

Desegregation Verification Reporting  
Fiscal Year 2015  
A.R.S. §15-910(J)(3)

District Name: Tucson Unified School District #1  
District CTD: 100201000

A.R.S. §15-910(J)(3)

  X   (a) A district-wide budget summary and a budget summary on a school by school basis for each school in the school district that lists the sources and uses of monies that are designated for desegregation purposes.

  X   (b) A detailed list of desegregation activities on a district-wide basis and on a school by school basis for each school in the school district.

  X   (c) The date that the school district was determined to be out of compliance with Title VI of the civil rights act of 1964 (42 United States Code section 2000d) and the basis for that determination.

  X   (d) The initial date that the school district began to levy property taxes to provide funding for desegregation expenses and any dates that these property tax levies were increased.

  X   (e) If applicable, a current and accurate description of all magnet type programs that are in operation pursuant to the court order during the current school year on a district-wide basis and on a school by school basis. This information shall contain the eligibility and attendance criteria of each magnet type program, the capacity of each magnet type program, the ethnic composition goals of each magnet type program, the actual attending ethnic composition of each magnet type program and the specific activities offered in each magnet type program.

  X   (f) The number of pupils who participate in desegregation activities on a district-wide basis and on a school by school basis for each school in the school district.

  X   (g) A detailed summary of the academic achievement of pupils on a district-wide basis and on a school by school basis for each school in the school district.

  X   (h) The number of employees, including teachers and administrative personnel, on a district-wide basis and on a school by school basis for each school in the school district that is necessary to conduct desegregation activities.

  X   (i) The number of employees, including teachers and administrative personnel, on a district-wide basis and on a school by school basis for each school in the school district and the number of employees at school district administrative offices that are funded in whole or in part with desegregation monies received pursuant to this section.

(j) The amount of monies that is not derived through a primary or secondary property tax levy and that is budgeted and spent on desegregation activities on a district-wide basis and on a school by school basis for each school in the school district.

(k) Verification that the desegregation funding will supplement and not supplant funding for other academic and extracurricular activities.

(l) Verification that the desegregation funding is educationally justifiable.

(m) Any documentation that supports the proposition that the requested desegregation funding is intended to result in equal education opportunities for all pupils in the school district.

(n) Verification that the desegregation funding will be used to promote systemic and organizational changes within the school district.

(o) Verification that the desegregation funding will be used in accordance with the academic standards adopted by the state board of education pursuant to sections 15-701 and 15-701.01.

(p) Verification that the desegregation funding will be used to accomplish specific actions to remediate proven discrimination pursuant to title VI of the civil rights act of 1964 (42 United States Code section 2000d) as specified in the court order or administrative agreement.

(q) An evaluation by the school district of the effectiveness of the school district's desegregation measures.

(r) An estimate of when the school district will be in compliance with the court order or administrative agreement and a detailed account of the steps that the school district will take to achieve compliance.

(s) Any other information that the department of education deems necessary to carry out the purposes of this paragraph.

Please check each reporting item approved by the Governing Board of the School District. The determination that the documentation being submitted to the Arizona Department of Education, meets the requirements listed above has been made by the District. All submitted documentation will be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives and the chairpersons of the education committees of the Senate and the House of Representatives, as required by A.R.S. §15-910.

I certify that the attached documents of the Tucson Unified School District, meet the requirements outlined in A.R.S. 15-910(J)(3), listed above, and have been authorized by the Governing Board of the District for submission to the Arizona Department of Education.

\_\_\_\_\_  
President of the Governing Board (signature)

Adelita Grijalva, Governing Board President  
President name (printed)

Mail original signed document to:  
ADE, School Finance  
1535 West Jefferson, Bin 13  
Phoenix, AZ 85007  
Rev.S/11-FY2012

In addition, electronic copies of documentation, in either Microsoft Word, Microsoft Excel, or in portable document format (PDF), should be emailed to [SchoolFinance2@azed.gov](mailto:SchoolFinance2@azed.gov). Electronic copies may be submitted via a CD, if file size is too large for e-mail. Mail CDs to address at the left.



**Desegregation Administration**

P O Box 40400, Tucson, AZ 85717-0400 · Phone (520) 225-6067 · Fax (520) 225-6058

**Samuel E. Brown, Director**

DATE: July 1, 2014

TO: Arizona Department of Education

FROM: Samuel E. Brown, Desegregation Director

RE: FY2015 Desegregation Reporting

Please find below additional information and electronic file references supporting the desegregation reporting requirements of A.R.S. §15-910(J)(3). The letter references included below are applicable to the “FY 2015 Desegregation Verification Reporting” document included with the FY 2015 Adopted Budget submittal.

*(a) A district-wide budget summary and a budget summary on a school by school basis for each school in the school district that lists the sources and uses of monies that are designated for desegregation purposes.*

The District’s adopted FY2014-2015 budget forms submitted to the Arizona Department of Education (ADE) includes documentation that lists the sources and uses of monies designated for desegregation purposes of a district-wide desegregation budget summary, and a detailed budget for SY14-15 aligned to the Unitary Status Plan and OCR Agreements. (See Attachments A and B)

*(b) A detailed list of desegregation activities on a district-wide basis and on a school by school basis for each school in the school district.*

(See Attachments A and B)

*(c) The date that the school district was determined to be out of compliance with Title VI of the civil rights act of 1964 (42 United States Code section 2000d) and the basis for that determination.*

January 9, 1973 OCR submitted a letter to the District finding the District in violation of Title VI. The basis for that determination was: unequal access to curriculum, and inappropriate assignment to special education.

July 19, 2011 The Ninth Circuit Court of Appeals reversed the decision of the U.S. District Court revoking Unitary Status from the District after Plaintiffs appealed the finding of Unitary Status to the Ninth Circuit Court of Appeals. The Ninth Circuit found that the District had not yet reached unitary status.

*(d) The initial date that the school district began to levy property taxes to provide funding for desegregation expenses and any dates that these property tax levies were increased.*

Documentation of dates that property tax levies were increased for desegregation expenses, including dates that

the property tax levies were increased. (See Attachment C)

*(e) If applicable, a current and accurate description of all magnet type programs that are in operation pursuant to the court order during the current school year on a district-wide basis and on a school by school basis. This information shall contain the eligibility and attendance criteria of each magnet type program, the capacity of each magnet type program, the ethnic composition goals of each magnet type program, the actual attending ethnic composition of each magnet type program and the specific activities offered in each magnet type program.*

A list of all current magnet programs within the District is provided in Attachment B (see row #2 “Unitary Status Plan: Student Assignment”. The District has developed a 2013-15 Magnet Plan pursuant to the Unitary Status Plan, and is in the process of developing a Comprehensive Magnet Plan. The magnet plans (and the assessments and evaluations therefrom) contain ethnic composition goals and actual attending ethnic composition, and attendance criteria of each magnet school and program. All students are eligible to apply to District magnet programs. The ethnic composition goal of each magnet program is to achieve the definition of an integrated school as described by the Unitary Status Plan. An integrated school is any school in which no racial or ethnic group varies from the district average for that grade level (Elementary School, Middle School, K-8, High School) by more than +/- 15 percentage points, and in which no single racial or ethnic group exceeds 70% of the school’s enrollment.

*(f) The number of pupils who participated in desegregation activities on a district-wide basis is listed by activity.*

(See Attachment B)

*(g) A detailed summary of the academic achievement of pupils on a district-wide basis and on a school by school basis for each school in the school district.*

The District is required to administer the AIMS to students. Verification of academic achievement of pupils on a district-wide basis and on a school by school basis is made from the results of the AIMS.

*(h) The number of employees, including teachers and administrative personnel, on a district-wide basis and on a school by school basis for each school in the school district that is necessary to conduct desegregation activities.*

The FY 15 Desegregation Budget (including all ARS 15-910(g) funds and other funds directed towards desegregation activities) includes 1,034 FTE District-wide.

*(i) The number of employees, including teachers and administrative personnel, on a district-wide basis and on a school by school basis for each school in the school district and the number of employees at school district administrative offices that are funded in whole or in part with desegregation monies received pursuant to this section.*

The FY 15 Desegregation Budget (including all ARS 15-910(g) funds directed towards desegregation activities) includes 707 FTE District-wide.

*(j) The amount of monies that is not derived through a primary or secondary property tax levy and that is budgeted and spent on desegregation activities on a district-wide basis and on a school by school basis for each school in the school district.*

\$12,354,237 is allocated towards supporting desegregation activities that are not supported directly from desegregation funds or general M&O funds.

*(k) Verification that the desegregation funding will supplement and not supplant funding for other academic and extracurricular activities.*

The District has verified this requirement, subject to the exceptions required or permitted by state law (see A.R.S. §15-910(G)) and applicable court orders. See attached documentation, regarding the programs and activities funded pursuant to A.R.S. §15-910(G). (See Attachment B) regarding the programs and activities funded pursuant to A.R.S. §15-910(G). Also, please reference former State Superintendent of Instruction, Mr. Tom Horne's letter regarding the use of desegregation funds for the state mandated four (4) hour ELD block program. (See Attachment D)

*(l) Verification that the desegregation funding is educationally justifiable.*

The desegregation funding has as its purpose (a) eliminating the vestiges of segregation, (b) integrating schools and promoting diversity, (c) providing all students with equal access to educational opportunities, and (d) enhancing the quality of education for all students, particularly members of the Plaintiffs' class.

*(m) Any documentation that supports the proposition that the requested desegregation funding is intended to result in equal education opportunities for all pupils in the school district.*

The requested desegregation funding is intended to implement program and activities that have been adopted by the District and approved by the Federal District Court or the United States Department of Education Office of Civil Rights ("OCR") to remedy alleged discrimination. For FY2014, the District will use desegregation monies in support of the Unitary Status Plan (See Attachments E and F) and the above identified OCR Compliance needs. Under the Unitary Status Plan, the District will expend its desegregation funds in a way that is intended to guarantee equal access to the curriculum and equal educational opportunities for all students in the District. The federal court approved the 'Unitary Status Plan' on February 6, 2013; a final amended plan was adopted on February 20, 2013.

*(n) Verification that the desegregation funding will be used to promote systemic and organizational changes within the school district.*

Desegregation funding is being centralized specifically for the purpose of promoting systemic and organizational changes in the District. In many instances, desegregation funds are used to implement programs or activities, including providing transportation to promote voluntary movement throughout the District, to enhance access to advanced learning experiences and extracurricular activities, to improve the quality of education district wide, to enhance school culture and to refine disciplinary practices to be more equitable, and to provide equal access to facilities and technology. In addition, training and other programs to teachers and administrators have been provided throughout the District.

*(o) Verification that the desegregation funding will be used in accordance with the standards adopted by the State Board of Education pursuant to A.R.S. §§15-704 and 15-701.01.*

The District hereby verifies that desegregation funding will be used in accordance with the standards adopted by the State Board of Education pursuant to A.R.S. §§15-704 and 15-701.01.

*(p) Verification that the desegregation funding will be used to accomplish specific actions to remediate proven discrimination pursuant to title VI of the civil rights act of 1964 (42 United States Code section 2000d) as specified in the court order or administrative agreement.*

The District hereby verifies that the desegregation funding will be used to accomplish specific actions to remediate alleged or proven discrimination, as specified in A.R.S. §15-910(k)”. The verifications required by A.R.S. §15-910(J)(3)(p) and §15-910(k)(5) are therefore inconsistent with the budget process permitted by A.R.S. §15-910(G). See Attachment B regarding programs and activities funded pursuant to A.R.S. §15-910(G).

*(q) An evaluation by the school district of the effectiveness of the school district's desegregation measures.*

The 2013-14 school year is the first full year of implementation of the Unitary Status Plan. The October 2014 Annual Report will evaluate the effectiveness of the District’s desegregation measures in SY2013-2014.

*(r) An estimate of when the school district will be in compliance with the court order or administrative agreement and a detailed account of the steps that the school district will take to achieve compliance.*

The Parties commit to negotiate in good faith any disputes that may arise, and the Parties may seek judicial resolution of any dispute pursuant to the process set forth in the January 6, 2012 Order Appointing Special Master and as permitted by law. The Parties may move, separately or jointly, for a declaration of partial unitary status at any time. A motion for the determination of complete unitary status shall not be filed prior to the end of the 2016-2017 school year. The applicable provisions of the Federal Rules of Civil Procedure and the local rules of this Court will apply to any such motion.

The District has developed general plans as mandated by the Unitary Status Plan, and has developed detailed implementation plans to achieve individual activities mandated by the Unitary Status Plan.

*(s) Any other information that the department of education deems necessary to carry out the purposes of this paragraph.*

In April 2004, the District submitted to the Arizona Department of Education a comprehensive report on desegregation activities in the District, including substantial documentation regarding the types of programs and activities implemented pursuant to the Stipulation of Settlement and each of the Annual Reports filed by the District in the United States District Court in the Fisher/Mendoza case since October 1978. The District will provide additional copies of these voluminous reports upon request.

# ATTACHMENTS

<b>TAB</b>	<b>DESCRIPTION</b>
A.	SY2014-2015 Budget Summary
B.	SY2014-2015 Desegregation Activity/Magnet Programs
C.	Letter re Property Tax Levies, Awwad 7.1.13
D.	Letter re ELD, Horne 5.1.09
E.	Unitary Status Plan 12.20.13
F.	District Court Order Adopting Unitary Status Plan 2.6.13



# ATTACHMENT A

## PROPOSED 2014-15 USP BUDGET SUMMARY

63,382,677 \$ 63,379,720

ACCOUNT DESCRIPTION	FY2014-2015	FY2013-2014	DIFFERENCE
Project 1 Personnel	566,131	526,296	39,835
Project 2 Student Assignment	10,574,364	8,409,810	2,164,554
Project 3 Transportation	9,337,929	8,612,937	724,992
Project 4 ALEs	6,471,424	5,875,365	596,059
Project 5 Student Engagement	8,179,225	8,956,716	(777,491)
Project 6 Inclusive Environments	2,701,589	4,657,203	(1,955,614)
Project 7 Discipline & ECA	1,915,715	2,025,082	(109,367)
Project 8 Family Engagement	677,557	722,548	(44,990)
Project 9 Facilities Access	1,674,985	819,755	855,230
Project 10 Technology Access	588,000	547,013	40,987
Project 11 Administration & Budget	7,600,715	8,417,990	(817,275)
Project 12 Prof. Development	1,943,291	1,961,408	(18,117)
Project 13 Monitoring/Reporting	1,950,878	1,410,065	540,813
Project 14 ELL /OCR	9,200,874	10,437,535	(1,236,661)

# **ATTACHMENT B**

**DISTRICT NAME** Tucson Unified School District

**COUNTY** Pima

**CTD** 100201000

**Desegregation Activity/Magnet Programs**

**A.R.S. §15-910(J)(3)(b) and (e)**

	Program Name	Description (1)	FY 2015 Student Capacity (2)	FY 2014 Number Students Served (3)	Districtwide (4)	Schools (5)	Activity or Magnet Program (6)
1.	Unitary Status Plan: Student Assignment	Activities and supplemental services to include transportation, supplies, materials, parental involvement, staff development, and additional personnel/staffing.	49,156	49,156	Yes	All Schools	Activity
2.	Unitary Status Plan: Student Assignment	<p>Magnets: Each magnet school has developed and adopted a specific theme or focus to attract, promote, and maintain diversity. Themes or focus include: Dual Language; Systems Thinking; Reggio Emilia Inspired; Montessori; Performing Arts; Fine and Performing Arts; Science and Math; Science, Technology, Engineering, Math; International Baccalaureate Programme; International Business and Economics; Traditional Academics; Communication Arts.</p> <p>Eligibility: magnet schools and programs enrollment will be determined by a lottery process.</p> <p><b>*Magnet Schools:</b> Bonillas ES, Booth/Fickett K8; Borton ES; Carrillo ES; Cholla HS; Cragin ES; Davis ES; Dodge ES; Drachman K5; Holladay ES; Mansfeld MS; Ochoa ES; Palo Verde HS; Pueblo HS; Robison ES; Roskruge K8; Safford K8; Tucson HS; Tully ES; Utterback MS</p>	15,139	15,139	Yes	20 Magnet Schools*	Magnet
3.	Unitary Status Plan: Transportation	Transportation is provided to students enrolled in magnet schools and programs, and students enrolled in non-magnet programs and schools that are racially concentrated when such transfers increase the integration of the receiving school.	10,060	10,060	Yes	All Schools	Activity
4.	Unitary Status Plan: Administrators and Certificated Staff	Activities concentrate on the outreach, recruitment, and retention; assignment; evaluation; professional support; and professional development of minority administrators and certificated staff	N/A	N/A	Yes	All Schools	Activity
6.	Unitary Status Plan: Quality of Education	Exceptional Education: Activities ensure that African American and Latino students, including ELL students, are not being inappropriately referred, evaluated, or placed in exceptional education classes or programs.	33,619	33,619	Yes	All Schools	Activity

7.	Unitary Status Plan: Quality of Education	Advanced Learning Experiences: ALEs include Gifted and Talented (GATE) programs, Advanced Academic Courses (AACs), and University High School (UHS). AACs include Pre-Advanced Placement (Pre-AP) courses, Advanced Placement (AP) courses, Dual Credit (DC) courses, and International All Schools Baccalaureate (IB) courses. Specifically identified in the Unitary Status Plan to market and increase participation in ALE activities by African American and Latino, including ELL, students.	14,393	14,393	Yes	All Schools	Activity
8.	Unitary Status Plan: Quality of Education	Dual Language Programs: Activities concentrate on building and expanding TUSD's Dual Language programs in order to provide more students with opportunities to enroll in these programs.	2,587	2,587	Yes	All Schools	Activity
9.	Unitary Status Plan: Quality of Education	Maintaining Inclusive School Environments: commitments to inclusion and non-discrimination in all District activities; develop students' intercultural proficiency; protect school communities from discriminatory harassment and bullying; formal complaint procedures; and inform students and parents of their right to file complaints.	49,156	49,156	Yes	All Schools	Activity
10.	Unitary Status Plan: Quality of Education	Student Engagement and Support: Support services for African American and Latino students focusing on academic intervention and dropout prevention; college mentoring programs; socially and culturally relevant curriculum; staff development and training re Culturally Relevant Pedagogy; support for parents and community participation to improve educational outcomes.	33,619	33,619	Yes	All Schools	Activity
11.	Unitary Status Plan: Discipline	Restorative Practices (RP) and Positive Behavioral Interventions and Supports (PBIS): TUSD will continue to strengthen implementation of the RP and PBIS comprehensive, school-wide activities to classroom management and student behavior. Activities include supplies, parental involvement, staff development, and additional personnel.	49,156	49,156	Yes	All Schools	Activity
12.	Unitary Status Plan: Discipline	Guidelines for Student Rights and Responsibilities (GSRR, aka student handbook): Activities include the review of the GSRR by external consultants and revision of the GSRR, implementation of the GSRR by all district schools, and any disciplinary actions shall be aligned to the GSRR standards, and comport with RR and PBIS.	49,156	49,156	Yes	All Schools	Activity
13.	Unitary Status Plan: Family and Community Engagement	District Family Centers: Activities include a review and assessment of the District's existing family engagement and support programs, resources and practices; family engagement data tracking plan; reorganization plan; collaboration with local colleges and universities; providing district information to parents in all Major Languages.	49,156	49,156	Yes	All Schools	Activity
14.	Unitary Status Plan: Family and Community Engagement	Translation and Interpretation Services: Activities include the continued translation and interpretation of any District documents or services for LEP parents (overlaps requirement of OCR/Meaningful access, #22 below).	5,709	5,709	Yes	All Schools	Activity
15.	Unitary Status Plan: Extracurricular Activities	Activities include providing equitable access to a wide range of extracurricular activities at each school for students and provide opportunities for interracial contact in positive settings of shared interest, including tutoring and fine arts. TUSD will provide transportation to support student participation in extracurricular activities.	13,415	13,415	Yes	All Schools	Activity

16	Unitary Status Plan: Facilities and Technology	Activities include the development of a Facilities Conditions Index (FCI); an Educational Suitability Score (ESS); and a Technology Conditions Index (TCI). Based on the results of the assessments using the FCI, ESS, and TCI, the District will develop a multi-year plan for facilities repairs/improvements, and for technology enhancements/improvements	49,156	49,156	Yes	All Schools	Activity
17.	Unitary Status Plan: Accountability and Transparency	Evidence-Based Accountability: Activities include a review and analysis of the current capacity of the District's data collection and tracking systems, and employee training.	N/A	N/A	Yes	All Schools	Activity
18.	Unitary Status Plan: Accountability and Transparency	Budget: Activities include developing methodologies and processes for allocating desegregation funds to implement the Unitary Status Plan.	N/A	N/A	Yes	All Schools	Activity
19.	Unitary Status Plan: Accountability and Transparency	Notice and Request for Approval: The District is required to provide Notice and Request for Approval to the Special Master to change attendance boundaries; change student assignment patterns; construction projects that change student capacity of a school or that significantly impact the nature of a facility; building or acquiring new schools; proposals to close schools; and the purchase or sale of District real property.	49,156	49,156	Yes	All Schools	Activity
20.	Unitary Status Plan: Accountability and Transparency	USP Web Page: Activities include creating a prominent link to a USP web page on the District's home page that serves as a resource by providing current information related to the various elements of the Plan.	49,156	49,156	Yes	All Schools	Activity
21.	Agreement with US Department of Education: OCR/Lau activities re ELL and Reclassified ELL students	<p>OCR/Lau Activities: The goal of <i>Lau</i> activities is to bring TUSD into full compliance with the terms of the OCR Agreement #08955002-D. The purpose of the Agreement is to provide equal access to instruction for all English Language Learner (ELL) students enrolled in TUSD; assure that all ELL students are receiving equal access to the curriculum in two areas: 1) English language acquisition (ESL instruction) and 2) subject matter content (sheltered content instruction); further continue to monitor Reclassified ELL students to assure ongoing academic success. The Agreement mandates several core areas of compliance: Identify ELLs, provide appropriate alternative language program placement for all ELLs, provide adequately trained and qualified teachers to teach ELLs, monitor progress of all ELLs to assure they acquire English and perform at grade level, provide interventions where necessary for ELL and Reclassified ELL students,, and assure ELLs are not over-represented in special education programs or under-represented in enrichment programs. All ELL students are eligible for services; they are language-tested annually to determine their level of English proficiency - these efforts will be maintained through the state mandated 4 hour ELD program.</p> <p>The USP also makes provision to ensure that members of the plaintiff classes who are also ELLs are considered for their unique situations and needs related to various USP objectives.</p>	8,588	8,588	Yes	All Schools	Activity

22.	Agreement with US Department of Education # 08011157: OCR/Meaningful Access to Educational Services for LEP families	OCR/Meaningful Access to Educational Services for LEP families: The goal of this agreement is to assure that all LEP parents of TUSD students are provided interpreter/translator services to assure access to information concerning basic academic and federally mandated services (i.e. basic school information such as locker fees, etc; Free & Reduced Lunch, Exceptional Education, 504 services, etc), Student Rights & Responsibilities, and due process in the event of student discipline.	5,709	5,709	Yes	All Schools	Activity
23.	Agreement with US Department of Education # 08121170: OCR/Meaningful Access to Governing Board meetings for LEP families	OCR/Meaningful Access to Governing Board meetings for LEP families: The goal of this agreement is to assure that all LEP parents of TUSD students are provided interpreter/translator and translated website services to assure access to information concerning basic Governing Board decision making that is already mandated by State law (translated notice of Board meetings, interpreter access to Board meetings, and expanded facility access in the event of meetings that are of high-interest to LEP parents).	5,709	5,709	Yes	All Schools	Activity

(1)  
Describe the details of each program, including the intent and/or goal to be attained. Be sure to include attendance and eligibility criteria, ethnic composition goals and actual attending ethnic composition. Activities of the program must be included. Even though all text may not display, field will hold in excess of 30,000 characters. Descriptions may be copied and pasted into this cell.

(2)  
Enter the capacity, in number of students who may participate in the program.

(3)  
Enter the number of students served by each program in FY 2014.

(4)  
Indicate if this program is offered in all schools in the district. Select from the drop down list.

(5)  
If the program is not offered at all schools, list each school, by CTDS, at which the program is offered. Separate each CTDS with a comma. Even though all text may not display, field will hold in excess of 30,000 characters. Description may be copied and pasted into this cell.

(6)  
Indicate if the item described is an activity [A.R.S. §15-910(J)(3)(b)] or a magnet program [A.R.S. §15-910(J)(3)(e)].

# ATTACHMENT C





*Financial Services*

*1010 E. 10<sup>th</sup> Street  
Tucson, AZ 85719*

DATE: June 18, 2012

TO: Arizona Department of Education

FROM: Yousef Awad, Chief Financial Officer, Financial Services

RE: Desegregation Report for SY 2012-13, Item (d)

Tucson Unified School District increased property tax levies for desegregation expenses in the following years:

FY 07/08	FY 95/96	FY 88/89
FY 01/02	FY 94/95	FY 87/88
FY 00/01	FY 93/94	FY 85/86
FY 99/00	FY 92/93	FY 84/85
FY 98/99	FY 91/92	FY 83/84
FY 97/98	FY 90/91	
FY 96/97	FY 89/90	

# ATTACHMENT D



State of Arizona  
Department of Education

Tom Horne  
Superintendent of  
Public Instruction

May 1, 2009

**RE: Guidance on SEI Model implementation for 2009-2010**

**Dear Superintendents and Program Administrators:**

In September of 2006, the provisions of HB 2064 (Laws 2006, Chapter 4) became law. This bill affected the way English Language Learners (ELLs) were to be instructed throughout Arizona. The law required the creation of a Task Force to develop models of Structured English Immersion (SEI) to be adopted by school districts and charter schools. The SEI Models were adopted by the Task Force on September 15, 2007. School year 2008-2009 was the first year that school districts and charters were required to implement the SEI Models.

