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5
6 SUPERIOR COURT OF ARIZONA

7 MARICOPA COUNTY

8 ROOSEVELT ELEMENTARY SCHOOL) Case No. CV1999-019062
DISTRICT NO. 66, et al.,) Case No. CV2002-011568
9) (Consolidated)
Plaintiffs,)
10) **PLAINTIFFS' RESPONSE TO**
vs.) **DEFENDANTS' MOTION FOR**
11) **SUMMARY JUDGMENT**
STATE OF ARIZONA,)
12) (Assigned to the Hon. Ruth H. Hilliard)
Defendant.)
13)
14)

15 **I. INTRODUCTION**

16 In 1998, Students FIRST was enacted to rectify constitutional defects with the
17 school finance system as it relates to building new schools and renovating existing school
18 facilities. A.R.S. § 15-2001 *et seq.* The prior school finance system provided no
19 assistance to school districts for building or renovating school facilities. As a result,
20 school districts had to rely on their local property tax base to finance such facilities. The
21 predictable consequence was gross disparities among school districts depending on the
22 property tax base and voter willingness to access it in each of Arizona's 226 school
23 districts. *Roosevelt v. Bishop*, 179 Ariz. 233, 877 P.2d 806 (1994).

24 Students FIRST was supposed to fix that problem. According to the Arizona
25 Supreme Court, a constitutionally adequate system is one in which the state provides
funding to school districts to insure that they have the school buildings, facilities and

1 equipment that are necessary and appropriate for students to achieve the state’s
2 prescribed academic standards. *Hull v. Albrecht*, 190 Ariz. 520, 524, 950 P.2d 1141,
3 1145 (1997) (“ . . .[A] constitutionally adequate system will make available to all districts
4 financing sufficient to provide facilities and equipment necessary and appropriate to
5 enable students to master the educational goals . . .”). The Supreme Court made it clear
6 that it was the state’s financial responsibility to bring school districts up to minimally
7 adequate standards and to insure that no school district would thereafter fall below those
8 standards. *Hull v. Albrecht*, 192 Ariz. 34, 37, 960 P.2d 634, 637 (1998) (“ . . . [T]he state
9 must create minimum adequacy standards for capital facilities and ensure through state
funding that all districts comply with them.”).

10 At least on its face, Students FIRST was designed to comply with the Supreme
11 Court’s decisions. It established a New School Facilities Fund designed to provide
12 school districts with the funding needed to build new schools when necessary. The New
13 School Facilities Fund is based on a formula that takes into account the number of
14 students within a district, the square footage necessary for each student and a dollar
amount per square foot. A.R.S. § 15-2041.

15 As far as existing facilities were concerned, Students FIRST established the
16 Deficiency Corrections Fund, which was a multi-year project undertaken by the state to
17 bring all school buildings and facilities up to the minimum adequacy standards that the
18 School Facilities Board had adopted. A.R.S. § 15-2021. Given the deteriorated state of
19 school buildings and facilities in disadvantaged school districts, the deficiency
20 corrections process cost over \$1 billion to complete.

21 With school districts having their facilities brought up to the minimum adequacy
22 guidelines, Students FIRST created the Building Renewal Fund for distribution to school
23 districts in order to maintain their school buildings and facilities on an ongoing basis at
24 the level established by the minimum adequacy guidelines. A.R.S. § 15-2031. The
25 Building Renewal Fund remains the only source of state funding for school districts to
repair and renovate their existing school facilities. Plaintiffs’ Statement of Facts in
Opposition to Defendants’ Motion for Summary Judgment (“SOF”), ¶¶ 15-17.

1 The Building Renewal Fund is based on a formula to provide school districts with
2 funding based on the replacement value of their buildings and facilities over the useful
3 life of those buildings and facilities. SOF, §§ 4-6. The formula is based upon a fifty-year
4 life for every building and takes into account its age, square footage and renovations.
5 SOF, § 6; A.R.S. § 15-2031(D). For a new or recently renovated building or facility, the
6 formula provides a smaller amount of funding that annually increases in amount as the
7 facility ages. SOF, § 13. That accounts for the fact that a new facility should not require
8 significant repairs, and that funds unused in the early years can be accumulated for later
9 renovations.

