

TUSD Draft Revised Comprehensive Magnet Plan Comments from Plaintiffs and Special Master

In May and June 2014, the Special Master and the Plaintiffs submitted comments and/or objections to the draft Comprehensive Magnet Plan (CMP). After reviewing comments and feedback from the community, the Board, the Plaintiffs, and the Plaintiff-identified expert – Dr. Genevieve Siegel-Hawley – the District developed and shared a revised version of the CMP with the Plaintiffs and Special Master on June 27, 2014. The comments below refer to the June 27, 2014 revised version of the CMP. The District has reviewed these additional comments and/or objections in developing the final version of the CMP presented to the Governing Board on July 15, 2014.

Attachment 1: “Mendoza Plaintiffs’ Comments on Draft Comprehensive Magnet Plan (“CMP”) Received June 27, 2014”

July 7, 2014 from the Mendoza Plaintiffs’ Counsel to the District

Attachment 2: “Fisher Plaintiffs’ comments on the District’s June 27, 2014 revised draft Comprehensive Magnet Plan”

July 9, 2014 from the Fisher Plaintiffs’ Counsel to the District

Attachment 3: Memo from Special Master to the Governing Board, “Basic Concerns about the Comprehensive Magnet Plan (CMP)”

July 13, 2014 from the Special Master to the TUSD Governing Board

Attachment 4: “Mendoza Plaintiffs’ additional comments on comprehensive magnet plan”

July 14, 2014 from the Mendoza Plaintiffs’ Counsel to the District via email

ATTACHMENT 1

MENDOZA PLAINTIFFS' COMMENTS ON DRAFT COMPREHENSIVE MAGNET PLAN ("CMP") RECEIVED
JUNE 27, 2014

July 7, 2014

Mendoza Plaintiffs are continuing to review the draft Comprehensive Magnet Plan received June 27, 2014 ("June 2014 draft CMP"). They provide these comments to comply with the District's request for comment in advance of the Governing Board meeting on July 8, 2014, and in accordance with the schedule confirmed by Dr. Hawley, which provides for additional comment through July 14, 2014.

Mendoza Plaintiffs will also address the District's responses to comments that accompanied the delivery of the June 2014 draft CMP ("TUSD Response").

Mendoza Plaintiffs appreciate inclusion of responses to Dr. Genevieve Siegel-Hawley's comments in those responses.¹ Mendoza Plaintiffs understand those comments to have been "bubble comments" inserted in a draft of the CMP. They would appreciate receiving a copy of the draft with those "bubble comments" since in a number of instances they have only been able to make informed guesses as to the specific item in an earlier draft CMP being addressed by Dr. Siegel-Hawley.

Mendoza Plaintiffs also request a copy of the 2011 Marketing Study which was referenced on page 12 of the District's June 28 responses as being attached to the responses but was not attached with the document that Mendoza Plaintiffs received.

(1) Mendoza Plaintiffs continue to have concerns about the fact that under the June 2014 CMP, only one school (Dodge MS) is to have no attendance boundary and that all other magnet schools (other than the high schools) are to have neighborhood preference areas. They understand the District's response but also note Dr. Siegel-Hawley's comments on the provision on page 8 of the draft that she was reviewing ("Students living in the attendance boundary are guaranteed a seat in the magnet program"): "But this is changing? Would be good if it did because it could have a negative impact on integration depending on neighborhood makeup and how carefully/frequently boundaries are defined." (TUSD Responses at 1.)

(2) Mendoza Plaintiffs continue to have concerns about the District's desire to make Craig a magnet school. They appreciate the additional information provided in the TUSD responses of June 27, 2014; however, those responses have not ameliorated their concerns, which have been set out in their earlier written comments and in discussion with the District on June 18, 2014. Mendoza Plaintiffs also

¹ They also renew the request of the Fisher Plaintiffs in which they joined for any written report that Dr. Siegel-Hawley may have provided (or may provide) in addition to the referenced comments.

disagree with the District's statement at page 10 of its responses that the designation of Craigin increases the number of integrated schools in the District since it currently (pre-magnet designation) is integrated.

