

1 P. Bruce Converse (#005868)  
[bconverse@dickinsonwright.com](mailto:bconverse@dickinsonwright.com)  
2 Timothy W. Overton (#025669)  
[toverton@dickinsonwright.com](mailto:toverton@dickinsonwright.com)  
3 **DICKINSON WRIGHT PLLC**  
1850 N. Central Avenue, Suite 1400  
4 Phoenix, Arizona 85004-4568  
[courtdocs@dickinsonwright.com](mailto:courtdocs@dickinsonwright.com)  
5 Phone: (602) 285-5000  
Fax: (844) 670-6009

6 Robert S. Ross (#023430)  
7 Robert.Ross@tusd1.org  
Samuel E. Brown (#027474)  
8 Samuel.Brown@tusd1.org  
**TUCSON UNIFIED SCHOOL DISTRICT**  
9 **LEGAL DEPARTMENT**  
1010 East Tenth Street  
10 Tucson, Arizona 85719  
Phone: (520) 225-6040  
11 *Attorneys for defendant*  
*Tucson Unified School District No. 1*

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE DISTRICT OF ARIZONA**

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

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

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

24 **NOTICE AND REPORT ON STATUS OF COMPLIANCE**  
25 **RE GUIDE FOR 910G FUNDING**  
26 **(Order 2349)**

1 By order dated September 10, 2019, the Court directed the District to “identify  
2 District programs that are cross-over services benefitting the Plaintiff classes as well as  
3 the general student population,” and “propose the appropriate ratio” for funding those  
4 programs as between 910G funds and other District funds. [ECF 2272, p. 19.]

5 On September 30, 2019, the District filed its identification of District programs  
6 that are cross-over services, and proposed ratios for funding those programs between  
7 910G funds and other District funds, subject to and without waiving its stated objections.  
8 [ECF 2297 and 2297-2.]

9 The Mendoza Plaintiffs objected (ECF 2331), and the Special Master filed an R&R  
10 regarding the issue in which he recommended that the Court “direct the Special Master  
11 and the budget expert to identify a set of principles based on the agreements that have  
12 been worked out by the parties to the extent possible. These principles should be  
13 submitted to the parties . . . so that they can be applied to the 2020-21 District budget as  
14 it relates to implementing the USP.” [ECF 2337, p. 2.]

15 The Court adopted this recommendation and directed the District to file a Notice  
16 of Compliance regarding a guide for 910G funding for future budgets by December 1,  
17 2019. [ECF 2349, p, 10-11.] The District had not received the guiding principles from  
18 the Special Master by December 1, 2019, and thus requested an extension of time to file  
19 its Notice of Compliance through December 20, 2019. [ECF 2385.] The Court granted  
20 the request. [ECF 2396.]

21 The guiding principles were circulated to the parties by the Special Master’s  
22 budget expert on December 15, 2019. A copy of those guiding principles is attached  
23 hereto as Exhibit A. During the budget conference held in the afternoon on December  
24 16, 2019, counsel for the Fisher and Mendoza plaintiffs declined to comment on or  
25

1 endorse the guiding principles, asserting that they needed more time to review and  
2 consider them. By subsequent e-mail, counsel for the District requested any comments  
3 or concerns about the guiding principles by close of business on Thursday, December 19,  
4 to allow the District to report to the Court today, as ordered. The Mendoza Plaintiffs  
5 provided comments on Thursday evening. A copy of those comments is attached as  
6 Exhibit B. The District did not receive additional comments.

7           The District renews its objections to any process for determining the scope of  
8 910G funding, to the extent that this approach imposes limits on funding other than as set  
9 forth in A.R.S. § 15-910G. [ECF 2297.] The District is not willing to agree to the  
10 Mendoza Plaintiffs’ proposed additions to the guidelines. The District also asserts that  
11 “supplanting,” as that term is used in a budgeting context, does not relate to, or depend  
12 on, which students receive the benefit of a program, but rather is based on whether one  
13 funding source is used to replace another funding source previously used for the same  
14 purpose and at the same level.

15           Nonetheless, the District is willing to work within the outlines of the Special  
16 Master’s proposed guidelines for its budget for the next budget year (SY2020-21), subject  
17 to and without waiving its objections. As a practical matter, the District believes that  
18 funding for only a very few programs this next budget year (SY2020-21) is likely to be  
19 an issue under the guidelines, in the sense that the District’s proposed funding would be  
20 affected by application of the guidelines. The District also believes that, as contemplated  
21 by the Special Master’s proposed guidelines, those few instances can be resolved by  
22 specific negotiations based on the individual circumstances of the programs involved.  
23 The District thus suggests that the parties attempt to resolve issues related to items in the

1 proposed SY2020-21 budget once that specific budget is proposed, and avoid what may  
2 be a largely theoretical dispute leading only to an advisory decision.

3 Dated this 20th day of December, 2019.

4 Respectfully submitted,

5 /s/ P. Bruce Converse

6 P. Bruce Converse

7 Timothy W. Overton

8 **DICKINSON WRIGHT, PLLC**

9 1850 N. Central Avenue, Suite 1400

10 Phoenix, Arizona 85004-4568

11 *Attorneys for Tucson Unified School*

12 *District No. 1*

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**CERTIFICATE OF SERVICE**

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I hereby certify that on the 20<sup>th</sup> 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