

MENDOZA PLAINTIFFS' PRE-MEETING PRELIMINARY RESPONSE TO TUSD'S SEPTEMBER 25, 2015 GRADE RECONFIGURATION PROPOSALS

October 2, 2015

Mendoza Plaintiffs do not here present complete responses to the District's grade reconfiguration proposals, but intend to do so at a later time after the parties are able to discuss these proposals and have their questions answered at the meetings among the parties and Special Master on October 5 and 6 in Tucson. Mendoza Plaintiffs do however remind the District of existing concerns here, and additional concerns raised by TUSD's September 25 grade reconfiguration proposals in the hope that this will permit the District to better prepare for the up-coming meetings.

As an initial matter Mendoza Plaintiffs reiterate, as they referenced in their August 18 Response, among other communications, that they disagree with the District's reading of USP Section II,D,2 application to its grade reconfiguration process and with its statement that "[n]one of the proposals require[] a boundary change." Similarly, while they appreciate that the District has revised its Student Assignment Committee ("SAC") goals, Mendoza Plaintiffs do not understand those goal revisions to address their concerns regarding USP integration requirements.

In particular, although the revised goals include that of increasing integration of District schools, they also clearly state that a proposal need not be rejected if it fails to meet that goal. Here, as we reference below and will be prepared to discuss more fully at our meetings, as we understand it, not a single one of the proposed grade reconfigurations (with the possible exception of that for Drachman as kindergarten cohorts progress through the school) –nor the proposals taken together – are expected to increase the integration of District schools. At best, they are "neutral". And they are "neutral" only so long as one ignores the likely destabilizing effect on Magee (which is referenced below and which we also will be prepared to discuss further at our meetings) given the expectation that the addition of grade 6 at both Fruchthendler and Collier will lead to the loss of more than 20% of Magee's white student population.

Mendoza Plaintiffs, like the Department of Justice ("DOJ"), would like to understand whether the District is proposing a grade configuration change at Cavett Elementary School to change it from a K-5 to a K-6 school, and at Catalina High School to add middle school grades 7 and 8. They therefore join in the questions posed earlier today by Jim Eichner and ask that the District provide for Cavett and Catalina as well as for the other affected schools referenced in the brief discussion of this scenario in Appendix A the information and analysis that would comprise a DIA for this scenario.

Many of Mendoza Plaintiffs' concerns and objections detailed in their objection to the Fruchthendler and Sabino NARAs earlier this year (Doc. 1794) still exist with regard to the current grade reconfiguration proposals. Significant among them is the affect the proposed change would have of drawing Magee Middle School's white student population away from that school and into

Fruchthendler, which would take Fruchthendler even further away from achieving integration.¹ The white population at Fruchthendler currently exceeds the percentage of white students at the elementary school grade level by 42%. (See Annual Report, Appendix II-41.) Now, with the addition of the proposal to reconfigure Collier Elementary School into a K-6 school, the District indicates that the Fruchthendler and Collier proposals together could reduce the current white population at Magee Middle School by over 21%. (See Sabino DIA attached to TUSD's September 25 Grade Configuration Proposals.) Thus, under the current proposal, Collier too would move further away from achieving integration as its current white population exceeds the percentage of white students at the elementary school grade level by 39%. (See Annual Report, Appendix 11-41.)

Mendoza Plaintiffs expect that the parties will fully discuss the potentially destabilizing effects the grade configuration proposals will have on Magee Middle School when they meet with the parties and Special Master on October 5 and 6.

Mendoza Plaintiffs also note that in the Executive Summaries constituting Appendix B to the September 25 Grade Configuration Proposals, the District says that it will "mitigate" impacts on Magee by offering "enhanced ALE programs at Magee (AVID and/or partnerships with Sahuaro High School for AP or Dual-Credit courses) to attract Latino students to Magee, and to prepare African American and Latino students for success in core classes and Advanced Learning Experiences...." (Appendix B discussion of Collier, Fruchthendler and Sabino.) Mendoza Plaintiffs have concerns about an apparent willingness of the District to add such programs to Magee (a "C" school) only as a "mitigating" measure. At our meetings next week, we will urge the District to add such programs to Magee regardless of what decisions are made concerning grade reconfigurations.

In addition, Mendoza Plaintiffs do not understand on what basis the District now asserts (in each DIA except for the Drachman DIA) that the proposals will have the impact of retaining "(students who now attend non-District schools) [which] will offer additional opportunities to increase integration districtwide by broadening the pool of available students to which the District can more directly engage in marketing, outreach, and recruitment activities." (See DIAs for Borman, Collier, Fruchthendler, and Sabino attached to TUSD's September 25 Grade Reconfiguration Proposals.) Mendoza Plaintiffs have not seen anything from the District to suggest that it has analyzed whether it realistically will be able to successfully recruit these students into schools in such a way as to increase the total number of students attending integrated schools. Indeed, notwithstanding these new "opportunities" to recruit students to increase integration, Mendoza Plaintiffs have not seen any change whatsoever in the numbers reported in any DIA from the last iteration of those DIAs to suggest that the District, once it attracts non-TUSD students into the schools for which it is proposing reconfiguration changes, would be able to successfully recruit them to enroll in OTHER District schools to increase integration.

Notably, the 2014-15 student populations in schools at which the District is proposing reconfiguration changes to attract primarily white non-TUSD students already include a white student

¹ Under the USP, an integrated school is one in which no racial or ethnic group varies from the District average for that grade level by more than +/- 15 percentage points and in which no single racial or ethnic group exceeds 70% of the school's enrollment. (USP Section II, B, 2.)

population that exceeds the percentage of white students in the District. Notwithstanding that Drachman is a racially concentrated Latino school, the sum of students at all the schools for which the District is proposing changes is approximately: 52% white (1194 students), 33% Latino (759 students), and 8% African American (178 students). (See Annual Report, Appendix 11-41.) Thus, Mendoza Plaintiffs understand that the general thrust of the grade reconfiguration proposals is to perpetuate the non-integration at these schools, which is inconsistent with USP requirements to increase the number of integrated schools and number of students attending integrated schools. Mendoza Plaintiffs therefore believe that, taken together, the proposed grade reconfigurations fail to meet Judge Bury's admonition that the proposal be "comprehensively consider[ed], pursuant to applicable USP criteria, in an effort to increase the integration of TUSD schools. USP §II.D.2" (Order dated 5/12/15, Doc. 1799, at 5:18-21.)

As to particular schools:

The DIA for Collier says there are 30 to 40 students per grade and then has a chart entitled "Transition of Collier 5th Graders into 6th Grade which reports 35 not in TUSD and 31 in TUSD schools for a total of 66. The numbers do not seem to mesh. Is there something we have misread or misunderstood in the Collier discussion?

The DIA for Sabino says that "[r]ecruitment efforts will be aimed at attracting students who do not attend TUSD schools rather than transferring students between TUSD schools, except in cases where the District can successfully recruit middle and high school students who might otherwise attend a racially concentrated middle or high school to open enroll into Sabino to improve integration (supported by incentive transportation and express busing)."

How does the District propose to recruit only those students who might otherwise attend a racially concentrated school? And what will it do if students who do NOT attend a racially concentrated school seek through open enrollment to enroll in 7th or 8th grade (or subsequent grades) at the proposed Sabino middle school?

Having said that it would recruit students who might otherwise attend a racially concentrated middle or high school, why are no such students included in the DIA (which does have projected enrollment figures for students from non-TUSD schools located within the TUSD geographic area as well as projected enrollment figures for students from outside the TUSD geographic area)?