

## FINAL BUDGET RESPONSES

On May 6, 2016 the District submitted the Draft 3 USP Budget to the Special Master and Plaintiffs. The plaintiffs then had twenty business days to send comments and/or objections. After its submission of Draft 3, the District did not receive any “continuing objections” from the Fisher Plaintiffs or from the Department of Justice. The Mendoza Plaintiffs submitted comments and objections on June 6, 2016 – twenty business days from May 6, 2016. (See Attachment A, June 6, 2016 Memo from the Mendoza Plaintiffs)

Up to ten business days after receipt of the plaintiff comments and/or objections on Draft 3, the budget process [ECF 1915] requires the Special Master to submit **“any suggestions for modification related to proposed allocations reflected in Draft #3 to the District.”** The Special Master submitted his suggestions for modification (recommendations) on Tuesday June 21, 2016. (See Attachment B, June 21, 2016 Memo from the Special Master.)

After reviewing the Mendoza comments and objections, and reviewing the Special Master suggestions for modification, the budget process requires the District to:

*...provide[] a copy of the “Final Draft” – 2016-17 Proposed USP Budget that will be considered by the Governing Board with any allocation revisions using the Final Draft format for each tracked activity. Any changes from Draft #3 and other previous drafts shall be noted in the same way as described in previous formats.*

*TUSD Governing Board action on the 2016-17 Proposed USP Budget. Any continuing objection by the plaintiffs shall be noted separately and provided to the Governing Board for consideration.*

[ECF 1915 at 11].

As required, the District provides below:

- I. A list of “continuing objections” submitted by the Mendoza Plaintiffs (Attachment A)
- II. “Suggestions for modification” (recommendations) submitted by the Special Master (Attachment B)

In addition, the District provides:

- III. Responses to Mendoza Plaintiff comments that were not identified as “objections”

## I. MENDOZA PLAINTIFFS' CONTINUING OBJECTIONS (Attachment A)

### Objection 1: Allocations for Technology PD [Activity Code 903]

Mendoza Objection: “Mendoza Plaintiffs believe the District must fully explain what its Technology PD plans are for the 2016-17 school year. **Because such an explanation is required for Mendoza Plaintiffs to understand what is reflected in the budget, they object to the Draft #3 technology PD allocation.**” Att. A, p. 9.

TUSD Response: The District will provide the requested explanation in the report (recommended by the Special Master) on proposed PD for 2016-17. The District will submit this report to the Special Master and Plaintiffs in August 2016.

### Objection 2: CRC and Student Engagement PD [Activity Code 508]

Mendoza Objection: ““Student Engagement PD is the single most important area of PD affecting USP implementation and student engagement in the classroom, and given the significant CRC expansions the District has agreed, and is now mandated by Court order, to provide under the CRC stipulation (detailed further below), **Mendoza Plaintiffs do not believe that the proposed reduction is justifiable and therefore object to it.**’ They again request that the District explain what efforts and program changes are reflected in this proposed reduction.” Att. A, pp. 9-10

TUSD Response: The District provides the requested explanation. The District moved all salaries previously coded to 508 in 2015-16 (4.88 FTE, \$233k) to code 510 in Draft 3 (5.7 FTE, \$273k). The District *increased* the FTE and the dollar amount.

### Objection 3: ALE Access and Recruitment Plan [Activity Code 501]:

Mendoza Objection: “Nothing about the above-listed efforts suggests that the amount budgeted in the 2016-17 school year should be reduced from previous years; the District’s new efforts should instead result in an increased budgeted amount. **Mendoza Plaintiffs therefore object to the allocation proposed for this activity. ... Mendoza Plaintiffs ask that the District explain the basis for the proposed reductions, including the reduction of 18.06 FTEs under this activity [] and how it relates to its ALE efforts.**” Att. A, p. 11

TUSD Response: The District provides the requested explanation. Between the 2015-16 Budget and Draft 3 there is a net reduction of 5.75 FTE, not 18 FTE. The District eliminated nine previously-allocated FTE for AP teachers which was not needed in 2015-16, resulting in savings of approximately a half million dollars. Other major reductions or eliminations including a reduction of approximately \$90k in textbooks and instructional aids (many materials were purchased in 2015-16) and other enrollment-related, salary-related expenses – these are expenses that the District must estimate in the spring and

adjust based on average salaries and actual student enrollment.

After making these initial reductions (of more than \$650k), the District added several hundred thousand dollars to the overall ALE budget to support the new initiatives listed in the Mendoza comment. The District has added the following item to its Reallocation Priority List for 2016-17 “All teacher FTE allocations that are contingent on enrollment will be adjusted in the fall equalization process” to provide a mechanism for more accurately budgeting for teacher FTEs that are contingent on student enrollment and can only be estimated in the spring when the budget is being developed.

**Objection 4: Dual-Language [Activity Code 504]**

Mendoza Objection: “[N]o increase in capacity has occurred or appears to be anticipated or planned for the 2016-17 school year, in violation of the two Court orders cited above. **Mendoza Plaintiffs therefore object to the proposed Dual Language allocations and request that they be revised.**” Att. A, p. 12

TUSD Response: The District has revised the dual language allocation. The Final Proposed Budget includes an additional line in activity code 504 for \$30k for a DL consultant to continue to work with the District in 2016-17 to finalize the access plan and to begin implementation. The District engaged a nationally-recognized expert to develop and study a plan to increase access to dual language programs and shared the consultant recommendations with the parties. The recommendations were finalized in early June, now the District is engaging the consultant to turn the recommendations into a plan. The District anticipates the access plan will be ready for Plaintiff and Special Master review no later than July 22, 2016. To address costs associated with the dual language access plan, if such costs exist, the District is adding “Dual Language Access Plan” to the reallocation priority list for 2016-17 to cover associated costs.

**Objection 5: Culturally Relevant Courses (CRCs) [Activity Code 510]**

Mendoza Objection: “Mendoza Plaintiffs asked how, given the significant CRC expansion the District anticipates at the high school level and the required additional expansions at the K-8 and middle school levels in the 2016-17 school year ... the increase of a mere approximate 2 FTEs for this activity beyond those allocated in the 2015-16 school year is sufficient to support the anticipated expansion. ... **They therefore object to the amount allocated to this activity and urge the District to increase the allocation for teacher positions** to support the anticipated expansion and provide an explanation on how its proposed allocation for this activity is adequate. They further urge that, if the District believes [we] have misunderstood the sufficiency of the allocations to this activity code, it provide an explanation that clarifies their understanding.” Att. A, pp. 13-14

TUSD Response: TUSD has proposed increases in CRC-related FTEs in Draft 3. The District increased the total FTE in activity code 510 from 10.88 to 13.71 – an increase of 2.83 FTE. See Form 3, page 25. At this point in time, the District anticipates that it can expand CRC offerings without increasing the 910G allocation very much, if at all. It is difficult to anticipate the precise dollar amount that might be

needed from 910G to support CRC because the necessary funding is based on the number of needed sections, which is based on students' class selection. The District has added to its priority reallocation list the following item, "All teacher FTE allocations that are contingent on enrollment will be adjusted in the fall equalization" and the District will make any adjustments necessary to ensure CRC courses are fully supported.<sup>1</sup>

**Objection 6: Extracurricular Activities [Activity Code 801]**

Mendoza Objection: "the Special Master recommended that the District 'significantly increase opportunities for participation in clubs, especially at the high school level and clubs that would complement in-school learning,' that 'tutoring should be provided by certified personnel whenever possible,' and that TUSD should try to 'significantly increase the proportion of respondents to relevant surveys.' ...Mendoza Plaintiffs do not understand the Budget Draft #3 to reflect that the District is following the Special Master's recommendations in this regard. **Mendoza Plaintiffs therefore object to these proposed allocations.**" Att. A, p. 14

TUSD Response: The District has revised the extracurricular activities allocation. Two of the three recommendations will not likely have any direct costs – the District can implement the recommendations using existing resources (increasing opportunities and increasing survey responses). Regarding tutors, the District is going to seek to expand tutoring services and the Final Proposed Budget will include an allocation of \$20,000 for community, college, and certified tutors.

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<sup>1</sup> Fall equalization impacts all allocated teacher FTEs in the USP Budget. Teacher FTEs may increase or decrease based on actual enrollment and class sections (teacher FTE allocations are based on enrollment projections). The District plans on actively monitoring expenditures (including vacancy savings; turnover and attrition) to fund items listed on the 2016-17 Priority Reallocation List.

## II. SPECIAL MASTER’S RECOMMENDATIONS (Attachment B)

The Budget Process requires the Special Master to submit “suggestions for modification” related to specific budget amounts in the Draft 3 Budget. On Tuesday June 21, 2016, the Special Master submitted six recommendations related to three categories of allocations in the Draft 3 Budget (rather than “suggestions for modification” related to specific budget dollar amounts in the Draft 3 Budget). District staff will recommend that the Governing Board adopt all six recommendations with slight revisions as to how the recommendations will be implemented, as described below.

### **Recommendation 1: submit revised CRC agreement; outline rationale for required expenditures**

“Confusion about the scope of the CRC implementation budget is likely to be revisited in the context of debates about whether the District has acted in good faith in implementing the USP. To obviate this potential problem, *the District should submit a revised agreement related to the implementation of the of the [sic] CRC and explain its rationale for this plan and the expenditures that would be required for its implementation.*” Att. B, p. 4.

Response: The District agrees to submit an explanation outlining its rationale for the items budgeted in activity code 510 (CRC) which include allocations required for implementation of the CRC plan.

### **Recommendation 2: identify the number of mentors for each of the two support programs (NTIP / FYTP) and allocate the funds needed**

*“The District should identify the number of mentors for each of the two programs supporting beginning teachers and allocate the funds needed.”* Att. B, p. 5.

Response: The District has identified the number of mentors for the beginning teacher support program and has allocated the funds needed to support the number of mentors identified. The District will provide a more detailed explanation of its analysis of related issues raised by the Special Master – namely – the number of teacher mentors necessary to provide a mentor-to-teacher ratio of 1:10 for mentors supporting teachers in low-achieving schools, and the financial and human resource costs of providing teacher mentors in the manner suggested by the Special Master.

### **Recommendation 3: develop a viable plan to identify and share best discipline practices**

“It would be relatively simple for the District to develop a plan which allowed access to information about effective practices when the information is needed. *The District should develop a viable plan and finance that plan.*” Att. B, p. 6.

Response: The District agrees to develop and finance this plan.

