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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' RESPONSE
TO TUSD SUPPLEMENTAL NOTICE
AND REPORT OF COMPLIANCE:
REVISED FACE PLAN (ORDER 2386)
[DOC. 2391]**

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 December 3, 2019 ("12/3/19 Order") (Doc. 2386), Mendoza Plaintiffs submit this
12 Supplemental Response to TUSD's Supplemental Notice and Report of Compliance:
13 Revised FACE Plan (Doc. 2391).

14
15 As a preliminary matter, they note that in its 12/3/19 Order the Court explicitly
16 addressed the FACE Action Plan's "heavy reliance on AASSD and MASSD for delivery
17 of services" and the need to "clearly define the interconnectivity between the FACE
18 Department and the two student support service departments..." (Doc. 2386 at 2:21-25.)
19 It then noted that the AASSD and MASSD Plans on file with the Court were
20 "unacceptable to the Special Master"¹ and that it had directed him to "recommend post-
21 unitary plans for the two departments". Next, it stated that "further consideration of these
22 interconnected departments cannot be made until the roles and responsibilities of the post-
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25 ¹ Mendoza Plaintiffs hasten to add that the MAASD plan filed with the Court was not
26 nearly so unacceptable to them as it was to the Special Master (rather, their objections
27 centered on changes made to the plan in the last year that deviated from approaches that
28 previously had been agreed to by them) and that they fully support the District's reliance
on the AASSD and MASSD to further meaningful family engagement by the District's
African American and Latino families -- but those are matters to be addressed on another
day -- after the Special Master's plan revisions have been submitted to the Court.

1 unitary AASSD and MASSD are clearly defined.” (*Id.* at 3:3-10.) Unfortunately, the
2 Special Master’s work with respect to the AASSD and MASSD has been delayed.
3 Additionally, the report and recommendation concerning the ELL Plan (with respect to
4 which this Court ordered TUSD to add FACE strategies and indicated it would consider
5 together with the AASSD, MASSD, and FACE Plans) will be filed together with the
6 Special Master’s recommendations concerning the AASSD and MASSD plans. (*See*
7 12/3/19 Order at 3:18-20; 11/18/19 Order (Doc. 2363) at 6:9-13.) For reasons the
8 Mendoza Plaintiffs do not understand, the District did not seek a concomitant delay in the
9 filing of a revised FACE Action Plan so that it could address the Special Master’s
10 proposed revisions to the AASSD and MASSD plans and report and recommendation
11 concerning the ELL Plan. Instead, its filing attaches and discusses the departmental plans
12 and activities that the Court has ordered be revised and reassessed. (*See*, Family and
13 Engagement Plan filed December 9, 2019 (“12/9/19 FACE Plan”) (Doc. 2391-1, Exhibit A
14 at 15, 16 and Doc. 2391-1, Exhibits 10 and 11.) Mendoza Plaintiffs respectfully suggest
15 for the sake of party and Court efficiency going forward that consideration of the 12/9/19
16 FACE Plan be deferred and that the District be ordered to revise and file that further
17 revised plan after all objections to the soon to be filed MASSD and AASSD plans and the
18 ELL Plan have been resolved so that the FACE Plan before the Court can then accurately
19 reflect what will be the on-going work of those departments and family engagement efforts
20 directed to the District’s ELL students.
21

22 Because they cannot be sure that the Court will adopt their suggestion to defer
23 consideration of the 12/9/19 FACE Plan and because they are hopeful that the District will
24 take to heart their comments about the 12/9/19 FACE Plan if it is directed to revise the
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1 plan once again after the MASSD and AASSD plans have been finalized, they offer the
2 following objections and observations about the 12/9/19 FACE Plan (that do not relate to
3 its references to the MASSD and AASSD departments).

4 While Mendoza Plaintiffs see some improvement in the revised 12/9/19 FACE Plan
5 from the August 30, 2019 FACE Plan (“8/30/19 FACE Plan”) (Doc. 2262-1, Exhibit A)
6 that was the subject of the 12/3/19 Order, they remain concerned that the FACE Plan does
7 not yet sufficiently detail the interconnectivity of the District’s departments that engage in
8 family engagement activities, particularly with respect to departments charged with
9 engagement efforts but with respect to which there exists no USP plan. Moreover, the
10 TUSD cross departmental activity chart fails to conform to the mandates of this Court’s
11 12/3/19 Order and therefore does not provide the clarity this Court sought.

