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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

MIRIAM FLORES, individually and as)
parent of Miriam Flores, a minor child, et)
al.,

 Plaintiffs,

vs.

STATE OF ARIZONA, et al.,

No. CV 92-596-TUC-RCC

ORDER
RE: DISTRIBUTION OF FINES

On January 26, 2006, the Court held a telephonic conference with the parties' counsel and counsel for the Speaker of the Arizona House of Representatives, James P. Weiers, with regard to the payment of accumulated fines as a result of the State's non-compliance with both the January 2000 Judgment and January 2005 Court Order. In October of 2005 the Court heard Plaintiff's Motion for Sanctions and an Injunction for the State's non-compliance in this matter. In December of 2005, the Court held that the State was in Civil Contempt and granted Plaintiff's Motion for Sanctions. Because of the passage of time and the need for the accumulated funds to go to ELL students as soon as possible, the Court has determined that the accumulated fines shall be distributed by the Arizona Department of Education ("ADE") to each school district and charter school on a per-ELL student basis. The Court hereby Grants (Docket Nos. 362 and 367). Defendant's Motion for Disbursement of Funds (Docket No. 385) is Denied.

1 The parties having appeared through counsel, along with the Speaker of the Arizona
2 House of Representatives, James P. Weiers, and presented proposals regarding
3 distribution of the monies in the separate fund created by the January 27, 2006, Court Order
4 and good cause appearing

5 **IT IS HEREBY ORDERED** that, as the State agency that distributes State and
6 federal education monies to school districts and charter schools, the Arizona Department
7 of Education (“ADE”) shall similarly be responsible for distributing all monies that
8 accumulate in the separate fund into which fines must be paid by the State pursuant to the
9 Court's Orders of December 16, 2005 (Docket No. 335), and January 27, 2006 (Docket No.
10 352). ADE shall distribute the fines to each school district and charter school on a per-ELL
11 student basis. In order to determine the number of ELL students in each school district
12 and charter school, ADE shall use the same method of counting ELL Students that is used
13 for the purpose of distributing Group B weight funds under A.R.S. § 15-943.

14 **FURTHER, IT IS ORDERED** that the ADE shall calculate each school district's and
15 charter school's share of the accumulated fines at least monthly and on such a date that
16 will allow the ADE to pay each school district and charter school its share of the
17 accumulated fines according to the established calendar for payment of State aid, set forth
18 in A.R.S. § 15-973, beginning with the February 15, 2006, payment. Notwithstanding any
19 statute or rule to the contrary, school districts and charter schools shall be permitted to
20 incorporate these additional monies into their maintenance and operation budgets and to
21 expend such monies for English language acquisition programs in addition to any other
22 monies they may receive or be authorized to spend for such purposes. In addition, monies
23 distributed to school districts and charter schools pursuant to this Order shall not be
24 subject to Legislative appropriation, and if they are not expended in the fiscal year in which
25 they are received, they shall not revert to the State, but shall be budgeted and spent for
26 English language acquisition programs in the next fiscal year.

1 **FURTHER**, as set forth in the January 27, 2006, Court Order (Docket No. 352), **IT IS**
2 **ORDERED** that school districts and charter schools shall spend the additional monies
3 contemplated by this Order only on services for ELLs tudents, and such additional funds
4 shall supplement, not supplant, existing State and local monies that are or could be used
5 for the benefit of ELLs tudents. At the end of each fiscal year in which monies are
6 expended pursuant to this Order, the responsible officer for each school district and charter
7 school shall certify to the ADE compliance with this provision.

8 **FURTHER**, to allow the Court and parties to monitor the distribution of t he
9 accumulated fines, **IT IS ORDERED** that, by the last day of each month, the ADE shall
10 report to the Court and all of the parties in this matter:

11 1) t he total amount of monies that have been distributed to date pursuant to this
12 Order;

13 2) t he total amount of m onies that were distributed during the previous month
14 pursuant to this Order;

15 3) t he total amount of monies received to date by each school district and charter
16 school pursuant to this Order: and

17 4) the total amount of monies received during the previous month by each school
18 district and charter school pursuant to this Order, and the date(s) on which such monies
19 were distributed.

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21 DATED this 16th day of March, 2006.

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Ramer C. Collins
United States District Judge