**Recommendation 4: revise magnet plans to include explanations for the use of uncertified personnel in classrooms and to revise magnet school plan budgets that included funded for technology that has already been purchased**

“Some school-level magnet budgets appear to include expenditures, as the Special Master has noted in a memorandum to the parties, to support uncertified personnel who would be teaching struggling students. Such funding was not allowed in 2016. If the District proposes to make such expenditures, it should explain why the proposed activities are acceptable now but were not previously. Other plans request technology which appears to have already been approved with funding from unspent allocations in 2016. *The District should revise magnet school plans accordingly.*” **Att. B, p. 6.**

Response: The District will provide explanations related to the use of uncertified personnel identified in certain magnet school plans. The District agrees to revise magnet budgets to reallocate funding for computers that were purchased through the reallocation process. These revisions will not be reflected in the Final Proposed Budget or the Final Adopted Budget, but will be addressed through the reallocation process.

**Recommendation 5: submit a PD assessment to the Special Master and Plaintiffs by August 15.**

“I recommend that the District *specify who will receive what professional development, in what amount and in what ways, and at what cost.* This assessment should be submitted to the plaintiffs and the Special Master no later than August 15, 2016.” **Att. B, p. 7.**

Response: The District agrees to this recommendation and will submit the requested assessment no later than August 15, 2016.

**Recommendation 6: submit a discipline report to the Special Master and Plaintiffs by September 1.**

“The District should *specify how it proposes to invest the more than \$7 million that it wishes to allocate to student behavior, engagement and discipline, and to indicate what it is proposing to more of, what it is doing less of, and what it is proposing to do differently, and to identify the expenditures involved.* This report to the plaintiffs and the Special Master should be submitted no later than September 1, 2016. In the interim, the District should be allowed to invest in those activities in accordance with the provisions of the budget it is presenting to the Court.” **Att. B, p. 8.**

Response: The District agrees to this recommendation and will submit the requested report no later than September 1, 2016.

### III. MENDOZA BUDGET COMMENTS; TUSD RESPONSES

The District provides responses to the comments submitted by the Mendoza Plaintiffs on June 6, 2016, excluding responses to objections (listed above in Section I). The first four items include responses and modifications to specific comments (Modifications 1-4). The subsequent 14 items include responses to comments that did not result in modifications (Comments 1-14).

#### **Modification 1. Magnet School Budgets [Activity Code 202]**

Mendoza Comment: “[Is the District satisfied] that the magnet school budgets reflected in Draft #3 are as robust as they need to be to support the schools in their efforts to meet mandated objectives. Mendoza Plaintiffs are specifically concerned that that there may currently exist unfunded needs at the magnet schools that are not being addressed. . . . Mendoza Plaintiffs again ask the District to carefully review the magnet school budgets reflected in Draft #3 to ensure that they are as robust as they need to be to support the schools in their efforts to meet their mandated objectives.” **Att. A, pp. 4-5.**

TUSD Response: The District is satisfied that the magnet schools budgets are as robust as is feasible to support the magnet school plans. The District has allocated 910G funds to meet the capital needs identified in site magnet plans. Throughout the school year, the District will utilize its budget modification process to satisfy any significant needs that arise.

TUSD Modification: The District is in the process of modifying magnet budgets to address identify needs and will align any magnet plan revisions with the magnet school allocations in activity code 202. *See Response to SM Recommendation 8, above.*

#### **Modification 2. Outreach, Recruitment, and Retention (ORR) Plan [Activity Code 402]**

Mendoza Comment: “Mendoza Plaintiffs therefore are concerned that the amount allocated to this activity may be low, particularly as the proposal appears to not anticipate that the recruitment consultant likely will advise the District to take steps that involve additional expenses beyond those reflected in the Draft #3 budget. . . . they do not understand whether and how the District intends to use financial and/or other incentives in its efforts to recruit Latino and African administrators and certificated staff. . . . They further ask, if the Draft #3 budget does indeed reflect the use of such incentives, that the District direct the Mendoza Plaintiffs to where in the budget those allocations are located as they did not see these incentives reflected under this activity.” **Att. A, pp. 6-7**

TUSD Response: The District has identified two consultants for the specific purpose of reviewing the current ORR Plan, including strengthening the use of stipends and incentives for recruitment purposes. The District has added “Outreach, Recruitment, and Retention Strategies” to the reallocation priority list for 2016-17 to account for future recommendations that involve additional expenses.

The following incentives (and their location within the budget) will be used for recruitment and/or retention purposes, including the recruitment and/or retention of African American and Latino staff:

- a. *See \$485,000 allocated in activity 202:* these funds are for recruitment of magnet-related positions
- b. *See \$250k allocated in activity 504:* these funds are for recruitment and retention of bilingual-certified staff for the District's dual-language programs
- c. *See \$250k allocated in activity 405:* these funds will be used to improve diversity by encouraging voluntary movement between sites and by incentivizing new hires that will improve diversity.

TUSD Modification: The District has modified the Final Proposed Budget by converting the Draft 3 allocation of \$75,000 in activity 402 for a "consultant labor review" into an allocation of approx. \$55,000 (plus approx. \$15,000 for associated benefits) for "recruitment-related stipends and/or incentives."

**Modification 3. Dropout Prevention and Graduation (DPG) Plan / Discipline  
[Activity Codes 509, 601-603, 605-607]**

Mendoza Comment: "Mendoza Plaintiffs ask whether the District is satisfied that its allocations under Restorative Practices and PBIS and its plans are sufficient to ensure that TUSD's teachers all are trained such as to ensure more consistent understanding and application of restorative practices and PBIS than has been true in the past? ... Does the District intend to not publish the new code? (See Discipline Narrative at 7.) ... They therefore ask that the District explain with specificity what training is reflected under this activity code." **Att. A, p. 13**

TUSD Response: The District is satisfied with its allocations under code 601. The District intends to publish the new code of conduct. Based on communications with the Special Master, the District will submit the details of proposed PD for 2016-17 to the Special Master and Plaintiffs in August 2016.

TUSD Modification: The District has added \$25,000 to the existing allocation for PBIS implementation to cover anticipated costs of PBIS signage, materials, and supplies.

**Modification 4. Discipline [Activity Codes 509, 601-603, 605-607]**

Mendoza Comment: "Does the District assert that all past allocations to these activities have been eliminated through the "crosswalk" process? Mendoza Plaintiffs request that the District provide further explanation of how there are no costs associated to these activities, particularly with respect to corrective action plans and replication of successful site-based strategies." **Att. A, p. 13.**

TUSD Response: Functions and activities occurring under activity codes 605 (Discipline Data Monitoring), 606 (Corrective Action Plans), and 607 (Replication of Best-Practices) are done in-house.



There are associated costs, but there are no direct costs charged to these activity codes.

TUSD Modification: The District has added \$25,000 to the Final Proposed Budget to cover the costs of paying members of MTSS teams to present successful practices to staff at various other schools and to assist in implementation.

**Comment 1: Utterback Auditorium [Activity Code 202]**

Mendoza Comment: “[Request] that the District propose the use of 910G funds to *supplement* M&O funds to make the significant needed repairs needed to Utterback’s auditorium.” **Att. A, p. 5.**

TUSD Response: The District must prioritize the limited amount of capital funds to maximize effectiveness based on criteria that include those listed in the USP, the Facilities Condition Index (FCI) and the Multi-Year Facilities Plan (MYTP). There are multiple facilities needs identified by the FCI/MYTP that – per the USP – take priority over the repairs needed for the Utterback auditorium. The District did not modify the Final Proposed Budget to add funding to *supplement* limited capital and/or M&O funds (or, capital and/or M&O funds that are allocated for priorities identified in the FCI/MYFP, per the USP). The District lists the Utterback repairs on the priority reallocation list for school year 2016-17 and, as 910G funds become available, the District will fund the repairs in accordance with the reallocation process.

**Comment 2: Activity Buses [Activity Codes 301/302]**

Mendoza Comment: “[TUSD] has provided no indication that it intends to [add an additional activity bus] at any other high school. Mendoza Plaintiffs therefore ask whether the District intends to introduce after school activity buses at high schools other than Sabino. ... [they] believe limiting the introduction of activity buses to Sabino would run counter to the Special Master’s recommendation and would unfairly discriminate against Latino and African American students in violation of the USP.” **Att. A, p. 6.**

TUSD Response: The District added the Sabino activity bus in direct response to Mendoza Plaintiff concerns about access to afterschool activities for the students riding the express bus from racially concentrated boundaries to Sabino (who will almost exclusively be Latino students). Pursuant to USP section II(A)(2), the District prioritizes the provision of activity buses to integrated and magnet schools (see 2014-15 AR, ECF 1918-1 at 73). The District does not limit activity buses to Sabino – several other high schools have activity buses, there were nine activity buses at other high schools in 2015-16 and there will likely be the same or more activity buses in 2016-17 at schools other than Sabino.

**Comment 3: Recruitment at HACUs/HBCUs [Activity Code 402]**

Mendoza Comment: “[Mendoza Plaintiffs] ‘cannot agree to the District’s proposal to abandon other strategies as proposed on page 3 of the TUSD Response [to the Special Master’s Report Recommendations] without knowing what strategies are being referenced and what the results have

been.’ (See id.) They therefore ask whether Draft #3 of the budget reflects the abandonment of other recruitment strategies, and if so, what strategies those are.” **Att. A, p. 5.**

Response: The District will target more diverse institutions, but may still target HACUs or HBCUs on a case by case basis if opportunities arise. The District is hiring a consultant for the express purpose of assessing the strength of its existing recruitment and retention strategies and, after said consultation, the District will add, eliminate, or otherwise adjust its strategies (and related budgets) accordingly. To address costs associated with the consultant’s advice, if such costs exist, the District is adding “Outreach, Recruitment, and Retention Strategies” to the reallocation priority list for 2016-17.

**Comment 4: Teacher Mentors for the First-Year Teacher Plan (FYTP) and New Teacher Induction Program (NTIP) [Activity Codes 410 and 412]**

Mendoza Comment: “While Mendoza Plaintiffs do not see a total proposed reduction to the allocations of these two programs from the current budget year, they request confirmation that the District intends to provide mentors under both the FYTP and NTIP.” **Att. A, p. 6.**

Response: The District is and will continue to provide mentors under both the FYTP and NTIP.

**Comment 5: 2016-17 PD Details [Multiple Activity Codes]**

Mendoza Comment: “Mendoza Plaintiffs understood that along with the explanatory narratives the District committed to providing, it would detail its PD plan underlying the 2016-17 proposed PD allocations. It did not provide that. The District instead provided a document reflecting 2015-16 PD efforts, ...” **Att. A, p. 5.**

Response: Based on communications with the Special Master, the District will submit the details of proposed PD for 2016-17 to the Special Master and Plaintiffs in August 2016.