(3) Mendoza Plaintiffs continue to question the explanation advanced by the District in support of making Craigin a fine arts magnet (that it will help Utterback become an integrated magnet by having a currently integrated school feed into it). (See TUSD Response at 13.) That concern has been heightened by the District's response to the Mendoza Plaintiffs inquiry concerning District plans in the event Utterback is "demagnetized" ("We are not planning for contingencies that may be two or three years off....")²

(4) Mendoza Plaintiffs have previously objected to the references to the Tucson High School magnet program as "integrated" (see Preliminary Annual Progress Document, making that reference), given their understanding that the District has lacked data on the basis of which it could determine the race and ethnicity of all the participants in the high school magnet programs because only out of neighborhood students had been required to complete magnet school/program applications. If that changed in 2013-24 (as contemplated by the USP in Section II, G, 1) and such data is available, Mendoza Plaintiffs ask that it (and any comparable data for the race and ethnicity of students enrolled in other high school magnet programs) be provided. (See also the chart on pages 43-44 of the June 2014 draft CMP. Mendoza Plaintiffs ask if that data for the 40th day reflects all freshmen participation in Tucson High magnet programs in the freshman year (that is, neighborhood and non-neighborhood) and in the other high school's magnet programs or only out of neighborhood participation.) Further, they ask if the District has an explanation for the significant drop off for Tucson High School in the White and African-American enrollment that is reported and what, if anything, it is doing to address that fall off going forward?

(5) Mendoza Plaintiffs continue to have concerns about the statement in the CMP that a request to become a magnet school must include strategies to attract African American and Native American families. They understand the District's comment that African American and Native American students are underrepresented in magnet schools (TUSD Response at 16) but do not believe that response (or the provision of the June 2014 draft CMP) is sufficient to address what should be the full recruitment strategy for a magnet school – that is, to attract and retain a student body that is integrated under the definition in the USP.

(6) Mendoza Plaintiffs do not understand the new language on page 13 of the June 2014 draft CMP that says the Magnet Department will ensure that "some populations are not over-targeted" and are concerned that it may be counter-productive and undermine implementation of the CMP and the

² The Statement in the TUSD Response that Craigin attracted more Hispanic and African American students to its incoming class than that in its current first year class (as of the 40th day) appears to be only partially correct per the chart on page 46 of the June 2014 draft CMP. Hispanic enrollment appears to be down by 2 while African American enrollment is up by 3.

USP. As noted above, the District believes that African American and Native American students are underrepresented in magnet schools and presumably intends to aggressively target those populations. Similarly, to achieve integration of magnet schools, White families will need to be aggressively targeted to attend some schools and Latino students will need to be aggressively targeted to attend others. Mendoza Plaintiffs are concerned that use of language referring to “over-targeting” (whatever that may actually be intended to mean) will undermine such efforts and be potentially violative of other sections of the CMP, the Family Engagement Plan, and the USP.

(6) The TUSD Response states that the CMP “[u]ses aggressive marketing.” (TUSD Response at 14.) Mendoza Plaintiffs agree with the importance of aggressive marketing and support it. They therefore ask whether the evaluation metric described on page 16 of the June 2014 CMP draft should be adjusted so that recruitment activities are not given the smallest multiplier in the “Diversity” Pillar.

Mendoza Plaintiffs are continuing to review the rubric that the District has used to rate magnet schools and the ratings reported on page 45 of the June 2014 draft CMP. As noted previously, they do not understand how Craigin and Mansfeld can be given any ratings given that they have yet to commence their proposed magnet programs (and as noted above, question if Craigin should be a magnet school). They also question how Booth-Fickett, Borton, Palo Verde, and Tucson High science can be characterized as “meets” given the substantial work needed in these schools as summarized on pages 46 and 47 of the June 2014 draft CMP and given the changes in science themes at Tucson High and Palo Verde which call into question reliance on past experience. Mendoza Plaintiffs will provide additional comment with respect to the rubric and scores by July 14.

ATTACHMENT 2

FISHER PLAINTIFFS' COMMENTS ON THE DISTRICT'S JUNE 27, 2014 REVISED DRAFT COMPREHENSIVE MAGNET PLAN

July 7, 2014

Introduction

Fisher Plaintiffs, after having reviewed the Revised Draft Comprehensive Magnet Plan received June 27, 2014 from the District (hereinafter "June 2014 CMP"), hereby provide commentary to the Special Master, Mendoza Plaintiffs, the Department of Justice, and the District. Additionally, these preliminary comments regarding the June 2014 CMP are in accordance with the schedule provided by Special Master Dr. Hawley, allowing for additional commentary on this CMP through Monday, July 14, 2014.

