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18 **IN THE UNITED STATES DISTRICT COURT**
19 **FOR THE DISTRICT OF ARIZONA**

20 Roy and Josie Fisher, et al.,
21 Plaintiffs,
22 v.
23 Tucson Unified School District No. 1, et
24 al.,
25 Defendants.
26 Maria Mendoza, et al.,
27 Plaintiffs,
28 v.
Tucson Unified School District No. 1, et
al.,
Defendants.

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

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

**TUSD REPLY TO MENDOZA PLAINTIFFS' SUPPLEMENTAL RESPONSE
RE GOALS FOR ELL DROPOUT AND GRADUATION RATES [ECF 2332]**

1 The Court ordered the District to reconsider its ELL dropout goal. [ECF 2217 at
2 5 and ECF 2273 at 3]. The District reconsidered its dropout goals *and* its graduation
3 goals for African American and Hispanic ELL students. The District has complied with
4 this Court’s directive to reconsider its ELL dropout goal, and has gone beyond that
5 directive to reconsider, and to revise, its ELL graduation goals. Mendoza Plaintiffs do
6 not assert that the District somehow did not comply with the Court’s directive.¹

7
8 Instead, the response addresses a different topic: District efforts related to non-
9 ELL students, and requests an R&R related to non-ELL students. The response fails to
10 establish or cite any fact to justify the extraordinary request of directing the Special
11 Master to file an R&R related to dropout prevention for non-ELL students.

12 **1. The District’s ELL Dropout Rate Goal is Clear as Stated.**

13 The response requests the Court direct TUSD to clarify its ELL dropout goals,
14 but no clarification is needed – it is plain what was intended: The ELL dropout rate
15 goal is to maintain a dropout rate that is equal to or better than the dropout rate for non-
16 ELL students. The District will measure ELL dropout rates against non-ELL dropout
17 rates. Having raised no other issue related to the District’s compliance with the Court’s
18 directive, Mendoza Plaintiffs implicitly acknowledge TUSD has complied with the
19 Court’s order.

20
21 **2. The DPG Committee Reviews Annual Goals Yearly, Pursuant to the DPG Plan.**

22 For three of the past four years, ELL students in TUSD have had significantly
23 lower dropout rates than their non-ELL counterparts.

24
25 _____
26 ¹ Mendoza Plaintiffs request the Court greatly expand the scope of its response (on the narrow
27 issue of whether or not the District reconsidered its ELL dropout goal) to include a broad request
28 to re-litigate the entire issue of graduation and dropout goals and strategies. Nothing in the
Mendoza response indicates a problem worthy of directing the Special Master to provide an
R&R related to so-called compliance issues. Mendoza Plaintiffs have failed to provide any
evidence of non-compliance that was allegedly “revealed” by the filing of the annual report.

TUSD Dropout Rates				
Year	African American	African American ELL	Hispanic	Hispanic ELL
2015-16	2.5%	1.7%	1.8%	.1%
2016-17	3.3%	4.2%	2.2%	3.9%
2017-18	4.2%	3.4%	3.1%	1.8%
2018-19	3.7%	0.0%	3.3%	0.1%

Their non-ELL counterparts in TUSD have had significantly lower dropout rates than their national counterparts.

National Dropout Rates ²			
Year	African American	Hispanic	All Groups
2017	6.5%	8.2%	5.4%

Setting an expectation that ELL students (who are not yet identified as proficient in English) will have a dropout rate that is equal to or *better than* non-ELL students (who have a dropout rate better than the rest of the nation) is sufficiently ambitious. The Mendoza objection does not argue that it is not. Due to the implementation of the DPG plan, progress monitoring, and goal setting, *zero* African American ELL students dropped out of school in 2018-19; and only *one out of a cohort of one thousand* Latino ELL students dropped out.

3. The District Monitors Progress and Assesses Outcomes as Data Becomes Available.

The DPG committee is responsible “for reviewing annual goals yearly.” [DPG Plan, ECF 1963-5 at 20]. However, the committee cannot do so until it receives and calculates data from the Arizona Department of Education (ADE).