**Comment 6: USP-Related PD and Support [Activity Codes 409, 412, 511]**

Mendoza Comment: “Mendoza Plaintiffs therefore still do not understand what changes are reflected in the decreased proposed allocations to USP-related PD and request clarification from the District.” **Att. A, p. 8.**

Response: The 2015-16 budget included an allocation of \$1.1M for activity 409; the Draft 3 Budget includes an allocation of \$520,000 for activity 409, the difference is over \$600,000. The decreases are explained below:

- a. Reduced the 2015-16 line item for “PD Payment” (\$416,500) to approx. \$210k in Draft 3 – a difference of approx. \$206k. Portions of this amount were reallocated to other activity codes including \$25k for mileage/subs to 412 and \$100k for subs to 511.

- b. Moved teacher mentors to 412 (\$97k)
- c. Eliminated a PD Coordinator (\$100k), a PD Classified position (\$73k), and a PDAT (\$44k); reduced office assistant allocation (\$30k)
- d. Eliminated \$20k for out of state travel; reduced supplies from \$50k to \$15k

**Comment 7: Multicultural Curriculum PD [Activity Code 509]**

Mendoza Comment: “[T]he District asserts ... it ‘is expanding professional development for teachers, to increase their ability to use and integrate the new materials into teaching plans, and to increase awareness and avoidance of cultural biases.’ ... This explanation makes little sense to the Mendoza Plaintiffs when the District is proposing a reduction in total spending for this activity (Budget Draft #3, Form 3 at 25), including a 75% reduction for “Employee Training and Professi[onal Development]” under the Multicultural Curriculum activity (see *id.* at 24). Mendoza Plaintiffs do agree that this is an essential area for professional development and, assuming their reading is correct, request that the District promptly revise the budget to accomplish the promised expansion of professional development in this area.” **Att. A, pp. 8-9.**

Response: The reading is incorrect. The 2015-16 Budget included \$6,000 for registration fees for external PD; Draft 3 includes two separate allocations for external registration: one for \$1,500 and another for \$2,500 for a total of \$4,000 – a reduction of \$2,000, or 33%. The District is expanding PD opportunities for teachers while reducing registration costs for external PD. Based on communications with the Special Master, the District will submit the details of proposed PD for 2016-17 to the Special Master and Plaintiffs in August 2016.

**Comment 8: Aspiring Teachers Plan [Activity Code 414]**

Mendoza Comment: “Mendoza Plaintiffs ask what the District ‘plans to do to improve the Leadership Prep Academy program so that more Latino and African American participants get appointed to leadership positions with TUSD ...” **Att. A, p. 10.**

Response: The District will continue to prepare African-American and Latino participants to enter leadership hiring pools and to be successful in earning a position through the interview process and then to be recommended to the Governing Board for approval. The District assesses its selection processes on an ongoing basis.

**Comment 9: Aspiring Teachers Plan [Activity Code 414]**

Mendoza Comment: “[W]hat accounts for the drop of almost \$60,000 to the allocation for this activity from the 2015-16 budgeted amount? ... Mendoza Plaintiffs do not understand what the District’s efforts

will be in 2016-17, how they will differ from the current budget year, or how such efforts may be reflected in the Draft #3 allocations for this activity.” **Att. A, p. 10.**

Response: In 2015-16, the District budgeted PD costs for ten people for thirty days off contract, including payment to attend PD plus benefits. In 2016-17, the District has budgeted PD costs for sixteen people for ten days on-contract, which includes costs for substitutes which results in savings.

#### **Comment 10: Professional Learning Communities (PLCs) [Activity Code 415]**

Mendoza Objection: “Mendoza Plaintiffs need explanation from the District for its elimination of this allocation before they can provide further comment and/or an objection. If the District does not intend to provide new principals with this training, it should say so.” **Att. A, p. 10**

TUSD Response: This allocation is not being eliminated it is merely being reduced from the 2015-16 allocation of approx. \$276k to \$150k. Draft 3 includes a PD line for \$250k under activity 511 earmarked for MTSS training and PLC training, it is not clear the precise amount for each. Once identified, the portion related to PLC training will be re-assigned to code 415. PLC Training has continued throughout SY 2015-16 and will continue in 2016-17. The PLC focus group (including representatives from every school) developed and reviewed the TUSD PLC Guide that is, and will continue to be, the basis for on-going training of new principals.

#### **Comment 11: UHS Admissions, Outreach, Recruitment [Activity Code 502]**

Mendoza Comment: “Mendoza Plaintiffs cannot tell from the budget detail in Form 3 what outreach and recruitment efforts the District is proposing to reduce or eliminate. They also do not generally have a sense of what the District plans in this area for the 2016-17 school year (e.g., summer programs, BOOST program, payment of AP exam costs for low-income students). They therefore request that the District detail the reasons why it is proposing such a significant reduction for this activity, and what programs or initiatives would be reduced or eliminated under its proposal.” (Mendoza Plaintiffs’ Draft 1 Comments at 9.)” **Att. A, p. 11**

Response: In 2015-16, there were 6.6 FTE allocated in activity 502: two recruitment coordinators (2.0); a college and career coordinator (.70); research project manager and supporting clerk (1.85); teachers (1.2); testing coordinator (.85). In Draft 3, activity code 502 does not contain any FTE, accounting for what appears as a “significant reduction” but supporting staff for UHS is included in other activities or through other budgets: the recruitment coordinator is funded through M&O; the college and career coordinator is split between activities 501 and 513 (see Draft 3, Form 4, pgs 33 and 45); the research project manager was moved to 1002 and the clerk position was eliminated (see Draft 3, Form 4, pg 52); the 1.2 teacher FTE was reduced to .4 FTE and moved to activity 501 (see Draft 3, Form 4, pg 33); the FTE for testing coordinator has been converted from a .85 to a 1.0 FTE but does not appear in Draft 3 (the District will add this position to the Final Proposed Budget under activity code 502 ); and the District added a student engagement coordinator for UHS that is coded to activity code 511 (see Draft 3, Form 4, pg 42).

### **Comment 12: Multicultural Curriculum [Activity Code 509]**

Mendoza Comment: “The District proposes a reduction of \$73,874 from the current budget year for multicultural curriculum. Mendoza Plaintiffs do not understand what accounts for that reduction, particularly as it suggests the District is not expanding these courses, and Mendoza Plaintiffs have in the past repeatedly requested that the District make efforts to expand multicultural curriculum beyond fine arts courses. They therefore request an explanation for the reduced allocation for this activity.” **Att. A, p. 14.**

TUSD Response: The District recoded an admin assistant, reduced the fine arts FTE by 1.5, increased the multicultural dep’t FTE by .5 and with additional funding for added duty, see below for details (and see Draft 3, Form 3, page 24):

- a. Multicultural Dep’t: approx. \$42k more; (\$397k to \$439k) for additional added duty and to increase the coordinator position from 2.0 FTE to 2.5 FTE. Draft 3 lists this position as 1.5 FTE Classified in error; the Final Proposed Budget lists 2.5 FTE.
- b. Curriculum Dep’t: approx. \$16k less; (\$41k to \$24k) from a recoding of an administrative assistant
- c. Fine Arts Dep’t: approx. \$100k less (\$1.373M to \$1.273M) from a reduction of 1.5 FTE

### **Comment 13: Targeted Academic Interventions and Supports [Activity Code 511]**

Mendoza Comment: “[T]he Plaintiffs and Special Master have been very concerned about the low number of MTSS facilitators (30 FTEs) the District proposed to fund as reflected in Budget Drafts #1 and #2. The District now has increased the number of MTSS facilitators by 15 [but] does not explain [] how the District determined that an additional 15 MTSS facilitators are necessary for it to implement its planned discipline efforts in 2016-17. Mendoza Plaintiffs therefore ask how the District arrived at this total number of MTSS facilitators.” **Att. A, pp. 14-15.**

TUSD Response: The District analyzed all sites based on numerous metrics to determine the schools with the greatest need. This analysis, in conjunction with a phase-in approach for professional development and support, was used to identify and determine the schools with the greatest need. Based on discussions and feedback with the Special Master, the District increased the number of MTSS Facilitators from 30 to 45 – enough to serve over half of TUSD’s schools. The District will place a facilitator at each high school (except for UHS and Sabino)(total of eight), at each middle school (except Dodge, total of nine), and at each of the 28 elementary and K-8 schools based on need.

NOTE: The District recently received a memo on this issue from the SM and discussed this issue on June 13, 2016 via phone. The District is still analyzing this information related to how these positions will be assigned and people selected, but the Final Proposed Budget will indicate 45 FTE for MTSSFs.

**Comment 14: Targeted Academic Interventions and Supports [Activity Code 511]**

Mendoza Comment: “Mendoza Plaintiffs further request explanation for the proposed elimination of most schools’ allocation under this activity (which were relatively low in 2015-16) as they are unclear what the elimination of these funds reflects.” **Att. A, p. 15.**

TUSD Response: In 2015-16, the District allocated a portion of all LSCs (16.65 FTE) to activity code 511 – allocated to specific sites. The school reduction reflects the elimination of the LSC position.

MENDOZA PLAINTIFFS' COMMENTS REGARDING TUSD's 2016-17 USP BUDGET DRAFT #3

June 6, 2016

**Introduction and Context**

Mendoza Plaintiffs have been attempting – unsuccessfully – to obtain information essential to an informed review of the 2016-17 draft budgets for more than three months.

In particular, they have sought -- repeatedly -- to have their questions concerning the Heinfeld, Meech examination of the District's 2014-15 910(G) expenditures answered because they believed (and continue to believe) that a fuller understanding of the findings of that examination are essential to an informed understanding of the proposed budget.

Ironically, rather than answer those outstanding questions, the District in its memo of May 10, 2016 (FY 17 §910G Budget: Spending Trends and Narrative at 1) asserts the importance of looking at actual spending and purports to derive the figures for 2014-15 from that Heinfeld, Meech examination<sup>1</sup>. Mendoza Plaintiffs cannot accept that examination as the starting point for any analysis given the District's failure to provide the explanations and clarifications first requested by the Mendoza Plaintiffs by email dated February 22, 2016, and given that that examination accepts the District's arbitrary allotment of expenditures across multiple activity lines (that results from the "cross walking" that the District has repeatedly stated makes year to year comparisons difficult). *See, e.g.*, the example below, taken from page 2 of the Heinfeld, Meech examination.<sup>2</sup>

On January 29, 2016, the District provided the TUSD Examination of Desegregation Expenditures for Year Ended June 30, 2015 ("Heinfeld, Meech Examination"). On February 22, 2016, the Mendoza Plaintiffs provided the District with information requests regarding the Heinfeld, Meech Examination. Those have never been addressed by the District. The District subsequently provided Draft #1 of the 2016-17 USP Budget on March 9, 2016. Mendoza Plaintiffs provided information requests and comments to that draft budget ("Mendoza Plaintiffs' Draft #1 Comments") on March 23, 2016.