9 The system established by Students FIRST is designed to operate without
10 legislative action. The amount generated by the building renewal formula is reported to
11 the State Treasurer every January 1st for distribution during the following fiscal year.
12 The problem in this case is that although the annual amount for distribution from the
13 Building Renewal Fund is derived formulaically, the legislature has stepped in every year
14 to stop the statutory distribution and arbitrarily appropriate a lesser amount for
15 distribution. SOF, § 7. For the most part, the legislature has provided funding that is
16 approximately half of the statutory amount based upon the building renewal formula.
17 SOF, § 7. The amount of funding appropriated by the legislature has nothing to do with
18 the building or facility needs in Arizona's school districts. SOF, §§ 8, 9.

18 In 1999, when this action was first brought, the Deficiency Correction process was
19 still being completed. By definition, the deficiency correction process was addressing
20 minimum guideline issues. Therefore, Plaintiffs could not demonstrate that they had
21 facilities that failed to comply with the minimum guidelines which generally cover only
22 buildings and facilities in which instruction takes place. Instead, the Plaintiffs
23 demonstrated that they had facilities that are not covered by the minimum guidelines (like
24 administrative offices) that had deteriorated because of the failure to fully fund the
25 building renewal formula.

25 The Court of Appeals rejected that proof and held that the Plaintiffs must establish
that they have facilities that are covered by the minimum guidelines and that do not

1 comply with those guidelines. *Roosevelt Elem. Sch. Dist. No. 66 v. State*, 205 Ariz. 584,
2 74 P.3d 258 (App. 2003). The Deficiency Correction process was completed for most
3 school districts five years ago, leaving school districts with only building renewal funds
4 to address compliance with the minimum guidelines over that period of time. The
5 Plaintiffs are now in a position to prove that the state's failure to fund the building
6 renewal formula has resulted in their inability to comply with the minimum guidelines in
7 buildings and facilities that are covered by the guidelines.

8 As Plaintiffs will demonstrate at trial, the consequence of refusing to fund the
9 statutory formula for seven out of eight years is now manifest. The three Plaintiff school
10 districts have building and facility needs that exceed the amount of building renewal
11 funds available to them. SOF, ¶ 16, 17-20, 26-27. The Plaintiffs also intend to show that
12 the Mesa Unified School District, Arizona's largest school district, has building and
13 facility needs that also exceed its Building Renewal Funds, forcing them to ask voters to
14 issue bonds for the necessary projects and repairs. That is exactly the problem that led to
15 the infirmity in the school finance system condemned by the Supreme Court in the
16 *Roosevelt* cases.

17 In its Motion for Summary Judgment, the state asserts that it is entitled to
18 judgment as a matter of law because: 1) the Plaintiffs have failed to exhaust a nonexistent
19 administrative remedy; 2) the Plaintiffs cannot challenge Students FIRST because the
20 Arizona Supreme Court held that it was constitutional when it was initially enacted (but
21 before it was underfunded); 3) the Plaintiffs cannot demonstrate harm because they
22 prudently have not expended every last dollar in their building renewal accounts; 4) the
23 Plaintiffs cannot unequivocally demonstrate that their inability to meet the state-adopted
24 minimum guidelines due to the underfunding has impacted their students' academic
25 success; and, 5) the Plaintiffs cannot demonstrate harm due to the underfunding because
they have exercised their lawful authority to use a small percentage of the building
renewal funds they have received for non-guideline needs. As the following discussion
demonstrates, the state's arguments are not supported by the facts or the law.

1 **II. THE PLAINTIFFS DO NOT HAVE AN ADMINISTRATIVE REMEDY**
2 **AVAILABLE TO THEM.**

3 The state claims that the Plaintiffs must first apply to the School Facilities Board
4 for relief from the Emergency Deficiency Corrections Fund before they can pursue this
5 action. The state claims that “only after the Plaintiff districts have formally requested
6 emergency fund monies . . . and have been turned down could they even affirmatively
7 identify for the Court what the current available state funding is for their alleged needs . .
8 .” Defendant’s Motion for Summary Judgment (“MSJ”) at 7. There are numerous
9 reasons why this argument is wrong.