In preparation for school year 2009-1010, the Office of English Language Acquisition Services (OELAS) is herein providing guidance for the SEI Models' second year of implementation.

**NO EXEMPTIONS FROM FULL COMPLIANCE WITH SEI MODELS**

All schools, school districts and charter schools are expected to fully comply with all requirements of the English Language Learners Task Force and **fully implement** the provisions of the Models of Structured English Immersion (SEI) adopted by the ELL Task Force for the 2009-2010 school year.

A "good faith effort" will no longer be sufficient. Districts and charter holders must fully implement a compliant model.

The OELAS Division met with Arizona educators throughout the 2008-2009 school year. During the monitoring process, it was evident that some LEA administrators and teachers were under the mistaken impression that not qualifying for SEI funding meant that they would not have to comply with either state law or the provisions of the SEI Models. This is not true. All school districts and charters must comply with the laws and the SEI Models regardless of their allocation or non-allocation of monies from the SEI fund.

“Weighted B” funds for ELL are used as an offset and therefore are available for implementation of the models. The same is true for any offset of proportionate desegregation funding.

( Schools, school districts and charter schools are also expected to fully comply with the federal requirements of NCLB (P.L. #110-117), Title III. )

Pursuant to A.R.S. § 15-756.07 A.R.S. and § 15-756.08, the Office of English Language Acquisition Services (OELAS) will continue to monitor all school districts and charter schools for compliance with these state and federal laws.

### **MODEL REVISION (ILLP Expansion)**

The current version of the SEI Models is attached. This version reflects a change that was offered as an alternate model provision and approved by the Task Force on April 10, 2008. The change expanded the use of the Individualized Language Learning Plan (ILLP) as an instructional delivery method for English Language Development (ELD). Many schools with low numbers of ELL students were affected by this change.

### **NO NEW ALTERNATE MODEL ADOPTIONS**

No new alternate models provisions have been adopted by the Arizona ELL Task Force for the 2009-2010 school year.

### **SEI FUNDING FOR 2009-2010**

OELAS has not yet been notified by the State Legislature regarding the appropriation for the SEI fund for 2009-2010. An update will be provided as soon as this information becomes available.

Please note that in 2008-2009, the state legislature funded approved SEI applications utilizing **only** the offsets of Group-B weight and ELL-proportionate de-segregation funds. No federal funds were offset from the amount approved as incremental funding for implementing the SEI Models.

Also, please note that the Office of the Auditor General and the ADE School Finance Department have made changes to financial reporting documents that require the reporting of all incremental costs to implement the SEI models. Attached, please find a summary of the reporting guidelines.

### **CHANGE TO THE PHLOTE FORM**

Beginning on July 1, 2009, all school districts and charter schools will be required to use the revised PHLOTE form. The new form and instructions for administration will be available on the OELAS website soon.

## **REIMBURSEMENT FOR SEI TRAINING**

Schools should be aware that the three year period for reimbursement for SEI endorsement coursework is ending. The closing date for reimbursement is May 31, 2009.

## **ADMINISTRATOR LIABILITY**

Administrators are advised to review A.R.S. §15-754 which states:

*... Any school board member or other elected official or administrator who willfully and repeatedly refuses to implement the terms of this statute [A.R.S. 15-752 and 15-753] may be held personally liable for fees and actual and compensatory damages by the child's parents or legal guardian, and cannot be subsequently indemnified for such assessed damages by any public or private third party. Any individual found so liable shall be immediately removed from office, and shall be barred from holding any position of authority anywhere within the Arizona public school system for an additional period of five years."*

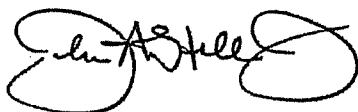
## **EVERYTHING YOU NEED TO KNOW TO BE COMPLIANT WITH THE SEI MODELS – A SEMINAR FOR PRINCIPALS AND SUPERINTENDENTS**

John A. Stollar, Jr., Associate Superintendent for Accountability has scheduled a seminar exclusively for principals and superintendents in order to provide them with the fundamental information needed to be compliant with the SEI Models. This seminar will present concise and targeted information for administrators so that they will understand the training received by their teachers and ELL coordinators, what they will be held accountable for in school year 2009-2010 and where they go for the critical information and training needed for successful implementation.

You will also receive updated information on the SEI budget, revisions to the English Language Proficiency Standards, important information on how ELL students are counted for funding purposes and how your data reporting affects your school labels.

The seminar will be held on Thursday, June 4, 2009 at the East Valley Institute of Technology (EVIT). The address is 1601 East Main Street, Mesa, Arizona. Please reserve a seat at this seminar by contacting Pat Scott at (602) 364-1927 or [pat.scott@azed.gov](mailto:pat.scott@azed.gov).

Sincerely,



**John A. Stollar, Jr.**  
Associate Superintendent for Accountability  
Office of English Language Acquisition Services

# ATTACHMENT E

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

ROY and JOSIE FISHER, et al.,	)	
Plaintiffs,	)	
	)	
UNITED STATES OF AMERICA,	)	
Plaintiff-Intervenor,	)	
	)	No. CIV 74-90 TUC DCB
vs.	)	(lead case)
	)	
ANITA LOHR, et al.,	)	
Defendants,	)	
	)	
and	)	
	)	UNITARY STATUS PLAN
SIDNEY L. SUTTON, et al.,	)	
Defendants-Intervenors.	)	
	)	<hr/>
	)	
MARIA MENDOZA, et al.,	)	
Plaintiffs,	)	
	)	
UNITED STATES OF AMERICA,	)	
Plaintiff-Intervenor,	)	
	)	
vs.	)	
	)	No. CIV 74-204 (TUC) (DCB)
TUCSON UNIFIED SCHOOL	)	(consolidated case)
DISTRICT NO. ONE, et al.,	)	
Defendants.	)	
<hr/>	)	

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
<b>I. INTRODUCTION.....</b>	<b>4</b>
A. Overview.....	4
B. Procedural History .....	4
C. Legal Standard .....	5
D. General Provisions .....	5
<b>II. STUDENT ASSIGNMENT.....</b>	<b>7</b>
A. Overview.....	7
B. Definitions.....	7
C. Student Assignment Personnel .....	7
D. Attendance Boundaries, Feeder Patterns, and Pairing and Clustering.....	8
E. Magnet Programs .....	9
F. Open Enrollment.....	10
G. Application and Selection Process for Magnet Schools and Programs and for Open Enrollment .....	11
H. Transfers and Inter-District Enrollment.....	12
I. Outreach and Recruitment .....	12
J. Professional Development .....	13
K. Reporting.....	13
<b>III. TRANSPORTATION.....</b>	<b>14</b>
A. General Provisions .....	14
B. Monitoring .....	15
C. Reporting.....	15
<b>IV. ADMINISTRATORS AND CERTIFICATED STAFF .....</b>	<b>15</b>
A. Overview.....	15
B. Personnel.....	16
C. Outreach and Recruitment .....	16
D. Hiring .....	18
E. Assignment of Administrators and Certificated Staff.....	19
F. Retention.....	20
G. Reductions in Force .....	21
H. Evaluation .....	22
I. Professional Support .....	22



J.	Professional Development .....	23
K.	Reporting.....	25
<b>V.</b>	<b>QUALITY OF EDUCATION.....</b>	<b>27</b>
A.	Access to and Support in Advanced Learning Experiences .....	27
B.	OELAS Extension.....	31
C.	Dual Language Programs.....	31
D.	Exceptional/Special Education .....	32
E.	Student Engagement and Support.....	32
E.	Maintaining Inclusive School Environments.....	40
F.	Reporting.....	41
<b>VI.</b>	<b>DISCIPLINE .....</b>	<b>43</b>
A.	Overview.....	43
B.	District-Wide Policies and Practices.....	43
C.	Personnel.....	45
D.	Parental and Community Engagement.....	45
E.	Professional Development .....	46
F.	Monitoring .....	47
G.	Reporting.....	48
<b>VII.</b>	<b>FAMILY AND COMMUNITY ENGAGEMENT.....</b>	<b>49</b>
A.	Overview.....	49
B.	Personnel.....	49
C.	Family and Community Engagement Services.....	50
D.	Translation and Interpretation Services .....	51
E.	Reporting.....	52
<b>VIII.</b>	<b>EXTRACURRICULAR ACTIVITIES.....</b>	<b>52</b>
A.	Equitable Access to Extracurricular Activities .....	52
B.	Monitoring .....	52
C.	Reporting.....	53
<b>IX.</b>	<b>FACILITIES AND TECHNOLOGY.....</b>	<b>53</b>
A.	Facilities Conditions .....	53
B.	Technology and Technology Conditions .....	54
C.	Reporting.....	54
<b>X.</b>	<b>ACCOUNTABILITY AND TRANSPARENCY.....</b>	<b>55</b>
A.	Evidence-Based Accountability.....	55
B.	Budget.....	56
C.	Notice and Request for Approval .....	58

D.	Unitary Status Plan Web Page .....	58
E.	Role of Special Master and Plaintiffs .....	58
F.	Reporting.....	60
<b>XI.</b>	<b>FINAL TERMINATION.....</b>	<b>60</b>
A.	The Court shall maintain jurisdiction over this case until the District: .....	60
<b>XII.</b>	<b>EFFECT OF PRIOR ORDERS.....</b>	<b>60</b>
<b>XIII.</b>	<b>SUBMISSION OF REQUEST FOR ATTORNEYS' FEES AND EXPENSES TO THE DISTRICT .....</b>	<b>60</b>

## I. INTRODUCTION

### A. Overview

The Fisher Plaintiffs, the Mendoza Plaintiffs, the United States (collectively, the “Plaintiffs”), and the Tucson Unified School District No. 1 (“TUSD,” or the “District”) (collectively, “the Parties”) enter into this Consent Order (“Order”) to resolve the longstanding desegregation case against the District. This Order consists of the Unitary Status Plan jointly proposed by the Parties, reached after months of negotiations.

### B. Procedural History

1. In May 1974, the National Association for the Advancement of Colored People (“NAACP”) sued the Tucson Unified School District No. 1 on behalf of the African American students in the District, charging the District with segregating and otherwise discriminating against its African American students (“Fisher Plaintiffs”). In October 1974, the Mexican American Legal Defense and Educational Fund (“MALDEF”) filed a later-consolidated lawsuit containing similar allegations on behalf of Mexican American students (“Mendoza Plaintiffs”). *Mendoza v. United States*, 623 F.2d 1338, 1341 (9th Cir. 1980), *cert. denied*, 450 U.S. 912 (1981); *Fisher v. Lohr*, CIV 74-90-TUC-WCF (D. Ariz.). In 1976, the United States intervened. The case was tried by this Court in January 1977, and Findings of Fact and Conclusions of Law were entered on June 4, 1978. The Parties subsequently reached a settlement, including a comprehensive desegregation plan that was filed with this Court, on August 11, 1978. The Stipulation of Settlement was approved by the Court by Order dated August 31, 1978.
2. On January 18, 2005, the District filed a Petition for Unitary Status, which this Court granted in April 2008, terminating court oversight pending acceptance of a Post-Unitary Status Plan (“PUSP”) “fashioned by a joint committee of the parties and experts.” September 14, 2011 Order (“Sept. 2011 Order”) at 2. On December 18, 2009, this Court approved the PUSP and ended federal judicial oversight of the District. The Plaintiffs appealed, and on July 19, 2011, the United States Court of Appeals for the Ninth Circuit reversed this Court’s decision, ordering continued jurisdiction by this Court until the District has met its burden to achieve unitary status. *See generally Fisher v. TUSD*, 652 F.3d 1131 (9th Cir. 2011).
3. On September 14, 2011, this Court ordered the appointment of a Special Master to develop a Unitary Status Plan (“USP” or “Plan”) for the District. Sept. 2011 Order at 3. On January 6, 2012, the Special Master was appointed and directed to work with the Parties on a plan containing “specific substantive programs and provisions to be implemented by the TUSD to address all outstanding *Green* factors and all other ancillary

factors.” January 6, 2012 Order Appointing Special Master (“Jan. 2012 Order”) at 5. This Order constitutes that Plan.<sup>1</sup>

### C. Legal Standard

1. “The duty and responsibility of a school district once segregated by law is to take all steps necessary to eliminate the vestiges of the unconstitutional *de jure* system.” *Freeman v. Pitts*, 503 U.S. 467, 485 (1992). A school district under a desegregation order is obligated to: (1) fully and satisfactorily comply with the court’s desegregation decree(s) for a reasonable period of time; (2) eliminate the vestiges of the prior *de jure* segregation to the extent practicable; and (3) demonstrate a good-faith commitment to the whole of the court’s decrees and to the applicable provisions of the law and the Constitution. *See id.* at 491-92; *Bd. of Educ. of Oklahoma City Pub. Sch., Indep. Sch. Dist. No. 89 v. Dowell*, 498 U.S. 237, 248-50 (1991). The affirmative duty to desegregate is a continuing responsibility, and “[p]art of the affirmative duty . . . is the obligation not to take any action that would impede the process of disestablishing the dual system and its effects.” *Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 537-38 (1979).
2. The measure of a school district’s progress toward unitary status “is the effectiveness, not the purpose,” of its actions. *Brinkman*, 443 U.S. at 537-38; *see also Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 25 (1971). A district must show both past compliance with its desegregation obligations and a commitment to the future operation of its school system in a nondiscriminatory manner. *See Dowell*, 498 U.S. at 247. To that end, a district must demonstrate its “affirmative commitment to comply in good faith with the entirety of a desegregation plan.” *Freeman*, 503 U.S. at 499.

### D. General Provisions

1. In addition to all specific reporting requirements identified herein, for all new or amended plans, policies, procedures, or other significant changes contemplated pursuant to this Order, the District shall solicit the input of the Special Master and the Plaintiffs and submit such items for review before they are put into practice or use. Unless otherwise stipulated by the Parties and/or agreed to by the Special Master, or otherwise specified in this Order, Plaintiffs shall review such items and each provide comments, as appropriate, to the District and the Special Master within thirty (30) days of receipt. The Special Master and the Parties shall work towards voluntary resolution of any disputes. If any disagreements cannot be resolved within thirty (30) days from the date Plaintiffs provide their comments to the District, the Special Master shall report such disagreements to the Court together with his recommendation concerning

---

<sup>1</sup> Because this document is intended by the Parties as a consent order, it shall be referred to interchangeably as a Plan and an Order.

how the disagreement(s) should be resolved. The Special Master's report shall include as attachments all submissions made to him by the Parties with respect to the item(s) in issue. The Court may order additional briefing as it deems appropriate.

2. The District shall ensure that, in every data collection and analysis contemplated herein, student data shall be reported and disaggregated at minimum by race, ethnicity and where indicated, English language status. Unless otherwise specified, student enrollment data shall be reported as of the fortieth (40th) day of each school year and shall be reported to the Plaintiffs and the Special Master each school year by November 1 of that year.
3. Definitions are set forth in Appendix A.
4. All appendices to this Order are integral parts hereof and carry the same force as if they were included in the text.
5. The District's Annual Report shall be due on October 1 of each year for the pendency of this Order.
6. The Parties and the Special Master shall review all of the reporting requirements set forth in this Order, and to the extent appropriate, revise these requirements to facilitate the monitoring of the District's compliance with this Order and reporting to the Plaintiffs and the Special Master.
7. The Parties and the Special Master shall review all of the hiring, assignment and professional development deadlines and, to the extent appropriate, revise these deadlines to ensure the recruitment, hiring, and assignment of a strong pool of candidates, and the involvement of the newly hired and/or assigned employees in the creation of professional development plans. If the Parties and the Special Master cannot agree on revised time lines, the dispute shall be presented to the Court as set forth in Section I(D)(1).
8. The District, by and through the Superintendent or through other delegations of authority as appropriate, may establish the organizational relationships and lines of responsibility for the various offices and positions provided for in this Order, but the District may not eliminate any such offices or positions without seeking amendment to the Order through the Court.
9. The parties acknowledge that any data or information that includes personally identifiable student or personnel data will be provided by the District in accordance with applicable federal and state law, including the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

## II. STUDENT ASSIGNMENT

### A. Overview

1. Students of all racial and ethnic backgrounds shall have the opportunity to attend an integrated school. The District shall use four strategies for assigning students to schools, to be developed by the District in consultation with the Plaintiffs and the Special Master: attendance boundaries; pairing and clustering of schools; magnet schools and programs; and open enrollment. The District shall develop and implement a coordinated process of student assignment incorporating all of these strategies, as appropriate.
2. The District shall continue to assign students to schools based on the attendance area in which the parents of the student reside. Parents may apply to a District school other than their child's attendance area school by completing a magnet or open enrollment application. Subject to possible school consolidations or closures or to any other changes contemplated herein, students may continue at the school in which they are currently enrolled from the effective date of this Order through the completion of the highest grade offered at that school.

### B. Definitions

1. Racially Concentrated School. A racially concentrated school is any school in which any racial or ethnic group exceeds 70% of the school's total enrollment, and any other school specifically defined as such by the Special Master in consultation with the Parties.
2. Integrated School. An integrated school is any school in which no racial or ethnic group varies from the district average for that grade level (Elementary School, Middle School, K-8, High School) by more than +/- 15 percentage points, and in which no single racial or ethnic group exceeds 70% of the school's enrollment.
3. Attached as Appendix C is a list of District schools with the enrollment of each school for the 2012-2013 school year, disaggregated by race and ethnicity, to provide information concerning which schools met the above definitions in the 2012-2013 school year.

### C. Student Assignment Personnel

1. Director of Student Assignment. By January 15, 2013, the District shall hire or designate a director-level employee who shall supervise the implementation of all student assignment strategies set forth in this Order. This employee shall coordinate all student assignment activities, working with the desegregation department and all other relevant departments and

schools, including but not limited to those involved with magnet schools and programs, open enrollment, transportation and facilities.

2. Magnet Strategy and Operations. The District shall hire or designate a director-level employee who shall be responsible for developing and implementing a comprehensive magnet school and program strategy for the District to enhance the integrative and educational quality of magnet schools and programs, and who shall periodically, at minimum on an annual basis, assess these schools and programs. The employee shall consult with magnet school experts, to be identified by the Parties and the Special Master by February 1, 2013, in the development and refinement of the magnet school strategy and Plan for the District (*see* Section (II)(E)(3)).

The District shall also hire or designate an individual or individuals to assist in the effective implementation and operation of the magnet schools and programs, including working with school-based personnel and developing and administering an admissions process to ensure integration of magnet schools and programs.

**D. Attendance Boundaries, Feeder Patterns, and Pairing and Clustering**

1. All schools in the District shall have an attendance boundary unless the District has specifically designated a school to have no attendance boundary.
2. The District shall review and/or redraw its attendance boundaries when it opens a new school; closes, repurposes or consolidates a school; alters the capacity of a school; or designates a school without an attendance boundary. The Parties anticipate that such changes may result in the redrawing of some attendance boundaries. When the District draws attendance boundaries, it shall consider the following criteria: (i) current and projected enrollment; (ii) capacity; (iii) compactness of the attendance area; (iv) physical barriers; (v) demographics (*i.e.*, race, ethnicity, growth projections, socioeconomic status); and (vi) effects on school integration. In applying these criteria, the District shall propose and evaluate various scenarios with, at minimum, the Plaintiffs and the Special Master in an effort to increase the integration of its schools.
3. By April 1, 2013, the District shall review its current attendance boundaries and feeder patterns and, as appropriate, amend such boundaries and patterns and/or provide for the pairing and/or clustering of schools to promote integration of the affected schools.
4. If a non-magnet school is oversubscribed for two or more consecutive years, the District shall review the attendance boundary for that school to determine if any changes should be made to ensure, among other things,

an appropriate balance between students who reside within the attendance boundary and students who applied through open enrollment to attend the school, and allow for pairing or clustering with nearby schools to better accommodate the demand for the oversubscribed school.

5. All attendance boundary and other changes to student assignment patterns shall be subject to the notice and request for approval process set forth in Section (X)(C).

#### **E. Magnet Programs**

1. The District shall continue to implement magnet schools and programs as a strategy for assigning students to schools and to provide students with the opportunity to attend an integrated school. A magnet school or program is one that: focuses on a magnet theme, such as a specific academic area, a particular career or a specialized learning environment; attracts students of diverse racial and ethnic backgrounds; and encourages students to choose a school other than their attendance boundary school to participate in the magnet theme offered at that program or school. Subject to its decisions, if any, to withdraw or relocate magnet school status or programs, the District shall allow all students currently enrolled in a magnet school or program to remain in that program until they complete the highest grade offered by that school.
2. The student assignment goal for all magnet schools and programs shall be to achieve the definition of an integrated school set forth above (*see* Section (II)(B)(2)). The District, through its Family Center(s) and other recruitment strategies set forth in this Order, shall recruit a racially and ethnically diverse student body to its magnet schools and programs to ensure that the schools are integrated to the greatest extent practicable.
3. Magnet School Plan. By April 1, 2013, the District shall develop and provide to the Plaintiffs and the Special Master a Magnet School Plan, taking into account the findings of the 2011 Magnet School Study and ensuring that this Plan aligns with its other student assignment strategies and recruitment efforts. In creating the Plan, the District shall, at a minimum: (i) consider how, whether, and where to add new sites to replicate successful programs and/or add new magnet themes and additional dual language programs,<sup>2</sup> focusing on which geographic area(s) of the District are best suited for new programs to assist the District in meeting its desegregation obligations; (ii) improve existing magnet schools and programs that are not promoting integration and/or educational quality; (iii) consider changes to magnet schools or programs

---

<sup>2</sup> At present, the following campuses have Dual Language programs: Davis Bilingual Magnet School, Grijalva Elementary School, Hollinger Elementary School, Manzo Elementary School, McCorkle Pre-K-8, Mission View Elementary School, Pistor Middle School, Pueblo Magnet High School, Roskruge K-8 Magnet School, Wakefield Middle School, and White Elementary School.



that are not promoting integration and/or educational quality, including withdrawal of magnet status; (iv) determine if each magnet school or school with a magnet program shall have an attendance boundary; (v) determine admissions priorities/criteria for each magnet school or program and a process for review of those criteria; and (vi) ensure that administrators and certificated staff in magnet schools and programs have the expertise and training necessary to ensure successful implementation of the magnet.

Pursuant to these considerations, the Magnet School Plan shall, at a minimum, set forth a process and schedule to: (vii) make changes to the theme(s), programs, boundaries, and admissions criteria for existing magnet schools and programs in conformity with the Plan's findings, including developing a process and criteria for significantly changing, withdrawing magnet status from, or closing magnet schools or programs, that are not promoting integration or educational quality; (viii) add additional magnet schools and/or programs for the 2013-2014 school year as feasible and for the 2014-2015 school year that will promote integration and educational quality within the District, including increasing the number of dual language programs; (ix) provide necessary training and resources to magnet school and program administrators and certificated staff; (x) include strategies to specifically engage African American and Latino families, including the families of English language learner ("ELL") students; and (xi) identify goals to further the integration of each magnet school which shall be used to assess the effectiveness of efforts to enhance integration at the school.

4. The District shall, to the extent practicable, implement elements of the Plan in the 2013-2014 school year, and shall fully implement the Plan in the 2014-2015 school year.
5. Federal Magnet School Funding. It is the understanding of the Parties that, should federal magnet school funding pursuant to the Magnet Schools Assistance Program ("MSAP") become available to assist school districts to implement magnet schools and programs for the 2013-2014 through the 2016-2017 school years, the District shall apply for MSAP funding to assist it in implementing the Magnet School Plan required by this Order.

#### **F. Open Enrollment**

1. Any District student may apply to attend any school, pursuant to the process set forth in Section (G) below. The goal of the open enrollment process is to provide educational choices to families throughout the District, while enhancing the integration of the District's schools.

**G. Application and Selection Process for Magnet Schools and Programs and for Open Enrollment**

1. Application. Beginning in the 2013-2014 school year, parent(s) of all students shall submit an application to enroll their child in school and submit an application by the deadline established by the District (the “Application Deadline”). Parents of students who wish to attend a school other than their attendance boundary school and/or to attend a magnet school or program must indicate these choice(s) on their application. The District shall create a single application that allows for parent(s) to apply for magnet programs and schools and/or open enrollment schools, designating the choice order of their selection(s). The District shall allow parent(s) to submit such applications at all District schools, at the District Office, at the Family Center(s), and online. If there are fewer applications for a grade in an open enrollment school or in a magnet school or program than there are available seats in that grade and program, the District shall admit all students whose parent(s) submit an application for that grade and/or program by the Application Deadline.
2. Oversubscribed Schools.
  - a. Magnet schools/programs. The District shall, as part of the Magnet School Plan, develop an admissions process – *i.e.*, weighted lottery, admission priorities – for oversubscribed magnet schools and programs that takes account of the following criteria:
    - Students residing within a designated preference area. (No more than 50% of the seats available shall be provided on this basis.)
    - Siblings of students currently attending the magnet school or program.
    - Any students from Racially Concentrated Schools, whose enrollment will enhance integration at the magnet school or program.
    - Students residing in the District.
  - b. Open enrollment schools. All students who reside within the school’s attendance boundary shall be admitted. If space then remains in the school or program and it is oversubscribed, the District shall develop an admissions process – *i.e.*, weighted lottery, admission priorities – for oversubscribed schools and programs that takes account of the following criteria:
    - Siblings of students currently attending the school.

