

**Summary of Party Positions on Grade Reconfiguration Proposals – October 16, 2015**

	<b>BORMAN K-8</b>	<b>COLLIER K-6</b>	<b>DRACHMAN K-8</b>	<b>FRUCHTHENDLER K-6</b>	<b>SABINO 7-12</b>
<b>DEP'T OF JUSTICE</b>	Y	Y	Y	Y	Y
<b>MENDOZA PLAINTIFFS</b>	Y	N	Y	N	N
<b>FISHER PLAINTIFFS</b>	N	N	--	N	N
<b>SPECIAL MASTER</b>	Y	Y	N	Y	N

**DEPARTMENT OF JUSTICE**

“The Department of Justice does not object to any of the current grade configuration proposals because we have seen no evidence that they materially negatively impact the District’s desegregation efforts or otherwise violate the USP.”

**MENDOZA PLAINTIFFS**

“Mendoza Plaintiffs currently have no objection to the proposal to reconfigure Borman Elementary School from a K-5 to a K-8 school. They similarly have no objection to the proposal to change Drachman K-6 into a K-8 school, so long as Drachman, as a magnet school, continues to work toward meeting its integration goals detailed in its magnet improvement plan...Mendoza Plaintiffs continue to have significant concerns regarding the impact that the Fruchthendler, Collier, and Sabino proposals would have on Magee Middle School, and therefore object to them.”

**FISHER PLAINTIFFS**

The Fisher Plaintiffs “are ambivalent” about the Drachman proposal, and do not support the Borman, Fruchthendler, Collier, and Sabino proposals. The Fisher Plaintiffs have the same reservations they had in August about the proposals, and would likely object to a proposal to expand Cavett and Catalina.

**SPECIAL MASTER**

“I support the proposal to create a K-8 school at Cavett because it will likely have a small integrative effect. I support the creations of a K-8 school at Borman. I support the addition of a sixth-grade to Collier and Fruchthendler. In the case of Fruchthendler, this could have a small negative effect on the enrollment of white students at Magee but the numbers will be small. And it may be, that a positive experience for one’s sixth-grader will increase confidence about sending one’s student to Magee, especially if the quality of Magee is enhanced.”

DEPARTMENT OF  
JUSTICE

COMMENTS ON  
GRADE  
RECONFIGURATION  
PROPOSALS

October 12, 2015

## Brown, Samuel

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**From:** Eichner, James (CRT) <James.Eichner@usdoj.gov>  
**Sent:** Monday, October 12, 2015 7:43 AM  
**To:** Brown, Samuel; Juan Rodriguez; Lois Thompson; Rubin Salter Jr.; Simons, Shaheena (CRT); TUSD; Savitsky, Zoe (CRT); Willis D. Hawley  
**Cc:** Tolleson, Julie; Taylor, Martha; Brammer@rllaz.com; Desegregation; TUSD; Nodine, Bryant; Patterson, Charlotte; Eichner, James (CRT)  
**Subject:** RE: Grade Reconfiguration Proposals  
**Categories:** ACTION

Sam –

The Department of Justice does not object to any of the current grade configuration proposals because we have seen no evidence that they materially negatively impact the District's desegregation efforts or otherwise violate the USP.

The Department of Justice will expect, should the grade configuration proposals lead to more students attending TUSD as intended, TUSD to explore ways of using the addition of these students to increase desegregation and otherwise support implementation of the USP.

The United States will also expect the District to continue to examine the possibility of changing Cavett Elementary School from K-5 to K-6 and adding a junior high to Catalina HS and to make a decision on this possible grade configuration change giving due weight to the prospect of such a change advancing TUSD's desegregation efforts.

Please let me know if you have any questions about this.