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1. As is apparent from the face of the Heinfeld, Meech examination, it is not an audit and the District's repeated references to it as such cannot change that fact.

2.

|                               | Budgeted Amounts | Actual | Variance with Budget |
|-------------------------------|------------------|--------|----------------------|
| First-year teacher pilot plan | 126,014          | 53,851 | 72,163               |
| Evaluation instruments        | 126,014          | 53,851 | 72,163               |
| New teacher induction program | 126,014          | 53,851 | 72,163               |
| Teacher support plan          | 126,014          | 53,851 | 72,163               |
| Aspiring leaders plan         | 126,014          | 53,851 | 72,163               |
| PLC training                  | 126,014          | 53,851 | 72,163               |
| USP training plan             | 126,014          | 53,851 | 72,163               |

After the District provided Draft #2 of the 2016-17 USP Budget on April 8, 2016, the parties met in Tucson on April 20-21, 2016 to discuss, among other things, that draft of the budget. On April 22, 2016, noting that per their understanding during the Tucson discussions that Draft #3 of the 2016-17 USP Budget would address many issues the Plaintiffs and Special Master had raised concerning earlier budget drafts and that such budget draft would be accompanied by an explanatory narrative intended to help all concerned better understand the program and policy priorities reflected in the proposed budget, Mendoza Plaintiffs stated that they were providing no further comment on Draft #2 at that time in the hope that their comments would be rendered moot by Draft #3. The District provided Draft #3 of its budget together with most individual magnet school improvement plans on May 6, 2016. On May 10, 2016, it provided a narrative that it represented was in response to requests made at the Tucson meeting. On May 13, the District provided professional development expense charts. On May 26, 2016, it supplemented its magnet plan submission with two previously omitted improvement plans.

*TUSD's Continuing Failure to Provide Information Necessary for the Plaintiffs and Special Master to Conduct an Informed Review of the 2016-17 USP Budget*

In the almost three and a half months since the Mendoza Plaintiffs made their Heinfeld, Meech Examination information requests, they have received no response from the District notwithstanding that they reminded the District of those long-overdue responses in their March 14 and March 16, 2016 emails, Mendoza Plaintiffs' Draft #1 Comments, and during the April 20-21, 2016 Tucson meetings, and of the fact that the District's failure in this regard has significantly hampered their review of the budget (*see e.g.*, Mendoza Plaintiffs' Draft #1 Comments at 4 (providing example of how a response could have helped Mendoza Plaintiffs understand, for example, proposed professional development allocations)).

Nor did the District respond to Mendoza Plaintiffs' Draft #1 Comments about which they also reminded the District during the April 20-21, 2016 Tucson meetings. Notably, that submission detailed the District's failure to respond to separate outstanding information requests that relate to the budget for which a responsive explanation has, as of today, also not yet been provided. (*See, e.g.*, at 4 (re Mendoza Plaintiffs' March 8 RFI re their understanding of desegregation student to teacher ratio) at 6 (re Utterback auditorium RFIs<sup>3</sup> first asked on March 20 and repeated on March 17, 2016).)

Compounding the issue of the lack of information provided that would have helped the Plaintiffs and Special Master in their review of the budget drafts is the fact that the District did not provide its magnet school improvement plans until late in the budget process. Indeed, Mendoza Plaintiffs were informed that Draft #2 of the budget was to reflect the addition of magnet school plan budgets as the District had failed to complete them in time for their inclusion in Draft #1 of the budget. Draft #2 however did not reflect inclusion of the magnet plans and no such plans were provided by the time Draft #2 was circulated. Further, notwithstanding the District's subsequent commitment to provide the

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<sup>3</sup> Mendoza Plaintiffs specifically requested, among other things, that the District provide clarification of its February 17, 2016 reallocation report statement that proposed reallocation funding was the result of "ha[ving] excess funding in Counseling line" of Utterback's budget.



long-overdue magnet plans by April 15, 2016 (see M. Taylor's April 8, 2016 email) so that the Plaintiffs "will have that information before we meet" for the April 20-21 Tucson meetings and Mendoza Plaintiffs' April 16, 2016 reminder that those plans had not yet been provided, the District did not provide its magnet school improvement plans until May 6 and 26, 2016, well after the Tucson meetings. (Mendoza Plaintiffs will separately provide their comments on TUSD's magnet school improvement plans.) As a preliminary matter they can state that they share the preliminary comments made by the Special Master and his expressed concerns.

Not only has the District's failure to provide the above information significantly hampered Mendoza Plaintiffs' review of the 2016-17 Budget, as detailed below, the "narratives" and professional development spreadsheet provided along with the District's Draft #3 budget has done little to improve Mendoza Plaintiffs' understanding of the proposed budget. Notably, many of the issues about which the Mendoza Plaintiffs expressed a lack of understanding in their Heinfeld, Meech Examination RFIs and in Mendoza Plaintiffs' Draft #1 Comments remain.

*The District's Narratives and Professional Development Spreadsheet Provide Very Limited Information to Help the Plaintiffs and Special Master Understand the Budget*

As the District well knows, the Plaintiffs and Special Master have expressed significant concern with what appeared to be inadequate and siloed proposed allocations for professional development in the 2016-17 school year.<sup>4</sup> (See e.g. Mendoza Plaintiffs' Draft #1 Comments.) When the parties and Special Master met in Tucson in April, Mendoza Plaintiffs understood that along with the explanatory narratives the District committed to providing, it would detail its professional development ("PD") **plans** underlying the 2016-17 proposed PD allocations. (They therefore share the Special Master's understanding of what was to be provided, as reflected in his May 25, 2016 email.) Indeed, it was within discussion of the 2016-17 USP Budget at the meetings that the Plaintiffs and Special Master expressed their lack of understanding of the District's approach to PD.<sup>5</sup> Moreover, consistent with the Tucson discussions and the Mendoza Plaintiffs' and Special Master's understanding, the District indicated in the TUSD Narrative regarding the 2016-17 budget (at 7) that it was "separately preparing a chart showing all professional development and associated costs across all USP activities." Mendoza Plaintiffs therefore were surprised that the chart they received attached to the District's May 13, 2016 email re: Draft 3 Budget – PD Chart recites 2015-16 PD efforts but contains no indication of the costs associated with those efforts and no insight into 2016-17 plans. Mendoza Plaintiffs therefore do not find this PD chart

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<sup>4</sup> Unfortunately, as the District well knows, the issues of the adequacy of the District's approach to professional development so as to effectively implement the USP and whether sufficient funds have been devoted to this effort has been an on-going issue.

<sup>5</sup> This understanding is reflected in Mendoza Plaintiffs' April 22, 2015 message, sent the day after the Tucson meetings, in which they stated that "Given the discussions we had in Tucson... and our understanding that Draft #3 is intended to address many of the issues the Plaintiffs and the Special Master have raised concerning the drafts received to date, will include increased allocations in certain areas (for example, professional development and discipline), and will be accompanied by a narrative that is intended to help all concerned better understand the budget..."

to be very useful in helping them understand the District's approach to PD as reflected in proposed 2016-17 allocations; rather, it seems to provide confirmation that the District has not engaged in a systematic approach in proposing 2016-17 allocations for PD. The Mendoza Plaintiffs' significant and continuing concerns relating to PD are detailed further below.

Mendoza Plaintiffs also find TUSD's May 10 memorandum re: FY17 §910G Budget: Spending Trends and Narrative ("TUSD Narrative") (which Mendoza Plaintiffs understand to be the "narrative" discussed at the Tucson meetings) has proved to be far less helpful than what Mendoza Plaintiffs were expecting to receive. Rather than explain TUSD's goals for the year and what its programmatic approaches are toward this coming year's USP implementation efforts, it is a rather granular comparison with past years. Moreover, rather than compare the allocations proposed for the 2016-17 school year to those budgeted in past years, the District compares the 2016-17 proposed allocations to 2014-15 "actual" expenditures as reflected in the Heinfeld, Meech Examination and to "estimate[s]" of actual 2015-16 expenditures claiming that it "believes that [such] comparison to actual spending provides a more useful trend analysis of budgeted amounts." (See TUSD Narrative at 1.)

Tellingly, the District attempts to justify its 2016-17 proposed allocations using the very Heinfeld, Meech Examination numbers that Mendoza Plaintiffs first asked about in February and with respect to which they have yet to receive responses and that portray arbitrarily assigned "cross walked" numbers that shed no meaningful light on what was actually spent on particular USP activities. Had the District truly desired to "provide[] a more useful trend analysis" to aid in the Plaintiffs' and Special Master's understanding of the budget, it should have provided responses to Mendoza Plaintiffs' Heinfeld, Beech Examination RFIs and explained how they intended to reconcile "cross walked" entries with proposed actual expenditures. Mendoza Plaintiffs continue to request responses to their Heinfeld, Meech Examination RFIs and yet again state that the District's failure in this regard has materially limited their ability to conduct a meaningful review of the draft budget. Additional issues raised by the TUSD Narrative are detailed below under discussion of individual activities.

### **Comments on Draft 3 for the 2016-17 School Year**

#### *80202 Magnet Schools*

As noted above, Draft #3 of the 2016-17 USP Budget is the first budget draft to include allocations specific to individual magnet school improvement plans. The total amount now allocated under this activity code reflects an increase of approximately \$250,000 over the total amount allocated to the activity in Draft #2. Notwithstanding the increase, and in large part due to the District's failure to provide any response to Mendoza Plaintiffs' Draft #1 Comments, Mendoza Plaintiffs are again constrained to ask whether the District is satisfied that the magnet school budgets reflected in Draft #3 are as robust as they need to be to support the schools in their efforts to meet mandated objectives.

Mendoza Plaintiffs are specifically concerned that that there may currently exist unfunded needs at the magnet schools that are not being addressed. For example, on March 3, 2016, the Plaintiffs

received the District's proposal to reallocate over \$850,000 that the magnet schools subject to the magnet school stipulation and order had not spent because budgeted staff positions had not been filled or were not timely filled. These reallocations (which notably provided no details with regard to magnet schools not subject to the magnet stipulation) suggest there are significant magnet school needs that had not been addressed.