- Students from Racially Concentrated schools, whose enrollment will enhance integration at the receiving school.
- Students who enhance integration at the receiving school.

**H. Transfers and Inter-District Enrollment**

1. During the 2012-2013 school year, the District shall track transfers of any District students to and from District schools, charters, private schools, home schooling and public school districts outside of the District. This data shall be compiled and presented to the Parties and the Special Master by February 1, 2013. The Parties shall, no later than March 1, 2013, propose and discuss options to address the impact, if any, of such transfers on the District's desegregation obligations.

**I. Outreach and Recruitment**

1. By April 1, 2013, the District shall review and revise its strategies for the marketing to and recruitment of students to District schools to provide information to African American and Latino families and community members throughout the District about the educational options available in the District. These revised strategies shall include, but not be limited to:
  - a. Holding marketing and recruitment fairs for students and parents in several geographically diverse District locations;
  - b. Creating or amending an informational guide describing offerings at each school site. The guide shall be distributed via mail and email to all District families; posted on the website in all Major Languages; and available in hard copy at all school sites, the Family Center(s), and the District Office;
  - c. Pursuant to Section (VII), developing Family Center(s) to assist with enrollment, attendance, and program questions and concerns;
  - d. Engaging with community groups to share information and involve local stakeholder organizations in the enrollment process, as coordinated through the director of student assignment and the family engagement coordinator pursuant to Section (VII);
  - e. Hiring or contracting for appropriate technology to manage the assignment process; and
  - f. Developing a web-based interface for families to learn about schools and submit application(s) online.

The District shall disseminate this information in all Major Languages through Family Center(s), the District's website and other media as appropriate.

2. By April 1, 2013, as more fully set forth below in Section (VII), the District shall develop a plan to expand its existing Family Center(s) and/or develop new one(s).

**J. Professional Development**

1. By October 1 of the 2013-2014 school year, the District shall ensure that all administrators, certificated staff, and any other staff involved in the student assignment and/or enrollment process receive training on the new student assignment process and procedures, and other pertinent terms of this Order and their purpose. Such training shall be specific to the roles and obligations of the specific group of administrators or staff being trained. All newly-hired District personnel involved in the student assignment and/or enrollment process shall complete the training by the beginning of the fall semester of the academic year subsequent to the academic year during which they were hired.

**K. Reporting**

1. The District shall provide, as part of its Annual Report:
  - a. A disaggregated list or table with the number and percentage of students at each school and District-wide, comparable to the data at Appendix C;
  - b. Disaggregated lists or tables of all students attending schools other than their attendance boundary schools, by grade, sending school and receiving school, and whether such enrollment is pursuant to open enrollment or to magnet programs or schools;
  - c. Copies of all job descriptions and explanations of responsibilities for all persons hired or assigned to fulfill the requirements of this Section, identified by name, job title, previous job title (if appropriate), others considered for the position, and credentials;
  - d. A copy of the 2011 and any subsequent Magnet School Studies;
  - e. A copy of the Magnet School Plan, including specific details regarding any new, amended, closed or relocated magnet schools or programs and all schools or programs from which magnet status has been withdrawn, copies of the admissions process developed for oversubscribed magnet schools and programs, and a description of the status of the Plan's implementation;

- f. Copies of any plans for improvement for magnet schools or programs developed by the District pursuant to this Order;
- g. Copies of any applications submitted to the Magnet Schools Assistance Program;
- h. A copy of the admissions process developed for oversubscribed schools;
- i. Copies of all informational guides developed pursuant to the requirements of this Section, in the District's Major Languages;
- j. A copy of the enrollment application pursuant to the requirements of this Section, in the District's Major Languages;
- k. A copy of any description(s) of software purchased and/or used to manage the student assignment process;
- l. A copy of the data tracked pursuant to the requirements of this Section regarding intra-District student transfers and transfers to and from charters, private schools, home schooling and public school districts outside of the District;
- m. A copy of the outreach and recruitment plan developed pursuant to the requirements of this Section;
- n. Any written policies or practices amended pursuant to the requirements of this Section;
- o. A link to all web-based materials and interfaces developed pursuant to the requirements of this Section; and
- p. A list or table of all formal professional development opportunities offered in the District over the preceding year pursuant to the requirements of this Section, by opportunity description, location held, and number of personnel who attended by position.

### **III. TRANSPORTATION**

#### **A. General Provisions**

- 1. The District shall utilize transportation services as a critical component of the integration of its schools.
- 2. The District shall make decisions concerning the availability of transportation services, including, but not limited to, transportation services to support student participation in extracurricular activities, in a manner that promotes the attendance of District students at integrated and

magnet schools and programs. District transportation administrators shall be included in planning and monitoring activities related to student assignment and integration.

3. The District shall provide free transportation, except as provided in Paragraph (4) below, to: (a) District students enrolled in magnet programs and schools; and (b) District students enrolled in non-magnet programs and schools that are racially concentrated when such transfers increase the integration of the receiving school. Such transportation may be provided by District vehicles or by public transportation vouchers, whichever is appropriate.
4. The District shall not be required to provide free transportation to students who live within the “walking zone” of the school in which they are enrolled, subject to exceptions set forth in the District’s Transportation Policy EEA.
5. The District shall provide prospective and enrolled families with information regarding the availability of free transportation at school sites, at the Family Center(s), at the District Office, and on the website.
6. If the District contracts with a private party for the provision of transportation services, the District shall not permit the private party to discriminate on the basis of race or ethnicity in the provision of any of the services that the private party provides.

**B. Monitoring**

1. By July 1, 2013, the District shall identify and implement any changes necessary to enable it to include the transportation each student receives in each student’s data dashboard entry.

**C. Reporting**

1. The District shall include data in its Annual Report regarding student use of transportation, disaggregated by school attended and grade level (elementary, middle, and high school).

**IV. ADMINISTRATORS AND CERTIFICATED STAFF**

**A. Overview**

1. The District shall seek to enhance the racial and ethnic diversity of its administrators and certificated staff through its recruitment, hiring, assignment, promotion, pay, demotion, and dismissal practices and procedures.

**B. Personnel**

1. The District shall hire or designate an individual in the human resources department who shall coordinate and review the District's outreach, recruitment, hiring, assignment and retention efforts and any reductions in force. It is anticipated that this individual shall work in conjunction with the District personnel recruiter, the director of human resources, the director of desegregation and other District personnel who are responsible for the District's personnel management. This individual shall regularly review the applicant pool to ensure that African American and Latino candidates, candidates with demonstrated success in engaging African American and Latino students, and candidates with Spanish language bilingual certifications, are included and being considered for selection by school sites and at the District level.
2. By April 1, 2013, the District shall hire or designate a director-level employee to coordinate personnel recruitment efforts. This employee shall coordinate with the employee in the human resources department designated in Paragraph (1) above and shall be responsible for: (a) managing the development of the recruitment plan with the recruitment team, and (b) organizing and monitoring District recruitment efforts pursuant to the requirements of this Section.
3. By April 1, 2013, the District shall hire or designate a director-level employee to coordinate professional development and support efforts. This employee shall work in conjunction with the individual responsible for coordinating culturally responsive pedagogy and instruction and other District personnel as appropriate to develop and implement the professional development and support efforts contemplated in this Order. This employee shall be responsible for: (a) hiring or designating appropriate trainers for professional development opportunities; (b) ensuring that all required professional development is available at multiple times and in diverse geographic locations across the District; (c) coordinating and/or providing all District-level professional development; (d) assisting school sites in ensuring that all administrators and certificated staff receive required and necessary professional development; (e) managing the continued development of the New Teacher Induction Program, including organizing the hiring or designation of Mentors and their assignment to school site(s); (f) developing and implementing the support program for underperforming and/or struggling teachers; and (g) developing and implementing the leadership program for African American and Latino administrators.

**C. Outreach and Recruitment**

1. The District shall conduct recruitment for all employment vacancies on a nondiscriminatory basis.

2. The District has hired an outside expert to undertake a Labor Market Analysis to determine the expected number of African American and Latino administrators and certificated staff in the District, based on the number of African American and Latino administrators and certificated staff in the State of Arizona, in a four-state region, a six-state region and the United States.
3. By April 1, 2013, the District shall develop and implement a plan to recruit qualified African American and Latino candidates for open administrator and certificated staff positions. The plan shall be developed by the District recruiter with the input of a racially and ethnically diverse recruitment team comprised of school-level and district-level administrators, certificated staff and human resources personnel. The plan shall address any and all disparities identified in the Labor Market Analysis.
  - a. The District recruiter, with input from the recruitment team, shall take the following steps to implement the recruitment plan, and shall modify it annually based on a review of the previous year's recruiting data and the effectiveness of past recruiting practices in attracting qualified African American and Latino candidates and candidates with Spanish language bilingual certifications. The recruitment plan shall:
    - i. Establish a nationwide recruiting strategy, based at minimum on the outcome of the Labor Market Analysis, which shall include specific techniques to recruit African American and Latino candidates and candidates with Spanish language bilingual certifications from across the country, including through: (i) advertising job vacancies on national websites and publications, including career websites, national newspapers, education publications, and periodicals targeting African American and Latino communities; (ii) recruiting at Historically Black Colleges and Universities ("HBCUs"), through the Hispanic Association of Colleges and Universities ("HACU"), and at other colleges and universities with teacher preparation programs serving significant numbers of African American and/or Latino students, including providing vacancy announcements to campus career services offices; and (iii) attending local and state-wide job, diversity, and education fairs and/or expos;
    - ii. Create a process to invite retired African American and Latino administrators and certificated staff to be considered for open positions for which they are qualified;



- iii. Incorporate strategies for building and utilizing partnerships with local employers that recruit nationally to promote TUSD employment opportunities to their prospective employees and their families;
- iv. Develop local programs to identify and support local high school, college and university students to interest them in teaching careers, including, for college and university students, exploring and promoting opportunities for teaching in the District; and
- v. Encourage and provide support for African American and Latino non-certificated staff (*e.g.*, paraprofessionals) who are interested in pursuing certification.

#### **D. Hiring**

1. The District shall ensure that interview committees for the hiring of administrators and certificated staff include African American and/or Latino members. For school site-level hiring, the principal shall submit to the District human resources department the names and race/ethnicity of the members of each interview panel. For District-level hiring, the individual who selects the hiring panel shall also submit this information to the District human resources department.
2. The District shall maintain a centralized electronic database of all applicants for administrative and certificated staff positions, including each applicant's name, race and ethnicity (as provided by the applicant), highest degree attained, and all certifications (*e.g.*, bilingual certification, special education certification), and shall maintain each applicant's information in the database for a period of at least three years, unless the applicant requests that his or her application be withdrawn. The District shall maintain an active certificated staff and administrator pool and shall encourage applicants to apply for individual positions and to apply for the pool. All applicants in the pool shall be considered for all available vacancies for which they qualify.
3. Each interview committee, at both the site level and district level, shall utilize a standard interview instrument with core uniform questions to be asked of each candidate that applies for that position and a scoring rubric.
4. The District shall identify why individuals who are offered positions do not accept them, to the extent such applicants respond to such post-offer inquiries.

**E. Assignment of Administrators and Certificated Staff**

1. All District schools shall seek to have a racially and ethnically diverse staff. The District shall track and report information on school-based administrators and certificated staff by race and ethnicity (as provided by the employee). Attached as Appendix D is data setting forth the racial/ethnic composition of TUSD teachers and principals by school level for the 2009-2012 school years.
2. The District shall identify significant disparities (*i.e.*, more than a 15 percentage point variance) between the percentage of African American or Latino certificated staff or administrators at an individual school and district-wide percentages for schools at the comparable grade level (Elementary School, Middle School, K-8, High School). The assessment of significant disparities shall also take into account the percentage of African American and Latino students on each school campus. The District shall assess the reason(s) for the disparities and shall review and address, to the extent relevant and practicable, its hiring and assignment practices, including enforcing hiring policies and providing additional targeted training to staff members involved in hiring and assignment.
3. To address any disparities as identified pursuant to Section (IV)(E)(2) above, or to address resource needs at a particular campus (*e.g.*, voluntary reassignment of bilingual personnel to campuses with increased numbers of ELL students or to dual language programs), the District may also reassign personnel between schools. To facilitate such reassignments, the District shall notify all current certificated staff at every school in the District of the opportunity to apply to voluntarily transfer as described in this section. The District shall give all interested personnel a reasonable period in which to apply for a transfer. The District shall include these voluntary transfer applications in every pool of candidates submitted to each school to the extent they are qualified personnel whose transfer would enhance the racial and ethnic diversity of the certificated staff at the school.
4. The District shall make efforts to assign and attract a diverse administrative team to any school with more than one site-based administrator. Such administrators shall be selected from a pool that includes African American and/or Latino candidates.
5. Through the human resources department coordinator identified in Section (IV)(B)(1) above, the District shall make efforts to increase the number of experienced teachers and reduce the number of beginning teachers hired by Racially Concentrated schools or schools in which students are achieving at or below the District average in scores on state tests or other relevant measures of academic performance, and to avoid assigning first-year principals to Racially Concentrated schools or schools serving

students who are achieving below the District average in scores on state tests or other relevant measures of academic performance. Exceptions to this provision may be permitted by the Superintendent on a case-by-case basis.

6. By July 1, 2013, the District shall develop a pilot plan to support first-year teachers serving in schools where student achievement is below the District average. This plan shall include the criteria for identifying the schools in which the program will be piloted in the 2013-2014 school year and for evaluation by the Office of Accountability and Research. The plan shall include professional development targeted toward the specific challenges these teachers face.

#### **F. Retention**

1. The District shall adopt measures intended to increase the retention of African American and Latino administrators and certificated staff, including, but not limited to, doing and/or taking into account the following:
  - a. Commencing with the effective date of this Order, on an ongoing basis, evaluating whether there are disparities in the attrition rates of African American and Latino administrators or certificated staff compared to other racial and ethnic groups. If disparities are identified, the District shall, on an ongoing basis, assess the reason(s) for these disparities and develop a plan to take appropriate corrective action. If a remedial plan to address disparate attrition is needed, it shall be developed and implemented in the semester subsequent to the semester in which the attrition concern was identified;
  - b. Surveying teachers each year using instruments to be developed by the District and disaggregating survey results by race, ethnicity, and school site to assess teachers' overall job satisfaction and their interest in continuing to work for the District. These surveys shall be anonymous; and
  - c. Conducting biannual focus groups of representative samples of District certificated staff to gather perspectives on the particular concerns of these staff in hard-to-fill positions (*e.g.*, ELL and special education teachers) and/or who have been hired to fulfill a need specifically identified in this Order.<sup>3</sup>

---

<sup>3</sup> This shall refer to individuals hired pursuant to Sections (II), (IV), (V), (VI), and (VII).

**G. Reductions in Force<sup>4</sup>**

1. By February 1, 2013, the District shall develop a plan (“RIF Plan”) which takes into account the District’s desegregation obligations for any reductions in force (“RIF”) or other employment actions requiring the dismissal of administrators and/or certificated staff members who have been hired to fulfill a need specifically identified in this Order.<sup>5</sup> The RIF Plan, and any future modifications, shall be communicated to all personnel in writing and posted on the District’s website. No reductions in force may take place sooner than 30 days after the RIF Plan is communicated to all personnel. If reductions in force are necessary before February 1, 2013, due to school closures or other significant changes in schools’ capacities, the District shall communicate informally regarding the substance of the new RIF Plan to administrators and certificated staff members before any such RIFs take place.
2. Administrators and certificated staff members who have been hired to fulfill a need specifically identified in this Order<sup>6</sup> and who are meeting performance and conduct standards shall not be subject to a RIF for at least three full school years after they have been hired. Principals who are selecting candidates for RIFs shall consider administrators and certificated staff members’ evaluations in making their selections.
3. After a reduction in force, the District shall place the names of those administrators and certificated staff who have been subject to RIF and who wish to be considered for reemployment in the District on a list of candidates for future employment. In the event that the District has future job openings, it shall review this list and determine whether these administrators or certificated staff are qualified for the vacant positions. If so, the District shall contact them to determine if they are interested in the position, and if so, the District shall place them in the pool of job candidates.<sup>7</sup>
4. No vacancy created as a result of the RIF of an African American or Latino administrator or certificated staff member may be filled until such displaced administrator or certificated staff member who is qualified has had an opportunity to fill the vacancy and has failed to accept an offer to do so.
5. The District shall ensure that any reductions in force or employment actions requiring the demotion or dismissal of administrators or

---

<sup>4</sup> The provisions of this Section do not apply to persons dismissed for cause.

<sup>5</sup> This shall refer to individuals hired pursuant to Sections (II), (IV), (V), (VI), and (VII).

<sup>6</sup> This shall refer to individuals hired pursuant to Sections (II), (IV), (V), (VI), and (VII).

<sup>7</sup> This provision shall not be interpreted or applied to provide lesser rights than certificated staff members or administrators may have pursuant to separate agreements with the District.

certificated staff shall not be made due to the race or ethnicity of the demoted or dismissed individual.

## **H. Evaluation**

1. By July 1, 2013, the District shall review, amend as appropriate, and adopt teacher and principal evaluation instruments to ensure that such evaluations, in addition to requirements of State law and other measures the District deems appropriate, give adequate weight to: (i) an assessment of (I) teacher efforts to include, engage, and support students from diverse racial, ethnic, cultural, and linguistic backgrounds using culturally responsive pedagogy and (II) efforts by principals to create school conditions, processes, and practices that support learning for racially, ethnically, culturally and linguistically diverse students; (ii) teacher and principal use of classroom and school-level data to improve student outcomes, target interventions, and perform self-monitoring; and (iii) aggregated responses from student and teacher surveys to be developed by the District, protecting the anonymity of survey respondents. These elements shall be included in any future teacher and principal evaluation instruments that may be implemented. All teachers and principals shall be evaluated using the same instruments, as appropriate to their position.

## **I. Professional Support**

1. By July 1, 2013, the District shall amend its New Teacher Induction Program (“NTIP”) to provide new teachers (*i.e.*, teachers in their first two years of teaching) with the foundation to become effective educators. The NTIP shall, at a minimum: (a) build beginning teachers’ capacity to be reflective and collaborative members of their professional learning communities (*see* Paragraph 4 below); and (b) engage thoughtfully with students from diverse racial, ethnic, cultural, and linguistic backgrounds using culturally responsive pedagogy. The District shall hire or designate an appropriate number of New Teacher Mentors based on the best practices for such mentoring/coaching in the field. These Mentors shall not have direct teaching assignments.
2. By July 1, 2013, the District shall develop a plan for and implement strategies to support underperforming or struggling teachers regardless of their length of service. Teachers shall be referred to the program by school- or District-level administrators based on evidence (*e.g.*, from student surveys, administrator observations, discipline referrals, and/or annual evaluations) that the teacher requires additional professional development and mentor support. The support program shall utilize research-based practices such as those embodied in Peer Assistance and Review programs.

3. By July 1, 2013, the District shall develop and implement a plan for the identification and development of prospective administrative leaders, specifically designed to increase the number of African American and Latino principals, assistant principals, and District Office administrators. The plan shall propose methods for “growing your own,” including the possibility of financial support to enable current African American and Latino employees to receive the required certifications and educational degrees needed for such promotions.
4. Commencing no later than October 1, 2013, the District shall provide appropriate training for all school site principals to build and foster professional learning communities (“PLCs”) among teachers at their schools so that effective teaching methods may be developed and shared. This training shall include strategies to: (a) build regular structured time into teachers’ schedules to co-plan and collaborate, observe each other's classrooms and teaching methods, and provide constructive feedback so that best practices for student success can be shared; (b) develop within- and across-school networks to encourage teachers with experience and success in using culturally responsive pedagogy to engage students to mentor and coach their peer teachers; (c) engage in collaborative problem solving based on analyses of student performance; and (d) encourage and provide space, resources, and support for constructive student-teacher, teacher-teacher, and teacher-family interactions.

**J. Professional Development**

1. By April 1, 2013, the District shall develop a plan to ensure that all administrators and certificated staff are provided with copies of this Order and are trained on its elements and requirements prior to the commencement of the 2013-2014 school year.
2. By June 1, 2013, the District shall designate, hire, or contract for appropriate trainers for all certificated staff, administrators and paraprofessionals to provide the professional development necessary to effectively implement the pertinent terms of this Order. These trainers shall work in conjunction with the District’s director of culturally responsive pedagogy and instruction and coordinator of professional development to develop appropriate trainings, and shall conduct these professional development sessions throughout the 2013-2014 school year and thereafter. All newly-hired or promoted certificated staff, administrators and paraprofessionals in the District, or individuals who did not attend the first session(s) of professional development described here, shall do so the next time the trainings are held, or in the beginning of the fall semester of the academic year subsequent to the academic year during which they were hired or promoted or missed such training, whichever is sooner. At that time such personnel also shall receive a copy of this Order and the training referenced above (*see* Paragraph 1 above).

3. The District shall ensure that all administrators, certificated staff, and paraprofessionals receive ongoing professional development, organized through the director of culturally responsive pedagogy and instruction and the coordinator of professional development, that includes the following elements:
  - a. The District's prohibitions on discrimination or retaliation on the basis of race and ethnicity;
  - b. Practical and research-based strategies in the areas of: (i) classroom and non-classroom expectations; (ii) changes to professional evaluations; (iii) engaging students utilizing culturally responsive pedagogy, including understanding how culturally responsive materials and lessons improve students' academic and subject matter skills by increasing the appeal of the tools of instruction and helping them build analytic capacity; (iv) proactive approaches to student access to ALEs; (v) the District's behavioral and discipline systems, including Restorative Practices, Positive Behavior Interventions and Supports, and amendments to the Guidelines for Student Rights and Responsibilities; (vi) recording, collecting, analyzing, and utilizing data to monitor student academic and behavioral progress, including specific training on the inputting, accessing, and otherwise using the District's existing and amended data system(s); (vii) working with students with diverse needs, including ELL students and developing a district-wide professional development plan for all educators working with ELL students; and (viii) providing clear, concrete, and accessible strategies for applying tools gained in professional development to classroom and school management, including methods for reaching out to network(s) of identified colleagues, mentors, and professional supporters to assist in thoughtful decision-making; and
  - c. Any other training contemplated herein.

This professional development shall be offered on a regular basis, both integrated into instructional days and in dedicated professional development time during the summer or school year, as appropriate.

4. For administrators and certificated staff identified pursuant to their evaluations as in need of improvement, the District shall provide additional targeted professional development designed to enhance the expertise of these personnel in the identified area(s) of need.
5. The District shall provide all personnel involved in any part of the hiring process with annual training on diversity, the competitive hiring process, the District's non-discrimination policies, state and federal non-



discrimination law (including EEOC guidelines), the District's recruitment plan, and use of the District's interview protocols. Such training shall be in addition to each such employee's annual professional development requirement.

6. Through the director of culturally responsive pedagogy and instruction, the District shall facilitate opportunities for administrators and certificated staff who consistently demonstrate best practices in their classrooms or schools to coach, mentor, and collaborate with their peers and provide opportunities for other personnel to observe these best practices.

## **K. Reporting**

1. The District shall provide, as part of its Annual Report:
  - a. Copies of all job descriptions and explanations of responsibilities for all persons hired or assigned to fulfill the requirements of this Section, identified by name, job title, previous job title (if appropriate), others considered for the position, and credentials;
  - b. A copy of the Labor Market Analysis, and any subsequent similar studies;
  - c. A copy of the recruitment plan and any related materials;
  - d. The following data and information, disaggregated by race and ethnicity:
    - i. For all administrator and certificated staff vacancies advertised and/or filled immediately prior to and during the preceding school year, a report identifying the school at which the vacancy occurred; date of vacancy; position to be filled (*e.g.*, high school math teacher, second grade teacher, principal, etc.); number of applicants; number of applicants interviewed, by race (where given by applicant); date position was filled; person selected; and for any vacancy that was not filled, the reason(s) the position was not filled;
    - ii. Lists or tables of interview committee participants for each open position, by position title and school site;
    - iii. Lists or tables of all administrators and certificated staff delineated by position, school, grade level, date hired, and total years of experience (including experience in other districts), and all active certifications, with summary tables for each school and comparisons to District-wide figures;



- iv. Lists or tables of administrators or certificated staff who chose voluntary reassignment, by old and new position; and
- v. Lists or tables of administrators and certificated staff subject to a reduction in force, by prior position and outcome (*i.e.*, new position or dismissal);
- e. Copies of the District's interview instruments for each position type and scoring rubrics;
- f. Any aggregated information regarding why individuals offered positions in the District chose not to accept them, reported in a manner that conforms to relevant privacy protections;
- g. The results of the evaluation of disparities in hiring and assignment, as set forth above, and any plans or corrective action taken by the District;
- h. A copy of the pilot plan to support first year teachers developed pursuant to the requirements of this Section;
- i. As contemplated in (IV)(F)(1)(a), a copy of the District's retention evaluation(s), a copy of any assessments required in response to the evaluation(s), and a copy of any remedial plan(s) developed to address the identified issues;
- j. As contemplated in (IV)(F)(1)(b), copies of the teacher survey instrument and a summary of the results of such survey(s);
- k. Descriptions of the findings of the biannual focus groups contemplated in (IV)(F)(1)(c);
- l. A copy of the RIF plan contemplated in (IV)(G)(1);
- m. Copies of the teacher and principal evaluation instruments and summary data from the student surveys contemplated in (IV)(H)(1);
- n. A description of the New Teacher Induction Program, including a list or table of the participating teachers and Mentors by race, ethnicity, and school site;
- o. A description of the teacher support program contemplated in (IV)(I)(2), including aggregate data regarding the numbers and race or ethnicity of teachers participating in the program;
- p. A copy of the leadership plan to develop African American and Latino administrators; and

- q. For all training and professional development provided by the District pursuant to this section, information on the type of opportunity, location held, number of personnel who attended by position; presenter(s), training outline or presentation, and any documents distributed.

