



1 Subject to and without waiving its objections previously stated and referenced  
2 herein, the District hereby replies to the Mendoza Plaintiffs' response and objection  
3 (ECF 2547) to its Third Supplemental Notice and Report of Compliance related to  
4 magnet and non-magnet academic plans and School Integration Plans (ECF 2530).

5 There are almost no objections to the actual substance of the plans, other than the  
6 following three complaints:

7 (1) the Targeted Academic Improvement Plans (TAIPs) and Student  
8 Achievement Action Plans (SAAPs) do not expressly state the obvious: multiple goals  
9 included in each plan are designed to move school letter grades to at least a C or C+,

10 (2) the TAIPs which are incorporated into the Magnet School Plans (MSP) do  
11 not repeat information included in the MSP or explain how they align to the MSP,

12 (3) the SAAPs are targeted towards specific identified gaps and needs at each  
13 school but should instead include the same comparable assessments and strategies.<sup>1</sup>

14 When the District submitted what the Court characterized as broad, generalized  
15 non-magnet achievement plans, Mendoza Plaintiffs argued the plans were not specific  
16 enough. Based on guidance from Dr. Hawley's recommended expert, Dr. Smylie, the  
17 District has submitted specific, meaningful action plans and Mendoza Plaintiffs now  
18 object that the plans lack broad, general categories and repetitive goals. Noticeably,  
19 there are no objections – from any plaintiff – about the plans' research-based strategies  
20 or the actual targeted academic goals designed to improve academic achievement. All  
21 of this was achieved by central and school staff, in collaboration with Dr. Smylie, in less  
22 than 90 days through the middle of opening online schools during a global pandemic.

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23 <sup>1</sup> The Mendoza response also include other unsubstantiated claims, such as the Magnet Director  
24 and Magnet Coordinators, did not participate in plan development and will not be involved in  
25 implementation. Those false claims are addressed below and in the attached declaration.

1 **A. THE MAGNET DIRECTOR WAS INVOLVED IN PLAN**  
2 **DEVELOPMENT AND WILL BE INVOLVED IN SCHOOL**  
3 **OVERSIGHT.**

4 The magnet director, the magnet department, and magnet coordinators  
5 participated in the development of the TAIPs and will be involved in most if not all  
6 aspects of implementation and monitoring. As stated in the District’s Notice, the plan  
7 development “process involved **a team of central District staff**, all seven Assistant  
8 Superintendents, and the principals of the 20 schools at issue” (3<sup>rd</sup> Supp. Notice, ECF  
9 2530 at 4:8-9). Other than Assistant Superintendents, the notice did not specifically  
10 reference any central staff members. The lack of a specific reference does not indicate  
11 lack of involvement: more than a half dozen key central administrators participated in  
12 TAIP development but were not mentioned by name or by title – including the magnet  
13 director and magnet coordinators. **See Ex. 1, Decl. of Janna Acevedo, ¶¶2-3.**  
14 Mendoza Plaintiffs also assume that because the plans do not include the phrase  
15 “Magnet Coordinator” in the charts that assign responsibilities, that the coordinators  
16 will not be involved in implementation. The Magnet department and coordinators will  
17 be involved in the implementation and monitoring of each plan. **Id. ¶3.**

18 This complaint is simply wrong, and the objection should be overruled.

19 **B. THE DISTRICT COMPLIED WITH THE COURT’S ORDER TO**  
20 **DEVELOP TARGETED ACADEMIC PLANS TO SUPPLEMENT**  
21 **EXISTING MSPs.**

22 The Court ordered the District, specifically, to develop a **targeted** academic  
23 improvement plan “to be incorporated into the MSP...” (Student Assignment Order,  
24 ECF 2486 at 10:15-17). The “targeted improvement plan approach, set out in the 3-  
25 Year PIP, CMP ...” (*Id.* at 11:4), and adopted by the Court in its June 2020 Order, is by  
definition designed to be a focused plan, targeting specific academic deficiencies. This

1 point is made clear in the CMP itself: “*The [targeted] plan must focus on targeting and*  
2 *improving those academic factors that led to the categorization of the school at*  
3 *Academic Level 3.*” (CMP, ECF 2517-1 at 14).

4 The TAIPs are not meant, by the CMP or by Court Order, to be all-encompassing  
5 plans touching on every aspect of each magnet school’s operation that influences  
6 academic achievement, as described by the magnet director:

7 The TAIPs were developed as supplements to the existing Magnet School Plans  
8 (MSPs) for these three schools. Because the TAIPs were developed as supplements  
9 to the MSPs, and because we were directed to create targeted plans, we did not  
10 repeat in the TAIPs information related to academic components of each school’s  
MSP (e.g. theme integration, family engagement, or other components of magnet  
operation that also impact academic achievement).

