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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF ARIZONA**

15 Roy and Josie Fisher, et al.,
16 Plaintiffs,
17 v.
18 United States of America,
19 Plaintiff-Intervenors,
20 v.
21 Anita Lohr, et al.,
22 Defendants,
23 Sidney L. Sutton, et al.,
24 Defendant-Intervenors,

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

**MENDOZA PLAINTIFFS' RESPONSE
TO TUSD NOTICE AND REQUEST FOR
APPROVAL: JTED-TUSD
PARTNERSHIP HIGH SCHOOL AT THE
BRIDGES – "THE BRIDGES HS" (DOC.
2336)**

Hon. David C. Bury

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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 Introduction

11 The Mendoza Plaintiffs do not object to the District’s undertaking to partner with
12 JTED to offer TUSD students, including members of the plaintiff classes, the opportunity
13 to attend a high school offering Career and Technical Educational (“CTE”) programs that
14 prepare those students for meaningful employment in 21st century workplaces. However,
15 they believe more is required than is set forth in the District’s Notice and Request for
16 Approval (“NARA”) and the accompanying Desegregation Impact Analysis (“DIA”) to
17 ensure that the new high school (The Bridges High School) will indeed be integrated and
18 fully compliant with the USP. They therefore request that the Court condition approval of
19 the NARA on the District providing the additional information and making the
20 commitments detailed below.
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23 Integration

24 The existing TUSD high schools that are in closest proximity to The Bridges High
25 School site are racially concentrated: Cholla is 82% Latino; Pueblo is 90% Latino. (DIA,
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1 Doc. 2336-1 at 3, 4.)¹ The McCorkle K-8 Academy of Excellence which is the newest
2 school in the District, having been opened in 2011, and which, according to the TUSD
3 website, incorporates “state of the art technology” as part of a “New Tech Network,” and
4 is referred to in the DIA as a “successful” school, the programmatic design of which is
5 being “incorporate[ed]” into The Bridges model (DIA at 1), has a student body that is 89%
6 Latino. (TUSD Enrollment 40th Day 2018-19, attached as Exhibit A.) According to its
7 website, the MetroTech High School in Phoenix, Arizona, which, in response to requests
8 for information made by the Mendoza Plaintiffs, the District cited as a successful example
9 of the model it is seeking to emulate in The Bridges, has an enrollment that is 96.5 %
10 Latino. (RFI 2446, attached as Exhibit B²; Metro Tech Collegiate School Profile 2019-20,
11 www.phoenixunion.org/Page/1361.)

14 Given the foregoing, Mendoza Plaintiffs believe it is essential that TUSD be
15 required to take affirmative steps beyond those set forth in the NARA and DIA to ensure
16 that The Bridges High School is indeed integrated. For example, in the draft DIA that the
17 District has shared with the plaintiffs and the Special Master relating to its proposal to
18 reopen Wakefield Middle School it has stated that it will use a “modified lottery” to
19 “achieve high levels of diversity.” Mendoza Plaintiffs do not know the particulars of how
20 the District intends to implement a “modified lottery” for Wakefield and have asked for
21 further information on that subject. But what is clear is that the District recognizes there
22 are actions that it can take beyond a targeted marketing and recruitment campaign to seek
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26 ¹ The DIA uses enrollment figures from 2018-19. Therefore, unless otherwise stated, Mendoza Plaintiffs will use enrollment numbers from that year as well.

27 ² Exhibit B contains responses to a number of inquiries posed by the Mendoza Plaintiffs,
28 the Special Master, and the Department of Justice, referenced as RFIs 2441-2451 and 2453-2461 at the top of the document.

1 to integrate a school. Such actions should be undertaken as well for The Bridges High
2 School.