## V. QUALITY OF EDUCATION

### A. Access to and Support in Advanced Learning Experiences

1. Overview. The purpose of this section shall be to improve the academic achievement of African American and Latino students in the District and to ensure that African American and Latino students have equal access to the District's Advanced Learning Experiences.
2. General Provisions.
  - a. By April 1, 2013, the District shall hire or designate a District Office employee to be the Coordinator of Advanced Learning Experiences ("ALEs"). ALEs shall include Gifted and Talented ("GATE") programs, Advanced Academic Courses ("AACs"), and University High School ("UHS"). AACs shall include Pre-Advanced Placement ("Pre-AP") courses, which were formerly referred to as "Honors," "Accelerated," or "Advanced," and any middle school course offered for high school credit; Advanced Placement ("AP") courses; Dual-Credit courses; and International Baccalaureate ("IB") courses. The ALE Coordinator shall have responsibility for: reviewing and assessing the District's existing ALEs, developing an ALE Access and Recruitment Plan, assisting appropriate District departments and schools sites with the implementation of the ALE Access and Recruitment Plan, and developing annual goals, in collaboration with relevant staff, for progress to be made in improving access for African American and Latino students, including ELL students, to all ALE programs. These goals shall be shared with the Plaintiffs and the Special Master and shall be used by the District to evaluate effectiveness.
  - b. By July 1, 2013, the ALE Coordinator shall complete an assessment of existing ALE programs, resources, and practices in the District and by school site. This assessment shall include: (i) a review of the ALEs offered at each school; the number of students enrolled in each ALE program at each school (disaggregated by grade level, race, ethnicity, ELL status); and the resources available in each school for ALEs (*e.g.*, part-time or full-time personnel assigned, annual budget); and (ii) a determination of what, if any, gaps in ALE access exist and what, if any, barriers there are for students at each school site to enroll in and

successfully complete ALEs offered at each school site. The assessment shall include an analysis of the data and information gathered and findings, including whether African American and Latino students, including ELL students, have equitable access to ALEs, and recommendations resulting from the analysis, including recommendations regarding additional data that the District's data system should gather to track students' ALE access and participation.

- c. By October 1, 2013, the ALE Coordinator shall develop the ALE Access and Recruitment Plan, which shall include strategies to identify and encourage African American and Latino students, including ELL students, to enroll in ALEs; to increase the number of African American and Latino students, including ELL students, enrolling in ALEs; and to support African American and Latino students, including ELL students, in successfully completing ALEs. In developing this Plan, the ALE Coordinator shall take into account the findings and recommendations of the assessment of existing ALE programs, resources, and practices in the District and best practices implemented by other school districts.
- d. To recruit and encourage African American and Latino students, including ELL students, to apply for and enroll in ALEs, the ALE Access and Recruitment Plan shall include, but not be limited to, the following strategies:
  - i. Developing accessible materials (*e.g.*, informational booklets and DVDs, web pages, mailers) describing the District's ALE offerings by content, structure, requirements, and location;
  - ii. Coordinating with the relevant administrator(s) at the Family Center(s) and in the District Office to distribute such materials to parents;
  - iii. Holding community meetings and informational sessions regarding ALEs in geographically diverse District locations, coordinated with the Family Center(s), Multicultural Student Services, and any other relevant District departments;
  - iv. Providing professional development to administrators and certificated staff to identify and encourage African American and Latino students, including ELL students, to enroll in ALEs; and

- v. Ensuring that there is equitable access to ALEs, including by: (I) assessing the feasibility of testing all students at appropriate grade levels and using multiple measures for selection to GATE and UHS; (II) increasing access to academic preparation programs such as AVID; and (III) eliminating barriers to ALE enrollment, including, as appropriate, providing weighted grades for pre-AP and AP students, offering free or reduced AP exam fees for low-income students, offering to waive other participation fees for any ALEs, integrating AAC sessions into summer academies, and creating structures for peer mentoring and pairing, and the provision of resources for ALEs.
- e. The Plan shall include a complaint process to allow students and/or parent(s) to file complaints regarding practices that have the intent or effect of excluding students from enrollment, identification, admission, placement, or success in ALEs. The District shall disseminate information regarding this complaint process at all school sites, through the Family Center(s), at the District Office, and on the website.
- f. By January 1, 2014, the District shall implement the ALE Access and Recruitment Plan.

3. Gifted and Talented Education (“GATE”) Services

- a. In developing the ALE Access and Recruitment Plan, the ALE Coordinator shall use the results of the assessment and analyses required by Section (V)(A)(2)(b) to:
  - i. Increase the number and percentage of African American and Latino students, including ELL students, receiving GATE services by improving screening procedures for GATE services and placement in GATE services to ensure that students are identified, tested, and provided with GATE services in a fair and nondiscriminatory manner that does not have an adverse impact on any student based on his/her race, ethnicity or English language proficiency;
  - ii. Increase the number and quality of GATE offerings, as appropriate, to provide equal access and equitable opportunities for all students, including assessing the feasibility of adding or expanding GATE dual language programs;
  - iii. Assess whether the implementation of GATE services at school sites (*e.g.*, self-contained, pull-out, clustering, or

resource-driven models) should be modified to increase access to GATE services and to avoid within-school segregation; and

- iv. Require all GATE teachers to be gifted-endorsed or to be in the process of obtaining gifted endorsement.

4. Advanced Academic Courses (“AACs”)

- a. In developing the ALE Access and Recruitment Plan, the ALE Coordinator or designee shall use the results of the assessments and analyses as required by Section (V)(A)(2)(b) to:
  - i. Increase the number and percentage of African American and Latino students, including ELL students, enrolled in AACs by improving identification, recruitment, and placement to ensure that students have access to AACs in a fair and nondiscriminatory manner;
  - ii. Increase the number of AAC offerings, as appropriate, to provide equal access and equitable opportunities for all students to participate in these courses, including expanding the number of AP courses offered at District high schools and the number of grades in which such courses are offered;
  - iii. Improve the quality of Pre-AP and AP courses by making these courses subject to audit by the College Board; and
  - iv. Provide professional development to train all AAC teachers using appropriate training and curricula, such as that provided by the College Board.

5. University High School (“UHS”) Admissions and Retention

- a. By April 1, 2013, the District shall review and revise the process and procedures that it uses to select students for admission to UHS to ensure that multiple measures for admission are used and that all students have an equitable opportunity to enroll at University High School. In conducting this review, the District shall consult with an expert regarding the use of multiple measures (*e.g.*, essays; characteristics of the student’s school; student’s background, including race, ethnicity and socioeconomic status) for admission to similar programs and shall review best practices used by other school districts in admitting students to similar programs. The District shall consult with the Plaintiffs and the Special Master during the drafting and prior to implementation of the revised admissions procedures. The District shall pilot these admissions

procedures for transfer students seeking to enter UHS during the 2013-2014 school year and shall implement the amended procedures for all incoming students in the 2014-2015 school year.

- b. The District shall administer the appropriate UHS admission test(s) for all 7th grade students. With a signed form from a parent, a student may opt out if they do not wish to compete for entrance to UHS. Before testing each year, the District shall send explanatory materials to 7th grade families to explain the purpose of the testing and requirements for enrolling at UHS. Such materials also shall be distributed through the Family Center(s) and made available on the District's website.
- c. The District shall require all counselors in all middle schools to review UHS admissions requirements with all students in 6th and the beginning of 7th grade and provide all students with application materials so that students may be aware of and prepare for the required tests in the spring of 7th grade and application in 8th grade; and
- d. In addition to the outreach required by the ALE Access and Recruitment Plan, the District shall: conduct specific UHS-related outreach to students and parents about the program's offerings; encourage school personnel, including counselors and teachers, through professional development, recognition, evaluation and other initiatives, to identify, recruit and encourage African American and Latino students, including ELL students, to apply; and provide assistance for African American and Latino students, including ELL students, to stay in and to be successful at UHS.

**B. OELAS Extension**

1. During the 2012-2013 school year, the District shall pursue an Arizona Department of Education Office of English Language Acquisition Services ("OELAS")-approved reading block extension to provide access to rigorous mainstream courses and address the literacy needs of ELLs.

**C. Dual Language Programs**

1. Dual Language programs are positive and academically rigorous programs designed to contribute significantly to the academic achievement of all students who participate in them and which provide learning experiences comparable to the advanced learning experiences described above. The District shall build and expand its Dual Language programs in order to provide more students throughout the District with opportunities to enroll in these programs, including by encouraging new and current certificated staff with dual language certifications to teach in such programs and by

focusing recruitment efforts on appropriately certified teachers (*see* Section (IV)(C)(3)(a)(i)).

**D. Exceptional/Special Education**

1. The District shall develop appropriate criteria for data gathering and reporting to enable it to conduct meaningful review of its referral, evaluation and placement policies and practices on an annual basis to ensure that African American and Latino students, including ELL students, are not being inappropriately referred, evaluated or placed in exceptional (special) education classes or programs.

**E. Student Engagement and Support**

1. Overview

- a. The objective of this Section is to improve the academic achievement and educational outcomes of the District's African American and Latino students, including ELL students, using strategies to seek to close the achievement gap and eliminate the racial and ethnic disparities for these students in academic achievement, dropout and retention rates, discipline (described in Section (VI)), access to Advanced Learning Experiences (described in Section (V)(1)) and any other areas where disparities and potential for improvement may be identified as a result of studies required by this Order. The District shall utilize transformative strategies that are designed to change the educational expectations of and for African American and Latino students. Through the strategies in this Section, the District shall improve African American and Latino student engagement in the academic curriculum, shall adopt culturally responsive teaching methods that encourage and strengthen the participation and success of African American and Latino students, and shall provide African American and Latino students with the necessary student support services that will allow them to improve their educational outcomes. The services and programs in this Section shall be adequately funded to meet the objectives herein.
- b. To carry out the objective of this Section, the District shall implement the following strategies: (i) student support services that focus on academic intervention and dropout prevention; (ii) socially and culturally relevant curriculum, including courses of instruction centered on the experiences and perspectives of African American and Latino communities; (iii) professional development and training for administrators and certificated staff to teach socially and culturally relevant curriculum and engage African American and Latino students; (iv) establishment of support



services for African American and Latino students including college mentoring programs; and (v) support for parent and community participation to improve the educational outcomes of African American and Latino students.

2. Academic and Behavioral Supports Assessment and Plan

- a. By April 1, 2013, the District shall hire or designate an employee to be the academic and behavioral supports coordinator (“ABSC”), responsible for the review and assessment of the District’s existing academic and behavioral support programs, resources, and practices, including, but not limited to, those currently provided through the District’s student services departments. The ABSC’s review and assessment shall focus on the District’s efforts to provide individualized assistance and mentoring to students with academic or behavioral challenges and to students at risk of dropping out.
- b. By July 1, 2013, the ABSC shall develop: (i) an assessment of existing programs, resources, and practices, disaggregated by school site(s), grades served, number of students served, ELL status, and resources (*e.g.*, part-time or full-time personnel assigned, annual budget); (ii) an analysis, based on the data identified in this Section, of any additional resources or programs that may be needed, by grade and school site; (iii) an analysis of the school sites with the highest concentration of students in need of such programs and resources; (iv) annual goals, in collaboration with relevant staff, for increasing graduation rates for African American and Latino students, which shall be shared with the Parties and the Special Master and used by the District to evaluate the effectiveness of its efforts; and (v) procedures to ensure follow up when Mojave automatically flags a student for attention. By October 1, 2013, the ABSC shall develop a plan, in collaboration with the personnel identified below in this Section, incorporating research-based strategies to focus and increase resources for academic and behavioral support programs and dropout prevention services to ensure equitable access to such programs, concentrate resources on school site(s) and in areas where student and school data indicate there is the greatest need, and reduce the dropout rate and increase the graduation rate in each high school.
  - i. Dropout Prevention and Retention Plan. The District’s dropout prevention and retention plan shall include, but not be limited to:
    - I. Developing yearly goals for lowering dropout rates, increasing graduation rates, and reducing retentions



in grade for African American and Latino students, including ELLs, in each high school, taking into account the recent dropout, graduation and retention rates for each group. Graduation rates, disaggregated by a number of factors including race, ethnicity and ELL status, for the 2008 -2011 school years are set forth in Appendix H;

- II. Hiring or designating a dropout coordinator to work with the ABSC to implement the strategies identified herein to reduce dropout, increase graduation, and focus school and District resources on working with students whose patterns of attendance, classroom performance, or other individual challenges indicate a serious risk of dropping out;
- III. Developing and implementing strategies to identify African American and Latino students, including ELL students, most at risk of being retained in grade and providing identified students with extra time and resources to accelerate their learning (*e.g.*, additional time for instruction in and after school, summer programs and individualized support, including participation and literacy programs). Particular attention shall be given to reducing the retention rate of students in grades 3 and 8;
- IV. The engagement, as appropriate, of language-accessible social workers, health clinics, and school staff, or volunteers to assist in providing supports to these students;
- V. Summer credit recovery programs rather than grade retention whenever possible;
- VI. Ninth grade academies to ease the transition to high school;
- VII. Special efforts to involve at-risk students and their families in school programs and to improve academic skills;
- VIII. Positive alternatives to suspension; and
- IX. Consultation with national experts on dropout prevention.

- c. By January 1, 2014, the ABSC shall implement the dropout prevention and retention plan, including having ensured that all personnel who provide academic and behavioral support are assigned to school(s) or area(s) based on the above-contemplated need analysis.

3. Data

- a. By July 1, 2013, the District shall develop and/or amend its academic and behavioral intervention policies and strategies to facilitate the supports and interventions described in this section. Such amendment shall include, but not be limited to, changes to the data dashboard system to ensure that students who (i) fall below a particular academic threshold, (ii) go above a certain threshold of absences, or (iii) receive a certain threshold number of disciplinary consequences or referrals, are flagged and referred to the student services resources identified herein. By that date, the District shall make any necessary changes to Mojave to ensure that students are automatically flagged by the data tracking system when they cross these thresholds.

4. Personnel

- a. Director of Support Services for African American Student Achievement. The District shall hire or designate an individual who shall coordinate the development and implementation of support and academic intervention services for African American students. This employee shall also coordinate efforts to work directly with students to improve academic achievement, provide mentorship and guidance, reduce dropout and increase the college-going rate. The director of support services for African American student achievement shall have experience in mentoring and advocacy on behalf of African American students, the development and implementation of successful academic intervention models and their evaluations, and dropout prevention.
- b. Director of Support Services for Latino Student Achievement. The District shall hire or designate an individual who shall coordinate the development and implementation of support and academic intervention services for Latino students. This employee shall also coordinate efforts to work directly with students to improve academic achievement, provide mentorship and guidance, reduce dropout and increase the college-going rate. The director of support services for Latino student achievement shall have experience in mentoring and advocacy on behalf of Latino students, the development and implementation of successful

academic intervention models and their evaluation, and dropout prevention.

- c. Director of Culturally Responsive Pedagogy and Instruction (“CRPI Director”). The District shall hire or designate an individual who shall supervise the implementation of courses of instruction that focus on the cultural and historical experiences and perspectives of African American and Latino communities. The CRPI director shall also supervise, develop and implement a professional development plan for administrators, certificated staff, and paraprofessionals, as appropriate, on how best to deliver these courses of instruction and to engage African American and Latino students. The CRPI director shall have experience developing and teaching curriculum focused on the African American and/or Latino social, cultural, and historical experience at the secondary level.
- d. Director of Multicultural Curriculum. The District shall hire or designate an individual to supervise the development and integration of multicultural curriculum in courses at all grade levels. This employee shall work with the African American and Latino student support services staff, the CRPI director, and other relevant District Office staff to develop and implement strategies to engage African American and Latino students, including but not limited to, curriculum and pedagogy responsive to the African American and Latino social, cultural, and historical experience.

5. Professional Development

- a. By the start of the 2013-2014 school year, the District shall provide all administrators and certificated staff, particularly those who are teaching courses of instruction centered on the experiences and perspectives of African American and/or Latino communities, with training on how to create supportive and inclusive learning environments for African American and Latino students with an emphasis on curriculum, pedagogy and cultural responsiveness. The trainings shall focus on learner-based approaches that emphasize students’ cultural assets, backgrounds, and individual strengths. By May 1, 2013, the CRPI director shall coordinate hiring or designating individuals, as necessary, who can assist him/her in providing ongoing support and training to administrators, certificated staff, and paraprofessionals.

6. Engaging Latino and African American Students

- a. The District shall adopt the following strategies to increase academic achievement and engagement among African American and Latino students:
  - i. The District shall continue to develop and implement a multicultural curriculum for District courses which integrates racially and ethnically diverse perspectives and experiences. The multicultural curriculum shall provide students with a range of opportunities to conduct research and improve critical thinking and learning skills, create a positive and inclusive climate in classes and schools that builds respect and understanding among students from different racial and ethnic backgrounds, and promote and develop a sense of civic responsibility among all students. All courses shall be developed using the District's curricular review process and shall meet District and state standards for academic rigor. The courses shall be offered commencing in the 2013-2014 school year.
  - ii. By the beginning of the 2013-2014 school year, the District shall develop and implement culturally relevant courses of instruction designed to reflect the history, experiences, and culture of African American and Mexican American communities. Such courses of instruction for core English and Social Studies credit shall be developed and offered at all feasible grade levels in all high schools across the District, subject to the District's minimum enrollment guidelines. All courses shall be developed using the District's curricular review process and shall meet District and state standards for academic rigor. The core curriculum described in this section shall be offered commencing in the fall term of the 2013-2014 school year. The District shall pilot the expansion of courses designed to reflect the history, experiences, and culture of African American and Mexican American communities to sixth through eighth graders in the 2014-2015 school year, and shall explore similar expansions throughout the K-12 curriculum in the 2015-2016 school year.

7. Services to Support African American Student Achievement:

- a. The District shall continue to fund and sustain Support Services for African American Student Achievement to improve the academic achievement and educational outcomes of African American students, using strategies to reduce disparities for African

American students in academic achievement, high school dropout rates, retention, special education placement, discipline, access to Advanced Learning Experiences (described in Section (V)(A)), and any other areas where disparities may be identified as a result of studies required by this Plan.

- b. The District shall develop and implement a process for providing a series of academic interventions and supports for African American students who are struggling and/or otherwise disengaged from school (*e.g.*, students who are one or more grade levels behind academically, struggling to meet academic standards either as reflected in class grades or on state-level assessments, or experiencing ongoing and escalating behavioral issues).
- c. The District shall establish academic intervention teams to provide targeted support to African American students. The academic intervention teams shall consist of academic specialists (*e.g.*, pull-out reading and math teachers, academic and behavioral coaches, and paraprofessionals) and shall be assisted by staff from Support Services for African American Student Achievement.
- d. The District shall hold quarterly events at each school or for clusters of schools serving African American students, as appropriate, to provide families with information about students' academic progress and college preparation (including how students can enroll in and succeed in ALEs), and to engage in activities focused on the matriculation and retention rates of African American students.
- e. The District shall collaborate with local colleges and universities and identify college students, including District alumni, to provide learning support and guidance to African American students through mentoring, teaching assistance and other methods.
- f. All African American student support services staff who are part of the academic intervention teams shall be trained, prior to working with students to implement specific academic intervention plans. All African American student support services staff shall also be trained on the use of data systems used to monitor the academic and behavioral progress of African American students.
- g. As soon as possible after the approval of the USP by the Court, the District shall appoint a Task Force that will develop a comprehensive plan for significantly improving the academic performance of African American students. The members of this Task Force shall include representatives of Support Services for African American Student Achievement, African American

teachers and administrators, and experts in the education of African American students. African Americans shall comprise at least a majority of the Task Force's membership.

- h. The Task Force shall consult with prominent experts who can identify research-based practices that have been shown to enhance the learning outcomes of African American students. The Task Force shall consider options for reducing the achievement gap for African American students and improving African American student educational outcomes.
- i. The Task Force recommendations shall build on the Plan's provisions designed to enhance African American students' academic achievement. The Task Force shall make its report to the Superintendent, the Plaintiffs, and the Special Master no later than June 1, 2013. The recommendation shall include a plan for annual reporting and monitoring, and cost estimates of any proposals made.

8. Services to Support Latino Student Achievement

- a. The District shall continue to fund and sustain Support Services for Latino Student Achievement to improve the academic achievement and educational outcomes of Latino students, including English language learners, using strategies including participation in AVID and, if granted, the Arizona Department of Education's Office of English Language Acquisition Services ("OELAS")-approved reading block extension, to reduce disparities for Latino students in academic achievement, high school dropout rates, retention, special education placement, discipline, access to Advanced Learning Experiences (described in Section (V)(A)) and any other areas where disparities may be identified as a result of studies required by this Plan.
- b. The District shall develop and implement a process for providing a series of academic interventions and supports for Latino students who are struggling and/or otherwise disengaged from school (*e.g.*, students who are one or more grade levels behind academically, struggling to meet academic standards either as reflected in class grades or on state-level assessments, or experiencing ongoing and escalating behavioral issues).
- c. The District shall establish academic intervention teams to provide targeted support to Latino students. The academic intervention teams shall consist of academic specialists (*e.g.*, pull-out reading and math teachers, academic and behavioral coaches, and

paraprofessionals) and shall be assisted by staff from Support Services for Latino Student Achievement.

- d. The District shall hold quarterly events (*e.g.*, “Parent Encuentros”) at each school serving Latino students to provide families with information about students’ academic progress and how to prepare students for continuation to post-secondary education, (including how students can enroll in and succeed in ALEs), and to engage in activities focused on the matriculation and retention rates of Latino students.
- e. The District shall collaborate with local colleges and universities and identify college students, including District alumni, to provide learning support and guidance to Latino students through mentoring, teaching assistance and other methods.
- f. All Latino student support services staff who are part of the academic intervention teams shall be trained prior to working with students to implement specific academic intervention plans. All Latino support services staff shall also be trained on the use of data systems used to monitor the academic and behavioral progress of Latino students.

**E. Maintaining Inclusive School Environments**

1. The District shall not assign students to classrooms or services in a manner that impedes the District from meeting its desegregation obligations. The District shall review its referral, evaluation and placement policies and practices, as well as relevant disaggregated enrollment data, and shall take appropriate action to remedy any classroom assignment or placement of students that results in the racial or ethnic segregation of students.
2. By July 1, 2013, the District shall take steps to build and sustain the supportive and inclusive school environments described herein, including, but not limited to: (a) adopting or amending policies to reflect commitments to inclusion and non-discrimination in all District activities and disseminating those policies throughout the District; (b) piloting and implementing strategies to develop students’ intercultural proficiency; and (c) amending policies and practices to protect all members of school communities from discriminatory harassment and bullying, by amending Governing Board Policy JICFB to: (i) state that all students, regardless of their background, are entitled to an educational environment free from harassment and discrimination; (ii) reaffirm that the District shall appropriately and immediately respond to and stop all conduct that may constitute harassment; (iii) ensure that the District fully investigates reported conduct that may constitute harassment; (iv) respond to complaints of discrimination promptly and appropriately; (v) state that all



complaints shall be kept confidential to the extent practicable; (vi) explain how to report allegations of harassment and discrimination; (v) identify to whom at each school and in the District Office such allegations should be reported; (vii) set forth formal complaint procedures; and (viii) inform students and their parents of their rights to file complaints. The District may work with the West Regional Equity Network to develop such policies.

3. By July 1, 2013, the District shall require each school principal to develop strategies to highlight the historic and ongoing contributions of diverse ethnic, racial, and linguistic groups in a manner that is evident throughout each school, including public displays, classroom environments and libraries.

## **F. Reporting**

1. The District shall provide, as part of its Annual Report:
  - a. A report, disaggregated by race, ethnicity and ELL status, of all students enrolled in ALEs, by type of ALE, teacher, grade, number of students in the class or program, and school site;
  - b. The information set forth in Appendices E, F, and G, for the school year of the Annual Report set forth in a manner to permit the parties and the public to compare the data for the school year of the Annual Report with the baseline data in the Appendices and data for each subsequent year of activity under the Order;
  - c. Copies of all assessments, analyses, and plans developed pursuant to the requirements of this Section;
  - d. Copies of all policies and procedures amended pursuant to the requirements of this Section;
  - e. Copies of all job descriptions and explanations of responsibilities for all persons hired or assigned to fulfill the requirements of this Section, identified by name, job title, previous job title (if appropriate), others considered for the position, and credentials;
  - f. Copies of all recruitment and marketing materials developed pursuant to the requirements of this Section in the District's Major Languages, with a list or table of all location(s) in the District in which such materials are available;
  - g. Copies of the new and/or amended admissions and testing criteria, policies, and application form(s) for University High School together with a report of all students who applied to University High School for the school year covered by the Annual Report



showing whether or not they were admitted and if they enrolled, disaggregated by race, ethnicity, and ELL status;

- h. Descriptions of changes made to ALE programs pursuant to the requirements of this Section, by ALE type and school site, if made at the site level, including, but not limited to, copies of any new testing and/or identification instruments and descriptions of where and how those instruments are used and copies of any new or amended policies and training materials on ALE identification, testing, placement, and retention;
- i. Copies of any new or amended complaint processes for students and/or parents related to ALE access together with a report disaggregated by race, ethnicity, ELL status, grade level, school and program of all students and/or parents who made a complaint and the outcome of the complaint process;
- j. Lists or tables of any certificated staff who received additional certification(s) pursuant to the requirements of this Section;
- k. Copies of relevant communications regarding the OELAS extension and the result(s) of such communications;
- l. A report listing each dual language program in the District including the school, grade(s) and language in which the program is offered and setting forth the efforts made to encourage new and certificated staff with dual language certifications to teach in such programs and the results of such efforts.
- m. Copies of flyers, materials, and other information advertising for and distributed at any outreach meetings or events held pursuant to the requirements of this Section;
- n. A report on all amendments and revisions made to the data dashboard system and copies of all policies and procedures implemented to ensure that action is taken when a student is automatically flagged for attention by the system;
- o. A disaggregated report on all students retained in grade at the conclusion of the most recent school year;
- p. Description of the college mentoring program, including the school sites where college mentors have been engaged and the type of support they are providing;
- q. A description of the process for providing academic intervention for struggling African American and Latino students;

- r. A description of the academic intervention teams that have been established, what roles they have in improving student academic success and what schools they are in;
- s. Copies or descriptions of materials for the quarterly events for families described in this Section, including where the events were held and the number of people in attendance at each event; and
- t. For all training and professional development required by this Section, information by type of training, location held, number of personnel who attended by position, presenter(s), training outline or presentation, and any documents distributed.
- u. A report setting forth the number and percentage of students receiving exceptional (special) education services by area of service/disability, school, grade, type of service (self-contained, resource, inclusion, etc.), ELL status, race and ethnicity.