11 The TAIPs were developed as targeted academic plans – targeted towards  
12 identifying, addressing, and improving gaps in academic performance. The plans  
13 called for an assessment of the difference between goals for student outcomes and  
14 where students are in the attainment of those goals. The targeted plans were not  
15 designed as comprehensive school improvement plans that include components  
like magnet course evaluations, evaluations of the efficacy of magnet theme  
curriculum or pedagogy, or assessments of each magnet theme’s contribution to  
academic achievement.

16 **Ex. 1, ¶¶4-5.** In plans designed to target specific academic factors that led to a low  
17 letter grade, one would not expect detailed analyses or discussions about how a school’s  
18 theme and curriculum could be more effectively implemented –where those types of  
19 issues are *already addressed* in the magnet site plan that each TAIP supplements.<sup>2</sup> The  
20 District developed targeted plans as directed by the particularly Court and as designed

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22 <sup>2</sup> The plans are intended to be “school-specific, based on the needs, implementation strategy,  
23 **and/or** focus areas of each particular school.” (TUSD Notice at 4:2-3; emphasis added.). This  
24 sentence does not, as interpreted by the Mendoza Plaintiffs, mean that each plan must be based  
25 on a school’s particular focus area (though a plan may be so focused, thus the use of “and/or”  
rather than “and”), or that the term “focus area” refers to a magnet theme or program (rather than  
to particular academic factors that led to its low state letter grade).

1 by the CMP. The absence of an assessment of the impact of a school's magnet theme  
2 and curriculum on achievement are not plan failures, neither is the absence of  
3 assessments on the impact of family engagement, culturally responsive pedagogy,  
4 inclusive school environments, teacher experience, student socio-economic status, or a  
5 host of other factors that are known also to impact student achievement.

6 The type of comprehensive plan described by the Mendoza Plaintiffs' objection  
7 would have run counter to the Court's Order and would not have aligned with the  
8 CMP's clear directive to create targeted plans based on indicators that led to the low  
9 letter grade that would be then incorporated into (supplement) the magnet school plan.

10 **C. THE TAIPs ALIGN WITH THE CMP AND MSPs**

11 Mendoza Plaintiffs argue that the TAIPs are not aligned with the CMP goals –  
12 based on the false assumption that the magnet director and department were not  
13 involved in plan development.

14 The CMP is the overarching guide for all magnet schools and programs; the MSP  
15 is the specific, annual plan for each magnet school; and the TAIP (for these three  
16 schools) is *incorporated* into the MSP. All three plans are written for use by central and  
17 school staff who are intimately familiar with all three plans. The goals and processes  
18 stated in the CMP and MSP do not need to be restated again in the TAIP to establish  
19 alignment. The magnet department reviewed each plan with each school's principal and  
20 ensured that the TAIPs were aligned to the MSPs. **Ex. 1, ¶6.**

21 The idea that the plans are not aligned simply because they do not repeat content,  
22 or include express statements of alignment, fails as illogical. Likewise, each school team  
23 engaged with Dr. Smiley and District leadership in focused assessments of the academic  
24 deficiencies that led to each school's low letter grade, leading to the development of

1 research-based strategies designed to address those deficiencies and improve the school  
2 letter grades. Thus, the express purpose of each plan is to reach the criteria set in the CMP  
3 for magnet continuation or, at the very least, to make substantial progress to justify magnet  
4 continuation. This purpose has been reviewed multiple times with each school's  
5 leadership team, central support staff, and relevant regional superintendents. **Ex. 1, ¶7.**

6 The plans set SMART (Strategic, Measurable, Attainable, Results-oriented, and  
7 Timely) goals based on identified student academic performance needs at each grade or  
8 course level rather than broad, general goals. Broad goals, like "all schools should earn a  
9 MagnetMerit B or higher" are well-known, understood, and the subject of ongoing  
10 discussions with school teams throughout the school year. The SMART goals in the  
11 targeted academic improvement plans are more strategic and are designed to target  
12 identified gaps in content learning at each grade or course level with a measurable  
13 outcome and within a reasonable time. **Ex. 1, ¶8.**

14 The CMP goals represent a given destination; the MSPs and incorporated TAIPs  
15 include targeted actions serving as milestones towards reaching that destination. District  
16 leadership and staff treat both components as part of a whole, not as separate components.  
17 The absence of a specific explanation for how each component of each MSP aligns with  
18 each component of each TAIP (or the absence of the CMP goals repeated in the TAIP)  
19 does not rise to the level of a plan "failure," but in fact represent alignment with the  
20 CMP which requires the TAIP be incorporated into the MSP.<sup>3</sup> This objection should  
21 not be sustained.