In most years, ADE releases raw, federal-coded student data on graduation and dropout rates in late August. District staff then reviews the data for errors, applies USP racial/ethnic coding, and calculates graduation and dropout rates over the next few

² See Dropout Rates, National Center for Educational Statistics, available at <https://nces.ed.gov/fastfacts/display.asp?id=16>

1 weeks so that they can be included in the annual report by October 1.³ The District has
2 no control over when ADE releases the data. And, processing the raw, federal-coded
3 data into meaningful, USP-coded data can take anywhere from one to four weeks.

4 The annual report reflects the dropout and graduation rates, and states whether
5 the District met its goals based on those rates. However, the report does not reflect the
6 yearly review of annual goals required by the DPG Plan because such review does not,
7 and cannot, occur prior to the filing of the annual report

8
9 **4. The District has Reported its Monitoring and Review of the DPG Plan, and Steps
it is Taking to Improve African American Graduation Rates**

10 The 2018-19 DAR reflects that the DPG committee evaluated and adjusted “the
11 DPG plan goals based upon data,” that it “met to monitor progress and review the
12 annual goals[.]” and that “the District made improvements in several areas.” [2018-19
13 DAR, App. V-32, ECF 2310-1 at 2].

14 The District meets regularly to review dropout and graduation rates for African
15 American and Latino students, and to assess the reasons for increases or reductions.⁴
16 The District reviewed the three-percentage point change between 2017-18 and 2018-19,
17 and reported steps it took to address the reduction, including but not limited to:

- 18
19 • “concentrating academic and behavioral support personnel to sites demonstrating
20 the greatest need based on data,” [2018-19 DAR, ECF 2298-1 at 86]

21
22 ³ The District did not include 2016-17 dropout and graduation data in the 2016-17 DAR because
23 it was still working with ADE to get accurate rates at the time of drafting and filing. *See* ECF
24 2057-1 at 243, noting “[a]s of the drafting of this report, the District is still working with the
ADE to get accurate graduation rates;” *and see* Id. at footnote 62, noting that this was “a
statewide issue.”

25
26 ⁴ Mendoza Plaintiffs wrongfully assert that the District has “not been able to sustain progress”
27 increasing the African American graduation rate. While there have been year-to-year changes,
28 the overall trend shows a steady increase, evidencing sustained progress. The rates for the first
four years of USP implementation were 80.7, 77.4, 82.0, and 76.5, reflecting an average rate
over four years of approximately 79%. The rates for the past three years were 84.0, 82.2, and
78.9, reflecting an average rate over three years of approximately 82%.

- 1 • including the African American Student Services Department in organizing
2 “summer school programs” and reaching “out to 8th grade students and families
3 who needed to attend summer school for ELA and/or math” [Id. at 104]
- 4 • recruiting African American “high school students in need of credit recovery”
5 for summer school and supporting them with “fee waivers... to make up or
6 recover coursework to stay on track for graduation” [Id.]

7 The District’s AASSD Operating Plan also included steps the District is taking
8 to address African American graduation rates, including creating or revising “a
9 personalized plan for each student not making progress towards graduation at targeted
10 schools,” and collaborating “with Dropout Prevention Specialists to create regular
11 contact with student in order to develop four-year plan and review progress towards
12 graduation.” [AASSD Operating Plan, ECF 2151-1 at 4-5]. The District also regularly
13 monitors “progress throughout the year” to make sure African American students are
14 making progress towards graduation [Id. at 11], and establishes “early contact with
15 parents” to work as partners in preventing their child from dropping out and to ensure
16 they graduate [Id. at 12]. The AASSD director continues to serve on the DPG
17 committee, participating in quarterly meetings, goal setting, and strategy assessments.

18 **Conclusion**

19 The District respectfully submits that it has complied with this Court’s directive
20 to reconsider ELL dropout rates, that no party has asserted non-compliance with this
21 directive, and that the issue of monitoring strategies and assessing outcomes is not
22 germane to this specific directive. In the alternative, if the Court deems District
23 monitoring and assessment of ELL and non-ELL strategies and goals to be relevant to
24 the directive related to setting ELL goals, then the record reflects that TUSD monitors
25 strategies quarterly, reviews annual goals yearly, and adjusts its strategies to address
26 increases or reductions in data – as it has done with African American graduation rates,
27
28

1 specifically. Accordingly, the District requests that the Court acknowledge TUSD's
2 compliance with its directive to reconsider ELL dropout goals.

3
4 Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of October 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/Samuel E. Brown

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