## **VI. DISCIPLINE**

### **A. Overview**

1. The Parties acknowledge that the administration of student discipline can result in unlawful discrimination when students are disproportionately impacted or treated differently by virtue of their race or ethnicity. The Parties further acknowledge that the punitive use of serious disciplinary sanctions for low-level offenses creates the potential for negative educational and long-term outcomes for affected students.
2. The District shall not consider its student behavior policies and discipline practices in isolation, but as part of the District's overall goal of creating an inclusive and supportive environment in District schools. The District shall commit to ensuring that students remain as often as practicable in the classroom settings where learning happens. In accordance with the Guidelines for Student Rights and Responsibilities, discussed below, and to the extent practicable based on the student behavior at issue, a variety of graduated positive behavior techniques shall be used with the aim of preventing students from being excluded for any amount of time from the classroom or school.

The District shall reduce racial and ethnic disparities in the administration of school discipline. Data setting forth discipline in TUSD for the 2011-2012 school year by race/ethnicity is attached in Appendix I.

### **B. District-Wide Policies and Practices**

1. Restorative Practices and Positive Behavioral Interventions and Supports

- a. The District shall continue and strengthen implementation of the following comprehensive, school-wide approaches to classroom management and student behavior:
  - i. “Restorative Practices,” a framework to give those affected by conflict the tools and principles needed to resolve problems and build relationships. Restorative Practices focus upon the emotional and social disturbance created by conflict and provide a process for holding students accountable for their actions while building a supportive school environment; and
  - ii. “Positive Behavior Intervention and Supports” (“PBIS”), a set of strategies and structures to assist schools to establish a positive school culture by constructively teaching school rules and social-emotional skills; positively reinforcing appropriate student behavior; using effective classroom management strategies to provide early intervention for misbehavior; and developing a continuum of graduated and appropriate consequences for more serious and continuous misbehavior.

2. Guidelines for Student Rights and Responsibilities

- a. By April 1, 2013, the District shall, in consultation with an external consultant experienced in implementing the behavior approaches described above, evaluate and revise the Guidelines for Student Rights and Responsibilities (“GSRR”) to: (i) limit exclusionary consequences to instances in which student misbehavior is ongoing and escalating, and the District has first attempted and documented the types of intervention(s) used in PBIS and/or Restorative Practices, as appropriate; (ii) require the administration of consequences that are non-discriminatory, fair, age-appropriate, and correspond to the severity of the student’s misbehavior; (iii) require that consequences are paired with meaningful instruction and supportive guidance (*e.g.*, constructive feedback and re-teaching) to offer students an opportunity to learn from their behavior and continue to participate in the school community; and (iv) require that law enforcement officers, including School Resource Officers, School Safety Officers, and other law enforcement and security personnel who interact with students, are not involved in low-level student discipline. Plaintiffs and the Special Master shall receive copies of the revised GSRR for review and comment pursuant to Section (I)(D)(1). None of these revisions shall prevent school personnel from protecting student safety as appropriate.

- b. By July 1, 2013, the District shall, in consultation with relevant experts, evaluate and revise, as appropriate, its due process protections for student discipline (*i.e.*, Governing Board Policy JK-R1 through JK-R4-E4 and JKA through JKAB), to ensure that students and parents are provided with a fair, impartial, and language-accessible proceeding which complies with applicable state and federal law before exclusionary discipline or punishment is imposed, as well as an opportunity to appeal. Should the District determine that changes are needed to its due process protections for student discipline, it shall propose changes to these policies. Plaintiffs and the Special Master shall be provided with copies of the proposed changes for review and comment before they are finalized pursuant to Section (I)(D)(1).
- c. All District schools shall implement the revised GSRR. Any disciplinary actions shall be aligned to the GSRR standards, and comport with Restorative Practices and PBIS.

### **C. Personnel**

1. By April 1, 2013, the District shall hire or designate an employee to serve as the District's restorative and positive practices coordinator ("RPPC"). The RPPC shall be responsible for working with school sites to assist in the ongoing implementation of Restorative Practices and the implementation of PBIS, including: (a) developing model behavioral assessments and interventions; and (b) assisting school sites in developing systems and structures to use data for self-monitoring practices.
2. By April 1, 2013, all District schools shall hire or designate an employee to serve as a restorative and positive practices site coordinator ("RPPSC"). A school's learning support coordinator may be designated to serve as the RPPSC for the school. The RPPSCs shall be responsible for assisting instructional faculty and staff to: (a) effectively communicate school rules; (b) reinforce appropriate student behavior; and (c) use constructive classroom management and positive behavior strategies. The RPPSCs shall also be responsible for (d) evaluating their school site's behavior and discipline practices to ensure that they are language-accessible, and (e) working with site staff and the District-level RPPC to develop corrective action plans for administrators or certificated staff as necessary.

### **D. Parental and Community Engagement**

1. The revised GSRR, all related documents and the informational programs described in the paragraph below, shall be provided to all parents of students enrolled in the District, and shall be available in all of the District's Major Languages at all school sites, the District Office, the Family Centers and on the District's website. The District shall provide

timely translation of these documents and informational programs for families who speak lower-incidence languages.

2. The District shall develop and deliver an informational program to assist students and parents in understanding their roles and responsibilities under PBIS, Restorative Practices and the GSRR; shall host student assemblies at each school to communicate positive core values and behavioral expectations, and to explain in an age-appropriate manner the GSRR, PBIS and Restorative Practices; and shall hold informational sessions for parents at least twice per school year at each school, which shall include information regarding PBIS, Restorative Practices and the GSRR, due process and appeal procedures, and guidance on how parents can make complaints about student discipline.

**E. Professional Development**

1. The District shall ensure that all schools provide the necessary training and hire the requisite RPPSCs as described in (IV)(C)(2) to implement Restorative Practices and PBIS by the beginning of the 2013-2014 school year. All newly-hired RPPSCs and other relevant personnel shall complete the training by the beginning of the fall semester of the academic year subsequent to the academic year during which they were hired.
2. By July 1, 2013, the District shall hire or designate trainers to assist all administrators and certificated staff to implement Restorative Practices, PBIS and the standards established in the revised GSRR. The trainings shall take place before the commencement of the 2013-2014 school year.
3. By October 1, 2013, the District shall communicate to teachers their roles and responsibilities in creating and supporting positive classroom environments and schools. These responsibilities shall include: (a) defining, teaching, modeling, and consistently applying positive behavior approaches inside and outside the classroom; (b) acknowledging and reinforcing appropriate and positive student behavior; (c) providing constructive feedback to students when behavior concerns arise, and using such positive feedback and skill-building to address all low-level misbehaviors; (d) working with relevant school and District personnel to ensure that appropriate intervention techniques have been attempted before referring a student to the school site discipline administrator(s); (e) participating in trainings to build and sustain a positive school climate and to reduce and address racial and ethnic disparities in the administration of school discipline; (f) regularly entering, uploading, reading, and responding to data via Mojave; (g) utilizing data in collaboration with school site and District administrators to monitor student behavior; and (h) responding appropriately to data outcomes, particularly where data show disparities in the administration of consequences on any prohibited basis,

including participating with supervisors in the development of corrective action plans.

4. If an individual teacher is failing to adhere to the District's student discipline policies or practices as required under this Order, or is engaging in discrimination in such practices, or administering student discipline in a racially or ethnically disparate manner, the District shall require the principal to take appropriate corrective action.
5. By October 1, 2013, the District shall communicate to administrators their roles and responsibilities in collaborating with faculty and staff to create and support inclusive classroom environments and schools and that a primary goal of this effort is to ensure that TUSD students are not subject to discriminatory disciplinary practices based on their race, ethnicity or ELL status. These responsibilities shall include: (a) ensuring that PBIS, Restorative Practices and the GSRR are communicated, advocated, and modeled to the school community; (b) providing training and support for administrators and certificated staff on Restorative Practices and PBIS; (c) ensuring effective recording, collecting, and utilization of student behavior and discipline data; (d) regularly (*i.e.*, at least monthly) evaluating classroom- and school-level behavior and discipline data to assist in decision-making at all levels, from individual student needs to needs for the school site; (e) assembling teams with appropriate certificated staff and parent(s) to address next steps for a student engaging in ongoing and escalating misbehavior in spite of appropriate interventions; (f) consistently and fairly applying the GSRR to ongoing and escalating student misbehavior; and (g) ensuring that parent(s) are included in all major decisions related to student behavior and discipline.

#### **F. Monitoring**

1. By April 1, 2013, the District shall identify any changes in the data reporting system necessary to meet all of the reporting and evaluation requirements of this Order and the revised GSRR, including tracking school-site-based discipline by teacher and identifying necessary changes to the input codes and consequences. All changes shall be made by July 1, 2013.
2. The District shall collect, review, and analyze discipline data from each school on at least a quarterly basis. The data shall include the number of students receiving any exclusionary discipline consequence (*i.e.*, detention, in-school suspensions, out-of-school suspensions, referrals to alternative placement, referrals for expulsion, and referrals to law enforcement), disaggregated by grade, teacher, school, ELL status, gender, and race and ethnicity. Based on this analysis, the District shall work with the RSPPC and school administrators to develop corrective action plan(s) to ensure that exclusionary discipline consequences are not meted out in a

manner that impermissibly targets or has a disparate effect on students of a particular race or ethnicity. If the data collected and reviewed suggests that any teacher or administrator at the school site is imposing discipline in a racially or ethnically disproportionate manner or otherwise contrary to District policy, the District shall, in conjunction with the principal, consider and take appropriate corrective action, including retraining or disciplinary action.

3. If the data collected and reviewed indicates that a school has been successful in managing student discipline, the District RPPC shall examine the steps being taken at the school to determine whether the approach adopted by the school should be adopted by other schools within the District, and if the RPPC determines the approach should be replicated, the District RPPC will share the strategies and approach with the District to consider replication at other schools.
4. The District shall require principals to meet on a regular basis (*i.e.*, at least monthly) with the school-site discipline team (to be comprised of the RSPPC, school administrators, and selected teachers and school resource officers) to review the school site's discipline data, discuss any school-wide corrective action plans or action items, and explore ideas for improvement.
5. The District shall develop a framework and schedule for creating any necessary corrective action plans described herein and implementing them in a timely manner (*i.e.*, within a semester of their development, or between the spring and fall semesters as appropriate).
6. All data on student discipline, as required by this Section, shall be posted on the District website as part of TUSDStats, subject to the requirements of FERPA.

**G. Reporting**

1. The District shall provide, as part of its Annual Report:
  - a. Copies of the analysis contemplated above in (VI)(F)(2), and any subsequent similar analyses. The information provided shall include the number of appeals to the Governing Board or to a hearing officer from long term suspensions or expulsions, by school, and the outcome of those appeals. This information shall be disaggregated by race, ethnicity and gender;
  - b. Data substantially in the form of Appendix I for the school year of the Annual Report together with comparable data for every year after the 2011-2012 school year;



- c. Copies of any discipline-related corrective action plans undertaken in connection with this Order;
- d. Copies of all behavior and discipline documents, forms, handbooks, the GSRR, and other related materials required by this Section, in the District's Major Languages;
- e. Copies of any Governing Board policies amended pursuant to the requirements of this Order;
- f. Copies of any site-level analyses conducted by the RPPSCs; and
- g. Details of each training on behavior or discipline held over the preceding year, including the date(s), length, general description of content, attendees, provider(s)/instructor(s), agenda, and any handouts.

## **VII. FAMILY AND COMMUNITY ENGAGEMENT**

### **A. Overview**

- 1. Family and community engagement is a critical component of student success. The District shall adopt strategies, including, but not limited to, those identified in this section, to increase family and community engagement in schools, including: (a) developing and implementing an outreach plan to families; (b) providing information to families about the services, programs and courses of instruction available in the District and included in this Order; (c) learning from families how best to meet the needs of their children; and (d) collaborating with local colleges and universities and community groups to provide information and guidance designed to improve the educational outcomes of African American and Latino students, including ELL students, and provide relevant information to their families.

### **B. Personnel**

- 1. By April 1, 2013, the District shall hire or designate a District Office employee to be the Family Engagement Coordinator ("FEC"), located at the Family Center or at another reasonable location. The FEC shall be responsible for the review and assessment of the District's existing family engagement and support programs, resources, and practices, focusing on African American and Latino students, including ELL students, and families, particularly students who are struggling, disengaged, and/or at risk of dropping out, shall participate in the development and implementation of the outreach and recruitment plan in (II)(I)(i) above, and shall develop and implement the plan described below.



**C. Family and Community Engagement Services**

1. District Family Center Plan

- a. By July 1, 2013, the District shall develop a plan to expand its existing Family Center(s) and/or develop new one(s). The District Family Center (“DFC”) Plan shall: (i) indicate where the Family Center(s) shall be located, including whether existing Family Centers or other related resources should be consolidated or relocated; (ii) provide for the creation and distribution of new or revised materials to provide families with information regarding enrollment options pursuant to Section (II) and regarding the availability of transportation; (iii) provide for the creation and distribution of new or revised materials to provide families with detailed information regarding Advanced Learning Experiences (including the informational sessions on ALEs, information on UHS and the complaint process related to ALEs); (iv) provide for the creation and distribution of new or revised materials to provide families with detailed information regarding student discipline policies and procedures, including the revised GSRR; (v) provide for the creation and distribution of new or revised materials to provide families with detailed information regarding the curricular and student support services offered in Section V(C) Student Engagement and Support, including information on Academic and Behavioral Support, dropout prevention services, African American and Latino Student Support Services, culturally relevant courses and policies related to inclusion and non-discrimination; (vi) provide for the creation and distribution of new or revised materials to provide families with information regarding educational options for their ELL children, including the availability of dual language programs and other programs designed for ELLs; (vii) include strategies for how teachers and principals can learn from families regarding how to meet the needs of their children; and (viii) detail how the Family Center(s) will be staffed, including language requirements for all staff and whether they will be under the supervision of the FEC.
- b. By July 1, 2013, the FEC shall review and assess the District’s existing family engagement and support programs, resources, and practices. This review and assessment shall focus on programs, resources and practices for African American and Latino students, including ELL students, and families, particularly those for (i) students who are struggling, disengaged, and/or at risk of dropping out and (ii) students who face additional challenges because of a

lack of access to technology.<sup>8</sup> The review shall include information on the location of programs and resources, the personnel assigned to family and community engagement efforts, funding allocated, and the data systems in place to provide information on outreach to and engagement with families and communities.

- c. By October 1, 2013, the FEC shall develop and implement a plan to track data on family engagement, and the District shall make necessary revisions to Mojave to allow such data to be tracked by student.
- d. By January 1, 2014, the FEC shall develop and implement a plan to reorganize or increase family engagement resources, including consolidating additional resources at the Family Center(s), to both ensure equitable access to programs and services and to concentrate resources on school site(s) and in areas where data indicates the greatest need.
- e. The District shall collaborate with local colleges and universities to provide parents with information about the college enrollment process and to disseminate such information at the Family Centers.
- f. The District shall provide access at its Family Centers to computers for families to complete and submit open enrollment/magnet applications online.
- g. The District shall disseminate the information identified above and in Section (II), in all Major Languages, on the District's website, and through other locations and media, as appropriate.

#### **D. Translation and Interpretation Services**

1. The District shall continue to budget for translation and interpretation services to be coordinated at the District level under the Office of Language Acquisition. For any additional translation or interpretation of any District documents or services, schools shall contact the Office of Language Acquisition to request written translations and/or oral interpretations in Spanish and other languages. The District shall continue to retain translators and interpreters in Major Languages spoken by students and parents in the District and shall address other languages on a case-by-case basis through outside agencies.

---

<sup>8</sup> Such programs, resources, and practices include, but are not limited to, efforts by the African American and Latino Student Services Departments, the School Community Services Department, the Family Centers, the Family and Community Outreach Department, the Parent and Child Education ("PACE") Program, the Parent-Teacher-Student Association, the School Community Partnership Council, the Wellness Centers, and any new or amended versions of the aforementioned programs.

**E. Reporting**

1. The District shall provide, as part of its Annual Report:
  - a. Copies of all job descriptions and explanations of responsibilities for all persons hired or assigned to fulfill the requirements of this Section, identified by name, job title, previous job title (if appropriate), others considered for the position, and credentials;
  - b. Copies of all assessments, analyses, and plans developed pursuant to the requirements of this Section; and
  - c. Copies of all policies and procedures amended pursuant to the requirements of this Section.
  - d. Analyses of the scope and effectiveness of services provided by the Family Center(s).

**VIII. EXTRACURRICULAR ACTIVITIES**

**A. Equitable Access to Extracurricular Activities**

1. The District shall comply with the provisions below in order to provide students equitable access to extracurricular activities.
2. The District shall ensure that extracurricular activities provide opportunities for interracial contact in positive settings of shared interest and that students have equitable access to extracurricular activities regardless of racial or ethnic background or ELL status.
3. The District shall provide a range of extracurricular activities at each school. These extracurricular activities shall provide students opportunities to participate in sports activities at schools at which they are offered, to develop leadership skills, and to pursue curricular interests and programs (*i.e.*, science club or “Junior Achievement”).
4. The District shall provide transportation to support student participation in extracurricular activities as specified in Section III of this Order.
5. If after-school tutoring is offered to students on a voluntary basis, such tutoring shall be offered on an equitable basis in accordance with all other provisions of this Section VIII.

**B. Monitoring**

1. By July 1, 2013, the District shall identify any changes necessary to Mojave to enable it to report on participation in extracurricular activities. The extracurricular activities to be reported on shall include, but not be

limited to: (a) sports; (b) social clubs; (c) student publications; and (d) co-curricular activities such as science, math, and language clubs, or after school tutoring activities. The District shall make any necessary changes to Mojave by October 1, 2013.

**C. Reporting**

1. As part of its Annual Report, the District shall provide a report of student participation in a sampling of extracurricular activities at each school. The activities that are reported each year shall include at least two activities from each of the four categories described in section (B) above: sports at schools at which they are offered, social clubs, student publications (where offered) and co-curricular activities. The data in the report shall include District-wide data and data by school, disaggregated by race, ethnicity and ELL status. The Parties shall have the right to request additional data or information if the Annual Report indicates disparities or concerns.

**IX. FACILITIES AND TECHNOLOGY**

**A. Facilities Conditions**

1. The District has developed a Facilities Conditions Index (“FCI”), which rates the condition of school buildings along multiple structural dimensions and provides a composite score for each school. By July 1, 2013, the District shall amend its FCI to include, at minimum, the following: (i) location, number and condition of portable classrooms, and (ii) existence and repair status of heating and cooling system (identifying evaporative or air conditioning). In addition, by July 1, 2014, the District shall develop an Educational Suitability Score (“ESS”) for each school that evaluates: (i) the quality of the grounds, including playgrounds and playfields and other outdoor areas, and their usability for school-related activities; (ii) library condition; (iii) capacity and utilization of classrooms and other rooms used for school-related activities; (iv) textbooks and other learning resources; (v) existence and quality of special facilities and laboratories (*e.g.*, art, music, band and shop rooms, gymnasium, auditoriums, theaters, science and language labs); (vi) capacity and use of cafeteria or other eating space(s); and (vii) current fire and safety conditions, and asbestos abatement plans.
2. The District shall assess the conditions of each school site biennially using its amended FCI and the ESS.
3. Based on the results of the assessments using the FCI and the ESS, the District shall develop a multi-year plan for facilities repairs and improvements with priority on facility conditions that impact the health and safety of a school’s students and on schools that score below a 2.0 on the FCI and/or below the District average on the ESS. The District shall

give the next priority to Racially Concentrated Schools that score below 2.5 on the FCI.

**B. Technology and Technology Conditions**

1. By July 1, 2013, the District shall develop a Technology Conditions Index (“TCI”), which rates technology and technology conditions in schools along multiple technological dimensions and provides a composite score for each school. The TCI shall include, at minimum, the following: (i) student access to computers and other learning devices (*e.g.*, smart boards); the location of computers and learning devices (lab or classroom or both); (ii) availability of wireless and broadband Internet in a school; (iii) availability of research-based educational software or courseware; and (iv) teacher proficiency in facilitating student learning with technology.
2. The District shall assess the technology in each school biannually using the TCI.
3. Based on the results of its assessment using the TCI, the District shall develop a multi-year Technology Plan that provides for enhancements and improvements to the District’s technology, with priority given to basic maintenance and required repairs and to Racially Concentrated Schools that score below the District average on the TCI.
4. The District shall include in its professional development for all classroom personnel, as more fully addressed in Section (IV)(J)(3), training to support the use of computers, smart boards and educational software in the classroom setting.

**C. Reporting**

1. The District shall provide, as part of its Annual Report:
  - a. Copies of the amended FCI, ESS and TCI;
  - b. A summary of the results of the FCI, ESS, and TCI analyses conducted over the previous year;
  - c. A report on the number and employment status (*e.g.*, full-time, part-time) of facility support staff at each school (*e.g.*, custodians, maintenance and landscape staff), and the formula for assigning such support;
  - d. A copy of the multi-year facilities plan and multi-year technology plan, as modified and updated each year and a summary of the actions taken during that year pursuant to such plans; and

- e. For all training and professional development provided by the District, as required by this Section, information on the type of training, location held, number of personnel who attended by position, presenter(s), training outline or presentation, and any documents distributed.

## **X. ACCOUNTABILITY AND TRANSPARENCY**

### **A. Evidence-Based Accountability**

1. The evidence-based accountability system is a system to review program effectiveness and ensure that, to the extent practicable, program changes address racial segregation and improving the academic performance and quality of education for African American and Latino students, including ELLs.
2. By April 1, 2013, the District shall hire or designate a District Office employee to conduct a review and analysis of the current capacity of Mojave and any other District data collection and tracking system. Such review and analysis shall determine these data system(s)' ability to: (a) track individual student demographic, academic, and behavioral data pursuant to the requirements set forth in Appendix A; (b) be compatible with and run reports concurrently with the District's data system(s) for tracking personnel data and information; and (c) automatically produce alerts, flags, and other programmed signals to indicate when students do not meet pre-determined goals or expectations for academic performance or behavioral concerns. By July 1, 2013, the District shall complete such review and analysis, which shall include an estimated timeline and cost for making necessary adjustments to the District's data systems. By October 1, 2013, the District shall hire or contract for appropriate experts to add to or amend the District's data system(s) to allow it to perform the functions described in Section (X)(A)(1)-(5). By January 1, 2014, or as soon thereafter as is reasonably possible based on projections by the District and its experts, the District shall make such changes to its data systems to allow it to perform these functions. The completed amended system shall be known as the Evidence-Based Accountability System ("EBAS").
3. The District shall require all administrators, certificated staff, and where appropriate, paraprofessionals, to undertake the training on the EBAS required pursuant to Section (IV)(J)(3). All newly-hired District personnel for whom training is warranted under this section shall complete the training by the beginning of the fall semester of the academic year subsequent to the academic year during which they were hired.
4. The District shall evaluate relevant personnel on their ability to utilize the EBAS as contemplated pursuant to Section (IV)(H)(1).

5. Reporting

- a. The District shall provide, as part of its Annual Report:
  - i. Copies of all job descriptions and explanations of responsibilities for all persons hired or assigned to fulfill the requirements of this Section, identified by name, job title, previous job title (if appropriate), others considered for the position, and credentials; and
  - ii. A description of changes made to Mojave to meet the requirements of this Section, including descriptions of plans to make changes to the system in the subsequent year.