Moreover, the most recent draft magnet school improvement plans for the 2016-17 school year also contain proposals that address what appear to be magnet school needs that have gone unaddressed. (See, e.g., Tucson High Magnet School ("THMS") Plan at 5 (\$60,000 proposed allocation for needed repairs to the "Black Box and Little Theater" (which Mendoza Plaintiffs understand from the description to relate specifically to the THMS magnet program),<sup>6</sup> including "need[ed] significant repair" to the school telescope. This multi-year proposal presumably regards needs that existed before the last budget cycle<sup>7</sup>.) Indeed, as discussed in Mendoza Plaintiffs' Draft #1 Comments, the District at one point proposed a reallocation to address legitimate needed repairs to the Utterback's auditorium, but after Mendoza Plaintiffs requested that the District revise the request to include an appropriate amount of non-910(G) funds to supplement repairs, the District apparently abandoned its effort to make those repairs. Mendoza Plaintiffs do not see proposed allocations to address those repairs included in Utterback's magnet plan for the 2016-17 school year or in the Draft #3 budget notwithstanding that many other magnet school plans somewhat surprisingly include capital expenditures<sup>8</sup>. Mendoza Plaintiffs therefore understand that the District is proposing to (belatedly) address THMS magnet auditorium facility issues, but not those that exist with Utterback's auditorium, which is in part used as a magnet program facility.

For the reasons stated above, Mendoza Plaintiffs again ask the District to carefully review the magnet school budgets reflected in Draft #3 to ensure that they are as robust as they need to be to support the schools in their efforts to meet their mandated objectives. They further repeat their March 10, March 17, and March 23 (Mendoza Plaintiffs' Draft #1 Comments) requests that the District propose the use of 910G funds to supplement M&O funds to make the significant needed repairs needed to Utterback's auditorium. They further request clarification from the District if it believes that Mendoza Plaintiffs have misunderstood the status of the needed auditorium repairs at Utterback.

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<sup>6</sup> Mendoza Plaintiffs request that the District correct them if they have misunderstood the nature of the "Black Box and Little Theater" as magnet program facilities.

<sup>7</sup> As noted in Mendoza Plaintiffs' Draft #1 Comments (at 6) with respect to the needed Utterback auditorium repairs, they do not understand why some amount of the unspent allocation for the multi-year facilities plan in 2014-15 (\$149,848 per the Heinfeld, Meech Examination) was not spent on the THMS "Black Box and Little Theater."

<sup>8</sup> We say "surprisingly" because we would have expected such proposed expenses to be in the facilities portion of the budget not the portion that we understood was primarily intended to provide educational services to magnet school students.

*80301 and 80302 Magnet and Incentive Transportation*

In TUSD's April 26, 2016 memo re: Response to Special Master's Annual Report Recommendations to the District ("TUSD's SMAR Recommendation Response"), the District indicated that it will "analyze current utilization of activity buses that support extracurricular activities to determine whether additional resources are necessary to support increased participation" in high school clubs (at 9). More recently, the District has indicated that it will "add an additional activity bus route in the afternoon/early evening" at Sabino (TUSD's May 13, 2016 Integration Initiatives, attachment 3, at 1). However, it has provided no indication that it intends to do this at any other high school. Mendoza Plaintiffs therefore ask whether the District intends to introduce after school activity buses at high schools other than Sabino.

Mendoza Plaintiffs are unclear as to the racial/ethnic demographics of students who would use the Sabino activity bus. However, given that Sabino is the high school with the highest percentage of white students (and lowest percentage of Latino students) (see TUSD Annual Report for the 2014-15 School Year, Appendix II-41), and that the Special Master's Annual Report Recommendation was directed at increasing Latino and African American participation in high school clubs, Mendoza Plaintiffs believe limiting the introduction of activity buses to Sabino would run counter to the Special Master's recommendation and would unfairly discriminate against Latino and African American students in violation of the USP.

*80402 Outreach, Recruitment and Retention*

Mendoza Plaintiffs understand that the District has increased the total allocation for this activity code to reflect that the District intends to hire a consultant to advise the District on its recruitment efforts. (See Draft #3 2016-17 USP Budget, Form 2, at 1.) While Mendoza Plaintiffs appreciate that the District seeks to improve its recruitment efforts, its proposed allocation for this activity code, exclusive of its new allocation for the recruitment consultant, falls below the amount allocated to the activity in the 2015-16 school year. (See *Id.*) Mendoza Plaintiffs therefore are concerned that the amount allocated to this activity may be low, particularly as the proposal appears to not anticipate that the recruitment consultant likely will advise the District to take steps that involve additional expenses beyond those reflected in the Draft #3 budget.

Moreover, because the District failed to provide a response to Mendoza Plaintiffs' Draft #3 comments and the TUSD Narrative provides a very limited and summarized description of the District's recruitment plans (see TUSD Narrative at 6), they still have trouble "understand[ing] what the District's hiring and retention plan for the 2016-17 school year is and *how it intends to use incentives.*" (Mendoza Plaintiffs' Draft #1 Comments at 6 (emphasis added).) They are particularly concerned that they do not understand whether and how the District intends to use financial and/or other incentives in its efforts to recruit Latino and African administrators and certificated staff. (At the April 20-21, 2016 Tucson meetings, the parties and Special Master generally discussed in-school staff diversity and dual language teacher incentives, but not incentives as they relate to efforts under this activity.)

As the recent and ongoing discussions involving incentives to increase in-school staff diversity make clear, meaningful incentives, whether in the form of stipends or not, require relatively significant funding. Mendoza Plaintiffs therefore do not feel they can provide meaningful comment until the District responds to their outstanding request that it detail its hiring and retention plans, specifically addressing how it intends to use incentives to recruit Latino and African American staff. They further ask, if the Draft #3 budget does indeed reflect the use of such incentives, that the District direct the Mendoza Plaintiffs to where in the budget those allocations are located as they did not see these incentives reflected under this activity.

The Mendoza Plaintiffs also are very confused by the District's assertion that it "will continue to target diverse universities including HACU/HBCU campuses for the college recruitment program" (TUSD Narrative at 6) when the District previously stated that given the marginal results of such recruitment efforts, it intends to abandon the strategy. (See TUSD's SMAR Recommendation Response at 3.) Indeed, Mendoza Plaintiffs understood at the April 20-21 Tucson meetings that there were no objections to such an adjusted approach from either any party or the Special Master and that the parties were willing to agree to a limited amendment of the USP for this purpose. (See Mendoza Plaintiffs' April 28 Response to TUSD's Response to the Special Master's Annual Report Recommendations to the District at 3.) They therefore request confirmation that this statement in the TUSD narrative was included in error. Mendoza Plaintiffs further again state that they "cannot agree to the District's proposal to abandon other strategies as proposed on page 3 of the TUSD Response [to the Special Master's Report Recommendations] without knowing what strategies are being referenced and what the results have been." (See *id.*) They therefore ask whether Draft #3 of the budget reflects the abandonment of other recruitment strategies, and if so, what strategies those are.

#### *80410 80412 First-Year Teacher Plan and New Teacher Induction Program*

Because the District failed to respond to Mendoza Plaintiffs' Draft #1 Comments and its Draft #3 submissions do not address Mendoza Plaintiffs concerns in this area, Mendoza Plaintiffs repeat the entirety of their Draft #1 comment relating to this activity:

"In the 2014-15 school year, no mentoring support was provided under the First-Year Teacher Plan ("FYTP")... and a mere 12% of New Teacher Induction Program ("NTIP") participants received mentoring under that plan. (See SMAR at 16.) Moreover, the District revised its FYTP to eliminate mentoring support without consulting the Plaintiffs under USP Section I, D, 1. (See DAR re 2014-15 SY at IV-90.) The Draft 1 Budget, Form 1 [and Draft #3, Form 2 at 2] indicates that with regard to the FYTP, "Teacher Mentors moved to 80412," the activity code for the NTIP. While Mendoza Plaintiffs do not see a total proposed reduction to the allocations of these two programs from the current budget year, they request confirmation that the District intends to provide mentors under both the FYTP and NTIP." Mendoza Plaintiffs' Draft #1 Comments at 8.)

*80409, 80415 80508, 80509, 80903 Professional Development related to USP, PLCs, CRCs and Student Engagement, Multicultural Curriculum, and Technology*

As Mendoza Plaintiffs have repeatedly indicated, including in Mendoza Plaintiffs' Draft #1 Comments and at the April 20-21, 2016 Tucson meetings, Professional Development is an area in which Mendoza Plaintiffs were particularly hampered by the District's failure to respond to Mendoza Plaintiffs' February 22, 2016 information requests regarding the Heinfeld, Meech Examination. They particularly asked "why so significant a proportion of the budgeted professional development training and support dollars were not spent." They therefore again state that without knowing the District's rationale for having failed to spend approved professional development spending, it is difficult for Mendoza Plaintiffs to carefully assess the proposed expenditures for 2016-17. As discussed above, when the parties and Special Master met in Tucson in April, Mendoza Plaintiffs understood that along with the explanatory narratives the District committed to providing, it would detail its PD plan underlying the 2016-17 proposed PD allocations. It did not provide that. The District instead provided a document reflecting 2015-16 PD efforts, which notably included ZERO information on the costs associated with those efforts. Moreover, as detailed below, what little PD information the District has provided with its Draft #3 submissions have only raised additional questions. Thus, Mendoza Plaintiffs are extremely disappointed that they now have EVEN MORE questions relating to PD than they did at the time they provided Mendoza Plaintiffs' Draft #1 Comments.

With respect to USP-related PD and Support, which Mendoza Plaintiffs' addressed in their Draft #1 Comments, the District asserts that although "the amounts budgeted for USP professional development in Activity Code 409 for FY17 are approximately \$400,000 less than currently forecast spending in FY16 [and over \$600,00 less than the amount budgeted to the activity for the same year (Budget Draft #3, Form 1C at 1)], this does not represent a drop in amounts spent on USP related professional development and support. This merely represents an effort to move professional development funds into the codes for the activity to which the professional training relates... funds previously budgeted in Activity Code 409 relate to new teacher and induction support, and thus in FY17 have been budgeted in Activity Code 412."

However, Mendoza Plaintiffs do NOT see a shift of \$400,000 to Activity Code 80412 from Activity 80409 (USP-related PD); they do however see that the approximate \$283,000 increase to USP-related PD from the current budget year reflects shifts from allocations previously under activities 80409 and 80410, and thus understand that only a portion of the increased amount relates to expenses previously under Activity 80409, USP-related PD. (Budget Draft #3, form 2 at 2.) Moreover, Mendoza Plaintiffs do not see the reductions under the USP-related PD activity code reflected in entries under Activity 412 (for example, USP-related PD expenses allocated at specific school sites.) (Compare Budget Draft #3, Form 3 at 14 (Activity 80409 entries) to Budget Draft #3, Form 3 at 14-15 (Activity 80412 entries).) Mendoza Plaintiffs therefore still do not understand what changes are reflected in the decreased proposed allocations to USP-related PD and request clarification from the District.