10 First and foremost, the Plaintiffs do not assert or otherwise contend that any of the
11 building or deficiencies in their districts present any kind of emergency. The statute upon
12 which the state relies to invoke the doctrine of exhaustion of administrative remedies is
13 very clear on this point. It states that:

14 If a school district has an emergency, the school district shall apply
15 to the School Facilities Board for funding for the emergency.

16 A.R.S. § 15-2022(C). An “emergency” means, at a minimum, something that “seriously
17 threatens the function of the school district, the preservation or protection of property or
18 public health, welfare or safety.” A.R.S. § 15-2022(E).

19 The problems that Plaintiffs have experienced are the normal kinds of problems
20 associated with wear and tear as buildings and facilities get older. The Plaintiffs have
21 leaky roofs, inadequate cooling, worn out carpeting, and other building systems that are
22 approaching the ends of their useful life. The Plaintiffs assert that they all are
23 deficiencies under the minimum adequacy guidelines but none of them qualify as an
24 emergency under the statute.

25 The doctrine of exhaustion of administrative remedies is applied only when the
legislature has provided a “mandatory administrative remedy.” *Moulton v. Napolitano*,
205 Ariz. 506, 73 P.3d 637 (App. 2003). It is only if the parties have statutory recourse
to an administrative agency that has authority to grant appropriate remedies that they
must follow statutory procedures. *Moulton*, 205 Ariz. at 511, 73 P.3d at 643. In this

1 case, the legislature has seen fit to provide the School Facilities Board with the power to
2 address emergencies but nothing else. Because the Plaintiffs do not have emergencies to
3 submit, the School Facilities Board is powerless to address their problems.

4 The state's invocation of the exhaustion doctrine is simply another way to delay its
5 responsibility to constitutionally fund Students FIRST. If school districts must submit all
6 deficiencies projects for emergency funding (even though they cannot in good faith assert
7 that an emergency exists), the only result will be further delay in the resolution of this
8 case, which has been going on for seven years now. It would require school districts to
9 submit as emergencies projects that they do not believe fall into that category and impose
10 huge costs in time and money on the School Facilities Board to process the hundreds of
11 projects that would be submitted by the Plaintiffs and the Mesa Unified School District.
12 And, the end result is certain. None of the projects would qualify for emergency
13 treatment. Even if the exhaustion requirement were applicable to this case, the law does
14 not require pursuit of administrative remedies when it would be futile. *Moulton*, 205
15 Ariz. at 513, 73 P.3d at 644.

16 The state is intimately familiar with the projects that the Plaintiffs and Mesa assert
17 to be deficiencies. They have visited and inspected each of the schools at which the
18 Plaintiffs claim deficiencies exist. They have deposed representatives from the Plaintiff
19 school districts and Mesa. If the state believes that any of the projects identified by the
20 Plaintiffs or Mesa would qualify as an emergency, then they are obliged to say so. After
21 all, if they have observed conditions that "seriously threaten the functioning of the school
22 district, the preservation or protection of property or public health, welfare or safety,"
23 then they are duty bound to address those conditions, instead of coyly asserting that "the
24 emergency fund provides a *potential* and alternative source for at least *some* of the types
25 of needs Plaintiffs allege." MSJ at 6.

26 The reality is that the state denies that the Plaintiff school districts have *any*
27 problems, much less ones that would qualify as emergencies. Out of the hundreds of
28 problems and issues identified by the Plaintiffs in their districts and in Mesa, the state
29 refuses to acknowledge that any single one of them constitutes a deficiency or, that if

1 there is a problem, the state simply asserts it was caused by the district's inadequate
2 maintenance. SOF, Exhibit 5. It is disingenuous for the state to suggest that Plaintiffs
3 should apply for emergency funding at the same time that it is asserting that there is not
4 even a problem.

5 Additionally, the School Facilities Board cannot provide the relief that the
6 Plaintiffs seek in this lawsuit. The plaintiffs have never asked that their facilities be
7 fixed, repaired or otherwise renovated by the state. Rather, they have filed an action for
8 declaratory judgment that the state's failure to fully fund the building renewal formula
renders Students FIRST unconstitutional.