**B. Budget**

1. The District shall propose a methodology and process for allocating funds that are available to it and its schools pursuant to A. R. S. § 15-910(G) and that accounts for the requirements of this Order (“USP Expenditure Plan”) prior to commencing the budget process for fiscal year 2013-2014. The District shall provide the Plaintiffs and the Special Master with a copy of the proposed Plan at least within 30 days before it is to be used for the purpose of preparing the District’s 2013-2014 budget. The Plaintiffs shall have 20 days in which to provide comments on the Plan to the Parties and the Special Master. Within 10 days of receiving the Plaintiffs’ comments, the Special Master shall communicate to the District and the Plaintiffs his suggestions, if any, for modifying the Plan.
2. The District shall allocate funds as necessary to support the implementation of this Order during the 2012-2013 school year.
3. The District shall use the USP Expenditure Plan to prepare a budget for the school district that shall include as part of that budget a separate section delineating the budget necessary to implement the terms of this Order (the “USP Budget”). The USP Budget shall include a specific accounting of how the funding allocated through A. R. S. § 15-910(G) is to be spent consistent with the specific requirements of this Order. In addition, the USP Budget shall include entries disclosing how all funds to be expended to implement this Order, regardless of funding source, flow to specific components of the Order.
4. In preparing the USP Budget, the Superintendent and the Chief Financial Officer shall work with the Plaintiffs, the Special Master, and a school budget operations expert to be agreed upon by the Parties and the Special Master<sup>9</sup> to assess the funding needs for this Order. The school budget

---

<sup>9</sup> If the Parties and the Special Master cannot agree on an individual to be appointed, the Parties shall submit their recommendations to the Court, who shall make the ultimate appointment.



operations expert shall be paid by the District but shall report to the Plaintiffs and the Special Master. The District therefore shall have the right to consent to the expert's billing rate and to propose an annual cap on the expert's fee.<sup>10</sup> The USP Budget shall be submitted to the Plaintiffs and the Special Master at least 30 days before being submitted to the Governing Board. Within 20 days of its submission, the Plaintiffs may provide their comments on the budget to the Parties and the Special Master. During this period, the school budget operations expert will be available to the Plaintiffs to assist them in their review of the proposed budget. Within 10 days of receiving the Plaintiffs' comments, the Special Master shall communicate to the District and the Parties, his suggestions, if any, for modifying the proposed USP Budget. Upon receipt of any proposed modifications, the District may adjust the USP Budget as appropriate and submit the budget to the Governing Board for approval. Any recommendation of the Plaintiffs and the Special Master not included in the Superintendent's final USP Budget proposal shall be noted and separately provided to the Governing Board for consideration.

5. Within ten days of the USP Budget's approval by the Governing Board, if any of the Plaintiffs or the Special Master disagrees with the budget as approved, they may file objections with the Court and the Court shall resolve the objections on an expedited basis.
6. Upon approval, the District shall post a copy of the final USP Budget on the USP Web Page required by Section (X)(D)(1).
7. The District will provide the Plaintiffs and the Special Master with an audit report of each year's USP Budget. The audit report shall indicate whether the funds allocated in the USP Budget were spent in accordance with that budget and such other information as may be necessary to provide the Plaintiffs, the Special Master, and the public with full disclosure concerning how funds allocated to the USP Budget were spent. The audit shall be conducted by an outside accounting firm and shall be posted on the USP Web Page as required by Section (X)(D)(1). Each audit report shall be delivered by January 31 after the conclusion of the fiscal year that is the subject of the audit.
8. If, after two years following approval of this Order, a Party or the Special Master believes an activity required by this Order is not making the intended progress or is redundant, unnecessary, or unduly wasteful, the Special Master may recommend and the Parties may stipulate to a recommendation that the program be discontinued. The funds for the activity in question may be reallocated to more effective or promising areas under the Order as appropriate. Should any Party disagree with the

---

<sup>10</sup> If the Parties cannot agree, the Parties shall submit their dispute to the Special Master in the first instance. In the event any party disagrees with the Special Master's proposed resolution, the Parties shall submit their dispute to the Court.



recommendation for program termination, after first reviewing their objections with the other Parties and the Special Master, that Party may request the Court to order continued funding or to discontinue funding, whatever the case may be.

**C. Notice and Request for Approval**

1. The Parties shall continue to follow the Notice and Request for Approval procedure pursuant to the January 6, 2012 Order Appointing Special Master and the August 22, 2012 Order of this Court.
2. The January 6 Order of Appointment requires the District to provide the Special Master with notice and seek approval of certain actions regarding changes to the District's assignment of students and its physical plant. January 6 Order at 3. In addition to the items noted in the Appointment Order, the District shall also provide notice and a request for approval regarding the closing or opening of magnet schools or programs and attendance boundary changes as referenced above in Section (II)(E). In order to assess the District's plans in these regards, the District shall submit with each request for approval, a Desegregation Impact Analysis, ("DIA"), that will assess the impact of the requested action on the District's obligation to desegregate and shall specifically address how the proposed change will impact the District's obligations under this Order.
3. A copy of any DIA provided to the Special Master must also be provided to the Parties at the same time.

**D. Unitary Status Plan Web Page**

1. On the home page of <http://www.tusd1.org/> or any subsequent District websites, the District shall include a prominent link to a Unitary Status Plan web page ("USP web page"). This page shall serve as a resource to the community, parents, District employees, parties, and students, by providing current information related to the various elements of the Plan. The USP web page shall be available by April 1, 2013. The USP web page shall also include updated links to the current Plan; the Annual Reports, as appropriate pursuant to FERPA and other privacy concerns; USP budgets; and budget audits. All public reports and information on the USP web page shall be available in both English and Spanish.

**E. Role of Special Master and Plaintiffs**

1. The Special Master shall have all oversight authority delegated to the Special Master in the January 6, 2012 Order Appointing Special Master, as well as any other oversight authority later similarly delegated.
2. Pursuant to the authority of the January 6 Order of Appointment, the Special Master may select an Implementation Committee of three

independent expert advisors to aid him in monitoring and overseeing implementation of this Order. The Committee, which shall be chaired by the Special Master and be ethnically and racially diverse, shall act only through the Special Master and not as an independent entity. The Committee's members will be compensated on a per diem basis in an amount approved by the Court. The Special Master shall designate the Committee by April 1, 2013, and submit the names of individuals to the Court for approval. The parties may file objections with the Court to the appointment of individual Committee members or to proposed compensation rates.

3. Upon the provision by the District to the Special Master or the Parties of any items pursuant to (I)(D)(1), or after receipt of the Annual Report, the Plaintiffs may request additional information from the District should any Plaintiff determine that such additional information is necessary to assess whether the District is complying in good faith with its desegregation obligations and the terms of this Order. Any such requests shall be made no more than seven (7) days after the provision of items pursuant to I(D)(1) and no more than thirty (30) days after the provision of the Annual Report and shall be made to the Director of Desegregation with copies of the request to the Special Master and all Parties. Should the District believe that any request is unduly burdensome or otherwise inappropriate, the Special Master shall determine the feasibility of the request and the time for compliance. Such determinations of the Special Master may be appealed to the Court pursuant to the terms of the January 2012 Order.
4. In accordance with the requirements of the January 2012 Order Appointing Special Master, the Special Master shall submit an annual report to the Court on the status of this case. The Special Master's Annual Report shall be filed by December 1 of each year and shall include at a minimum the elements enumerated in Section (III) of the January 2012 Order.
5. In accordance with the requirements of the January 2012 Order Appointing Special Master, the Special Master shall submit a Final Unitary Status Report to the Court ninety (90) days prior to the scheduled termination of this Order. The content of the Final Report shall include at a minimum the required elements enumerated in the January 2012 Appointment Order at Section (IV).
6. The Special Master shall have the authority to bring to the Court's attention at any time instances of alleged noncompliance with this Order. All allegations of noncompliance shall be made in writing and submitted to the Court with copies provided to all Parties.

**F. Reporting**

1. At the time it files its Annual Report, the District shall report on the following regarding its notices and requests for approval submitted to the Special Master:
  - a. The number and nature of requests and notices submitted to the Special Master in the previous year; broken out by those requesting (i) attendance boundary changes; (ii) changes to student assignment patterns; (iii) construction projects that will result in a change in student capacity of a school or significantly impact the nature of the facility such as creating or closing a magnet school or program; (iv) building or acquiring new schools; (v) proposals to close schools; and (vi) the purchase, lease and sale of District real estate.

**XI. FINAL TERMINATION**

**A. The Court shall maintain jurisdiction over this case until the District:**

1. Complies in good faith with all of its obligations under this Order and all Orders of the Court entered in this matter; and
2. Has eliminated the vestiges of its past segregation to the extent practicable.

The Parties commit to negotiate in good faith any disputes that may arise, and the Parties may seek judicial resolution of any dispute pursuant to the process set forth in the January 6, 2012 Order Appointing Special Master and as permitted by law. The Parties may move, separately or jointly, for a declaration of partial unitary status at any time. A motion for the determination of complete unitary status shall not be filed prior to the end of the 2016-2017 school year. The applicable provisions of the Federal Rules of Civil Procedure and the local rules of this Court will apply to any such motion.

**XII. EFFECT OF PRIOR ORDERS**

All Orders not inconsistent herewith remain in full force and effect.

**XIII. SUBMISSION OF REQUEST FOR ATTORNEYS' FEES AND EXPENSES TO THE DISTRICT**

- A. Plaintiffs, other than The United States, shall submit their requests for attorneys' fees and expenses to the District within 45 days of this Order's approval. The requests for fees and expenses shall be submitted consistent with the requirements of 42 U.S.C. § 1988. Thereafter, the District shall have 60 days to review the private plaintiffs' fee and expense requests and either accept, reject, or negotiate

an agreed-to amount. In the event the District and the private plaintiffs cannot agree on an award of fees and expenses, the plaintiffs shall file their requests for fees and expenses with the Court for resolution by the Court.

- B. The District and the private plaintiffs expressly acknowledge that the submission of plaintiffs' fee and expense requests directly to the District under this provision, does not waive any legal claims or defenses that the parties may have, and all such legal claims or defenses can be raised with the Court in the event no agreement on fees and expenses can be reached.

# ATTACHMENT F



1 The Court denies the Second Motion for Reconsideration of Intervention by the  
2 State. The Court adopts the USP, pursuant to the parties' stipulations and pending  
3 incorporation of the changes required by the rulings of the Court made herein to resolve the  
4 disputed areas of the consent decree.

5 **A. Background**

6 On July 19, 2011, the Ninth Circuit Court of Appeals reversed and remanded this  
7 Court's finding that the Tucson Unified School District (TUSD) had attained unitary status.  
8 *Fisher v. Tucson Unified School District*, 652 F.3d 1131 (9<sup>th</sup> Cir. 2011). Since 1978, the  
9 District had operated TUSD under a consent desegregation decree "designed to remedy past  
10 discriminatory acts or policies." *Id.* at 1137. The 1978 desegregation settlement agreement,  
11 like all such decrees, was a remedial plan necessary to ensure that the District which had  
12 once operated TUSD as a state-compelled dual system performed its "affirmative duty to take  
13 whatever steps might be necessary to convert to a unitary system in which racial  
14 discrimination would be eliminated root and branch." *Id.* at 1134 (quoting *Green v. Cnty.*  
15 *School Board of New Kent County, Virginia*, 391 U.S. 430, 437-38 (1968)).

16 This Court focused on the limited nature of the case, reflected in the 1978  
17 Stipulation,<sup>1</sup> which identified very specific activities to be performed over five full school  
18 years, and found that to the extent practicable the District had eliminated the vestiges of *de*  
19 *jure* segregation.<sup>2</sup> In making this decision, this Court limited its *Green* analysis to factors  
20 identified in the 1978 Stipulation, however, the Court could not ignore that the District had  
21 operated the TUSD for over 25 years, pursuant to the 1978 Stipulation, and in this regard this  
22 Court found the District had not acted in good faith because over those 25 years the District  
23

---

24  
25 <sup>1</sup>The Court refers to the 1978 consent decree as the 1978 Stipulation. The Court refers  
26 to the consent decree being adopted now as the USP.

27 <sup>2</sup>Latin for: "as a matter of law."  
28

1 had not addressed ongoing segregation and discrimination in TUSD, both physical  
2 segregation and unequal academic opportunities for Black and Hispanic minority students.

3 On review, the Ninth Circuit Court of Appeals held this Court’s “findings were fatal  
4 to its determination that the School District ha[d] achieved unitary status.” *Id.* at 1141. The  
5 appellate court explained this Court erred as a matter of law because “Supreme Court  
6 precedent is clear: in making a declaration of unitary status and terminating federal  
7 jurisdiction, a district court must determine that the School District has ‘complied in good  
8 faith with the desegregation decree since it was entered’ and has eliminated ‘the vestiges of  
9 past discrimination . . . to the extent practicable.’” *Id.* (quoting *Missouri v. Jenkins*, 515 U.S.  
10 70, 89 (1995)); see *Freeman v. Pitts*, 503 U.S. 467, 492 (1992); *Board of Education of*  
11 *Oklahoma City Public Schools v. Dowell*, 498 U.S. 237, 249-50 (1991).

12 The court reversed and remanded the case, directing this Court to retain jurisdiction  
13 “until it is satisfied that the School District has met its burden by *demonstrating*— not merely  
14 promising—its ‘good-faith compliance . . . with the [Settlement Agreement] over a reasonable  
15 period of time.’ [citation omitted] The court must also be convinced that the District has  
16 eliminated ‘the vestiges of past discrimination . . . to the extent practicable’ with regard to  
17 all of the *Green* factors. [citation omitted]” *Id.* at 1144 (emphasis added).

18 The *Green* factors direct the Court in regard to whether the District has eliminated  
19 the vestiges of past discrimination to the extent practicable. The district courts “look not  
20 only at student assignments, but ‘to every facet of school operations—faculty, staff,  
21 transportation, extra-curricular activities and facilities,’”*id.* at 1135-36; and other vital areas  
22 of concern such as the quality of education being offered to white and black student  
23 populations, *Freeman*, 503 U.S. at 473. The desegregation decree must address all these  
24 components for the District’s elementary and secondary school systems. *Id.* at 1136.  
25 Notably, the *Green* factors may be related or interdependent such that a continuing violation  
26 in one area may need to be addressed by remedies in another. *Id.*



1 Generally unitary status cannot be declared and jurisdiction cannot be terminated,  
2 when a school district lags in one or more of the *Green* factors, *id.*, but in some cases  
3 incremental or partial withdrawal of judicial control can be ordered for *Green* factors when  
4 compliance is achieved. Granting partial withdrawal, including withdrawing supervision  
5 over student assignments,<sup>3</sup> is informed by whether there has been full and satisfactory  
6 compliance in those aspects of the system where supervision is to be withdrawn; whether  
7 retention of judicial control is necessary or practicable to achieve compliance with other  
8 facets of the school system, and whether the District has demonstrated to the public and to  
9 the parties and students of the once disfavored races and ethnicities its good faith  
10 commitment to the whole of the agreement and to those provisions of the law and the  
11 Constitution that were the predicate for judicial intervention. *Id.* at 1144-45.

12 The Mandate issued on August 10, 2011, and the Court issued its first order after  
13 remand on September 14, 2011. At the suggestion of the Fisher Plaintiffs to appoint a  
14 desegregation expert to guide the development and implementation of a desegregation plan,  
15 the Court appointed a Special Master. (Order (Doc. 1350).) The Court set out the criteria  
16 for the Special Master's Report, i.e., the Unitary Status Plan (USP), which included the  
17 requirement that the USP contain a recommendation, supported by findings of law and fact  
18 or stipulation of the parties, as to whether partial withdrawal of judicial oversight is  
19 warranted for any *Green* factor. *Id.* at 4-5. "To expedite the resolution of this case," all  
20 parties were directed to outline their positions regarding any *Green* factors which they  
21  
22

---

23 <sup>3</sup>"The School District retains 'the burden of showing that any current imbalance is not  
24 traceable, in a proximate way, to the prior violation.' *Freeman*, 503 U.S. at 494 . . . But 'as  
25 the *de jure* violation becomes more remote in time and ... demographic changes intervene,  
26 it becomes less likely that a current racial imbalance in a school district is a vestige of the  
27 prior *de jure* system.' *Id.* at 496 . . . Still, good faith remains paramount: 'The causal link  
between current conditions and the prior violation is even more attenuated if the school  
district has demonstrated its good faith.' *Id.*" *Fisher*, 652 F.3d at 1144 n. 30.

1 believed are not at issue in this case and/or where partial withdrawal of judicial oversight is  
2 appropriate. *Id.* at 6.

3 In the end, the parties prepared the USP by stipulation and submitted it to the Court  
4 for its consideration and adoption for implementation in the TUSD. In other words, the  
5 parties have stipulated to a “new” consent decree to ensure that the District, which once  
6 operated the TUSD as a state-compelled dual system performs its affirmative duty to take  
7 whatever steps might be necessary to convert to a unitary system in which racial  
8 discrimination will be eliminated root and branch. On November 9, 2012, the stipulated Joint  
9 Proposed Unitary Status Plan was filed, with specific notations regarding the areas of party  
10 disagreement. The parties each filed separate briefs pertaining to their objections.

11 The Joint Proposed USP was made available to the State of Arizona, which appears  
12 by *amici* in respect to the sole question of whether the USP may include a provision allowing  
13 the return of the discontinued Mexican-American Studies (MAS) courses. January 10, 2012,  
14 the TUSD Governing Board adopted a resolution suspending all MAS courses and teaching  
15 activities after the Arizona Superintendent of Education John Huppenthal issued a Notice of  
16 Violation on June 15, 2011, finding that MAS classes being offered at TUSD violated A.R.S.  
17 § 15-112(A)(2)-(A)(4) because “TUSD presented material ‘in a biased, political, and  
18 emotionally charged manner’ that promoted social and political activism against ‘white  
19 people,’ promoted racial resentment, and advocated ethnic solidarity instead of treating  
20 pupils as individuals.” (Arizona’s Objection (Doc. 1409) at 2 (quoting *In the Matter of the*  
21 *Hearings of an Appeal by Tucson Unified School District*, No. 11F-002-ADE, citing *see*  
22 *Case No. 4: 10-CV-00623-AWT* (Doc. 132-1) at 35)). The decision subjected the District  
23 to having 10% of the District’s allocation of state funding withheld by the State, retroactive  
24 to August 15, 2011. The District appealed, but the violation was affirmed by an  
25 Administrative Law Judge on December 27, 2011. The State of Arizona has filed an

1 objection to the Joint Proposed Unitary Status Plan. It has also filed a Motion for  
2 Reconsideration (Doc. 1418) of this Court's denial of its Motion to intervene in this case.

3 The Joint Proposed USP was made available to the public for review and public  
4 comment. Three public hearings were held on Monday, November 26, 2012, at Tucson High  
5 Magnet School; Tuesday, November 27, 2012, at El Pueblo Regional Center, and  
6 Wednesday, November 28, 2012, at Palo Verde High School in the evenings from 6 pm to  
7 8:30 pm.<sup>4</sup> The notices for the public hearings were distributed to the community by press  
8 releases and public service announcements. The Notices and the Joint Proposed USP were  
9 also posted by the Court on the internet web site for the United States District Court for the  
10 District of Arizona under "What's New?" and the tab "Cases of Interest." The Court website  
11 directed the public to [www.TucsonUSP.com](http://www.TucsonUSP.com) where the Joint Proposed USP and public  
12 notices were available in English and Spanish, and where public comments could be made  
13 on line. Copies of the proposed USP were available in all schools and provisions were made  
14 for comments to be made at these locations. All public comments were able to be made  
15 anonymously. All in all, the Court is satisfied that there was a robust public comment period  
16 where over 600 public comments were heard by the Special Master, written comments were  
17 redacted to retain anonymity, copied and sent to the parties, and have been summarily  
18 reported to the Court.<sup>5</sup>

---

21 <sup>4</sup>The public notices in English and Spanish shall be filed into the record as an  
22 attachment to this Order.

23 <sup>5</sup>See also: (Doc. 1429: Public Comment; Doc. 1428: Petition; Doc. 1427: Letter  
24 1/4/2013; Doc. 1426: Public Comment; Doc. 1422: Letter 1/11/2013 and  
25 <http://www.examiner.com> article); Doc. 1417: Letter 12/18/2012 and excerpts of various  
26 MAS course readings). These public comments were copied by the Court to the Special  
27 Master to afford him an opportunity to bring any new concern, not previously considered  
during the drafting of the USP, to the attention of the Court. Plaintiffs represented by  
counsel must submit filings with the Court through their attorneys. LR Civ. 83.3(c).

1           Subsequent to the public comment period and further discussion by the parties,  
2 some changes were made and on December 10, 2012, the parties filed the “final” Joint  
3 Proposed Unitary Status Plan, which again noted areas of party disagreement. Again, the  
4 parties each filed separate briefs regarding their objections. The State of Arizona has filed  
5 an *amici* brief. The Special Master has provided the Court with his report and  
6 recommendations regarding the areas of disagreement. The Court finds that all areas of  
7 disagreement have been fully briefed. The Court, therefore, makes specific findings  
8 regarding the areas of disagreement and adopts the stipulated USP, so revised.

9           The Court begins with an acknowledgment of the hard work that has gone into  
10 crafting what is a very comprehensive plan to attain unitary status in the TUSD over the next  
11 four school years. There are clearly more areas of agreement than disagreement, and the  
12 Court commends the Special Master for his facilitation in this matter. The Court is  
13 convinced that the Joint Proposed USP sets out steps to convert the TUSD to a unitary  
14 system in which racial discrimination will be eliminated root and branch to the extent  
15 practicable. The question remains whether at the end of the approximate four year period of  
16 operation under this consent decree, the USP, the District will have complied in good faith  
17 with its terms.

18 **B.       The Green Factors.**

19           The Court finds that the proposed USP addresses every *Green* factor: student  
20 assignment, transportation, administrative and certified staffing, extracurricular activities,  
21 and facilities, plus quality of education, family and community engagement, technology, and  
22 discipline. Nevertheless, the District enters into the consent decree with the caveat that: “[i]t  
23 does not constitute an admission by the District that there are vestiges of segregation that  
24 remain in the District or that the obligations set forth herein are required to eliminate any  
25 such vestiges that may exist.” (District Objection (Doc. 1407) at 24.) “Instead it represents  
26 an agreement that, if the District implements the [] USP for the period of time set forth  
27  
28

1 therein, it will have eliminated any vestiges that may exist and that it will achieve unitary  
2 status at the end of that time period.” *Id.* While the Court agrees with the latter statement,  
3 it does not agree with the former.

4 The District argues that while it stipulates to these provisions being in the USP, they  
5 are not required to remedy any constitutional violations found to exist in TUSD. According  
6 to the District, the only findings of fact and conclusions of law establishing the constitutional  
7 violation at issue in this case were those dated June 4, 1978. The District argues that even  
8 the 1978 Stipulation was unsupported by findings of fact linking it to any constitutional  
9 violation. This is an old argument seen and rejected by this Court in 2006, when this Court  
10 issued the Order defining the scope of the unitary status proceeding it was then undertaking.  
11 (Order (Doc. 1119), 2/7/2006, at 4.) Again, this Court finds for the record that Judge Frey’s  
12 findings of fact and conclusions of law fully supported the remedial measures set out in the  
13 1978 Stipulation.

14 The Ninth Circuit’s ruling on July 19, 2011, established unequivocally that the  
15 District has not attained unitary status. Relying on the findings of fact made by this Court,  
16 Order filed 8/21/2008 (Doc. 1239) and Order filed 4/24/2008 (Doc. 1270 ), the Ninth Circuit  
17 reversed this Court’s finding that unitary status was attained and found the contrary because:  
18 the “District failed the good faith inquiry *and* [this Court’s findings] raised significant  
19 questions as to whether the District had eliminated the vestiges of racial discrimination to the  
20 extent practicable . . .” (Mendoza Response Objection (Doc. 1413) at 1 (citing *Fisher*, 652  
21 F.3d at 1140) (emphasis in original).

22 In October 2011, the parties provided briefs concerning their positions as to whether  
23 partial withdrawal of judicial review was appropriate in this case. The District took the  
24 position that it is appropriate to withdraw oversight regarding three *Green* factors: facilities,  
25 extra-curricular activities, and transportation, except as it relates to student assignment. The  
26 District focused on these three factors because they were not included in the original 1978  
27

1 Stipulation as areas requiring a constitutional remedy. (TUSD Memo (Doc. 1332) at 2.)

2 The Plaintiff-intervenors correctly noted that this Court “has repeatedly held the  
3 District has failed to eliminate the vestiges of past discrimination with respect to student  
4 assignment, faculty assignment and hiring, transportation and facilities. (P-Intervenor Memo  
5 (Doc. 1337) at 5) (citing 2008 Orders and 2006 Order (Doc. 1119). As noted by the  
6 Plaintiffs Mendoza, it would be error for the Court to adopt the District’s assertion that  
7 certain *Green* factors are not at issue in this case now because they were not at issue in 1978.  
8 (Mendoza Memo (Doc. 1330) at 2-3, n.4), *see also* (Fisher Memo (Doc. 1328) at Table 1:  
9 Factors relevant to unitary status determination identified by supporting authority).

10 Given the express directive of the court of appeals that this Court, upon remand,  
11 shall consider all of the *Green* factors, including quality of education, *Fisher*, 652 F.3d at  
12 1144, this Court finds them all at issue now. The Plaintiffs do not have to establish that  
13 vestiges of discrimination remain for every *Green* factor to warrant redress. The burden is  
14 on the Defendant to establish that the vestiges of discrimination resulting from the prior dual  
15 school system have been eradicated to the extent practicable. *Freeman*, 503 U.S. at 494.  
16 Accordingly, until unitary status is attained, the District has the burden of proving that racial  
17 imbalances and inequities within the school system are not related proximately to the prior  
18 violation. *Id.*

19 At this point in the game, it is a two-pronged related inquiry: 1) whether the District  
20 has complied in good faith with the desegregation decree since it was entered, and 2) whether  
21 the District has eliminated the vestiges of the past discrimination that was the subject of the  
22 action to the extent practicable. Especially, in this case where the span of time for analysis  
23 is approximately 35 years, whether the vestiges of the past discrimination identified in 1978  
24 have been eliminated to the extent practicable hinges in large part on whether the District  
25 complied in good faith with the remedial plan set out in the 1978 Stipulation. This question  
26 has been unequivocally answered in the negative. On remand, no further findings of fact

1 regarding constitutional violations are necessary to warrant the imposition by this Court of  
2 an updated plan to attain unitary status.