Also concerning is that the District asserts in the TUSD Narrative with regard to Multicultural curriculum (Activity 80509) that it "is expanding professional development for teachers, to increase their

ability to use and integrate the new materials into teaching plans, and to increase awareness and avoidance of cultural biases.” (TUSD Narrative at 9.) This explanation makes little sense to the Mendoza Plaintiffs when the District is proposing a reduction in total spending for this activity (Budget Draft #3, Form 3 at 25), including a 75% reduction for “Employee Training and Professi[onal Development]” under the Multicultural Curriculum activity (*see id.* at 24).

Mendoza Plaintiffs do agree that this is an essential area for professional development and, assuming their reading is correct, request that the District promptly revise the budget to accomplish the promised expansion of professional development in this area.

As noted in Mendoza Plaintiffs’ Draft #1 Comments, the Special Master reported that in 2014-15 on-site technology support was not provided, only seven out of over 80 sites received a technology PD needs assessment, and that a mere 134 teachers took related online courses (which the Mendoza Plaintiffs have previously noted are not as effective as in-person training) (SMAR at 33.) The need for technology PD is further underscored by the fact that the District has proposed and moved forward with significant magnet fund reallocations for technology equipment and proposes significant technology investments in individual magnet school improvement plans. (*See* Special Master’s March 3, 2016 email and attached reallocation proposal; TUSD’s March 18, 2016 email.) Mendoza Plaintiffs therefore were happy to see an increase of about \$219,000 in the amount allocated to this activity over the current budget year amount.

However, they continue to have little idea of what the District’s plans are with regard to this PD. Notably, with regard to technology PD, the TUSD Narrative apparently states only that new for 2016-17 is “Professional Development for Educational Technology Integration Specialists to train TTLs - \$2k.” (TUSD Narrative at 12.) Mendoza Plaintiffs are confused as to what this means. For example, they do not understand whether the increased allocation reflects that all teachers will receive technology PD or whether it may reflect, for example, that individuals will be hired to answer technology related questions with no formal PD provided. Given the significant reallocations for technology equipment over the past months, the technology equipment proposals reflected in magnet school improvement plans, and the Plaintiffs’ and Special Master’s significant and ongoing concerns regarding the adequacy of technology PD (including those expressed to the District at the April 20-21 Tucson meetings), Mendoza Plaintiffs believe the District must fully explain what its Technology PD plans are for the 2016-17 school year. Because such an explanation is required for Mendoza Plaintiffs to understand what is reflected in the budget, they object to the Draft #3 technology PD allocation.

Also left completely unaddressed by the District is Mendoza Plaintiffs’ Draft #1 Comments relating to CRC and Student Engagement PD, which has been reduced by about \$42,000 from the current budget year. (Budget Draft #3, Form 2 at 2.) As Mendoza Plaintiffs previously stated, “Student Engagement PD is the single most important area of PD affecting USP implementation and student engagement in the classroom, and given the significant CRC expansions the District has agreed, and is now mandated by Court order, to provide under the CRC stipulation (detailed further below), Mendoza Plaintiffs do not believe that the proposed reduction is justifiable and therefore object to it.” They again

request that the District explain what efforts and program changes are reflected in this proposed reduction.

The District has failed to address Mendoza Plaintiffs' concern regarding the elimination of all funding for PLC training (see Budget Draft #3, Form 2 at 2), which the District purports to be a "one-time cost" (see Mendoza Plaintiffs' Draft #1 Comments at 8) when they understand PLC training to be an ongoing cost. Mendoza Plaintiffs again state that the USP requires professional development training for "all newly-hired or promoted certificated staff, administrators and paraprofessional" (USP Section IV, J, 2) and in the 2014-15 school year, the District hired 20 new principals (see DAR re 2014-15 SY (Doc. 1848) at IV-80; SMAR at 15). **Mendoza Plaintiffs need explanation from the District for its elimination of this allocation before they can provide further comment and/or an objection. If the District does not intend to provide new principals with this training, it should say so.**

#### *80414 Aspiring Teachers Plan*

As they did in Mendoza Plaintiffs' Draft #1 Comments, **Mendoza Plaintiffs ask what the District "plans to do to improve the Leadership Prep Academy program so that more Latino and African American participants get appointed to leadership positions with TUSD given that the program 'yielded only one non-white appointee in 2014-15" and the Special Master recommended that TUSD 'assess its selection process.'** (SMAR [Special Master Annual Report for the 2014-15 school year] at 19.)"

Mendoza Plaintiffs further again ask **what accounts for the drop of almost \$60,000 to the allocation for this activity from the 2015-16 budgeted amount?** Mendoza Plaintiffs note that beyond the unhelpful statement that the District is increasing "'make the move' participants from 5 to 15 and [will] continue to implement its 'Grow Your Own' program" (TUSD Narrative at 6), which Mendoza Plaintiffs believe relates to this activity (something the TUSD Narrative does not make clear), **Mendoza Plaintiffs do not understand what the District's efforts will be in 2016-17, how they will differ from the current budget year, or how such efforts may be reflected in the Draft #3 allocations for this activity.**

#### *80501 ALE Access and Recruitment Plan*

Mendoza Plaintiffs were greatly disappointed to see that the District does not propose an increased allocation to this activity from the Draft #2 allocation, which reflects a decrease of over \$650,000 from the amount budgeted for this activity for the current budget year. (TUSD 2016-17 USP Budget Draft #3, Form 2 at 2.) Mendoza Plaintiffs' significant concern that the reduced budgeted amount for this activity is inadequate is highlighted by the fact that the District claims it will in 2016-17 (1) introduce the new GATE magnet theme at Tully, (2) increase the number of AP courses offered, (3) increase the number of itinerant teachers for pullout GATE programs, (4) increase recruitment and testing for GATE programs, (5) increase recruitment and testing for UHS admission, (6) increase effort at recruitment for all ALEs, and (7) expand the AVID program to Magee, among other things. (TUSD



Narrative at 8.) (Notably, the amount proposed for 2016-17 reflects a decrease of almost \$80,000 from the amount *actually* expended for this activity in 2014-15, which of course predates the many new efforts the District states it will introduce in 2016-17. (*See id.*) Nothing about the above-listed efforts suggests that the amount budgeted in the 2016-17 school year should be reduced from previous years; the District's new efforts should instead result in an increased budgeted amount. Mendoza Plaintiffs therefore object to the allocation proposed for this activity.

Because the District utterly failed to respond to Mendoza Plaintiffs' Draft #1 Comments and the TUSD Narrative does nothing to clarify Mendoza Plaintiffs' understanding of the changes to ALE programs and recruitment efforts in 2016-17 reflected in the budget, they again state the following:

"Mendoza Plaintiffs could not determine what programs or initiatives the District proposes to be reduced or eliminated under this activity because the budget sets forth only positions in this section and fails to provide any explanations. Given the breadth of this Section of the USP... Mendoza Plaintiffs ask that the District explain the basis for the proposed reductions, including the reduction of 18.06 FTEs under this activity [] and how it relates to its ALE efforts." (Mendoza Plaintiffs' Draft #1 Comments at 9.)

#### *80502 UHS Admissions/Outreach/Recruitment*

The District indicates that in the 2016-17 school year, it is "increasing recruiting and testing for UHS entrance" (TUSD Narrative at 8.) Yet, contradictorily, the District has not increased the allocation to this activity from that proposed under Draft #2, which reflects a significant reduction from the current budget year. Because the District provides no explanation for the Mendoza Plaintiffs to understand this allocation, they repeat the Draft #1 Comment: "The District proposes a very significant reduction of over \$340,000 to this activity from the current budget year to \$45,618 for the 2016-17 school year. (Draft 1 Budget, Form 2 at 2[; see also Budget Draft #3, Form 2 at 2.]) Mendoza Plaintiffs cannot tell from the budget detail in Form 3 what outreach and recruitment efforts the District is proposing to reduce or eliminate. They also do not generally have a sense of what the District plans in this area for the 2016-17 school year (e.g., summer programs, BOOST program, payment of AP exam costs for low-income students). They therefore request that the District detail the reasons why it is proposing such a significant reduction for this activity, and what programs or initiatives would be reduced or eliminated under its proposal." (Mendoza Plaintiffs' Draft 1 Comments at 9.)

#### *80504 Dual Language Programs*

As discussed in Mendoza Plaintiffs' Draft #1 Comments, the Court's December 22, 2015 Budget Order (Doc. 1879 at 9) requires that the District develop a plan to increase student access to Dual Language programs, which "must be implemented in 2016-17," and the Court's reaffirmation of the relevant directives in its amended Order of January 28, 2016 (Doc. 1897 at 9). Specifically, so far as Mendoza Plaintiffs can tell, the Budget Draft #3 reflects little improvement from the Dual Language

entries for the 2015-16 Budget that we previously indicated do not constitute the building and expansion of the program, but rather the ongoing costs of the unexpanded programs at the same number of schools (or fewer) than in prior years. (See Budget Draft #3, Form 2 at 2 (increase of 4.43 FTEs over 2015-16 amount); Compare same with Draft 1 Budget, Form 3 at 25 (increase of 1.7 Dual Language FTEs from Budget Draft #1).) As noted in their Mendoza Plaintiffs' Draft #1 Comments "the 'TUSD Dual Language Enrollment: 2013-2015' dated May 13, 2015 and provided on May 15, 2016 indicates that 'McCorkle and Mission View are changing the DL grade levels to build capacity.' Yet, the Draft 1 Budget reflects a decrease in Dual Language FTEs at McCorkle and no change in FTE at Mission View. (See *Id.* at 24.) [The same reduction and lack of change is reflected in Budget Draft #3. (Budget Draft #3, Form 3 at 18.)] Thus, plainly, no increase in capacity has occurred or appears to be anticipated or planned for the 2016-17 school year, in violation of the two Court orders cited above. Mendoza Plaintiffs therefore object to the proposed Dual Language allocations and request that they be revised to reflect that the District will comply with the Court's orders to expand the Dual Language program in 2016-17." (Mendoza Plaintiffs' Draft #1 Comments at 9-10.)

Mendoza Plaintiffs further note that while they understand that the District is planning to introduce a new Dual Language program at a new site, they do not understand this to be a reason for the District to not expand the program at existing Dual Language sites. Nor, given that we are now at the beginning of June 2016, do they understand why the District still has no concrete proposal for the expansion of its dual language proposal.