Fisher Plaintiffs continue to review the comments received from the District to the previous inquiries from Fisher Plaintiffs. They find these responses insufficient and non-responsive in part.

Fisher Plaintiffs have read Special Master Hawley's observations and concur in most instances with them. Therefore the Fisher Plaintiffs join in the observations in Special Master Hawley as well as the commentary and observations made by the Mendoza Plaintiffs. Additional commentary and concerns specific to the concerns of Fisher Plaintiffs is provided below.

Outstanding Commentary and Concerns

The Fisher Plaintiffs have major outstanding concerns and once again reiterate these concerns which they believe critical to the District's resolution.

1. Fisher Plaintiffs believe their original concerns raised in the May 20, 2014 comments to the District have not been ameliorated. Rather, it appears the District is merely paying "lip service" to the Fisher Plaintiffs. The Fisher Plaintiffs wish to reiterate they are serious about their specific concerns and objections to the CMP and wish to have these issues sincerely addressed and considered.
2. Fisher Plaintiffs concur with the responses from Mendoza Plaintiffs as they pertain to the achievement and integration of African American students
3. Fisher Plaintiffs join Special Master Hawley in expressing concern with the excessive number of magnet schools. Fisher Plaintiffs have previously expressed this concern to the District with the process for demagnetizing schools.
4. Fisher Plaintiffs renew their objection to the District's making Cragin

Elementary School a Magnet School.

5. Fisher Plaintiffs question the District's fallacious belief that Utterback Middle School can become an integrated school. The Fisher Plaintiffs suggest the District examine the history of Utterback Middle School and its attempt to become an integrated school.
6. Fisher Plaintiffs repeat they have repeatedly objected from day one that the Unitary Status Plan was signed that TUSD cannot obtain unitary status by 2017 due to the late implementation of the magnet plan and other USP mandated requirements.
7. Fisher Plaintiffs object to the ambiguous criteria contained within the June 2014 CMP as applied to evaluating magnet schools and withdrawing magnet status from those current schools.
8. Fisher Plaintiffs reiterate their feelings that many of the Districts' responses to the previous questions, issued May 20, 2014, are insufficient, vague, off-point, and non-responsive.
9. Fisher Plaintiffs noted the CMP stops short of making necessary decisions required to demagnetize those schools showing little integrative effect – whether as consequence of geographic or programmatic factors, or travel times or perceptions of school safety or academic performance. The District responded that there are no obvious decisions and they will use “a process” as required by the USP. What are the details of this process, and has the District developed any less-opaque decisions than at the time of this earlier response.
10. The Fisher Plaintiffs noted the CMP should be modeled on already successful programs, including those which effect integration by being exceptionally attractive, academically successful, and well funded. The District replied that it is “mindful of creating a magnet system that does not dilute to the point where schools are competing ... without having an integrative impact.” Has the District's mindfulness developed to the point of creating solutions rather than merely philosophizing?
11. The Fisher Plaintiffs, through a previous request, received information that the District will consider recommendations from the Boundary Review Committee with regard to pros and cons of boundary changes and magnet scenarios with regard to disused school sites. Has the District taken further action as promised on this request? What, if any, recommendation(s) were made by the Boundary Review Committee and what actions were/will be taken on said recommendation(s)?
12. The Fisher Plaintiffs requested the CMP address the optimal number of magnets, wherein the Fisher Plaintiffs noted that significantly more magnets will need to be established for the CMP to have any hope for having an integrative effect on a significant percentage of District enrollment. The District indicated it would take this recommendation into consideration. To what extent was this recommendation included in any changes in the June 2014 CMP?
13. The plan is lacking in what Fisher Plaintiffs perceive to be validation that there will be integrative effects. Fisher Plaintiffs would like to have seen a

disparate impact study as to each scenario and proposal that was adopted and rejected. Absence of that type of thorough analysis, it is unclear how the District can be assured the magnet plan, as proposed, will have a positive effect on the integration of its students.