12 As this Court knows, family and community engagement is an area on which
13 Mendoza Plaintiffs have been particularly focused because they believe that family
14 knowledge of and involvement in the District’s integration and academic achievement
15 efforts are critical to ensuring that, once the District has been released of Court
16 supervision, the District remains accountable and progress attained under the USP is not
17 reversed. For these reasons, Mendoza Plaintiffs request that this Court find that the
18 District has yet to comply with its 12/3/19 Order, and that it require the District to further
19 revise the FACE Plan as detailed below.
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Argument

Notwithstanding This Court’s Clear Directive on the Need for Clarification With Respect to TUSD Departments With FACE Responsibilities but no USP Plan, TUSD has Wholly Failed to Provide Additional Information on These Departments’ FACE Activities or the FACE Department’s Role in Them

In the 12/3/19 Order, this Court focused its attention on the interconnectivity of departments conducting family and community engagement events and ordered the District to revise its FACE Plan to provide clarification on such interconnectivity. This Court further stated the following:

The District’s FACE Plan... reflects that the FACE Department plays a role for the following departments: language acquisition, health services, counseling, and curriculum and instruction.² The District *shall clarify where these other departments’ FACE activities fit into the USP* and revise as necessary the related USP Plans to reflect the context of the primary FACE responsibilities being performed by these departments... *Clarity is especially important in the FACE Plan for any “other departments,” like the Language Acquisition Department, if there is no USP Plan expressly referenced for details.*

(12/3/19 Order at 4:15-20, 5:18-20; emphasis added; internal citations omitted.)

Notwithstanding the Court’s clear directive regarding revisions to the 8/30/19 FACE Plan and the portion of its Order contemplating the need to revise other USP

² Mendoza Plaintiffs note that beyond the departments this Court expressly cited as conducting family engagement activities, the District’s 8/30/19 FACE Plan also cited the following departments as receiving unspecified support from the FACE department: Communications and Media Relations, Asian Pacific American and Refugee Student Services, Native American Student Services, Guidance and Counseling, Title I/Grants and Federal Programs, Culturally Relevant Pedagogy and Instruction, Multicultural Curriculum, Language Acquisition and Meaningful Access, Language Arts, Math, Social Studies, Fine Arts, Interscholastic, Student Health Services, Food Services, Transportation. (Doc. 2262-1 at 13.) Mendoza Plaintiffs understand that, to the extent these departments’ family engagement activities further USP purposes, explanation of such department activities are within the scope of the Court-ordered clarification.

1 implementation plans besides the FACE Plan itself to accomplish that directive³, the
2 12/09/19 FACE Plan provides no additional explanation or clarification concerning these
3 departments' family and community engagement activities or how those "activities fit into
4 the USP." (*Compare* 12/9/19 FACE Plan at 11-12 *with* 8/30/19 FACE Plan at 11-14.)
5 Because the District has not provided any additional clarification, the 12/9/19 FACE Plan
6 includes only the 8/30/19 general statements concerning the FACE department support to
7 "plan and implement events" and that such support may involve providing a location, child
8 care, and transportation for events.⁴ Plainly such general statements would fail to provide
9 TUSD families and the community with an understanding of the nature of TUSD
10 departments' family engagement activities, how they "fit into the USP", or the FACE
11 department's role in supporting these other departments' efforts.
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14 For these reasons, the Mendoza Plaintiffs respectfully request that this Court find
15 that the District has failed to follow its 12/3/19 Order, and that it order the District to make
16 further revisions to the 12/9/19 FACE Plan as detailed above.
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20 ³ "IT IS FURTHER ORDERED that if necessary, the District shall simultaneously submit
21 any requests for related amendments to any approved USP Plans or simultaneously file a
22 Revised USP Plan for any USP Plan pending approval." (Doc. 2386 at 8:6-8.)