*80506 Dropout Prevention and Retention Plan, and 80601-3 and 80605-07 Relating to Discipline*

As noted in Mendoza Plaintiffs' Draft #1 Comments, given that the District has undertaken to rewrite the GSRR and the significant disciplinary issues that have occurred at multiple sites throughout the current school year, Mendoza Plaintiffs expected to see larger allocations to discipline. Indeed, the District must train teachers on implementation of the GSRR rewrite currently underway, provide informational assemblies to parents and students across all schools (USP Section VI, D, 2), and will have to translate the rewrite in all major languages (USP Section D, 1). Moreover, as the parties well know, the Special Master has stressed the importance of professional development relating to discipline, particularly as TUSD schools do not consistently apply PBIS and apparently have different understanding of its essential components throughout the District. (See SMAR at 28.) While the Mendoza Plaintiffs appreciate the District's preparation of their document titled "TUSD's Approach to Addressing Student Behavior, Engagement, and Discipline" ("Discipline Narrative"), provided May 20, 2016, it leaves many questions unanswered.<sup>9</sup> The most significant question left unanswered is what changes to District Discipline plans are reflected by the reductions in funding proposed for discipline activities.

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<sup>9</sup> While the District asserts that there are no direct costs associated with many discipline related activities (see Discipline Narrative, Attachment 1), Mendoza Plaintiffs have a very difficult time understanding this to be true as they understand these activities have been allocated funds in the past and such funding is not solely attributable to

Notwithstanding the new proposed funding for the Discipline Coordinator, Mendoza Plaintiffs ask whether the District is satisfied that its allocations under Restorative Practices and PBIS and its plans are sufficient to ensure that TUSD's teachers all are trained such as to ensure more consistent understanding and application of restorative practices and PBIS than has been true in the past?

Moreover, Mendoza Plaintiffs still do not understand how the District proposes such a significant reduction to the GSRR, given the re-write that is underway. Does the District intend to not publish the new code? (See Discipline Narrative at 7.)

Further, while the District describes some discipline site training in its Discipline Narrative, Mendoza Plaintiffs continue to not understand how the District can propose an allocation of less than half that allocated for the current budget year given the significant discipline issues experienced at sites and the new efforts, including a new student code, directed at addressing the issues. They therefore ask that the District explain with specificity what training is reflected under this activity code.

Additionally, Mendoza Plaintiffs continue to not understand how the District can assert that there are no costs associated with Discipline Data monitoring, Corrective Action Plans, and Successful Site-Based Strategies, when there have been costs associated with these activities in the past. Does the District assert that all past allocations to these activities have been eliminated through the "crosswalk" process? Mendoza Plaintiffs request that the District provide further explanation of how there are no costs associated to these activities, particularly with respect to corrective action plans and replication of successful site-based strategies.

Notably, with regard to replication of successful site-based strategies, the Special Master clarified his annual report recommendation to the District, which misunderstood his recommendation. (See Special Master's April 29 response to the District's response to the SMAR recommendations.) Specifically, the Special Master clarified that "teachers and principals [should be able to] readily refer to practices that colleagues and other schools have found to be successful... What is needed here is a districtwide professional learning community related to effective disciplinary practices that is facilitated by technology" and that what the District proposed to do for this activity "falls short of the intent of the provisions of the USP." (*Id.*) The Mendoza Plaintiffs fully agree with the Special Master and thus do not see how USP-compliant implementation of efforts under this activity could have no associated costs.

#### *80510 Culturally Relevant Courses ("CRCs")*

During the April 20-21 Tucson meetings, Mendoza Plaintiffs asked how, given the significant CRC expansion the District anticipates at the high school level and the required additional expansions at the K-8 and middle school levels in the 2016-17 school year (see TUSD Narrative at 9 ("the number of students in culturally relevant courses is expected to double")), the increase of a mere approximate 2 FTEs for this activity beyond those allocated in the 2015-16 school year is sufficient to support the

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the now eliminated LSC position. And even if it were, someone at some cost is presumably still needed to perform the functions the LSCs were to have performed.

anticipated expansion. Because no TUSD personnel were available to discuss CRC expansion details, the District committed to providing a responsive explanation as part of its narrative to accompany Budget Draft #3. However, no such explanation has been provided. Instead the District recites the very expansion requirements Mendoza Plaintiffs recited to it during the Tucson meetings (TUSD Narrative at 9) and proposes no increase in CRC-related FTEs in Draft #3.

While Mendoza Plaintiffs are encouraged by the anticipated CRC expansion, they are gravely concerned with what appears to be a significant underfunding of the teacher positions required to support such expansion. They therefore object to the amount allocated to this activity and urge the District to increase the allocation for teacher positions to support the anticipated expansion and provide an explanation on how its proposed allocation for this activity is adequate. They further urge that, if the District believes Mendoza Plaintiffs have misunderstood the sufficiency of the allocations to this activity code, it provide an explanation that clarifies their understanding.

#### *80801 Extracurricular Activities*

In the SMAR, the Special Master recommended that the District “significantly increase opportunities for participation in clubs, especially at the high school level and clubs that would complement in-school learning,” that “tutoring should be provided by certified personnel whenever possible,” and that TUSD should try to “significantly increase the proportion of respondents to relevant surveys.” (SMAR at 31-32.) Notwithstanding these recommendations, the District continues to propose reduced spending on Extracurricular Activities by over \$54,000. (Budget Draft #3, Form 2 at 4.) As is true with respect to the after-school activity bus proposed for Sabino discussed above, Mendoza Plaintiffs do not understand the Budget Draft #3 to reflect that the District is following the Special Master’s recommendations in this regard. Mendoza Plaintiffs therefore object to these proposed allocations.

#### *80509 Multicultural Curriculum*

The District proposes a reduction of \$73,874 from the current budget year for multicultural curriculum. Mendoza Plaintiffs do not understand what accounts for that reduction, particularly as it suggests the District is not expanding these courses, and Mendoza Plaintiffs have in the past repeatedly requested that the District make efforts to expand multicultural curriculum beyond fine arts courses. They therefore request an explanation for the reduced allocation for this activity.

#### *80511 Targeted Academic Interventions and Supports*

As the parties and Special Master know, the Plaintiffs and Special Master have been very concerned about the low number of MTSS facilitators (30 FTEs) the District proposed to fund as

reflected in Budget Drafts #1 and #2. The District now has increased the number of MTSS facilitators by 15. (Budget Draft #3, Form 2 at 3.) What the document titled "TUSD's Approach to Addressing Student Behavior, Engagement, and Discipline" ("Discipline Narrative"), provided May 20, 2016, does not explain is how the District determined that an additional 15 MTSS facilitators are necessary for it to implement its planned discipline efforts in 2016-17. Mendoza Plaintiffs therefore ask how the District arrived at this total number of MTSS facilitators. (Mendoza Plaintiffs are concerned that, as they believe to be true with regard to Professional Development, no systematic analysis was conducted in arriving at the number of MTSS facilitators.) Notably, the Discipline Narrative states that the District will "assign them to schools based on need." (*Id.* at 5.) Mendoza Plaintiffs are therefore further concerned that the District has may arbitrarily cut off assignment of MTSS coordinators to schools that may be in need of those coordinators but who do not have the greatest need.

Mendoza Plaintiffs further request explanation for the proposed elimination of most schools' allocation under this activity (which were relatively low in 2015-16) as they are unclear what the elimination of these funds reflects. They further are confused about and request explanation for the fact that University High School, which was the only school to not be specifically allocated funds under this activity code in the current budget year (Budget Draft #3, Form 3 at 25-28), now is the only school for which funds are allocated (*id.* at 28).

**The Special Master's Report to the Parties with Respect to  
the Adequacy of the Districts USP Budget for 2016-17  
June 17, 2016, Revised June 21, 2016**

**Overview**

This report is required by Section X.B.1 of the USP which provides that the Special Master shall review the District's proposed budget for funding of the USP and any objections made by the plaintiffs. This report comments on the third version of the USP of the District's budget taking into account objections to the District budget by the Mendoza plaintiffs and commitments made by the District in a June 13, response to the Mendoza Plaintiffs and the Special Master. The Department of Justice and the Fisher plaintiffs did not file objections. Version 3 of the budget is not included with this report because the District indicates that the budget it will file with the Court will be different from this third version.

For reasons to be elaborated on in a subsequent report dealing with the budget process, the Special Master and the plaintiffs found it difficult to understand what the District was proposing and the rationale for changes. Among the reasons for this difficulty are:

1. The District changed the way in which many expenditures had been coded making it difficult in some cases to determine what was being spent and how it compared with previous years.
2. Explanations for increases or decreases in previous expenditures focused on what was being done; when such explanations were provided they typically dealt with changes in allocations rather the reasons for them.
3. The final version of the budget that the plaintiffs and Special Master received-- Version 3-- did not include comparisons to previous years.

One of the goals of the USP has been to move increasingly from a focus on what was being done to focus on the effects of actions and expenditures. The Special Master has characterized this proposed transition as a moving from "checking the boxes" to evidence-based accountability. The purposes

of such evidence-based accountability are to focus on outcomes, to provide the District with discretion about how it would implement the USP, and to avoid debates about whether particular approaches to implementing the USP are more productive than others when the efficacy of particular strategies is difficult to assess. While the capacity of the District to maximize evidence-based accountability is not fully developed, it seems time to move cautiously forward in this respect.

For purposes of review and comment in this report, the Special Master has identified budgeted actions as falling into three broad categories:

1. Those for which there are measurable goals as defined by the USP or agreed to by the District as part of an action plan, a Court order, or its own initiative. (The District's efforts to define goals are often in response to or to obviate challenges by the plaintiffs or the Special Master). For these proposed actions, the Special Master takes the position that if the District chooses to reduce its expenditures or to make limited additional investments and progress is not made, the District *may* be judged as not having made an adequate effort to achieve relevant goals. Proposed expenditures for these types of activities, even if they were challenged during the budget process, are not opposed by the Special Master.
2. A second type of activity is one in which there is (a) evidence from research or other reliable sources about best practice with respect to the investment being planned by the District, (b) the USP is sufficiently specific with respect to intent to determine whether the District proposed actions will achieve that intent, or (3) the District itself has identified what needs to be done but its proposal does not align with its own measure. For these types of activities, where the Special Master determines that the District has not made sufficient investments, the Special Master makes recommendations with respect to levels of funding that go beyond what the District proposes.
3. A third type of activity involves high visibility elements of the USP for which outcomes are implicit or difficult to measure. For these activities or clusters of activities, the Special Master is proposing that the District provide additional information but that the District be

allowed to move forward with its proposed activities. However, by a specified date, the District will be required to report on these matters to the plaintiffs and the Special Master. The plaintiffs would then have 10 working days to comment, the District would have five days to respond, and the Special Master would have five days thereafter to make his report to the Court.