Closing Comments

The Fisher Plaintiffs believe the goals of a magnet plan are threefold: (1) Improve student diversity and integration; (2) Eliminate past vestiges of discrimination; and (3) Aid in improving the educational achievement of African-American and other minority students. As any Comprehensive Magnet Plan must adequately address these goals, Fisher Plaintiffs believe, upon reviewing the June 2014 CMP as submitted, they cannot be achieved by the District. In fact, Fisher Plaintiffs predict the June 2014 CMP will only maintain the status quo, at best, or even worse, increase the degree of segregation.

For these reasons, Fisher Plaintiffs continue to insist upon the District do more than give lip service to their concerns and instead, invest the necessary and required effort to correct past wrongs to provide an environment of student diversity and integration, and a positive educational atmosphere for all African-American and minority students.

ATTACHMENT 3

July 13, 2014

To: TUSD Governing Board

From: Bill Hawley

Re: Basic Concerns about the Comprehensive Magnet Plan (CMP)

Overview

One of the major factors in determining whether the District attains unitary status by the end of the 2016-17 school year is whether it has made reasonable progress in increasing the proportion of its students who attend integrated schools. The major strategy for doing this is increasing the level of integration in its magnet programs and schools.

It is clear that a great deal of good work went into the development of the CMP. It is detailed and reflects a long-term perspective. But, it is also internally inconsistent (or at least confusing) and its provisions make it unlikely that significant progress in developing a collection of magnet school and programs that markedly increase the opportunities for students to benefit from an integrated education cannot be effectively achieved before the time the District hopes to be declared unitary. There are two reasons why this is so. First, the process for removing magnet status will delay decisions on removal of status for an unacceptably long period of time. Second, the criteria for evaluating magnet schools focus on process but should focus entirely on (1) the potential for racial and ethnic integration and (2) academic achievement and related student outcomes.

The Process for Removal of Magnet Status

Following the provisions of the CMP would mean that no current program or school not already eliminated (there is only one of these) can be terminated for at least two years, even those that are seen as the most likely to lose magnet status. Consider, for example, School X that has been given an “elimination warning” as school starts this year. After one additional enrollment cycle (actually, this would have to be the full year because student achievement scores are not available until the summer of 2015), School X could lose magnet status if it didn’t make progress (unspecified) on integration and achievement. This is a pretty weak test unless the amounts of integration and achievement are enough to bring it to standard in a reasonable time. But, let’s say that School X is removed from magnet status in the Summer of 2015. In the meantime, parents have signed up for the de-magnetized school so that most of the magnet funding cannot be withdrawn. The school or program that would be supported from School X’s allocation would have a year of planning (according to the CMP). Thus, no new magnet school until 2016-17 absent major increases in magnet funding. During the planning year, however, the new magnet--School Y--could not recruit students because it would not have its program clearly worked out and its staff trained accordingly. What if a school is waiting for School X (or some other magnet school) to fail and is ready to go in 2016-17? Aside from the message that sends to the struggling magnets, would one expect a new magnet to be successful in integrating (or further integrating) its student body in the start-up year? Or, what if new programs were started with extra funding now with the expectation that some would fail. Ouch—financially and politically.

And, the CMP process would not even eliminate magnet status in a school like Holladay that inexplicably, given its score among all magnets on the mock evaluation and its backward movement in integration, is identified as an Improvement school not subject to losing magnet status until a year after School X.

This scenario (based largely on pp.43-44) is best case from a demagnetizing and new start-up perspective. The processes identified on pp. 17-19 and 24 seem to make the process more time consuming.

Evaluation Criteria

There are four types of problems with the criteria used for evaluating magnet schools and programs: they do not provide adequate weight to integration and academic excellence, they conflate process and product providing more weight to the former, and there are problems with the content of several other criteria. But let's focus on the fact that integration and student outcomes, which should be only criteria for determining magnet status, count for less than the points a school can earn by focusing on process to sustain its magnet status.

According to the criteria set forth in Appendix J for determining magnet status, a school could (in principle) attain 100 points. However, only 45 of those points deal with integration and academic achievement. While the so-called diversity pillar (which should be called the integration pillar) has 30 points, only 25 of the points actually address integration. The Academic Excellence pillar has a possible 30 points, but only 20 of these deal with student performance (the others are curriculum factors). And, the goals for performance don't deal with "Excellence" but with being better than average.

