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

Roy and Josie Fisher, et al.,
Plaintiffs
and
United States of America,
Plaintiff-Intervenor,
v.
Tucson Unified School District, et al.,
Defendants,
and
Sidney L. Sutton, et al.,
Defendants-Intervenors,

No. CV-74-00090-TUC-DCB

Maria Mendoza, et al.,
Plaintiffs,
and
United States of America,
Plaintiff-Intervenor,
v.
Tucson Unified School District, et al.
Defendants.

No. CV-74-0204-TUC-DCB

ORDER

NARA for Re-opening Wakefield Middle School

1 On November 19, 2019, the Defendant Tucson Unified School District (the
2 District) submitted a Notice and Request for Approval (NARA) to reopen Wakefield
3 school, which it closed in 2013. When closed, Wakefield was a middle school, AZMerit
4 grade D, with 93 percent Latino student enrollment. Reopened Wakefield would be an
5 open access, no-boundary middle school (6-8), featuring a lab school in partnership with
6 the University of Arizona and after-school programming in partnership with Higher
7 Ground, with targeted student recruitment, express bus transportation, and a modified
8 lottery “to improve integration and access for traditionally underserved students seeking
9 preparation for high school ALE programs like University High School, the IB program
10 at Cholla, and the AP program at Pueblo, and all AP and Honors courses at all high
11 schools.” (NARA (Doc. 2373) at 2.)

12 The District submits, reopened, Wakefield would be an integrated high achieving
13 school because of its unique lab school structure, which will enable the District to
14 experiment with new teaching approaches and training of future teachers. As a lab or
15 “demonstration” school, Wakefield will employ a cohort of master teachers, with
16 demonstrated experience and results, working in conjunction with student teachers,
17 creating an environment of high-quality teaching through structured mentoring and job-
18 embedded training for student teachers, with an eye towards developing teachers to grow
19 the pool of teachers to teach in TUSD schools. The District will offer the Higher Ground
20 program and Lapan College Club at Wakefield to promote its goal of high academic
21 achievement.

22 The District proposes to address its need to strengthen GATE ALE offerings at the
23 middle school level; currently it reports “one middle school program (resource GATE).”
24 (NARA (Doc. 2373) at 5.) The Court notes, however, that in all middle schools, all
25 GATE identified students receive either core or enrichment classes, i.e., Resource GATE.
26 (Order (Doc. 2123) at 60.) In 2018, when the Court addressed unitary status in respect to
27 the various USP programs, it found the following:
28

1 There are 10 middle schools. Of these, Utterback and Valencia are Racially
2 Concentrated schools. All have Resource GATE programs, except Magee,
3 and all have Dual Credit (MS-HS) programs, except Secrist. All have a Pre-
4 AP Honors program, except Dodge (INT). All have a Pre-AP Advanced
5 program. *Id.* at 20. Three even have Self-contained GATE programs:
6 Doolen, Pistor (RC) and Vail (INT), with Pistor (RC) being a Dual
7 Language ALE.

8 *Id.* at 62 (citing (Revised ALE USP RAC (Doc. 2092-1) at 20). In 2013, the Court found
9 that the District's greatest need was to improve delivery of GATE and ALE programs at
10 K-8 schools for middle school grades 6-8 because only half of the K-8 schools had
11 Resource GATE programs and many lacked Advanced Academic Credit (AACs) and
12 dual credit classes. *Id.* at 71-75. In short, the focus was on improving access for middle
13 school grades (6-8) in K-8 schools. The District will reopen Wakefield as a middle
14 school, not a K-8 school.

15 The District proposes to spend approximately \$2-2.5 million to reopen the school,
16 which would initially enroll 80 to 150 students and eventually build out to serve
17 approximately 400 students. Phase one, the renovation of the school to accommodate the
18 first sixth grade class, will cost approximately \$1.5 million dollars. Plaintiffs object.
19 Both believe that the District should spend its limited resources to improve the existing
20 schools, especially Utterback Middle School, which is a D school according to the 2018
21 AZMerit grade.