Jim

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**From:** Brown, Samuel [<mailto:Samuel.Brown@tusd1.org>]  
**Sent:** Friday, October 09, 2015 8:01 PM  
**To:** Eichner, James (CRT); Juan Rodriguez; Lois Thompson; Rubin Salter Jr.; Simons, Shaheena (CRT); TUSD; Savitsky, Zoe (CRT); Willis D. Hawley  
**Cc:** Tolleson, Julie; Taylor, Martha; [Brammer@rllaz.com](mailto:Brammer@rllaz.com); Desegregation; TUSD; Nodine, Bryant; Patterson, Charlotte  
**Subject:** Grade Reconfiguration Proposals

Counsel/Dr Hawley: I want to thank you for taking the time out this week to discuss your positions on this matter – we appreciate your input and feedback. Pursuant to the timeline, we were scheduled to submit revised requests for approval and revised DIAs today based on feedback which was to be received by Monday October 5. Unfortunately, we were unable to get feedback from everyone until Wednesday and Thursday. As such, we will need more time to develop revised proposals/DIAs. We are still scheduled to present information to the Governing Board on Tuesday October 20 – for information only, no vote. Please submit any remaining comments, concerns, or objections no later than the close of business next Friday October 16. Pursuant to our process discussions, we will provide the Governing Board with copies of your submissions, and we will consider your written submissions in finalizing the presentation of information to the Board. To be clear, these proposals are not going to the Board for vote on the 20<sup>th</sup>, they will be presented for information only – along with any written submissions from the Special Master and Plaintiffs that are received by 5pm next Friday

Have a great weekend – thanks, Sam

FISHER  
PLAINTIFFS'  
COMMENTS ON  
GRADE  
RECONFIGURATION  
PROPOSALS

August 10, 2015  
October 19, 2015

## Brown, Samuel

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**From:** Rubin Salter, Jr. <rsjr3@aol.com>  
**Sent:** Monday, October 19, 2015 4:57 PM  
**To:** Tolleson, Julie; Taylor, Martha; Brammer@rllaz.com; Desegregation; Nodine, Bryant; Patterson, Charlotte; jrodriguez@MALDEF.org; Brown, Samuel; james.eichner@usdoj.gov; lthompson@proskauer.com; shaheena.simons@usdoj.gov; TUSD@rllaz.com; zoe.savitsky@usdoj.gov; wdh@umd.edu  
**Subject:** Re: Grade Reconfiguration Proposals  
**Attachments:** 15.08.10.fisher.preliminary.objection.sac.pdf

Dear Sam:

Please find attached the Fisher Plaintiffs' 08/10/15 objection to the grade reconfigurations proposed by the TUSD Student Assignment Committee (SAC) (originally addressed to Martha Taylor).

Because nothing in the District's subsequent revision of the SAC's goals or its desegregation impact analyses has alleviated the fundamental concerns raised in the Fisher Plaintiffs' 08/10/15 objection, please consider that objection renewed by copy of this email.

I understand that you had asked to receive new plaintiff feedback by the 16th, but I hope you will be able to share the attached, previously circulated five-page objection - in its entirety - with the TUSD Governing Board (GB) before it meets on the 20th to ensure that the GB members understand why the Fisher Plaintiffs find the proposed grade reconfigurations objectionable.

Sincerely,

Rubin Salter, Jr.

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-----Original Message-----

From: Juan Rodriguez <jrodriguez@MALDEF.org>  
To: Brown, Samuel <Samuel.Brown@tusd1.org>; James Eichner <james.eichner@usdoj.gov>; Lois Thompson <lthompson@proskauer.com>; Rubin Salter Jr. <rsjr3@aol.com>; Shaheena Simons (shaheena.simons@usdoj.gov) <shaheena.simons@usdoj.gov>; TUSD <TUSD@rllaz.com>; Zoe Savitsky <zoe.savitsky@usdoj.gov>; Willis D. Hawley <wdh@umd.edu>

Monday August 10, 2015

Attention: Martha Taylor

Dear Martha:

The Fisher Plaintiffs have completed a preliminary review of the material uploaded to the District's Student Assignment Committee (SAC) folder. Based on that review, the Fisher Plaintiffs, by copy of this email, join the Mendoza Plaintiffs and the Department of Justice (DOJ) in their objection to the current goals and guidelines set for the SAC (see Thompson 08/05/15 and Eichner 08/07/15 emails).

