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12

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: MIDDLE SCHOOL
REVITALIZATION: K-6 GRADE
RECONFIGURATIONS (DOC. 2393)**

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 The District’s Request Should be Carefully Scrutinized
11 Because it Does not Appear to Further the Primary Purpose for the
12 Proposed Reconfiguration That has Been Articulated by the District
and is not Tailored to Benefit Racially Concentrated Middle Schools

13 As the Mendoza Plaintiffs understand the genesis of the proposal before the Court it
14 began as an effort to address the challenges TUSD sixth through eighth grade middle
15 schools are facing with respect to both academic achievement and discipline and in an
16 attempt to better prepare seventh and eighth grade students for high school across all
17 dimensions – social, academic, and emotional. (*See, e.g.*, April 30, 2019 Governing Board
18 presentation attached as Exhibit A.) That goal is carried forward as the first objective
19 recited in the pending application: “reduce the size of some middle schools to allow a
20 greater level of staff-student focus on improved academics and social-behavioral skills to
21 improve discipline, both of which will help prepare students (socially, emotionally, and
22 academically) for their high school experience.” (Desegregation Impact Analysis:
23 Proposed K-6 Grade Reconfigurations (Doc. 2393-1) (“DIA”) at 1.) However, the “pilot”
24 effort being proposed does not begin with an identification of the middle schools that could
25 most benefit from reduced size and a greater focus on the overall academic and social
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1 experience of its seventh and eighth graders, or that have discipline issues greater than
2 those in other middle schools. Rather, it appears that the District “backed into” its
3 selection of “pilot” middle schools based solely on which K-5 feeder schools had the
4 greatest number of parents who responded to a survey¹ to say they would prefer to have
5 their children attend sixth grade at that feeder school rather than transition at the sixth
6 grade level to the neighborhood middle school.² (See DIA at 2-3 and Notice and Request
7 for Approval: Middle School Revitalization: K-6 Grade Reconfigurations (Doc. 2393)
8 (“NARA”) at 2:10-11.)
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10 The four middle schools expected to experience a reduction in sixth grade
11 enrollment as a consequence of the expansion of K-5 feeder schools are Doolen, Gridley,
12 Magee, and Valencia. In response to an information request by the Mendoza Plaintiffs,
13 during a telephone conference on December 19, 2019, the District confirmed that no
14 consideration had been given to the academic achievement of the students at these schools
15 or to the level of discipline issues at the schools in selecting them to participate in the
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20 ¹ Responses from individual schools varied. At Banks, the number of respondents
21 exceeded the school’s K-5 enrollment because parents of children in its pre-school
22 program also were surveyed. At Maldonado, of 210 families, only three responded. (See
23 Results of the Elementary/Middle School Options Survey 2019-20 Broken Out by School,
attached as Exhibit B and TUSD Enrollment 40th Day 2019-20, attached as Exhibit C. The
District provided an explanation for the size of the reported Banks response during a
conference call with the Special Master and the Plaintiffs on December 19, 2019.)

24 ² Mendoza Plaintiffs acknowledge that another purpose of the proposed reconfiguration is
25 to prepare sixth graders for departmentalized instruction while they are in the familiar
26 environment of their elementary schools and thereby both improve the transition to middle
27 school and reduce the loss of students at this transition point (DIA at 1); however, it does
28 not appear that the District made any attempt to focus the “pilot” on those of its elementary
schools whose students are performing below District averages and who, therefore, would
presumably most benefit from additional preparation before moving into the middle school
environment. Rather, as noted above and stated clearly in the NARA, elementary schools
were selected solely on the basis of “substantial parent interest.” (NARA at 2:10.)

1 “pilot” and reiterated that only parental interest in adding sixth grade to their K-5 feeder
2 schools had been considered in identifying the middle schools to participate in the “pilot”.

3 The NARA states that as a consequence of creating sixth grade classes at the K-5
4 feeder schools participating in the “pilot”, there will be a reduction in the “size of some
5 middle schools to allow a greater level of staff-student focus on improved academics and
6 social-behavioral skills to improve discipline, both of which will help prepare students
7 (socially, emotionally, and academically) for their high school experience...” (NARA at
8 3:13-16.) The DIA states that the “pilot” project will improve the participating middle
9 schools by “creating smaller student communities in each school with a team of teachers
10 serving each student community....” (DIA at 1.) Yet, Doolen’s enrollment is expected to
11 decrease by only 17 students (from 601 to 584) and Valencia’s by 31 (from 810 to 779).
12 (DIA at 10, 11.) It is unclear to the Mendoza Plaintiffs whether such a relatively small
13 decrease in school enrollment will result in “smaller student communities” and a “greater
14 level of staff-student focus on improved academics and social-behavioral skills.” Indeed,
15 if such small reductions are all that is required to have such an impact, it is unclear why
16 that is not already occurring at these two schools since each had significant enrollment
17 decreases without concomitant grade reconfigurations between last school year and this:
18 in 2019-20 the enrollment at Doolen dropped by 52 students from that of the prior year
19 (from 653 to 601) and that of Valencia dropped by 67 students (from 877 to 810).
20 (Compare TUSD Enrollment 40th Day 2019-20, attached as Exhibit C, with TUSD
21 Enrollment 40th Day 2018-19, attached as Exhibit D.) Gridley, which is expected to
22 experience a decline in enrollment of 54 students after its K-5 feeder schools are
23 reconfigured (DIA at 10), lost 70 students between the 2018-19 and 2019-20 school years.
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1 (See Exhibits C and D.) Mendoza Plaintiffs understand that these enrollment numbers
2 illustrate why the District seeks to take actions that will retain more students in its school
3 system; however, they also seem to indicate that the further declines in enrollment that the
4 District intends to create by retaining some sixth graders in their feeder schools will not be
5 sufficiently material for it to embark on a meaningful “pilot” project to “creat[e] smaller
6 student communities in each [middle] school with a team of teachers serving each student
7 community” and “provid[e] alternative learning centers for struggling, middle school
8 students”. (DIA at 1.)³

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10 Of the four schools included in the proposed “pilot” project, one -- Valencia -- is
11 racially concentrated. There are two other racially concentrated middle schools in the
12 District that, unfortunately, also are like Valencia in being “D” schools according to the
13 State of Arizona.⁴ These are Pistor and Utterback Middle Schools. While Doolen, Gridley,
14 and Magee also are poorly performing schools, Mendoza Plaintiffs respectfully suggest
15 that so long as TUSD is subject to the USP (and, indeed, even were it not), the first efforts
16 to reconfigure its middle schools to raise student achievement and prepare students
17 socially, emotionally, and academically for success in high school should be focused on its
18 racially concentrated schools.
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26 ³ Indeed, in the DIA, the District seems to concede that only Magee, which is expected to
experience an enrollment decline of 70 (DIA at 11), will meet the objective of creating a
smaller middle school. (DIA at 10.)

27 ⁴ Mendoza Plaintiffs obtained the school scores from the Arizona Department of
28 Education’s website at azreportcards.azed.gov.

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2020, I electronically submitted the foregoing **MENDOZA PLAINTIFFS' RESPONSE TO TUSD NOTICE AND REQUEST FOR APPROVAL: MIDDLE SCHOOL REVITALIZATION: K-6 GRADE RECONFIGURATIONS (DOC. 2393)** 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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/s/ Juan Rodriguez

Dated: January 6, 2020