9 Finally, the statute establishing the Emergency Deficiency Corrections Fund was
10 enacted in 2001. This lawsuit was pending at that time and not once in the intervening
11 years has the state asserted that the Plaintiffs must first apply for emergency funding and
12 be rejected before they can pursue this action. The state's exhaustion argument should
13 have been raised years ago in the form of a motion to dismiss. It is too late to raise it in
14 the guise of a motion for summary judgment.

15 **III. TO BE CONSTITUTIONAL, THE SCHOOL FINANCE SYSTEM
MUST INCLUDE ADEQUATE FUNDING.**

16 The state claims that because Students FIRST facially meets the requirements of
17 the Arizona Constitution, "it cannot fail as a system." MSJ at 8. That argument ignores
18 both the express holdings of the Arizona Supreme Court and the reality of the facts
19 presented in this case.. The Arizona Supreme Court has made it clear that in order for the
20 system to be constitutional, the state must provide funding to insure that no school district
21 falls below the minimum adequacy guidelines. *Albrecht I*, 190 Ariz. at 524, 950 P.2d at
22 1145. The state cannot rely upon the building renewal formula to satisfy its
23 constitutional obligation where it has not been properly funded. Assuming the Plaintiffs
24 can show that they are unable to comply with the minimum adequacy guidelines as a
result of the state's refusal to fund the formula, the system is unconstitutional.

25 Even though the legislature refused to fund the formula for the entire state, the
state claims that because Students FIRST "cannot fail as a system," and that Plaintiffs

1 are only left with pursuing individual claims that pertain to their individual school
2 districts. According to the state’s argument, because the Plaintiffs are seeking a
3 declaratory judgment and not individual relief, their claims should be dismissed. MSJ at
4 8. Again, this argument is based on the faulty premise that the failure to fund a statutory
5 formula cannot render the statutory scheme unconstitutional.

6 Over and above the Supreme Court’s directive that adequate funding is a
7 constitutional requirement, the state’s argument makes no sense. If the state is correct, it
8 means that the legislature could—without violating the constitution-- maintain the
9 building renewal formula but completely eliminate any funding for it, such that all 226
10 school districts would be left with insufficient funding. According to the state, it would
11 be up to each individual school district to pursue an action for individual relief and no
12 school district could pursue an action for declaratory relief. And what would be the
13 nature of the individual relief that could be sought under the state’s theory? Presumably,
14 it would be a damage action for the amount of repairs and renovations that were
15 necessary. By the time that litigation was over, each school district would have to file
16 another lawsuit for the repairs and renovations that became necessary during the previous
17 litigation and so on and so on. That is the absurdity of the state’s argument that the
18 obligation to fund is unrelated to the constitutionality of the system.

19 Indeed, under the state’s theory, the school finance system that was maintained by
20 the state prior to the *Roosevelt* decisions would be constitutional. That system was
21 facially constitutional but failed to provide any funding to school districts for capital
22 needs. Four school districts maintained a declaratory judgment action that resulted in the
23 Supreme Court granting that relief and declaring the school finance system
24 unconstitutional. If the state is correct, relief should have been limited to the four school
25 district plaintiffs.

Finally, the argument advanced by the state is simply a species of the same
argument that they have already advanced to this Court and which has already been
rejected. The doctrine of law of the case is well established and controlling in Arizona,
and “reflects the need for ‘an end to litigation and a final decision that parties can rely

1 on.” *Sibley v. Jeffreys*, 81 Ariz. 272, 276, 305 P.2d 427, 429 (1956); *State v. King* 180
2 Ariz. 268, 279, 883 P.2d 1024, 1035 (1994) (quoting *In re Monaghan’s Estate v.*
3 *Kennerdell*, 71 Ariz. 334, 335, 227 P.2d 227, 228 (1951)). Though the rule is procedural
4 and does not strictly prevent the court from reconsidering previous rulings, the court has
5 acknowledged that the power “should not be used lightly.” *King*, 180 Ariz. at 279, 883
6 P.2d at 1035. Under the doctrine, “a court acts within its discretion in refusing to reopen
7 questions previously decided in the same case by the same court . . . , unless ‘an error in
8 the first decision renders it manifestly erroneous or unjust or when a substantial change
9 occurs in essential facts or issues, in evidence, or in the applicable law.’” *State v. Wilson*,
10 207 Ariz. 12, 15, 82 P.3d 797, 800 (App. 2004) (quoting *Powell-Cerkoney v. TCR-*
Montana Ranch Joint Venture, II, 176 Ariz. 275, 279, 860 P.2d 1328, 1332 (App. 1993)).