22 According to the Plaintiffs, the demographics which warranted the closing of
23 Wakefield Middle School in 2013 has not changed. For example, in 2013 when the
24 District sought approval from this Court to close Wakefield, the District estimated that
25 surrounding schools would receive students from the closed Wakefield and have capacity
26 for anticipated student-bodies, as follows: Hollinger (K-8) would have 760 students, but
27 in 2018, it has 564 students; Pistor (6-8) would have 1033 students, but in 2018 it had
28 784, and Utterback (6-8) would have 682 students, but in 2018 it had 362 students. In
29 short, the Plaintiffs complain that the surrounding middle schools are under-capacity, and
30 it makes no sense to open a new school when these existing schools need more students

1 and more money. Reopening Wakefield is contrary to both and will draw needed
2 resources and students away from these schools, and only serve to demoralize the
3 surrounding schools. Furthermore, they challenge the District's demographic comparison
4 to Dodge Middle School in estimating Wakefield's ability to draw Anglo students for
5 integration purposes.

6 The District replies that Wakefield will be a small no boundary school and,
7 therefore, will not draw students away from Utterback and other area schools where
8 students traditionally attend their neighborhood school. The Mendoza Plaintiffs
9 specifically asked the District why it was not proposing to implement the demonstration
10 school "at a school like Utterback that could benefit from such a teacher program
11 particularly in light of its dropping student enrollment?" (Mendoza Objection, RFI #13
12 (Doc. 2390-3) at 3.) The answer to this question is important because Utterback, a D
13 school, needs improved student achievement, and students at the demonstration school
14 "will have an extraordinary ratio of teachers to students and the students should benefit
15 therefrom." (R&R (Doc. 2394) at 2.)

16 The District explains that it examined the possibility of incorporating this program
17 at Utterback, but this is the type of program that is built best from the ground-up in this
18 case one grade at a time." The District claims that this is not possible at an existing
19 school that already enrolls students and already employs teachers. Because it would have
20 to displace many existing teachers to make room for the new master teachers and student
21 teachers." *Id.* "Furthermore, Utterback is already working towards becoming the
22 District's first full AVID middle school and it is making gains in academic achievement
23 over the past year with new leadership." The District does not want to disrupt what is
24 happening at Utterback by introducing an entirely new program and model to the school.
25 *Id.*

26 The Special Master recommends that the Court approve the reopening of
27 Wakefield because the demonstration school is a golden opportunity for the District to
28 grow its teachers, both in numbers and professional expertise and, simultaneously,

1 provide a stellar learning environment for students. The Special Master does not,
2 however, address whether this same opportunity might exist at Utterback. The Court
3 notes that Utterback is similarly situated in proximity to the University of Arizona as
4 Wakefield, is similarly a middle school grades 6-8, has a small student population, with
5 sufficient capacity for the demonstration school. The Court would be remiss to grant this
6 NARA, which will divert millions of dollars and resources from struggling schools, to
7 reopen a school which recently was closed based on demographics which in large part
8 have not changed. While it may be easier to build from the ground-up, this advantage
9 may be offset by the imposing “con” of \$2.5 million for placing the demonstration school
10 at Wakefield. The Court has no information regarding the AVID plan for Utterback and
11 whether it may fit, or not, within the demonstration school in part or in whole. The
12 Special Master shall closely scrutinize the demonstration school plan in the context of the
13 needs at Utterback and recommend whether locating it there would serve the dual
14 purpose of creating a demonstration school in the District and improving the quality of
15 education for students at Utterback. If not, he shall explain why.

16 The Special Master shall review the Mendoza Plaintiff’s proposal to place the
17 demonstration school at Utterback and report back to the Court. In the event the Special
18 Master recommends that spending \$2.5 million is justified to reopen Wakefield as the
19 demonstration school rather than utilizing Utterback, the Court is prepared to approve the
20 NARA, with the contingencies and directives requested by the Mendoza Plaintiffs and
21 the Special Master.

22 **Accordingly,**

23 **IT IS ORDERED** that the Special Master shall have five days from the filing date
24 of this Order to supplement his Report and Recommendation (2394) to expressly address
25 the pros and cons of placing the demonstration school at Utterback versus Wakefield.

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1 **IT IS FURTHER ORDERED** that there shall be no further briefing by the
2 parties, without leave of the Court.

3 Dated this 22nd day of January, 2020.

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Honorable David C. Bury
United States District Judge