3 This brings the Court to the next question of whether any *Green* factor may be  
4 omitted from the USP, i.e., whether there should be partial withdrawal of judicial control for  
5 any *Green* factor. First, the Court notes that the parties' own stipulated plan to attain unitary  
6 status addresses all the *Green* factors, including provisions aimed at improving quality of  
7 education. The proposed USP is a comprehensive plan drafted with the assistance of a  
8 Special Master,<sup>6</sup> counsel for all parties, the Plaintiff-intervenor (the United States Department  
9 of Justice, Civil Rights Division), and several experts<sup>7</sup> including District staff. Second, the  
10 Court notes that the District has not moved for partial withdrawal and has not objected to the  
11 inclusion of provisions related to transportation, extra-curricular activities, and facilities—the  
12 three areas where it asserts it has attained unitary status. The Court finds that the *Green*  
13 factors addressed in the proposed USP are interrelated and interdependent, forming a  
14 comprehensive plan such that partial withdrawal of judicial oversight as to any *Green* factor  
15 is inappropriate.

---

16  
17  
18 <sup>6</sup>Willis Hawley is Professor Emeritus of Education and Public Policy at the University  
19 of Maryland and Director of the Teaching Diverse Students Initiative, a project of the  
20 Southern Poverty Law Center.

21 <sup>7</sup>Gary Orfield is Professor of Education, Law, Political Science and Urban Planning  
22 and Co-Director of the Civil Rights Project at the University of California at Los Angeles.  
Orfield was Special Master in the San Francisco and St. Louis school desegregation cases.

23 Leonard Stevens is a consultant on equity issues and desegregation working with  
24 urban districts. He served as Special Master in the Cincinnati, Ohio desegregation case.

25 Carlos A. Gonzalez is an attorney in Atlanta with expertise in mediation. He has  
26 served as Special Master in desegregation cases involving higher education.

27 Beatriz Arias is Associate Professor of Bilingual Education at Arizona State  
28 University and a Vice-President of the Center for Applied Linguistics in Washington, DC.  
She has served as Special Master in the San Jose (CA) school desegregation suit.



1 Furthermore, the Court finds that supervision may not be withdrawn over any *Green*  
2 factor because at this point in time the Court cannot find full and satisfactory compliance in  
3 these areas. As evidenced by their inclusion in the proposed USP, there is room for  
4 improvement as to all *Green* factors. The Court finds that supervision may not be partially  
5 withdrawn for any *Green* factor because the USP is a comprehensive interrelated and  
6 interdependent plan and, therefore, judicial control over all *Green* factors is necessary and  
7 practicable to achieve compliance with all facets of the school system. The Court finds that  
8 supervision may not be partially withdrawn for any *Green* factor because the District failed  
9 to demonstrate to the public and to the parties and students of the once disfavored races and  
10 ethnicities its good faith commitment to the whole of the 1987 Stipulation and to those  
11 provisions of the law and the Constitution that were the predicate for judicial intervention.

12 **C. Arizona's Motion to Reconsider Intervention and Objection to USP**

13 There has been no significant change in circumstances to warrant reconsideration.  
14 There is no manifest injustice caused by this Court's denial of intervention.

15 The State of Arizona submits there is a significant change in circumstances because  
16 the District has withdrawn its objection to including the MAS program in the USP, and if the  
17 Court reinstates MAS courses, it is unable to appeal the decision unless it is a party-  
18 intervenor.

19 Undisputably, there is one significant difference since the Court ruled to deny  
20 intervention by the State of Arizona. The USP has now been drafted by stipulation of the  
21 parties. Section V, Quality of Education, includes subsections as follows: A) Access to and  
22 Support in Advanced Learning Experience, B) OELAS Extension, C) Dual Language  
23 Programs, D) Student Engagement and Support, E) Maintaining Inclusive School  
24 Environments, and F) Reporting.



1           **a. Subsection D, Student Engagement: Culturally Relevant Courses**

2           The purpose of subsection D, Student Engagement and Support, is to improve the  
3 academic achievement and educational outcomes of the District's African American and  
4 Latino students, using strategies aimed at closing the achievement gap and eliminating the  
5 racial and ethnic disparities for these students in academic achievement, dropout and  
6 retention rates, discipline, access to advanced learning experiences, and any other areas  
7 where disparities and potential for improvement exists. The proposed USP calls for six  
8 transformative strategies designed to change the educational expectations of and for African  
9 American and Latino students. The strategies engage these students in the academic  
10 curriculum by adopting culturally responsive teaching methods that encourage and strengthen  
11 their participation and success and provide necessary student support services to allow them  
12 to improve their educational outcomes. (Proposed USP (Doc. 1411) § V(D)(1).)

13           Subsection D includes the following strategies: Academic and Behavioral Supports  
14 Assessment and Plan, Dropout Prevention and Retention Plan, Personnel and Professional  
15 Development, Engaging Latino and African American Students, and Services to Support  
16 African American and Latino Student Achievement. (Proposed USP (Doc. 1411) at V(D)  
17 (2)-(7).)

18           The State objects to subsection D(6), Engaging Latino and African American  
19 Students, only as to the Latino students.

20           The District shall continue to develop and implement a multicultural  
21 curriculum for District courses which integrates racially and ethnically  
22 diverse perspectives and experiences. The multicultural curriculum shall  
23 provide students with a range of opportunities to conduct research and  
24 improve critical thinking and learning skills, create a positive and inclusive  
25 climate in classes and schools that builds respect and understanding among  
26 students from different racial and ethnic backgrounds, and promote and  
27 develop a sense of civic responsibility among all students. All courses  
28 shall be developed using the District's curricular review process and shall  
meet District and state standards for academic rigor. The courses shall be  
offered commencing in the 2013-2014 school year.

26 *Id.* at (6)(i).

1 By the beginning of the 2013-2014 school year, the District shall develop  
2 and implement culturally relevant courses of instruction designed to reflect  
3 the history, experiences, and culture of African American and Mexican  
4 American communities. Such courses of instruction for core English and  
5 Social Studies credit shall be developed and offered at all feasible grade  
6 levels in all high schools across the District, subject to the District's  
7 minimum enrollment guidelines. All courses shall be developed using the  
8 District's curricular review process and shall meet District and state  
9 standards for academic rigor. The core curriculum described in this section  
10 shall be offered commencing in the fall term of the 2013-2014 school year.  
11 The District shall pilot the expansion of courses designed to reflect the  
12 history, experiences, and culture of African American and Mexican  
13 American communities to sixth through eighth graders in the 2014-2015  
14 school year, and shall explore similar expansions throughout the K-12  
15 curriculum in the 2015-2016 school year.

16 *Id.* at (6)(ii).

17 In withdrawing its objection to these courses being developed as core courses, the  
18 District clarifies that the Governing Board passed a motion on January 8, 2013, "Designating  
19 a course as a core course means that passing the course will satisfy requirements for  
20 graduation. It does not mean that all students must take the course; culturally relevant  
21 courses will remain optional." (Notice of Withdrawal of Objection (Doc. 1421), Ex. A:  
22 Agenda Item 9.)

23 The Court notes that the State's objection is not substantive in respect to subsection  
24 (i), which provides for the development of multicultural curriculum to integrate racially and  
25 ethnically diverse perspectives into standard core courses taught to all students, such as social  
26 studies or English. The State's challenge is aimed at subsection (ii), which provides for the  
27 development of culturally relevant courses. The State treats this provision as calling for  
28 reinstatement of MAS courses which were terminated pursuant to the State's decision that  
they violated A.R.S. § 15-112. Since then, no MAS courses are being offered in TUSD. The  
first step called for in the proposed USP is course development. Only then will the State be  
in any position to determine whether the culturally relevant courses, developed pursuant to  
the USP, violate state law.



1 (Proposed USP (Doc. 1411) § V(D)(6)(a)(ii); (SM Recommendation, SM USP, Addendum  
2 A at 61.)

3         The State does not dispute the merits of culturally relevant courses to improve  
4 academic achievement for minority students. The Special Master reports that two studies of  
5 the MAS courses have been conducted. The first, the Cambium Report, commissioned by  
6 the State in 2011, found the courses to be rigorous and that students were held to high  
7 standards of performance. (SM Recommendation, SM USP, Addendum A at 61.) The  
8 second study was commissioned by the Special Master and conducted *pro bono* by experts  
9 from the University of Arizona: the Carbrera study. The Special Master concluded that both  
10 studies suggest that students who took the MAS courses were more likely to graduate from  
11 high school on time and to pass state achievement tests than similarly situated peers. *Id.*  
12 Some have challenged these studies as “weak,” for various reasons, (Doc. 1429: Stegeman  
13 letter), but they are at least some evidence supporting the proposed culturally relevant  
14 courses.

15         Other studies and a substantial body of research by sociologists and psychologists  
16 show that ““strengthening pride in one’s race and ethnicity, particularly for disadvantaged  
17 groups, is related to positive intergroup attitudes as well as to academic achievement.”” (SM  
18 Recommendation, SM USP, Addendum A at 62 (citing Melanie Killen, Professor of  
19 Educational Psychology and Psychology at the University of Maryland and a Fellow of both  
20 the American Psychological Association and the Association for Psychological Science)).  
21 The Special Master explains that people who understand how discrimination has undermined  
22 their opportunities are less likely to discriminate against others and “can dismiss negative  
23 stereotypes as constraints on their own success.” *Id.* at 62-63.

24         The Court believes that including culturally relevant courses in the USP affords the  
25 parties an opportunity to continue to study the affects of these types of classes on student  
26 achievement. The Court urges the parties, the District, including the TUSD Governing  
27

1 Board, to work together to identify study criteria that will make the next round of reports  
2 more meaningful and more determinative. Based on the evidence before it at this time, the  
3 Court finds that the evidence which does exist supports including culturally relevant courses  
4 in the USP as one way to improve student achievement.

5 The State does not appear to argue any and all culturally relevant courses will  
6 necessarily violate A.R.S. § 15-112 because it does not object to culturally relevant courses  
7 for African American students. (Proposed USP (Doc. 1411) § V(6).) Instead, the State  
8 argues that the MAS courses segregated students by race and were designed only for  
9 Mexican American pupils. The State implies that the MAS courses were so hostile towards  
10 “white people” that only Mexican American students would enroll in them. Again, the Court  
11 declines to address the constitutionality of either the statute, its interpretation, or its  
12 implementation to preclude such courses. That case is before the Honorable A. Wallace  
13 Tashima, *Acosta et al. v. Huppenthal et al.*, CV 10-623 TUC AWT.

14 The State, like the Plaintiffs, must set aside what has occurred in TUSD in the past  
15 and assume, as does this Court, that the USP will be implemented in good faith by the  
16 District. The State is free to monitor the development of the culturally relevant courses and  
17 their implementation. The State is free to enforce its laws as it did in 2011 when it took  
18 action against TUSD for the MAS courses, if it believes any culturally relevant courses  
19 developed and implemented in TUSD violate state law.

20 The Court does not exceed its authority by approving and adopting the USP,  
21 containing curricular provisions, (United States (DOJ) Response Objection (Doc. 1416) at  
22 3-5 ) (citations omitted). By adopting the USP § V(6), this Court is not approving nor  
23 adopting any specific culturally relevant course. This Court’s ruling does not override State  
24 law, and even if it did– the Supreme Court has held that state laws cannot be allowed to  
25 impede a desegregation order. *See e.g., N.C. Bd. of Educ. v. Swann*, 402 U.S. 43, 45 (1971)

1 (if state law operates to inhibit or obstruct the operation of a unitary school or impede the  
2 disbanding of a dual school system, it must fall).

3         The Court reaffirms its decision to deny the intervention of the State of Arizona in  
4 this action. The State has not satisfied the criteria for intervention as a right. Federal Rule  
5 Civil Procedure 24(a)(2) provides for intervention of right when the applicant establishes the  
6 following: 1) the intervention is timely; 2) the applicant's interest relates to the property or  
7 transaction involved in the pending law suit; 3) disposition of the lawsuit may adversely  
8 affect the applicant's interest unless intervention is allowed, and 4) the existing parties do not  
9 adequately represent the would-be intervenor's interest.

10         While the request is timely in respect to the State's ability to affect the terms and  
11 provisions contained in the USP, the Court finds there is no issue ripe for resolution until the  
12 culturally relevant courses are developed. Intervention is not necessary for the State to  
13 enforce its laws. The State's ability to withhold 10% of state funding from TUSD is a  
14 powerful weapon at the State's disposal to ensure that TUSD complies with state law. The  
15 Court finds that the District has adequately represented the State's interest in enforcing  
16 A.R.S. § 15-112. In the face of strong public support from members of its community for  
17 MAS courses, the Governing Board voluntarily terminated the MAS courses, subsequent to  
18 the decision by the State that they violated state law. The District chose to comply with  
19 directives from the State rather than the Post Unitary Status Plan, a federal court order.  
20 Finally, the Court finds that the State's interest relates to the USP in only a small way.  
21 Culturally relevant courses are one strategy aimed at only one *Green* factor: student  
22 achievement. While the MAS courses are a weather vein for controversy in the community,  
23 including the culturally relevant courses in the proposed USP was not. All the parties  
24 stipulated to including culturally relevant courses in the curriculum as a meritorious strategy,  
25 fully supported by the experts and the Special Master, to improve the academic performance  
26 of minority students. The Court denies the State's request to intervene as a right.

1           The Court also denies permissive intervention, pursuant to subsection 1 of Rule  
2 24(b), which the Court may grant at its discretion if: 1) there is an independent ground for  
3 jurisdiction; 2) the application is timely, and 3) there is a common question of law and fact  
4 between the State’s claim and the main action. In exercising discretionary intervention, the  
5 Court must consider “whether the intervention will unduly delay or prejudice the  
6 adjudication of the original parties rights.” Fed. R. Civ. P. 24(b)(3).

7           As this Court held on June 14, 2012, when it denied the State’s Motion to Intervene:  
8 “Importantly, intervention by the State in this one issue will unduly delay and prejudice the  
9 adjudication of the rights of the existing parties who have waited over 30 years for the  
10 formulation of a comprehensive plan to eliminate, ‘root and branch,’ the vestiges of the  
11 segregation that occurred in the TUSD four decades ago by bringing equal educational  
12 opportunities to minority students in the TUSD.” (Order (Doc. 1375) at 6.)

13           The Court concludes that there has been no significant change in circumstances to  
14 warrant reconsideration of the intervention question. There is no manifest injustice caused  
15 by this Court’s denial of intervention. Furthermore, the Court believes that the State’s  
16 appearance by *amici* may also be concluded. The State shall show good cause why its status  
17 as *amici* should not be ended now that it has had an opportunity to present its objections to  
18 including culturally relevant courses in the USP. The State should show cause why the  
19 normal avenues available to it to enforce its laws are not sufficient means by which it may  
20 protect its interests here.

21 **D.        Objections to USP: Consent Decree**

22           As previously noted, in large part the parties stipulated to the provisions included in  
23 the Jointly Proposed USP. Since filing the USP, the parties have agreed that to allow for  
24 flexibility in certain deadlines, language should be added to § I(D) as follows:

25           The Parties and the Special Master shall review all of the deadlines for  
26 hiring/assignment and professional development and, to the extent  
27 appropriate, revise these deadlines to ensure the recruitment and  
28 hiring/assignment of the best qualified candidates, and the involvement of



1 the newly hired/assigned employees in the creation of professional  
2 development plans. If the Parties and the Special Master cannot agree on  
revised time lines, the dispute shall be presented to the Court as set forth in  
3 Section I(D)(1).

(District Response Objection (Doc. 1412) at 3-4.)

4 The Court has considered the initial proposed USP, with noted objections (Doc.  
5 1406) and Memoranda of Objections by the District (Doc. 1407), the Mendoza Plaintiffs  
6 (Doc. 1408), and the State of Arizona (Doc. 1409); the final proposed USP, filed subsequent  
7 to public comments<sup>8</sup> (Doc. 1411) and final Response Objections by TUSD (Doc. 1412),  
8 Mendoza Plaintiffs (Doc. 1413), Fisher Plaintiffs (Doc. 1415), the United States (Doc. 1406),  
9 the State (Doc. 1414) and the State's Second Motion for Reconsideration of Intervention to  
10 the extent it addressed the merits of the culturally relevant courses proposed in the USP (Doc.  
11 1418); the Special Master's recommendations made to the Court on December 22, 2012, the  
12 parties' responses to those recommendations and the Special Master's replies.<sup>9</sup>

13 In an effort to rule expeditiously to adopt the USP so as to not jeopardize deadlines  
14 in the USP, which are fast approaching, the Court does not discuss every argument related  
15 to every objection, except where necessary to note those rejected or to resolve a disputed area  
16 of the consent decree. The parties did an excellent job of presenting their arguments. The  
17

---

18  
19  
20  
21 <sup>8</sup>See n. 5.

22 <sup>9</sup>The Special Master placed his recommendations in the side margins of the proposed  
23 USP adjacent to each objection and attached the annotated USP, plus three addendums to a  
24 cover letter which he addressed to this Court on December 22, 2012. The Court shall direct  
25 the Clerk of the Court to file these documents as the Special Master's Recommendation,  
26 simultaneously with the filing of this Order. The parties sent responses regarding these  
27 recommendations to the Special Master and this Court. He replied and provided both to the  
Court. These documents shall be filed into the record as: Special Master Recommendation,  
Attachments USP Special Master Comments, addendums 1-3, and parties' Responses/Special  
Master Replies.



1 Court has identified each objection which needs to be resolved and ruled expressly to resolve  
2 each objection.<sup>10</sup>

3 The Court turns to the areas in the USP where there were objections: § II Student  
4 Assignment; § IV Administrators and Certified Staff; § V Quality of Education; § VI  
5 Discipline; § VIII Extracurricular Activities, and § X Accountability and Transparency.

6 **a. § II: Student Assignment**

7 Without making a formal objection to § II(C)(1) and (2), Student Assignment  
8 Personnel: Director of Student Assignment and Magnet Strategy and Operations, the Fisher  
9 Plaintiffs note that the USP potentially establishes approximately twenty new administrative  
10 positions and asks that administrative positions created, staffed and funded under the USP  
11 should be integral to the desegregation process and supplement rather than supplant already  
12 existing positions. The Fisher Plaintiffs suggest certain reporting criteria which would assist  
13 in tracking the link between staff, responsibilities, and funding sources. The Court directs  
14 the Special Master to consider the suggestions made by the Fisher Plaintiffs as he moves  
15 forward with developing the financial plan for the USP. (Fisher Objection (Doc. 1415) at  
16 5.)

17 **Comment [A1] and [A2]<sup>11</sup>:Fisher Plaintiffs Request for specific goals to be**  
18 **established in the USP.**

19 The Fisher Plaintiffs object to § II(E)(3) and (4), Magnet Programs: Magnet School  
20 Plan, and argue that this section should set more frequent and specific goals for the magnet  
21 school evaluation process. In response to their concerns, the Special Master explains that the  
22 USP embodies what organization psychologists call the expectancy theory of motivation.

---

23  
24 <sup>10</sup>The Special Master notes a typo at § II(E)(2), (SM Recommendation, USP SM  
25 Comment [A1]), which should be corrected in the USP.

26 <sup>11</sup>These Comment numbers are from the proposed USP attached as Exhibit A to the  
27 Stipulation of the Parties Regarding the Filing of the Joint Proposed Unitary Status Plan  
28 Noting Areas of Party Disagreement (Proposed USP (Doc. 1411).)

1 It calls for those responsible for a given action, usually the District, to develop goals for each  
2 different situation, make those goals public, and evaluate whether the goals are achieved.  
3 If not, the District is expected to identify necessary program or personnel changes or  
4 improvements. ( Special Master’s (SM) Recommendation at iii.) Should the District fail  
5 over the coming year to develop goals acceptable to the Fisher Plaintiffs, they are encouraged  
6 to raise their concerns with the Special Master or this Court.

7 Specifically in response to the Fisher Plaintiffs’ request for a goal to be set related  
8 to the Magnet School Plan, the Special Master proposes adding additional language in ¶ 3,  
9 as follows: “and, (v) identify goals to achieve the integration of each magnet school which  
10 shall be used to assess the effectiveness of efforts to enhance integration.” The Special  
11 Master explains that this language is not duplicative of and is consistent with other goal  
12 oriented language found in other areas of the USP. He believes the USP should contain  
13 explicit language about setting goals for each school and addressing the expectation of  
14 annual assessments of progress in attaining those goals. This allows individual schools to  
15 assess their progress, and the Court notes that the language will enable the District, as well,  
16 to make such individualized assessments. (SM Recommendation at iii, USP SM Comments  
17 [A3][A4] at 9-10); SM Reply to TUSD, Mendoza, and DOJ Response to Recommendation.)  
18 The Special Master recommends that the language, “to the extent practicable,” in paragraph  
19 4 be retained. (SM Recommendation, USP SM Comment [A6] at 10.) The Court adopts this  
20 recommendation and the recommended language for ¶ 3(v).

21 The Special Master also recommends changing the date “2015-2016” in § II(E)(5)  
22 through which the District is obligated to apply for Federal Magnet School Funding to  
23 “2016-2017,” which coincides with the date for attaining unitary status in § X of the USP.  
24 *Id.* SM Comment [A7] at 10. The Court adopts this recommendation.



1 to school outside your immediate neighborhood is more heavily born by the minority  
2 students in TUSD. The Court believes, however, that both these concerns must be balanced  
3 against the interest of integration for all minority students, which is done by establishing the  
4 50% criteria in the USP and supported by all the Plaintiffs. The Court adopts the  
5 recommendation of the Special Master to retain the 50% criteria, with the understanding that  
6 the Magnet School Plans will take into account the transportation burdens being incurred by  
7 the students, including the distance and time spent traveling to and from school.  
8 Additionally, the District should at last address the issue raised by the ICC in 2005, regarding  
9 the strategic placement of magnet schools in its ongoing efforts under the USP to desegregate  
10 TUSD.

11 **b. § IV: Administrators and Certified Staff**

12 **Comment [A4]: Fisher Plaintiffs object to the Labor Market Study**  
13 **commissioned by the District; Comment [A5]: District objects to financial support**  
14 **requirement in “growing your own” plan.**

15 The Jointly Proposed USP calls for the District to enhance the racial and ethnic  
16 diversity of its administrators and certified staff through its recruitment, hiring, assignment,  
17 promotion, pay, demotion, and dismissal practices and procedures. (Proposed USP (Doc.  
18 1411) § IV(A)(1).) To accomplish this, the USP calls for outreach and recruitment for all  
19 employment vacancies on a nondiscriminatory basis. (Proposed USP (Doc. 1411) §  
20 IV(C)(1).) “The District has hired an outside expert to undertake a Labor Market Analysis  
21 to determine the expected number of African American and Latino administrators and  
22 certificated<sup>12</sup> staff in the District, based on the number of African American and Latino  
23 administrators and certificated staff in the State of Arizona, in a four-state region, a six-state  
24 region and the United States. The Special Master and Plaintiffs shall have until February 1,

---

25  
26 <sup>12</sup>“Certificated Staff” refers to personnel who, at minimum, hold a professional  
27 certificate issued by the State and are employed in a position where such certification is  
required. (Proposed USP (Doc. 1411), Appendix A: Definitions ¶ 5.)

1 2013 to review the Labor Market Analysis and present any objections to request any  
2 additional data or analysis the Parties or the Special Master may deem relevant.” (Proposed  
3 USP (Doc. 1411) § IV(C)(2).) In addition to the general objection to the February 1-  
4 deadline, the Fisher Plaintiffs challenge the Labor Market Study commissioned by the  
5 District and ask that it be set aside, and ask that the Special Master commission a Labor  
6 Market Study from an independent source.

7         The Fisher Plaintiffs also object to the District’s reliance on the Labor Market Study  
8 to assert that in adopting a “grow your own” program, pursuant to subsection I, Professional  
9 Support, the District should not be required to provide financial support to enable current  
10 Latino and African American employees to secure the required certifications to become  
11 administrators. (Proposed USP (Doc. 1411) § IV(I)(3).) The District argues that the Labor  
12 Market Study shows by every possible measurement that the District has more Latino  
13 administrators and certificated staff than would be expected, which when combined with the  
14 lack of any finding of a constitutional violation and the limited obligations of the 1978  
15 Stipulation, does not support a remedy of financial support for Latino and African American  
16 employees to secure additional degrees or certifications. (District Objection (Doc. 1407) at  
17 12-13.)

18         The District has not sought partial withdrawal of judicial oversight nor requested a  
19 partial finding of unitary status in regard to the *Green* factor: administrative and certified  
20 staffing. Instead, the District has agreed to undertake efforts to recruit and grow their own  
21 African American and Latino administrators and certificated staff. The Court does not  
22 consider whether the Labor Market Study supports a finding that vestiges of past  
23 discrimination remain in regard to administrative and certified staffing. The Court instead  
24 considers whether or not the Labor Market Study is adequate to meet the needs of the USP  
25 or if it should be set aside.