23 ⁴ The sole exception regards TUSD's description of the "TELL ME MORE" Workshops
24 that are led by the Curriculum and Instruction Department ("C&I") (12/9/19 FACE Plan at
25 12). While the description leaves unclear whether the FACE department supports C&I
26 only with respect to these workshops, Mendoza Plaintiffs note that the description details
27 that the workshops inform parents on how to support their children's learning including
28 through CRP and dual language presentations (and thus some understanding of how they
"fit into the USP" is provided), and that the FACE Department supports C&I through
production of short promotional videos. Mendoza Plaintiffs respectfully submit that this
description of C&I's engagement efforts and the FACE department's role in supporting it
is the type of clarification the District should provide for all the referenced departments
involved in family engagement with FACE department support and for which there is no
USP plan.

1 ***The Cross Departmental Activity Chart Fails to Conform to the Requirements of***
2 ***This Court’s 12/9/19 Order***

3 In the 12/9/19 Order, this Court ordered the following revisions to the District’s
4 chart detailing cross-departmental FACE activities:

5 [I]nclude a key defining the various abbreviations and explain any chart
6 categories that are not self-evident. The District in some instances
7 identifies multiple departments as the primary department responsible for
8 an activity. There may be only one Primary Department, and the District’s
9 definition of “Primary Department” shall coincide with the FACE Plan’s
10 identification of District FACE activities or some “other department” by
11 reference to a USP Plan for details of those FACE activities...

12 (12/9/19 Order at 5:22-6:4.)

13 While the most recent cross-departmental activity chart (Doc. 2391-1, Exhibit 5 to
14 Exhibit A) appears to be different from the version of the chart filed on 8/30/19, the
15 12/9/19 chart fails to address most of this Court’s directives.⁵ Mendoza Plaintiffs do not
16 see a key defining any abbreviations, something they believe is important given that many
17 departments are abbreviated in a way that may not be clear to the public (*e.g.*, “LAD”,
18 “CTE”, “C&I”). The District’s submission further provides no explanation of chart
19 categories even though the public would benefit from an explanation of event types that
20 are used (“Academic, Behavioral, F&C outreach”) and a description of the distinction
21 between primary and supporting departments.

22 Moreover, there remain many entries in the 12/9/19 cross departmental activity
23 chart (indeed, more than was true with respect to the 8/30/19 version of the chart) that cite

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25 ⁵ Mendoza Plaintiffs additionally note that it appears the District misunderstood this
26 Court’s directive that it file a version of the chart that is “in large enough print, at least 10-
27 point font, to be read....” (12/3/19 Order at 5:22-23.) This Court was plainly interested in
28 reviewing legible printouts of the chart, something Mendoza Plaintiffs also believe is
important to facilitate family or community members’ review of the chart if they access it
in paper format.

1 multiple departments as the “primary department”, in conflict with this Court’s clear order:
2 “There may only be one Primary Department....” (Doc. 2386 at 6:1.) Perhaps most
3 significantly, the 12/9/19 chart fails to make any reference to existing USP plans that
4 would provide further detail on the activities listed in the chart. As a result of the District’s
5 noncompliance with this Court’s 12/3/19 Order, the District’s submission fails to provide
6 the clarification this Court envisioned and that would assist the public in understanding the
7 District’s family and community engagement activities and TUSD departments’ role in
8 those activities.
9

10 **Conclusion**

11
12 For the reasons set forth above Mendoza Plaintiffs respectfully request the Court to
13 defer consideration of the 12/9/19 FACE plan until the plan can be further revised to
14 incorporate changes to the MASSD, AASSD, and ELL plans that relate to family and
15 community engagement. Should it determine to consider any aspect of the 12/9/19 FACE
16 plan now, they request that it direct TUSD to revise its FACE Plan to comply with this
17 Court’s 12/3/19 Order directives as detailed above, and that it deny the District’s request
18 that it be granted partial unitary status with respect to Section V, II of the USP. In an
19 excess of caution, Mendoza Plaintiffs respectfully invite the Court’s attention to their
20 earlier objections to such requests by the District and to their Motion to Stay (Doc. 2186),
21 expressly incorporate herein the arguments set forth in those pleadings, and also note this
22 Court’s statement when it denied that Motion that it will not again reach the question of
23 unitary status until after the District’s Executive Summary filing and the proceedings
24 relating thereto.
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Dated: December 19, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2019, I electronically submitted the foregoing **MENDOZA PLAINTIFFS' RESPONSE TO TUSD SUPPLEMENTAL NOTICE AND REPORT OF COMPLIANCE: REVISED FACE PLAN (ORDER 2386) [DOC. 2391]** 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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