This third category of activities effectively makes the two sets of budget allocations involved tentative. The alternative is to hold up needed action by the District as it readies for the 2016-17 school year. This approach is needed because the initial timelines were not met and the level of information provided by the District has left the plaintiffs and the Special Master unable to make reasoned judgments about the adequacy of expenditures.

### **Recommendations**

This report focuses on issues raised by the Mendoza plaintiffs and the Special Master. The Special Master intends to make recommendations only on the District's proposed expenditures in categories two and three that he believes warrant additional investment or require further explanation. However, the Special Master has concerns about the activities included in Category 1 and means to suggest that these activities will receive particular attention as to whether the expenditures involved deal yield the results expected of them.

#### **Category 1: Issues of Concern for Which the District Should be Held Accountable**

To repeat, the expenditures identified here are those about which concerns have been raised and that the Special Master believes the District *may* have invested insufficient resources. In April 2015, the Special Master met with senior District staff and identified aspects of the USP in which progress has been limited and perhaps inadequate to satisfy the intent of the USP. The Special Master emphasized that the purpose of providing such information to the District was to highlight concerns about which additional effort might be needed. Most of the six sets of activities identified below were identified in this April briefing.



In making the level of investments the District is making, the District is expressing confidence that it can meet the goals set out in previous documents. It can be assumed that the District will accept the consequences if progress is not made by the end of the 2016-17 school year. In other words, in budgeting the funds it has invested in these activities, the District is saying that it is doing what needs to be done. Contested expenditures in this category of activities include those that deal with:

- Integration
- Advanced learning experiences
- Multicultural curriculum
- The expansion of dual language learning opportunities
- Extracurricular activities
- Culturally relevant courses (CRC)

With respect to CRC, in January 2015 the District negotiated a budget for implementing the provisions of the USP relating to CRC in order to avoid the possibility of being declared noncompliant. While the District made considerable progress in increasing the number of students taking CRC in 2015-16, the District departed substantially from the budget that had been approved by the Court. In its defense of such action, the District has argued that the commitments and that budget represented a three-year plan and provided an example of its intentions with respect to the appointment of Itinerant Teachers. It seems clear, however, that the District is not adhering to the 2015 Court approved budget. The budget itself is described as the 2015-16 budget. Whether the District should be allowed to unilaterally amend this budget, which it seems to have argued is both a three-year budget and a one-year budget, might be determined by the Court.

Confusion about the scope of the CRC implementation budget is likely to be revisited in the context of debates about whether the District has acted in good faith in implementing the USP. To obviate this potential problem, the District should submit a revised agreement related to the implementation of the of the CRC and explain its rationale for this plan and the expenditures that would be required for its implementation.

## Category 2: Best Practice Issues

### *Teacher Induction*

The District has consolidated expenditures related to two sections of the USP-- the provisions for supporting first and second year teachers and the provision for supporting first-year teachers assigned to schools where students are underperforming. But, the budget does not specify what investments should be made in each. The key to success of both of these provisions of the USP is the number of and quality of mentors. The District is justifying its budget by citing the ratio of one mentor to fifteen based on studies of peer assistance and review (PAR) programs. This seems reasonable for beginning teachers working in less challenging environments. However, PAR programs and induction programs, such as those provided for in the USP, have different purposes and mentors serve different roles. PAR programs work with experienced teachers in most cases. The USP intentionally makes the distinction between beginning teachers in general and those assigned to schools where students are underperforming. In the latter schools, the ratio should be closer to 1 to 10, a ratio the District has identified as appropriate to support beginning teachers working in CRC. The District implies that it cannot provide specifics because it cannot predict how many teachers will be involved. But it can certainly develop an estimate because it knows about how many new teachers will have to be appointed and, based on past experiences, can determine roughly how many of these will be in their first year of teaching. The District also can estimate the number of teachers who would be eligible for extra support given their appointment to positions in schools where students are performing below the District average.<sup>1</sup> the District should identify the number of mentors for each of the two programs supporting beginning teachers and allocate the funds needed.

### *Identifying and Sharing the Successful Disciplinary Practices*

Section VI.F.3 Of the USP requires the District to identify effective practices for dealing with disciplinary problems and what it takes to implement these practices and to share what is learned throughout the District. Despite the fact that disciplinary problems in TUSD receive considerable negative

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<sup>1</sup> More than half of first-year appointees were assigned to schools where students were achieving below the District average in 2015 16. This reality is not consistent with the intent of the USP.

attention in the community and generate concerns among teachers and principals, the District has not taken this provision of the USP seriously. While the USP does not indicate how this provision should be implemented, in response to concerns expressed by the Mendoza plaintiffs and the Special Master about the District's neglect of this matter in version 3 of the budget, the District added \$25,000 to the 2017 budget. This investment, if it can be called that, would allow MTSS teams to visit other schools and share effective practices. On its face, this strategy is likely to have little impact. First, it does not provide for the widespread sharing of effective practices. Second, it provides for no follow-on activities that would allow teachers and principals ongoing access to what is learned about how best to deal with different disciplinary issues. It would be relatively simple for the District to develop a plan which allowed access to information about effective practices when the information is needed. The District should develop a viable plan and finance that plan. This is not a particularly high-cost endeavor is hard to understand why the District would not want to adequately implement the relevant provision of the USP.

#### *Revision of School-level Magnet Plans*

Some school-level magnet budgets appear to include expenditures, as the Special Master has noted in a memorandum to the parties, to support uncertified personnel who would be teaching struggling students. Such funding was not allowed in 2016. If the District proposes to make such expenditures, it should explain why the proposed activities are acceptable now but were not previously. Other plans request technology which appears to have already been approved with funding from unspent allocations in 2016. The District should revise magnet school plans accordingly.

### Category 3: Sets of Activities about which Further Information is Needed

#### *Professional Development*

The most powerful school-based influence on student learning is teacher effectiveness. Therefore, the investment the District makes in well-designed and effectively implemented professional development is among the most important investments that it can make to improve student learning

opportunities and outcomes. However, based on the information provided by the District, it is not possible to determine whether the District expenditures for professional development are adequate to meet the requirements of the USP or whether the ways that PD is to be offered are likely to be productive. I recommend that the District specify who will receive what professional development, in what amount and in what ways, and at what cost. This assessment should be submitted to the plaintiffs and the Special Master no later than August 15, 2016 . In the interim, the District should be allowed to implement the professional activities provided for in the 2017 budget. The Court previously required the District to undertake a similar activity.

*Activity Related to Student Behavior, Engagement and Discipline*

As noted in the introduction to this report, understanding what changes are being made in policies and practices in many areas of District action is complicated by the District's continuing changes in the way it codes particular expenditures. And, while it provides expenditure changes for aggregate categories of expenditure, the budget itself provides no such information. This not only makes it difficult to compare proposed with current and past expenditures, it is difficult to identify the purposes of some proposed activities. This is particularly the case with respect to a significant range of activities the District has combined under the heading, "Student Behavior, Engagement and Discipline". For example, in Attachment 1 of the District's May 10 explanation of allocations related to student behavior, engagement and discipline, the District says that, "Attachment 1 outlines the District's prior and current expenditures and proposed allocation for each activity and describes how various components function as parts and of the District's overall approach...." However, for many of the proposed expenditures there is no comparison to current or past allocations. On page 8 of Attachment 1 of the District's explanation, the District essentially zeros out over \$1 million of expenditures on important activities by explaining that, "The following activities do not have specific funding lines although resources necessary to implement these activities are found in other sections of the budget and/or draw upon position structures and/or resources that exist outside the USP budget". There is no roadmap that would guide one to information about

how much is being spent, if anything, on these activities. Among the proposed expenditures that appear to be inadequate is the proposed investment in training and evaluation of the Positive Behavior Intervention and Support (PBIS) process that is at the core of the District's efforts to prevent discipline problems. The District has acknowledged that its approach to PBIS is significantly lacking but proposes to spend less than \$100,000 in PBIS training. And there is no indication of how this compares to past expenditures. The District should specify how it proposes to invest the more than \$7 million that it wishes to allocate to student behavior, engagement and discipline, and to indicate what it is proposing to more of, what it is doing less of, and what it is proposing to do differently, and to identify the expenditures involved. This report to the plaintiffs and the Special Master should be submitted no later than September 1, 2016. In the interim, the District should be allowed to invest in those activities in accordance with the provisions of the budget it is presenting to the Court.

### **Summary**

The Special Master identifies several important areas of concern relating to the 2017 USP budget. Several of these concerns fall into Category 1, as defined above. With respect to these sets of activities, the Special Master and the Implementation Committee will assess whether adequate progress appears to have been made in terms of previously set goals. The Special Master will report these assessments in his recommendations to the Court regarding the District's bid for unitary status. This report identifies three sets of activities that it recommends that the District to invest in further. Each of these three sets of activities involve relatively minor expenditures. The report also recommends that the District to provide the plaintiffs and the Special Master with significantly greater and more detailed information with respect to two critically important sets of activities representing a substantial proportion of the overall USP budget. At the same time, the Special Master recognizes that providing such information-- which the plaintiffs and the Special Master might have expected to receive earlier-- will be time-consuming, especially if the substantive implications of the expenditures are carefully considered. Therefore, the District should be allowed to move forward in addressing the tasks embodied in the proposed budget.

## **Final Comments**

In its response to some objections and concerns related to the final version of the budget received by the plaintiffs and the Special Master, the District responded by saying that if additional action was required as it moves forward during the school year, it would finance these actions by reallocating funds unspent from the approved budget. Based on past experience, a significant amount of money is likely to go unspent for a number of different reasons--some intentional, most not. However, there appear to be a number of potential problems with this approach, especially when the issues to which these funds would be directed are of great importance. First, it alters the budget reallocation process agreed to by the parties. Second, when the need arises for reallocation, these funds may not yet be available. Third, it creates an incentive to hold off on low priority expenditures to ensure that the relatively high priority issues that the District has identified it would address with this strategy could be dealt with. Fourth, it allows the District to avoid making a commitment to dealing with issues the Special Master and/or the plaintiffs consider important. In short, the strategy that the District proposes is highly problematic and should not be common practice moving forward.

Each year, despite the best of intentions, the USP budget process ends with issues unresolved in a sense of unease about whether voices have been heard and adequately responded to. One may then weigh what the costs of an ongoing challenge to the budget would be to public confidence in the District and the morale school-level staff against the loss of opportunity on the part of the plaintiffs and the Special Master to gain desired changes in proposed expenditures. The Special Master has decided that the “goodwill” cost to the District outweighs the good that could come from continuing struggle over the budget, especially if a greater effort is made on an ongoing basis to assess progress being made.