The SAC clearly fails to assign due priority to the District's desegregation obligations under the Unitary Status Plan (USP) and clearly fails to involve the type and degree of input from the plaintiffs and the Special Master (SM) contemplated under the USP and the Court's 05/12/15 order interpreting the applicable provisions of the USP. Additionally, the composition of the SAC is clearly unrepresentative of the full spectrum of stakeholders impacted by the proposed changes.

The overwhelming majority of SAC members appear to be Tucson Unified School District (TUSD) employees and/or the parents of students attending the schools proposing the grade reconfigurations. While employees and parents initiating or endorsing the proposals certainly deserve a seat at the table, their participation should be balanced by a full range of stakeholder participation. The Committee's membership bias raises the concern that the Committee may reach foregone conclusions behind the trappings of stakeholder participation afforded by the professional management of the DLR Group.

The District's desegregation impact analyses (DIAs) claim that the proposed changes will "have virtually no impact on" the racial and ethnic profile of the impacted schools (see inter alia the Borman K-8 DIA uploaded to the DLR site). The District explains that the enrollment projections made in its DIAs "are estimates based on current patterns of choice" (idem). As the Fisher Plaintiffs noted in their 04/23/15 objection to the proposed grade reconfigurations at Fruchthendler and Sabino, the projected continuation of current school choice patterns (chiefly patterns of White Flight) is unwarranted.

Patterns of White Flight do not exist in a policy vacuum. The District has the means to implement policies that can influence future school choice patterns in ways that can make integration a reality. And the District has the legal duty, under the USP and controlling Ninth Circuit authority, to do just that, a duty that the District unfortunately seems unwilling to uphold.

The District is legally empowered and obliged to consider and take affirmative steps to counteract - not cater to - the phenomenon of White Flight, both without and within the District. The “grassroots” initiatives of identifiably White schools, like Fruchthendler and Borman, to recapture predominantly White enrollment (under the cover of ostensibly neutral grade reconfigurations) violate both the letter and the spirit of the student assignment provisions of the USP and the equal protections safeguarded by the Supreme Court’s landmark Civil Rights decisions in *Brown* and its progeny.

The District’s proposed reconfiguration of Borman K-5 as a K-8 school suffers from the same shortcomings as the District's past efforts to reopen Lowell Smith ES as a MS. Like Borman ES, the Lowell Smith campus is located on the Davis-Monthan (DM) Air Force Base. The District first petitioned the Court to reopen the (then) recently closed Lowell Smith ES as a MS on 03/07/07 (see document number 1189 filed 03/07/07). On 03/15/07 and 04/09/07, the Fisher and the Mendoza Plaintiffs filed their respective responses in opposition to the proposed reopening as violative of the District's desegregation obligations (see document numbers 1190 filed 03/15/07 and 1195 filed 04/09/07). On 05/10/07, the Court agreed with the Plaintiffs' arguments and denied the District's petition, explaining that:

The Court finds that reopening Smith Elementary School as a middle school has an adverse affect on ongoing desegregation obligations because it is inconsistent with on-going efforts to reduce segregation in TUSD's schools [...]. Reopening Smith School as a middle school removes a segment of the existing community assigned to Naylor Middle School, thereby, decreasing its base of concerned parents. Attendance by DM students at other TUSD schools and charter schools has had precisely this result. To the extent that TUSD is attempting to bring charter students back into its fold, this may benefit the Naylor Middle School. Conversely, it is not in the best interest of the community for TUSD to authorize non-minority DM students to attend other TUSD schools instead of Naylor Middle School [...]. In light of the evidence that Naylor Middle School, with a predominately minority student body, is seriously failing to educate its student body, it is highly

suspect for TUSD to carve out a separate non-minority educational system for a group of these students that are predominately non-minority. Fisher Mendoza [is] a desegregation case, which at its core is based on the principle that separate schools will not provide equal education (at pages 4-5 of document number 1209 filed 05/10/07 emphasis added).

