

TUCSON UNIFIED SCHOOL DISTRICT

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Attorneys for Tucson Unified School District No. 1

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

<p>Roy and Josie Fisher, et al., Plaintiffs,</p> <p>v.</p> <p>Tucson Unified School District No. 1, et al., Defendants.</p>	<p>4:74-cv-00090-DCB (Lead Case)</p>
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<p>Maria Mendoza, et al. Plaintiffs,</p> <p>v.</p> <p>Tucson Unified School District No. 1, et al., Defendants.</p>	<p>CV 74-204 TUC DCB (Consolidated Case)</p>
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TUSD REPLY TO MENDOZA PLAINTIFF RESPONSE [ECF 2410]
RE MIDDLE SCHOOL REVITALIZATION: K-6 GRADE RECONFIGURATIONS

Tucson Unified School District – Legal Department
1010 East 10th Street, Room 24
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1 The Tucson Unified School District, No. 1 (“TUSD” or the “District”), hereby submits
2 this Response to the Mendoza Plaintiffs’ Response related to the District’s Notice and
3 Request for Approval (NARA) to pilot a K-6 option at select elementary schools to improve
4 school choice options and to reduce the size of some pilot middle schools.

5 Neither the Department of Justice, the Fisher Plaintiffs, nor the Mendoza Plaintiffs
6 have filed any objection to the proposal. The Mendoza Plaintiffs ask the Court to follow the
7 existing process: scrutinize the District’s proposal and seek the Special Master’s input. This
8 request merely restates the existing NARA process: The Court carefully scrutinizes every
9 NARA and, through the Report and Recommendation, it receives the Special Master’s input
10 on the educational purpose and likely outcomes of the NARA.

11 **1. Modified Proposal**

12 As sometimes occurs with NARAs, the District may modify its proposal in response
13 to concerns or objections. Due to a multitude of factors, including consideration of the
14 Mendoza concerns, the District modifies its proposal as described below.

15 The NARA included nine elementary schools that would potentially convert from K-
16 5 elementary schools to K-6 elementary schools, with primary impacts at four middle schools,
17 Doolen, Gridley, Magee and Valencia. The District now modifies its request to include only
18 three elementary schools, two of which feed into a racially concentrated middle school
19 (Valencia MS), and the other of which feeds into a diverse middle school with an African
20 American population that is twice the size of the District average (Doolen MS¹).

21 Banks ES is integrated school; Oyama is racially concentrated; Davidson is neither.
22 The conversions are not expected to significantly impact academics or school climate at either
23 of these schools, they are designed to give students another year to prepare for success at
24 Doolen and Valencia. As stated in the DIA, this proposal will not significantly affect
25 surrounding schools or negatively impact the District’s ability to fulfill its USP obligations.

26
27 ¹ Doolen is a diverse middle school with a critical mass of three different race/ethnic groups: Anglo
28 (23%), African American (19%), and Hispanic (42%).

1 **2. The Modified Proposal Addresses Mendoza Concerns about Selected Schools and**
 2 **Should be Approved Over the Mendoza Plaintiffs' Proposed Redesigned Pilot**

3 The District's modified proposal is tailored to benefit a racially concentrated middle
 4 school and a middle school with a high African-American student population. The modified
 5 proposal addresses Mendoza Plaintiffs' concern that the genesis of the K-6 pilot was a
 6 districtwide effort. Mendoza Plaintiffs suggest a pilot redesigned focused solely on racially
 7 concentrated middle schools. Notwithstanding that the District's original request *already*
 8 included the District's second-largest racially concentrated middle school, Valencia², the
 9 District opposes the Mendoza proposal for several reasons.

10 The Mendoza proposal seeks to do what the District has already done: consider
 11 piloting the K-6 conversion near racially concentrated middle schools. The District
 12 considered piloting K-6 conversion near all TUSD middle schools. Then, rather than
 13 focusing only on the areas around three racially concentrated middle schools, the District
 14 utilized data-based decision-making to propose pilot sites. Sites were determined after an
 15 evaluation of parent survey responses, "space availability, 5th through 8th grade capture rates,
 16 and other factors" (such as parent survey data). NARA, ECF 2393 at 2:11-13. The District
 17 did not, as argued, "back into" its school decisions – it relied on data and analysis about which
 18 schools would be the best to *pilot*. A conversion to K-6 does not have a likelihood of
 19 succeeding if most of the parents in the area do not prefer the K-6 configuration. Mendoza
 20 Plaintiffs argue "no consideration had been given to the academic achievement of the students
 21 at these schools or to the level of discipline issues at the schools" *in selecting them for the*
 22 *pilot.*" (ECF 2410 at 3-4). From our point of view, the entire middle school revitalization
 23 effort is directed at improving academics and discipline at all TUSD middle schools, so the
 24 primary determining factor in this proposal was not which school needed it most, it was which
 25 schools were the best candidates to *pilot* the strategy.

26 _____
 27 ² The District's DIA noted, "the District is providing [K-6] options in this area to respond to parent
 28 preferences and to help support the transformation of Valencia Middle School to a small
 community, teacher-team learning environment." DIA, ECF 2393 at 5.

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1 The District is engaged in school improvement efforts at all of its middle schools but
2 particularly at Pistor and Utterback, the only other racially concentrated middle schools
3 besides Valencia. However, as the strategy of K-6 conversion was not met with great interest
4 from parents in those communities, and as capacity limited K-6 options in some nearby
5 elementary schools, the District developed and is implementing other strategies to improve
6 academics and school climate at those sites.

7 In addition, the District’s modified proposal would benefit schools with high Hispanic
8 and high African American student populations; the Mendoza proposal would focus only on
9 racially concentrated schools, excluding schools with high African-American student
10 populations. Utterback and Pistor enroll a combined African American student population
11 of 60 students, and the *lowest* percentage of African American students at the middle school
12 level at six and seven percent, respectively. In contrast, Doolen has the *highest percentage*
13 of African American students at the middle school level, and the *highest number* of African
14 American students at the middle school level (116) – it also enrolls 254 Hispanic students.

15 **Conclusion**

16 For the reasons stated above, and those outlined in its Notice and Request for Approval,
17 the District respectfully requests approval to initiate the requested grade conversions at
18 Oyama ES, Banks ES, and Davidson ES as part of the District’s middle school revitalization
19 efforts to *pilot* the K-6 strategy for academic and behavioral improvements at Valencia MS
20 and Doolen MS for the 2020-21 school year.

21 Respectfully submitted on January 28, 2020.

22 **TUCSON UNIFIED SCHOOL DISTRICT**
23 **LEGAL DEPARTMENT**

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Certificate of Service

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2 **ORIGINAL** of the foregoing filed via the CM/ECF Electronic Notification System and
3 transmittal of a Notice of Electronic Filing provided to all parties that have filed a notice of
4 appearance in the District Court Case.
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7 s/ Samuel E. Brown
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