1           The Special Master has recommended retaining the language referencing the Labor  
2 Market Study in subsection C, Outreach and Recruitment ¶ 2, which the Fisher Plaintiffs find  
3 objectionable, because the provisions of the plan are not dependent on the findings of the  
4 study though the findings will have an effect on how one assesses the effectiveness of the  
5 District’s efforts to further recruit African American and Latino professional staff. He  
6 submits that it remains to be determined, once the Plaintiffs and he have an opportunity to  
7 review the Labor Market Study, whether it is inadequate. (SM Recommendation, USP SM  
8 Comment [A10] at 16); (SM Reply to Fisher Response to Recommendation.) The Special  
9 Master recommends deleting the language calling for review of the Labor Market Study by  
10 February 1, 2013, with the understanding that the parties and he will make any objections to  
11 the adequacy of the study when the District submits its recruitment plan. In other words, the  
12 Labor Market Study may be evaluated in the context of the proposals being made by the  
13 District. *Id.*

14           The Court finds that while preliminary review and comment by the Plaintiffs to the  
15 District regarding their opinions regarding the sufficiency of the Labor Market Study, the  
16 adequacy of the study cannot be fully determined until it is known how the District uses it,  
17 i.e., what conclusions the District draws from it. The Court adopts the Special Master’s  
18 recommendation to retain the provision allowing the District to assess the effectiveness of  
19 its outreach and recruitment plan based on the challenged Labor Market Study and to delete  
20 the deadline for review and objections to be made to the study. The Court agrees with the  
21 Special Master that review and objections regarding the adequacy of the Labor Market Study  
22 are better made at the time the District proposes to rely on it.

23           The Special Master correctly notes that in subsection I, Professional Support ¶ 3, the  
24 District is not “required” to provide financial support as part of any “growing your own”  
25 method adopted by the District to increase the number of African American and Latino  
26 principals, assistant principals, and District Office administrators. The proposed USP  
27

1 requires the District’s “growing your own” plan to include the *possibility* of financial support  
2 to enable these employees to receive the required certifications and educational degrees and  
3 educational degrees needed for such promotions. *Id.* at 22. The Court adopts this  
4 recommendation.

5 **Comment [A6]: District objects to Professional Development including a**  
6 **special plan for educators working with ELL students.**

7 The District argues that subsection J, Professional Development, which provides for  
8 a training plan to ensure that all staff are provided copies of the USP and trained regarding  
9 its elements and requirements, overreaches because ¶ 3(b)(vii) requires the District to  
10 develop a district-wide professional development plan for all educators working with English  
11 Language Learner (ELL) students. The District argues this is outside the scope of this case  
12 because the 1978 Stipulation contained only one obligation with respect to “bilingual”  
13 education, and that was to get parental consent before placing a student in a bilingual class.  
14 (District Objection (Doc. 1407) at 15.) Even if the Court assumed the bilingual education  
15 program in 1978 was the equivalent of today’s ELL program, the Court ruled in 2008 that  
16 it “would not limit its inquiry to only the express terms of the Settlement Agreement because  
17 over the ... 27 years [the Agreement was in place] the parties have interpreted the Settlement  
18 Agreement to reach a broad array of programs.” (Order (Doc. 1270) at 5.)

19 As noted by the Mendoza Plaintiffs in the 2008 Annual Report that the District  
20 prepared to catalogue its activities under the Settlement Agreement it listed: at Cragin, a new  
21 program called Avenues described as a language program for ELL students; at Manzo, a new  
22 ELL tutoring program; at Maxwell, a “CompEd” program described as after school tutoring  
23 for ELL students; at Tully, a focus on all ELL strategies to be implemented in the classroom.  
24 (Mendoza Response Objection (Doc. 1413) at 7-8 (citing 2008 Annual Report (Doc. 1266)  
25 at Exhibit D).) “Further, and of particular relevance given the District’s objection, the  
26 Annual Report includes a list of in-service training programs . . . required [] for all District  
27  
28



1 employees involved in implementing the Agreement. According to the Annual Report, those  
2 programs included the following: at Borton, ELL Avenues workshop; SEI endorsement  
3 training; ELL summer school training; at Howell, guidelines for grading ELL's; at Roskrige:  
4 vocabulary development strategies (ELL strategies) and dual language model (best  
5 practices); at Tully, effective reading for ELL's; at Whitmore, math interventions – ELL  
6 support.” *Id.* at 8 (citing TUSD 2008 Annual Report (Doc. 1266)).

7 More importantly, in 2008, this Court ruled that student achievement was a relevant  
8 measure of effectiveness and reviewed the scores of TUSD students of different racial and  
9 ethnic groups on the AIMS test and found:

10 Most troubling are the low achievement rates by [ELL students] on the  
11 Arizona Instrument to Measure Standards (AIMS) exam. From 2002  
12 through 2004, ELL students failed the reading section of AIMS in grades 3,  
13 5, 8, and 10 between 73 and 96%. Anglo student failure rate ranged from 20  
14 to 42%. ELL students failed the mathematics section up to 98% as  
compared to the highest percentage failure rate of 70% for Anglo students  
in the 8th grade. Excluding the 8th grade, the highest percentage failure rate  
for Anglo students was 56% in 10th grade math as compared to a 95%  
failure rate for the ELL students.

15 *Id.* (citing Order (Doc. 1270) at 54-55) (citations omitted in original).

16 The Court will not limit the USP provisions addressing the needs of ELL students  
17 to the bilingual education provision for parental notice contained in the 1978 Stipulation. The  
18 Court turns to the District's other reasons for why there should not be a professional  
19 development plan for educators working with ELL students.

20 The District explains that it has a Language Acquisition Department that is charged  
21 with complying with various statutory obligations and Office of Civil Rights (OCR)  
22 agreements related to ELL students. The District asserts that professional development  
23 related to ELL students should be handled by the Language Acquisition Department. The  
24 District argues that the question of what services should be provided to ELL students is  
25 governed by the Equal Educational Opportunities Act and is the subject of another lawsuit,  
26 *Horne v. Flores*, 129 S. Ct. 2579 (2009), remanded for further proceedings. (District  
27



1 Objection (Doc. 1407) at 15-16.) Finally, the District argues that developing a plan for  
2 training educators working with ELL students will encompass all teachers since virtually  
3 every educator in TUSD is likely to work with one or more current or recently classified ELL  
4 student. (District Response Objection (Doc. 1412) at 11.)

5 Subsection J(3) provides:

6 The District shall ensure that all administrators, certificated staff, and  
7 paraprofessionals receive ongoing professional development, organized  
8 through the director of culturally responsive pedagogy and instruction and  
9 the coordinator of professional development, that includes the following  
10 elements; 1) The District's prohibitions on discrimination or retaliation on  
11 the basis of race and ethnicity; and 2) Practical and research-based  
12 strategies in the areas of: (i) classroom and non-classroom expectations; (ii)  
13 changes to professional evaluations; (iii) engaging students utilizing  
14 culturally responsive pedagogy, including understanding how culturally  
15 responsive materials and lessons improve students' academic and subject  
16 matter skills by increasing the appeal of the tools of instruction and helping  
17 them build analytic capacity; (iv) proactive approaches to student access to  
ALEs;<sup>13</sup> (v) [] behavioral and discipline systems, . . . ; (vi) recording,  
collecting, analyzing, and utilizing data to monitor student academic and  
behavior progress, including specific training on the inputting and [using].  
. . . the existing and amended data system; (viii) working with students with  
diverse needs, including ELL students *and developing a district-wide  
professional development plan for all educators working with ELL students*;  
and (viii) providing clear, concrete, . . . strategies for applying tools gained  
in professional development to classroom and school management,  
including methods for reaching out to network(s) of identified colleagues,  
mentors, and professional supporters to assist in thoughtful decision-  
making; and c) any other training contemplated herein."

18 (Proposed USP (Doc. 1411) § IV(J)(3).)

19 The Special Master recommends retaining the challenged ELL language. He argues  
20 that culturally responsive pedagogy, approved by all parties, includes how teachers facilitate  
21 the learning of ELL students. (SM Recommendation, USP SM Comment [A15] at 24.)  
22 "Culturally responsive pedagogy refers to educational approaches and practices which center  
23 on the experiences and perspectives of diverse communities; create supportive and inclusive  
24 learning environments; utilize learner-centered approaches that emphasize students' cultural  
25

---

26 <sup>13</sup>Advanced Learning Experiences, including Gifted and Talented (GATE) programs,  
27 Advanced Academic Courses (AACs) and University High School (UHS).

1 assets, backgrounds, social conditions, and individual strengths; and engage families as  
2 partners.” (Proposed USP (Doc. 1411), Appendix A: Definitions ¶9.) The District currently  
3 invests desegregation funds in ELL programs, and ELL students make up a substantial part  
4 of the Latino student body. The provision is not aimed at language acquisition for ELL  
5 students. Subsection J is aimed at professional development for teachers and the challenged  
6 provision in ¶ 3 is one among many strategies to improve teacher-success. Given the large  
7 amount of ELL students in TUSD and their substandard academic achievement, there is a  
8 clear need for teachers to learn how to better teach ELL students. (SM Recommendation,  
9 USP SM Comment [A15] at 24; see also Mendoza Response Objection (Doc. 1413) at 6-9.)

10 This Court agrees with the Special Master and the Mendoza Plaintiffs. The USP  
11 should aggressively address how its ELL students are being taught, i.e., what techniques and  
12 approaches teachers might adopt to enhance academic achievement for ELL students. The  
13 Court believes the USP presents “the opportunity to have the professionals in the newly  
14 created positions of director of culturally responsive pedagogy and instruction and  
15 coordinator of professional development join forces to fashion a district-wide professional  
16 development plan for all educators working with ELL students.” (Mendoza Response  
17 Objection (Doc. 1413) at 6-9.) There is no reason for carving out educators working with  
18 ELL students, especially if they are essentially all teachers in TUSD, from the professional  
19 development provisions in the USP. There is no reason why professional development  
20 related to the USP should be handled by the Language Acquisition Department, outside the  
21 auspices of this case. Should there be problems in coordination between the Director of  
22 Culturally Responsive Pedagogy and the Language Acquisition Department, waste due to  
23 overlap, or any other unforeseeable problems, the District is urged to bring such problems  
24 to the attention of the Special Master for resolution.



1 Latino students, including ELL and exceptional (special education students). The Special  
2 Master asserts that the goal setting requirement in subsection A(2)(a) addresses this concern,  
3 (SM Recommendation, USP SM Comment [21]), but subsection A(2)(a) does not expressly  
4 secure the annual setting of goals sought by the Mendoza Plaintiffs. The Court agrees with  
5 the Mendoza Plaintiffs that annual goals should be set, but believes the requirement should  
6 be included in subsection A(2)(a). The Court does not adopt the language proposed by the  
7 Mendoza Plaintiffs. The Special Master shall add language in subsection A(2)(a) to make  
8 it clear that developing goals, includes developing annual goals for improving access to ALE  
9 programs.

10 **Comment [A11]: District proposes adding language referencing the Governing**  
11 **Board’s role in approving admission procedures for University High School (UHS).**

12 Subsection A, Access to and Support in Advanced Learning Expectations, includes  
13 UHS Admissions and Retention and calls for review and revision of the process and  
14 procedure used to select students for admission to UHS. (Proposed USP (Doc. 1411) §  
15 V(A)(4).) The District asks that the requirement for it to consult with Plaintiffs and the  
16 Special Master during drafting of the revised UHS admission procedures be prior to  
17 “adoption by the Governing Board” and implementation of the revised admission procedures.  
18 As noted by the Special Master, there is no need to specify the role of the Governing Board  
19 in respect to admission and retention procedures for UHS. (SM Recommendation, USP SM  
20 Comment [A26].) It goes without saying that many provisions in the USP call for Board  
21 approval, and logically the timing for the District to consult with the Plaintiffs and Special  
22 Master is prior to submitting an issue to the Governing Board for approval and  
23 implementation. Nothing in the USP negates the Governing Board’s jurisdiction or  
24 responsibilities in regard to UHS or any other school in TUSD.

1           **Comments [8] and [12]: Mendoza Plaintiffs propose adding provisions to**  
2 **require review and monitoring of Exceptional/Special Education placement, including**  
3 **ELL students.**

4           The Mendoza Plaintiffs raise a long held concern, initially raised by the ICC, that  
5 the flip-side to under-representation by minority students in ALEs may be over-  
6 representation by minority students as special education students. (Mendoza Objection (Doc.  
7 1408) at 5 (citing Order (Doc. 1270), 4/24/2008 at 24-25, 27.) The Government suggests  
8 that the Mendoza Plaintiffs' concerns are addressed in subsection E, Maintaining Inclusive  
9 Environments, ¶ 1, which requires the District to not assign students to classrooms or  
10 services in a manner that impedes desegregation. As noted by the Special Master, the  
11 Government may read this section as applying to special education, but others may not.  
12 (Reply to DOJ Response to Recommendation.)

13           The Mendoza Plaintiffs' concern that minority students are over-represented in  
14 special education classes is not limited to preventing segregation. As the Court understands  
15 it, the Mendoza Plaintiffs are concerned that these students may be incorrectly perceived and  
16 treated as special need students and, therefore, placed unnecessarily in exceptional (special)  
17 education classes. This affects student achievement, which is a quality of education concern.  
18 The Court adopts the Special Master's recommendation to include an additional subsection  
19 in Section V, as follows:

20           The District shall review its referral, evaluation and placement policies and  
21 practices on an annual basis to ensure that African American and Latino  
22 students, including ELL students, are not being inappropriately referred,  
23 evaluated or placed in exceptional (special) education classes or programs.

24 (SM Recommendation, SM USP Comment [A28] at 31; Proposed USP (Doc. 1411) at  
25 Comment [A12].)

26           In an effort to address special data collection and reporting needs related to assessing  
27 whether there is over-representation of minority students in exceptional (special) education  
28 classes, the Mendoza Plaintiffs suggest adding "special education/exceptional education

1 status” as an assessment criteria under subsection A(2)(b), which covers ALE program  
2 assessments. (Proposed USP (Doc. 1411) at Comment [A8].) The Court believes, however,  
3 that the data and reporting criteria suggested by the Mendoza Plaintiffs is better addressed  
4 under the new subsection. The Court adopts the language proposed by the Mendoza  
5 Plaintiffs, with the following addition: “The District shall develop appropriate criteria for  
6 data gathering and reporting to enable it to conduct meaningful review of ‘its referral,  
7 evaluation and placement policies and practices on an annual basis to ensure that African  
8 American and Latino students, . . . .” The Court adopts the recommendation of the Special  
9 Master to retain the language in Section V(A)(2)(b), without adding “special  
10 education/exceptional education status” as an ALE assessment criteria. (SM  
11 Recommendation, SM USP Comment [A19] at 27.)

12 **Comment [A13]: Mendoza request for the USP to set an overall goal of raising**  
13 **graduation rates to at least 88% of average graduation rate.**

14 Subsection D, Student Engagement and Support, is aimed at improving academic  
15 achievement by using strategies to close the achievement gap and eliminate other racial and  
16 ethnic disparities found in TUSD. (Proposed USP (Doc. 1411) § V(D)(1).) This subsection  
17 contains a provision for an Academic and Behavioral Supports Assessment and Plan, *id.* at  
18 D(2), which identifies strategies including in part: Dropout Prevention and Retention Plan,  
19 *id.* at (2)(i), Professional Development, *id.* at (5), Engaging Latino and African American  
20 Students, *id.* at (6), Services to Support African American Student Achievement, *id.* at (7),  
21 and Services to Support Latino Student Achievement, *id.* at (8).

22 The Mendoza Plaintiffs believe that, given the urgency of improving minority  
23 graduation rates, the USP does not go far enough when it only requires the District to  
24 “develop yearly goals for lowering dropout rates, increasing graduation rates, and reducing  
25 retentions in grade for African American and Latino students, including ELLs in each  
26  
27  
28

1 highschool.” (Mendoza Objection (Doc. 1408) at 3 (citing Proposed USP (Doc. 1406) at  
2 §V()C(2)(c)(i).)

3 As the Court held above in respect to the Fisher Plaintiffs’ request for specific goals  
4 to be set for increasing ALE access and retention: “Because the Court accepts the Special  
5 Master’s recommendation that the USP utilize the “expectancy theory of motivation” in  
6 respect to goal setting, the Court adopts the language proposed by the majority of the parties,  
7 over the [Mendoza] Plaintiffs’ objection. (SM Recommendation, USP SM Comment [A17]  
8 at 26.) This does not foreclose the [Mendoza] Plaintiffs from reurging the Court to adopt  
9 specific goals in the future should they believe that goals set pursuant to the expectancy  
10 theory of motivation are inadequate.”

11 **Comment [15],[16] and [17]:Fisher Plaintiffs assert academic interventions are**  
12 **insufficient to close the achievement gap between White and African American**  
13 **students, the USP should provide for the African American Student Support Services**  
14 **Department (SSAASA) to be a separately funded, staffed, and organized entity, and the**  
15 **USP should establish an African American Academic Achievement Task Force**  
16 **(AAAATF).**

17 Subsection D includes Services to Support African American Student Achievement,  
18 (Proposed USP (Doc. 1411) § V(D)(7), which mirrors Services to Support Latino Student  
19 Achievement, *id.* at D(8).

20 The Fisher Plaintiffs correctly point out that the USP must address the vestiges of  
21 the, *de jure*, Black and White dual school system operated by the District. They ask for the  
22 establishment of an African American Academic Achievement Task Force (AAAATF) to  
23 provide input and contribute to the development of a curricular intervention plan specifically  
24 designed to improve the academic achievement of the District’s African American students.  
25 The Fisher Plaintiff’s ask this Court to ensure separate funding and administration for  
26 SSAASA because in a budgetary crisis the District might “zero fund” the ethnic studies  
27



1 departments, “where one department’s funding gain would be another’s loss.” (Fisher’s  
2 Response Objection (Doc. 1415) at 12.) The Court understands the Fisher Plaintiffs’ concern  
3 that SSAASA remain independent and autonomous; the hugely disproportionate numbers  
4 between African American and Latino students creates a potential that Services to Support  
5 Latino Student Achievement may overwhelm Services to Support African American Student  
6 Achievement by sheer volume.

7         The Special Master reflects that the Fisher Plaintiffs’ request for separate funding,  
8 staffing and organizational structure is contrary to Section 1(D)(7) of the USP, which grants  
9 the Superintendent the authority to organize units, functions and determine line of authority  
10 within the District and will discourage collaborative work of student support personnel. (SM  
11 Recommendation, USP Comment [A36].) The Superintendent’s authority to establish  
12 organizational relationships and lines of responsibility for various offices and positions  
13 provided for in this Order is, however, limited by this Court’s directive that the two plans not  
14 be merged into one for organizational or budgetary purposes. The Court notes that as of  
15 now, the USP calls for the appointment of a Director of Support Services for African  
16 American Student Achievement, (Proposed USP (Doc. 1411) § V(D)(4)(a)), and a Director  
17 of Support Services for Latino Student Achievement, *id.* (4)(b). The Court does not preclude  
18 the collaborative work of student support personnel, but directs the Special Master to ensure  
19 that there are clear lines for tracking and distinguishing between funding and services to  
20 support academic achievement for African American and Latino students.

21         The District objects to the creation of a special task force aimed solely at improving  
22 academic achievement for African American students. The District complains that the  
23 proposed AAAATF will be costly and is unnecessary. The District would have to pay any  
24 expert serving on the AAAATF and extra-duty pay to teachers or other TUSD staff serving  
25 on the AAAATF.



1 The Special Master points out that the average academic achievement levels and  
2 graduation rates of African American students in TUSD are substantially lower than White,  
3 Asian American and Latino students. “Moreover, in recent years Latino students have made  
4 steady, if modest, progress on state assessments of reading and math while African American  
5 students have not [].” (SM Recommendation, SM USP, Addendum C, at 67.)

6 The Court finds that given the unique needs of the African American students, which  
7 are distinct from those of the Mendoza Plaintiffs, the AAAATF is warranted, especially on  
8 the limited basis proposed by the Fisher Plaintiffs and the Special Master. The AAAATF  
9 will be convened immediately and tender its report by June 1, 2013. The USP calls for the  
10 AAAATF to consult with prominent experts, and the Special Master advises that the number  
11 of experts would be no more than three. The Court believes that expert fees for consultations  
12 will be less than if the experts actually served on the AAAATF. The Court approves creation  
13 of the AAAATF, including allowing it to consult with prominent experts who can identify  
14 research-based practices that have been shown to enhance the learning outcomes of African  
15 American students.

16 The Court adopts the recommendation of the Special Master to include the provision  
17 in the USP for the AAAATF. (SM Recommendation, USP Comment [A38].

18 **Comment [18]: Mendoza Plaintiffs ask for reporting provisions to address**  
19 **exceptional (special) education services.**

20 Because the Court adopted the Mendoza Plaintiffs’ proposed addition to review and  
21 monitor exceptional (special) education placement, the Court adopts the recommendation of  
22 the Special Master to include an additional paragraph in subsection F, Reporting, as follows:

- 23 u. A report setting forth the number and percentage of students receiving  
24 exceptional (special) education services by area of service/disability,  
25 school, grade, type of service (self-contained, resource, inclusion, etc.),  
26 ELL status, race and ethnicity.  
27  
28

1 (SM Recommendation, USP SM Comment [40]); (Proposed USP (Doc. 1411) at Comment  
2 [A8].)

3 **d. § VI: Discipline**

4 The USP requires the District to reduce racial and ethnic disparities in the  
5 administration of school discipline. Mendoza Plaintiffs request that this reduction be done  
6 “with particular focus on materially reducing the relative rate at which African American and  
7 Latino students experience in-school and out-of-school suspension as compared to the  
8 District’s White students.” (Proposed USP (Doc. 1411) at Comment [A19].)

9 The Special Master finds the USP requires the District to understand and address the  
10 clear racial disparities in the number and proportion of disciplinary actions in TUSD. The  
11 Court agrees. It goes without saying that the USP requires what the Mendoza Plaintiffs seek.  
12 The Court adopts the Special Master’s recommendation to retain the language as proposed  
13 in the USP. (SM Recommendation, SM USP, Comment [A43] at 43.)

14 **e. § VIII: Extracurricular Activities**

15 The Court adopts the Special Master’s recommendation to change Subsection A(3)  
16 “tutoring” to “science club or Junior Achievement” because tutoring is not typically an  
17 extracurricular activity. (SM Recommendation, USP Comment [A44] at 51.) The same  
18 change should be reflected in Subsection B(1). The Special Master shall, however, ensure  
19 that to the extent students seek to voluntarily participate in after school tutoring to improve  
20 their academic standing, equitable access should be provided for tutoring– especially for  
21 students who attend schools outside their neighborhoods. The Court leaves it to the  
22 discretion of the Special Master to ensure the placement of such a requirement in the USP.



1 The Special Master argues that these experts will provide the District, the Plaintiffs,  
2 and the Special Master, access to exceptionally knowledgeable individuals, who can advise  
3 and guide the ongoing process of implementing and overseeing the USP. He believes that  
4 the exceptional quality of the proposed USP is due to the participation of the several experts  
5 utilized by the Special Master. The Court has found the Special Master's judgment to be  
6 sound and conscientious in this regard. The Court notes that the road ahead involves the  
7 development of a financial feasibility plan for implementing the USP, which in many ways  
8 may be even more difficult than drafting the USP. The Court advises that the three experts  
9 proposed by the Special Master should be able to do double duty in regard to the District's  
10 ongoing efforts to develop the financial feasibility plan and on the AAAATF. The parties  
11 may file objections with the Court to the individuals proposed by the Special Master or to  
12 proposed compensation for those individuals. (Proposed USP (Doc. 1411) § X(E)(2)).

13 The Court adopts the recommendation of the Special Master and retains this  
14 language. (SM Recommendation, SM USP Comment [A52] at 58.)

15 **D. § XI: Final Termination**

16 The USP calls for a motion for determination of complete unitary status to not be  
17 filed prior to the end of 2016-2017 school year. The Fisher Plaintiffs argue this is only three-  
18 and-a-half-years and ask for an end-of-the-school-year 2017-2018 deadline. (Proposed USP  
19 (Doc. 1411) Comment [A25].) The school year ends in May. Consequently, there is only  
20 a half a year remaining for the 2012-13 school year. Under the USP, there remain four full  
21 school years. The Court adopts the Special Master's recommendation to retain the 2016-  
22 2017 deadline for attaining unitary status. (SM Recommendation, USP Comment [A55].)

1 **E. Conclusion**

2 The Court adopts the USP, pursuant to the parties' stipulations and pending  
3 incorporation of the changes required by the rulings of this Court resolving the disputed areas  
4 of the consent decree.

5 **Accordingly,**

6 **IT IS ORDERED** that the Second Motion for Reconsideration (Doc. 1418) is  
7 DENIED.

8 **IT IS FURTHER ORDERED** that the State shall show good cause within 14 days  
9 of the filing date of this Order as to why its status as *amici* should not be concluded and why  
10 the normal avenues of review will not serve to protect the State's interests in the future. The  
11 parties and the Special Master may file responses to the State's showing, and the State may  
12 file a Reply.

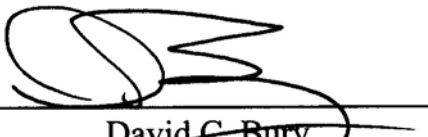
13 **IT IS FURTHER ORDERED** that the Court adopts all elements of the USP  
14 stipulated to by the parties (Stipulation Doc. 1411) and orders the disputed parts to be  
15 revised, pursuant to the rulings of this Court made herein.

16 **IT IS FURTHER ORDERED** that the Special Master shall oversee the revision of  
17 the USP, and the District shall file the USP with the Court, within 10 days of the filing date  
18 of this Order.

19 **IT IS FURTHER ORDERED** that the Special Master's Recommendation and all  
20 attachments shall be filed into the record by the Clerk of the Court.

21 DATED this 6<sup>th</sup> day of February, 2013.

22  
23  
24  
25  
26  
27  
28



David C. Bury  
United States District Judge