Undeterred, the District returned the following year to notify the Court that it was still "exploring ways to re-open Smith" (at page 3 of document number 1264 filed 04/10/08). The District explained that it hoped to reopen Smith to recapture an estimated 500 students lost under State open-enrollment laws facilitating the flight of (predominantly White) Davis-Monthan-area students to neighboring districts and charter schools (idem at 4). On 04/16/08, the Mendoza Plaintiffs filed a response opposing the second attempt to reopen Smith as still very much in violation of the District's desegregation obligations (see document number 1267 filed 04/16/08).

Yet again, the District seeks to win back DM-area enrollment lost to neighboring districts and charter schools, this time by reconfiguring Borman K-5 into what would very likely become an identifiably White K-8 school. The plaintiffs and the Court have already considered, and rejected, the District's constitutionally unsound approach to recapturing enrollment lost to White Flight. On 04/14/15, the District filed a notice and request for the Court's approval (NARA) of the reconfiguration of grade levels at Fruchthendler ES and Sabino HS (see document number 1789 filed 04/14/15). In that NARA, the District explained that:

A high percentage of middle school aged students living in the area surrounding Fruchthendler Elementary School ("Fruchthendler") and Sabino High School ("Sabino") do not attend TUSD schools for grades 6 through 8. Some area students attend the nearest TUSD middle school, Magee, but many students who leave TUSD after fifth grade for middle school outside the district do not return at all. As a result, TUSD loses funding, and the decline of its Anglo student population is exacerbated (thereby frustrating efforts to recruit Anglo students to other TUSD schools for integration purposes) (idem at 2).



On 04/23/15, the Fisher and Mendoza Plaintiffs filed memoranda opposing the proposed reconfiguration (see documents number 1791 and 1794 filed 04/23/15). On 05/12/15, the Court issued an order denying the District's request, explaining that:

The record reflects that the student assignments proposed by TUSD were not considered in the context of the four integration strategies required by the USP: attendance boundaries, pairing and clustering of schools; magnet schools and programs; and open enrollment. (USP § II.1.) Because the proposed student assignments involve the creation of an honors program, the USP, section V, requires the District to also consider Plaintiffs' concerns regarding equal access. There is nothing about a NARA proposal to change student assignments to exempt it from the USP requirement that the District, the parties, and the Special Master comprehensively consider the proposal, pursuant to applicable USP criteria, in an effort to increase the integration of TUSD schools. USP § II.D.2. Plans and strategies are now in place, pursuant to the USP, for addressing student assignments, but this NARA fails to reflect how the Fruchthendler-Sabino Honors Pipeline plan fits into these plans and strategies, and if not, why (at page 5 of document number 1799 filed 05/12/15 emphasis added).

The Fisher Plaintiffs remain extremely concerned by the District's continued efforts to reconfigure grade levels at Fruchthendler ES and Sabino HS. Their concerns are motivated in equal parts by the District's decision to insulate the work of the SAC from the input of the plaintiffs and the SM and the District's erroneous assumption that it has no obligation to recognize and counteract the harmful effects of White flight in its student assignment plans. The Supreme Court has long held that "a student assignment plan is not acceptable merely because it appears to be neutral, for such a plan may fail to counteract the continuing effects of past school segregation" (Swann v Board of Education, 402 U.S. 1 1971). In Swann, the Court found that "racially neutral assignment plans proposed by school authorities to a district court may be inadequate; such plans may fail to counteract the continuing effects of past school segregation resulting from discriminatory location of school sites" (idem).

Under federal law, a school district operating under a federal desegregation order carries an affirmative obligation to account for the legacy of discriminatory practices when fashioning its student assignment policies and plans. The seeming “neutrality” of the District’s proposed student assignment “honors pipeline” from Fruchthendler to Sabino is absurd when the pipeline is designed to provide privileged programming to the historically privileged class of predominantly high SES White students residing in the Sabino attendance area. It is extremely unsettling that the District again proposes to alleviate White flight from the District by endorsing White flight within the District. The Fisher Plaintiffs are extremely disappointed that the District, rather than exploring ways to increase the diversity at schools like Magee and Roberts/Naylor, again propose intradistrict White flight as way to recapture enrollment currently lost to interdistrict White flight.