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22 <sup>3</sup> Mendoza Plaintiffs also incorrectly assert that components listed in a school's MSP that are not  
23 also referenced in its TAIP *are evidence of non-alignment*. This is merely evidence that the  
24 District followed the CMP and developed a targeted academic plan to supplement the MSP. They  
25 assert that, "[a]bsent an alignment of the two plans, there is no assurance that these important  
actions will continue to be pursued particularly because they have not been called out in the  
improvement plan as evidence against which progress will be measured." If a plan is incorporated  
into another plan, there is no reason to repeat every plan component in both plans – or to expressly

**D. THE STUDENT ACHIEVEMENT ACTION PLANS FOR NON-MAGNET SCHOOLS COMPLY WITH THIS COURT’S DIRECTIVE**

The District has complied with this Court’s directive to develop student achievement action plans (SAAPs) for non-magnet schools with AZMerit grades below a “C”. The goal for SAAPs is to improve academic achievement at D and F schools. Mendoza Plaintiffs take issue with the expert-recommended, targeted goals because it does not include a general, overall goal for all schools to earn at least a “C”. This seems so fundamental that it need not be said, but apparently must be repeated: no school wants a D or F label, all schools strive to earn an A or B grade. Repeating this obvious fact in each plan adds no value for the stakeholders who will implement the plan.

Schools followed the guidance of the expert recommended by Dr. Hawley in setting specific, measurable, attainable, results-oriented, and time-bound (SMART) goals designed to improve student achievement. School improvement generally happens in steps: a school might go from a low F to a high F in year one, to a mid-level D by year two, and so on until earning a C grade by year three or four (there are, of course, exceptions). Thus, Dr. Smylie recommended the use of SMART goals in favor of general goals so schools would focus on immediate actions and strategies.

Mendoza Plaintiffs also seem to take issue with the fact that schools developed a varied set of achievement goals. This is to be expected where schools followed Dr. Smylie’s guidance in identifying their unique academic deficiencies and learning gaps and developing strategies to address those gaps and deficiencies. Mendoza plaintiffs attempt to list the goals of different schools of varying sizes, for different cohorts of students in varying grade levels, apparently in an attempt to show that the goals across schools are not consistent. However, such unique goals should not be consistent across

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describe plan alignment in either plan. Such duplication is unreasonable and unnecessary.

1 schools, they should be – and are – tailored to the specific needs and gaps of each  
2 school, as directed by Dr. Smylie.

3 Similarly, Mendoza Plaintiffs object that the plans do not all include the same  
4 gap analysis and focused strategies – implying a desire for all the plans to include the  
5 same analysis and the same strategies. This approach directly contradicts Dr. Smylie’s  
6 template, instruction, and guidance for schools to identify their specific gaps and  
7 deficiencies before developing a plan to address those specific needs. Mendoza  
8 Plaintiffs confuse “equity” with “equality” – the former represents the District’s and Dr.  
9 Smylie’s approach (identify what each school needs and implement strategies targeting  
10 those needs), the latter represents the Mendoza approach (each school should have the  
11 same analyses, broad goals, and strategies). TUSD uses a multi-tiered system of  
12 supports for students because research shows different students require differentiated  
13 learning opportunities and varying levels of support. The same is true for struggling  
14 schools: research does not support a one-size fits all approach to school improvement.

15 **Conclusion**

16 For the reasons stated above, the District respectfully requests that the Court  
17 overrule the Mendoza objections and find, as demonstrated above, that the District has  
18 complied with this Court’s June 2020 Order [ECF 2486].

19 **DATED** this 21<sup>st</sup> day of October, 2020.

20 Respectfully submitted,

21 /s/ Samuel E. Brown

22 Robert S. Ross (#023430)

23 Samuel E. Brown (#027474)

24 **TUCSON UNIFIED SCHOOL DISTRICT**  
25 **LEGAL DEPARTMENT**



**CERTIFICATE OF SERVICE**

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I hereby certify that on the 21<sup>st</sup> day of October, 2020, I electronically transmitted the attached 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/ Samuel E. Brown