A primary goal of the USP is to move from a focus on what is being done to the effects of those processes, practices and policies. But the criteria for evaluating magnet schools and programs put a greater emphasis on processes than they do on outcomes. It is easier to improve processes than it is to bring about positive outcomes so the school community that wishes to sustain itself as a magnet could place considerable emphasis on processes and thus survive without bringing about significant changes in integration and academic performance. This is particularly true because many process criteria do not assess quality of the effort. Process and product criteria serve different purposes. Product (or outcome) criteria should be used to determine whether magnet status should be sustained and the level of effort that should be invested in those programs deemed to be worthy improvement. Process criteria should be used to identify problems and to focus investment of time, money and expertise on those aspects of the school or program that are most in need of additional improvement. The CMP criteria do not make this distinction.

A More Detailed Analysis

There is a more detailed version of this memo, especially with respect to the criteria. If you want that memo, which was shared with the parties, let me know.

Other Matters

There are other problems with the CMP but these are most important, at least as I see it, because they relate most directly to the attainment of unitary status. I am hopeful that these other matters raised by me and the plaintiffs can be resolved. Such resolution includes, of course, recognition that the District has a contested issue right.

ATTACHMENT 4

From: Thompson, Lois D. [mailto:lthompson@proskauer.com]

Sent: Monday, July 14, 2014 6:21 PM

To: wbrammer@rllaz.com; Tolleson, Julie; Brown, Samuel; wdh@umd.edu; Anurima Bhargava (Anurima.Bhargava@usdoj.gov) (Anurima.Bhargava@usdoj.gov); Savitsky, Zoe (CRT) (Zoe.Savitsky@usdoj.gov) (Zoe.Savitsky@usdoj.gov); Rubin Salter Jr. (Rsjr3@aol.com) (Rsjr3@aol.com)

Cc: Juan Rodriguez (jrodriguez@MALDEF.org)

Subject: Mendoza Plaintiffs' additional comments on comprehensive magnet plan

Dear Bill Brammer, Dr. Hawley, and Others,

When the Mendoza Plaintiffs sent comments on the draft Comprehensive Magnet Plan ("CMP") last Monday, we undertook to provide additional comments by today, particularly with respect to the methodology the District is proposing to use to evaluate magnet schools. Thereafter, we received a copy of Dr. Hawley's July 8, 2014 comments on the draft CMP. Mendoza Plaintiffs agree with Dr. Hawley's comments relating to the proposed evaluation process as set forth at pages 2 through 5 of his July 8, 2014 memo under the heading "Evaluation Criteria." Therefore, rather than repeat or paraphrase them, Mendoza Plaintiffs join in those comments.

Mendoza Plaintiffs have the following additional comments beyond those set forth in their earlier communications:

They previously expressed concern about the District's proposal to make Craigin a magnet school. Beyond the specific issues Mendoza Plaintiffs have raised as they relate to Craigin, Mendoza Plaintiffs also have a concern about the District's decision to add magnet schools in 2014-15 (this comment therefore applies to both Mansfeld and Craigin) when so much work remains to be done to make the existing magnet schools successful both in terms of integration and in terms of the achievement/success of all their students. Mendoza Plaintiffs previously have expressed their concern that most magnet schools suffered from inattention for a number of years and that they and central District personnel now must devote significant effort to their programs/themes, improving student achievement in those schools, and their integration/recruitment efforts. Mendoza Plaintiffs therefore are concerned that the process, cost, and effort of creating new magnet schools will detract from needed focus and resource allocation to the existing magnet schools. (Mendoza Plaintiffs further note that the District has indicated that it has some concern about replicating magnet programs because the newly replicating program may draw students from the existing program. In that regard, it appears that effort, focus, and budget should be devoted to Holladay rather than to the creation of a new competing performing arts magnet at Craigin.)

Mendoza Plaintiffs also have a concern about the proposal to phase the 6th grade out of Drachman and to configure it as a PreK-5th school in 2015-16. Mendoza Plaintiffs believe that this proposed phase out will detract from the attractiveness of the Drachman program at precisely the time when it is striving to enhance the delivery of that program and increase the academic achievement of its students. It also is counter to the October 2013 version of the magnet plan in which the District proposed to expand Drachman course offerings to 7th grade in 2014-15 and to 8th grade in 2015-16.