Sincerely,

Rubin Salter, Jr.

MENDOZA  
PLAINTIFFS'  
COMMENTS ON  
GRADE  
RECONFIGURATION  
PROPOSALS

October 2, 2015  
October 16, 2015

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.<sup>1</sup> 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

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<sup>1</sup> 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 5<sup>th</sup> Graders into 6<sup>th</sup> 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 7<sup>th</sup> or 8<sup>th</sup> 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)?

MENDOZA PLAINTIFFS' COMMENTS AND OBJECTIONS REGARDING TUSD'S GRADE RECONFIGURATION PROPOSALS

October 16, 2015

Mendoza Plaintiffs submit these comments as a supplement to their October 2, 2015 comments, based on the District's September 25, 2015 version of its grade reconfiguration proposals and after the parties' and Special Master's meeting in Tucson, for the Governing Board's consideration as it reviews the District's Grade Reconfiguration Proposals for information purposes.

Given that USP Section II,D,2 requires the District to "propose and evaluate various scenarios, with, at minimum, the Plaintiffs and the Special Master in an effort to increase the integration of its schools," Mendoza Plaintiffs look forward to the District's development of proposals to reconfigure Cavett from a K-5 to a K-6 Elementary School, and add a junior high (that is 7<sup>th</sup> and 8<sup>th</sup> grades) to Catalina High School, which the District indicates would have a positive integrative effect, particularly as none of the current grade reconfiguration proposals (with the possible exception of Drachman), nor the proposals taken together, are expected to increase the integration of TUSD's schools. Mendoza Plaintiffs also look forward to the receiving additional information regarding express busses to serve as incentive transportation in relation to these proposals and "mitigation" measures directed at Magee middle school, which they understand the District to currently be further developing.

**Borman and Drachman**

Mendoza Plaintiffs currently have no objection to the proposal to reconfigure Borman Elementary School from a K-5 to a K-8 school. They similarly have no objection to the proposal to change Drachman K-6 into a K-8 school, so long as Drachman, as a magnet school, continues to work toward meeting its integration goals detailed in its magnet improvement plan.

**Fruchthendler, Collier, and Sabino**

Mendoza Plaintiffs continue to have significant concerns regarding the impact that the Fruchthendler, Collier, and Sabino proposals would have on Magee Middle School, and therefore object to them. The Fruchthendler and Collier proposals are expected to draw white TUSD students that would otherwise attend Magee Middle School into Fruchthendler and Collier, thereby taking those schools further away from achieving integration. (Fruchthendler's and Collier's white student population currently *exceeds* the percentage of white students at TUSD's Elementary School level by 42% and 39%, respectively. (See Annual Report, Appendix 11-41.)) Together, the Collier and Fruchthendler proposals could reduce the white population at Magee by over 21%, a population the District expects would entirely transition to Sabino were it to reconfigure as proposed. (See Sabino DIA, Appendix C to September 25, 2015 Grade Reconfiguration Proposals). Moreover, Mendoza Plaintiffs have not yet seen any details of the measures the District is considering that would make them think that the District realistically can target and recruit the non-TUSD white students who would join District schools under the proposals to attend schools at which their enrollment would increase integration.

SPECIAL MASTER  
DR. HAWLEY'S  
COMMENTS ON  
GRADE  
RECONFIGURATION  
PROPOSALS

October 19, 2015



**October 19, 2015**

**To: Parties**

**From: Bill Hawley**

**Re: Proposed Grade Reconfiguration**

## **General Comments**

### Financial Analysis

The District was requested to provide a financial analysis of the effects of these grade reconfigurations. Such an analysis would presumably examine costs and revenue streams required for implementation. Instead, the District tells us nothing about the revenue that would be derived from bringing new students into the District and discusses only the cost of transportation and physical facilities. To be sure, such analysis is not easy but neither is it mysterious. Teachers have to be hired support services provided, etc. Revenue varies with the context and the particular students recruited. Costs of implementation are higher when most of the students coming into the District and up in one or two schools. Both revenue and costs are higher depending on student characteristics. In short, we cannot tell from the information provided whether the result of grade reconfiguration will be positive or negative much less how much of each.