3 With respect to marketing and recruitment, in response to an inquiry, the District
4 provided a general description of the outreach plan that is being developed with JTED.
5 (RFI 2451, attached as Exhibit B.) After discussion with the District and the plaintiffs, the
6 Special Master reached out to Dr. Gary Orfield, who earlier served as an expert in the case
7 and with whom the Order Appointing Special Master states the Special Master may
8 consult on any issue he deems appropriate (Doc. 1350 at 14:1-3), to ask for his views on
9 The Bridges High School proposal. Even as he indicated that a high quality program
10 could be very positive, Dr. Orfield also stated that he “would want to see recruitment
11 plans”. (Email exchange between the Special Master and Dr. Orfield, attached as Exhibit
12 C.) So as to ensure that the marketing and recruitment effort is as targeted and effective as
13 possible, the Mendoza Plaintiffs request that the District be directed to consult with Dr.
14 Orfield as to The Bridges High School marketing and recruitment plans.
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18 The Mendoza Plaintiffs believe this is particularly important given an aspect of the
19 JTED plan that is not discussed in the NARA and the DIA. Not only will JTED classes be
20 available to students who attend The Bridges High School. Those classes also will be
21 available to hundreds of students who attend other high schools (or charter schools or are
22 home schooled) and come to the campus only in the afternoon or evening for the JTED
23 classes. According to the JTED website, “approximately 400 to 500 students will attend
24 campus during the day and another 450 to 500 will attend in the afternoon and early
25 evening. Those students will attend their high school of choice and then commute to
26 the...Campus for their CTE program after their school day.”
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1 [\(www.pimajted.org/2019/05/pima-jteds-innovative-learning-campus-at-the-bridges-to-](http://www.pimajted.org/2019/05/pima-jteds-innovative-learning-campus-at-the-bridges-to-open-2020/)
2 [open-2020/.](http://www.pimajted.org/2019/05/pima-jteds-innovative-learning-campus-at-the-bridges-to-open-2020/)) The DIA depends heavily for its conclusion that The Bridges High School
3 will be integrated on the assumption that 30% of the students who attend the high school
4 will come from outside the District or from charter schools and private schools that are
5 located within the District's boundaries. (DIA at 2.) However, the DIA fails to address the
6 fact that many students who elect to attend a charter school or who live outside the District
7 will have the opportunity to enroll in the JTED CTE program without enrolling in The
8 Bridges High School. Given that possibility, Mendoza Plaintiffs are concerned that the
9 assumptions in the DIA may prove too aggressive. For that reason, it is all the more
10 essential that the District be required to undertake the additional steps to promote
11 integration of The Bridges High School set forth above.
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14 Transportation

15 The DIA states that the District does not anticipate adding buses or routes to serve
16 The Bridges High School and then indicates that TUSD and JTED are working with Sun
17 Tran to provide transportation through public transit. (DIA at 6.) It appears, however, that
18 the responsibility for that transportation (and its cost -- presumably in the form of bus
19 passes) will be borne by the District. (See JTED-Tucson Unified Partnership High School,
20 Governing Board Presentation, October 16, 2019, attached as Exhibit D, at 3
21 "Responsibilities – Tucson Unified – Provide Transportation for TUSD students".) Given
22 the large sums of money the District already spends on transportation and the many issues
23 surrounding the transportation plan to further integration that the District recently was
24 required to file with the Court (*see, e.g.*, Docs.2270-4, 2275), the Mendoza Plaintiffs are
25 reluctant to suggest the incurring of further transportation expenditures by the District.
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1 Nonetheless, they note that in the past the District has proposed express buses as a means
2 of promoting integration of its schools. They therefore ask that the District be directed to
3 explore the use of such buses for students attending The Bridges High School particularly
4 if initial expressions of interest in the school suggest that it is not likely to meet the USP
5 definition of an integrated school in its first year.
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7 Other USP Issues

