation and dropout goals for its ELL students, Mendoza Plaintiffs request
 22 that it be treated as a request to the Special Master that he file a Report and
 23 Recommendation relating to compliance issues revealed in the District’s Annual Report
 24 that are not being addressed by the specific filings the Court required in its September 6,
 25 2018 Order, (Doc. 2123 at 152:12-15.)

26 ² There also appears to be some confusion in the statement by the District of the ELL
 27 dropout goal. TUSD first states that the “SY2018-19 ELL dropout goal was to achieve a
 28 rate equal to or lower than each group’s non-ELL **rate**.” (Doc. 2310-1 at 4.) It then says
 that it determined that “an ELL dropout goal that was equal to *or better than* the non-ELL
 dropout **goal** was sufficiently ambitious...” (*Id.*; emphasis in italics in original; emphasis
 in bold added. This same language, pegging the ELL dropout goal to the non-ELL goal
 (rather than the non-ELL dropout rate), also appears in the text of the District’s Annual
 Report, (Doc. 2298-1 at 85). In a year in which the non-ELL dropout goal is not reached,
 the difference between an ELL dropout goal pegged to the rate rather than the goal for
 non-ELLS could be significant.

1 Reference to the 2018-19 dropout goals for non-ELL students reveals another
2 problem, more fully discussed below: in the Annual Goals and Progress Monitoring
3 document, the District reports that the “District did not meet its goal for African American
4 or Hispanic students.” (*Id.*) (It is to that goal (or actual experienced rate?) that the ELL
5 dropout goal is pegged.) But the document provides no indication of whether the District
6 engaged in any analysis of why the non-ELL African American and Hispanic dropout goal
7 was not met or how the failure to have met its 2018-19 goals for non-ELL African
8 American and Latino students has influenced the setting of the (unreported) goal for the
9 2019-20 school year for those students and, by extension, the ELL dropout goal.
10
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12 ***The Annual Goals and Progress Monitoring Document Fails to Evidence any***
13 ***Monitoring or Assessment of Actual Outcomes***

14 Just as the Annual Goals and Progress Monitoring Document fails to provide any
15 evidence that any effort was made to assess why the District failed to meet its dropout
16 goals for non-ELL African American and Latino students in 2018-19, it simply recites
17 without any further comment or explanation that “[f]or SY 2018-19, the District did not
18 meet its student attendance rate goals for either group” (Doc. 2310-1 at 5), that is, for all its
19 African American and Latino students (it appears, ELL and non-ELL combined).
20

21 Perhaps the most glaring example of the District’s failure to provide any evidence
22 that it actually monitored progress and assessed outcomes relates to the African American
23 graduation rate. Once again, in the Annual Goals and Progress Monitoring document, the
24 District simply recites that it set a goal for the African American student graduation rate
25 (84.67%) and that the goal was not met. (*Id.* at 2, reporting an actual graduation rate of
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1 Court's statement when it denied that Motion that it will not again reach the question of
2 unitary status until after the District's Executive Summary filing and the proceedings
3 relating thereto.
4

5 Dated: October 11, 2019
6

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CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2019, I electronically submitted the foregoing **MENDOZA PLAINTIFFS' SUPPLEMENTAL RESPONSE TO TUSD SUPPLEMENTAL NOTICE OF COMPLIANCE: GOALS FOR ELL DROPOUT AND GRADUATION RATES (DOC. 2310) AND OBJECTION TO DISTRICT'S REQUEST THAT IT BE AWARDED PARTIAL UNITARY STATUS WITH RESPECT TO SECTION V,E,1,B,i OF THE USP** to the Office of the Clerk of the United States District Court for the District of Arizona for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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Dated: October 11, 2019