### Rationale

There appear to be four major reasons for grade reconfiguration. First, there might be opportunities for increased integration. This justification has little merit except for one case. Second, we might make better use of existing facilities. But we do not know whether this will reduce overcrowding in some schools or ultimately provide the justification for closing others. Third, increasing the size of some schools could lead to greater curriculum choices for students, but no specifics are given. Fourth, moving to K-8 eliminates a significant transition time to middle schools and research on this matter is generally positive. But we know much less about whether the transition from fifth grade to middle school has any different effects than the transition from sixth-grade to middle school.

### The Issue of Stability

In the absence of a compelling reason for grade reconfiguration, the possibility that changing schools within TUSD will cause families to rethink whether they should select options other than TUSD should be considered.

### **My Positions**

#### Support

I support the proposal to create a K-8 school at **Cavett** because it will likely have a small integrative effect.

I support the creations of a K-8 school at **Borman**.

I support the addition of a sixth-grade to **Collier** and **Fruchthendler**. In the case of Fruchthendler, this could have a small negative effect on the enrollment of white students at Magee but the numbers will be small. And it may be, that a positive experience for one's sixth-grader will increase confidence about sending one's student to Magee, especially if the quality of Magee is enhanced.

### Reservations

Drachman is an exceptional school with unique educational program. While it is racially concentrated its entry class is not (though the margin is tight). My concern is that there are very few Montessori middle schools; given the popularity of Montessori in the early grades this should be a caution. Only a few teachers at Drachman are Montessori-qualified and one wonders how middle school teachers would be certified as Montessori trained.

I find it hard to build a case that a Montessori middle school at Drachman would become integrated. On the other hand, I find it believable that the middle school grades would be racially concentrated given the schools from which they would

draw and that this in turn would affect decisions made to enroll one's children in the early grades.

"If it's not broke, don't fix it". Adding new grades developed with an undefined curriculum will surely take away from the expertise that could be applied to the current grade structure. In my discussions with the principal, he said that if they cannot be a K-8 school they do not want to be K-6. By what logic would one want to be K-8 but not K-6? Only the logic of a good soldier.

### Opposition

I oppose the development of a middle school at Sabino. Actually, the District appears to be proposing a 7-12 school. In its earlier proposal this spring, the District argued that it would keep middle school students in high school students were quite separate now it argues that the former will have the advantage of taking courses available to high school students. And, it is more than a bit disquieting to contemplate the engagement of middle school students in the activities of high school students both during and after the school day.

But the major reason for opposing this proposal is its certain negative effect on Magee and the students in that school. The District makes the unusual argument that by reducing the number of white and middle-class students at Magee, Latino and African-American students who remain will benefit.\* I have never heard such an argument in all of the years I worked on desegregation issues. The proposed changes in the demography at Magee will undermine the diversity and rigor of the curriculum and almost certainly cause white parents now satisfied with Magee to look elsewhere. Magee needs to be strengthened not weakened.

The District's analysis of the loss of white students from Magee is almost certainly understated. One cannot extrapolate from current data when there is an entirely new context within which parents will be making choices. And consider the differences in the apparent quality of the choices-- a middle school embedded in an A high school compared to a C school not only serves a greater number of relative low income students but serves as a site for an in school suspension program serving other schools in the district.

The District argues that by providing express buses to Sabino middle school from the central and western sections of the District, integration could be achieved. But my understanding is that this option has been tried and abandoned. And, the proposition could be tested by providing such buses to Fructhender or Collier. The more than \$300,000 involved in transportation costs alone could make a big difference is invested well in Magee middle school instead.

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\*When I asserted last spring that those leaving Magee would be middle-class, the District pointed out that there were many students into the white students into USD on free and reduced cost meals. That, of course, is a non sequitur. Only small numbers of students in the northeastern section of the District received free and reduced cost meals.