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 15 **IN THE UNITED STATES DISTRICT COURT**
 16
 17 **FOR THE DISTRICT OF ARIZONA**

15 Roy and Josie Fisher, et al.,
 16
 17 Plaintiffs,
 18 v.
 19 Tucson Unified School District No. 1, et al.,
 20
 21 Defendants.

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

19 Maria Mendoza, et al.,
 20
 21 Plaintiffs,
 22 v.
 23 Tucson Unified School District No. 1, et al.,
 24
 25 Defendants.

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

23 **NOTICE OF COMPLIANCE RE: READING RECOVERY/
 24 READING SUPPORT STATUS REPORT SUPPLEMENT
 25 [ECF 2349]**

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The Court directed the District to prepare and file a supplement to its Reading/Reading Support Status Report (ECF 2349). The District’s supplement is attached hereto as Exhibit A.

The District is concerned that it may not have been sufficiently clear about its overall reading support program, leading the Court to conclusions that do not match District or general reading support practices.

First, the term Reading Recovery® refers only to a specific, Tier 3 intervention involving one half-hour session per day of one-on-one instruction for 12-20 weeks with a teacher trained in the specific Reading Recovery® pedagogical methods, using approved teaching materials. It is designed for the lowest achieving students as assessed using the *Observation Survey of Early Literacy Achievement (OS)*, the authorized Reading Recovery® assessment tool.

Second, there is no set number or percentile of first grade students who “need” Reading Recovery®. In particular, merely receiving a “Strategic Support” or “Intensive Support” assessment on the end-of year Kindergarten DIBELS assessment does not, without more, mean that a student “needs” a Tier 3 reading intervention such as Reading Recovery®. Rather, receiving a “Strategic Support” or “Intensive Support” assessment means that the student is in need of Tier 2 intervention, such as SuccessMaker® or other brands of Tier 2 reading interventions, and a portion of these students may, upon further evaluation (sometimes including lack of progress with Tier 2 interventions), need a Tier 3 intervention such as Reading Recovery®. As noted in the District’s initial report, the District does a comprehensive assessment in ranking students for priority in selection for Reading Recovery® in which a DIBELS score is only one factor among many.

1 However, under the MTSS system used by the District, the expectation is that up
2 to 5% of any student population may need Tier 3 interventions.¹ Thus, of the 3,245
3 kindergarten students who took the end-of-year DIBELS assessment in the spring of
4 2019, for planning purposes approximately 5%, or 163, of those students may need a Tier
5 3 reading intervention such as Reading Recovery® in first grade beginning in the fall of
6 2019. The Reading Recovery® Standards indicate that one Reading Recovery®-trained
7 teacher can serve four to six students at a time and up to 12 students per year.² Thus, even
8 assuming that all students needing Tier 3 reading intervention are either African
9 American or Hispanic, the total number of Reading Recovery® teachers needed to provide
10 the Tier 3 Reading Recovery® intervention to all of these students would be approximately
11 14.

12 In reality, (a) not all first grade students needing Tier 3 interventions are African
13 American or Hispanic, and (b) the District has other Tier 3 reading interventions in
14 addition to Reading Recovery®, including one-on-one or small group instruction by
15 reading intervention specialists (there are 13 of these throughout the District), or more
16 intensive use of other intervention tools.

17 The remaining students – those who received a “Strategic Support” or “Intensive
18 Support” assessment on the end-of year Kindergarten DIBELS assessment *but who do*
19 *not need a Tier 3 intervention* – need only a Tier 2 intervention, such as Successmaker®

20 ¹ See, e.g., MTSS Summary Guidance Document, Madison Metropolitan School District,
21 Madison, WI, available at [https://mtss.madison.k12.wi.us/files/mtss/MTSS%20Guidance
%20Document.pdf](https://mtss.madison.k12.wi.us/files/mtss/MTSS%20Guidance%20Document.pdf).

22 ² The Reading Recovery® intervention lasts 12-20 weeks, and thus teachers can generally
23 teach two rounds of interventions per year. There is no overlap of students from one
24 session to the next. If a student does not reach grade level reading by the end of 20
25 weeks, the student does not continue on in Reading Recovery® for another session, but
rather is evaluated either for another Tier 3 intervention or for referral to exceptional
education.

1 or Imagine Learning®. Generally, these Tier 2 interventions are administered in class by
2 the regular first year teacher, *without any extra staffing needs*. Of course, students are
3 continually evaluated for progress, and if a student does not make satisfactory progress
4 with a Tier 2 intervention, the student may be reclassified as in need of a Tier 3
5 intervention.

6 With this context, the District respectfully submits its Supplemental Analysis,
7 attached hereto as Exhibit A.

8 Dated this 4th day of December, 2019.

9 Respectfully submitted,
10 /s/ P. Bruce Converse
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CERTIFICATE OF SERVICE

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I hereby certify that on the 4th day of December, 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