8 *Integration of the Teaching and Administrative Staff*

9 The USP requires TUSD to seek to have a racially and ethnically diverse staff in
10 each of its schools and to undertake actions to further that goal. (USP Section IV, E.) In
11 response to an inquiry by the Special Master, TUSD reported that JTED faculty is 79.1%
12 white/Caucasian and only 16.3% Hispanic and 2.3% Black/African American. (RFI #2449,
13 attached as Exhibit B.) In the DIA, TUSD reports that it anticipates that the District will
14 employ 12-13 teachers at the site. (DIA at 6.) It says nothing about the administrative
15 staff. Given the demographics of the JTED faculty, it is imperative that TUSD take steps
16 to ensure that the TUSD staff assigned to the site be as diverse as possible. Mendoza
17 Plaintiffs therefore request that approval of the NARA be conditioned on TUSD providing
18 a plan to ensure a diverse TUSD teaching staff at The Bridges High School and an
19 undertaking to work with JTED (perhaps by sharing its recruitment strategies and
20 techniques) to seek to diversity the faculty provided by JTED.
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24 *Discipline*

25 On the subject of discipline, the DIA states only that based on its experience at
26 other no-boundary schools, the District expects the new high school to have low discipline
27 rates. (DIA at 6-7.) What may be implicit but should be made explicit is that both the
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1 discipline during the day, when TUSD offers academic classes, and the discipline in the
2 late afternoon and evening, when JTED courses are provided, will be governed by the
3 TUSD Code of Conduct and the overarching approaches based on PBIS and restorative
4 justice. Further, all teachers on site regardless of whether they are employed by TUSD or
5 employed by JTED should receive the same professional development and training relating
6 to discipline that TUSD offers at its other high schools. Mendoza Plaintiffs request that
7 approval of the NARA be conditioned on TUSD providing such a commitment.
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9 *Culturally Responsive Pedagogy*

10 The USP requires all administrators, certificated staff, and paraprofessionals to
11 receive training on how to create supportive and inclusive learning environments and
12 culturally responsive pedagogy (“CRP”). (USP Section V, E, 5, a.) Accordingly, the
13 Special Master asked how TUSD would ensure that “teachers (in robotics, for example)
14 receive adequate training in CRP?” (Exhibit B at 3.) In response, in RFI # 2448, the
15 District stated that JTED would follow the TUSD schedule for professional development
16 on Wednesdays and set forth a “crosswalk” to show the extent to which
17 “JTED’s pedagogical system is not so dissimilar to contrast with TUSD’s culturally
18 responsive teaching mindset.” (RFI # 2448 in Exhibit B attached hereto.) Given the
19 centrality of CRP to effective implementation of the USP (and the presumed benefit of
20 such pedagogy for all JTED students), Mendoza Plaintiffs suggest that while the
21 “crosswalk” showing that the JTED and TUSD approaches are “not so dissimilar [as to]
22 contrast” is a good start, approval of the NARA should be conditioned on a commitment to
23 train all JTED teachers in CRP to the same extent that TUSD teachers receive such
24 training.
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Culturally Relevant Courses

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2 The USP requires that culturally relevant courses (“CRCs”) be offered at all high
3 schools across the District. (USP Section V, E, 6, a, ii.) When the plaintiffs and the
4 Special Master discussed the curriculum to be offered at The Bridges High School with
5 representatives of the District, it was unclear whether CRCs would be offered at that high
6 school. Mendoza Plaintiffs suggest that this not only is mandated by the USP but that
7 such courses are likely to be of great interest and benefit to the students who elect to attend
8 that high school. Accordingly, they request that approval of the NARA be conditioned on
9 a commitment by TUSD to offer CRC courses at The Bridges High School.
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Conclusion

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13 As discussed in detail above, Mendoza Plaintiffs respectfully request that the Court
14 set the requirements and undertakings outlined above as a condition of its approval of the
15 pending NARA.
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Dated: November 12, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2019, I electronically submitted the foregoing **MENDOZA PLAINTIFFS' RESPONSE TO TUSD NOTICE AND REQUEST FOR APPROVAL: JTED-TUSD PARTNERSHIP HIGH SCHOOL AT THE BRIDGES – "THE BRIDGES HS" (DOC. 2336)** 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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