11 The state previously argued that relief in this case was limited to the three Plaintiff
12 school districts. Plaintiffs contended that if Students FIRST is unconstitutional as to any
13 school district, it is unconstitutional as to all districts. In a Minute Entry dated June 7,
14 2005, Judge Downie concluded that:

15 This court finds itself in substantial agreement with plaintiffs’
16 analysis and determines that they may seek declaratory relief
17 that the level of funding violates the Arizona Constitution as
to all the State’s public school districts for the fiscal years in
dispute.

18 The court’s previous ruling could not be clearer, and the state should be prohibited from
19 advancing the same argument yet again. The Court’s previous decision is not “manifestly
20 erroneous or unjust,” nor has any “substantial change” occurred in the “essential facts or
21 issues,” evidence, or the law. Judge Downie’s ruling is the law of the case, and the state
22 has cited no circumstances that would justify revisiting it.
23
24
25

1 **IV. SIMPLY BECAUSE SCHOOL DISTRICTS PRUDENTLY**
2 **MAINTAIN A BALANCE IN THEIR BUILDING RENEWAL**
3 **FUND DOES NOT MEAN THAT THE STATE HAS PROVIDED**
4 **ADEQUATE FUNDING.**

5 The state argues that the fact Plaintiffs and other school districts report balances in
6 their Building Renewal Funds contradicts the Plaintiffs' claims that the state has provided
7 inadequate funding. Like the previous arguments, this one is also wrong for numerous
8 reasons.

9 The issue in this case is whether school districts have sufficient Building Renewal
10 Funds to address buildings and facility needs that are deficient under the minimum
11 adequacy guidelines. The fact that there may be a balance in the Building Renewal Fund
12 is only part of determining whether school districts have sufficient Building Renewal
13 Funds available to them to address their ever-growing list of problems.

14 The Plaintiffs intend to show that for each of the Plaintiff school districts, as well
15 as Mesa Unified School District, the amount of funding needed by those districts to
16 correct current deficiencies under the minimum adequacy guidelines far exceeds the
17 amount that is available to them in their balances. As of the date of this Response, the
18 Plaintiff school districts show the following amounts as necessary to correct problems
19 under the minimum adequacy guidelines and the corresponding Building Renewal Fund
20 balance:

	<u>Globe</u>	<u>Sierra Vista</u>	<u>Williams</u>
21 Current Deficiencies:	\$1,845,022	\$1,820,980	\$2,500,000
22 Building Renewal Fund Balance:	\$ 968,347	\$ 750,802	\$ 249,637
23 Funding Needed to Address 24 Deficiencies:	\$ 876,674	\$1,054,923	\$1,500,000

25 SOF, ¶¶ 16, 17-20, 26-27.

In addition to the fact that the Plaintiff school districts have needs that exceed the funds available to them, the fact that they maintain balances in their Building Renewal Fund simply reflects sound planning. It would be irresponsible for school districts to deplete

1 their Building Renewal Fund because monies must be maintained for ongoing projects,
2 maintenance and unexpected repairs. SOF, ¶¶ 18, 25, 30. Additionally, it is necessary to
3 accumulate funds from one year to the next to allow completion of projects requiring the
4 expenditure of more funds than are available in a single calendar year. SOF ¶¶ 18, 25,
5 30. Finally, the uncertainty of funding from the legislature means that school districts
6 must be fiscally conservative and plan for the rainy days that are sure to come. SOF, ¶
7 17.

8 **V. AS REQUIRED BY LAW, THE MINIMUM ADEQUACY**
9 **GUIDELINES ARE BASED ON THE STATE’S ACADEMIC**
10 **STANDARDS AND THEREFORE PLAINTIFFS DO NOT HAVE**
11 **TO PROVE THAT THEIR INABILITY TO COMPLY WITH THE**
12 **GUIDELINES PREVENTS STUDENTS FROM MEETING**
13 **ACADEMIC GOALS.**

14 The state argues that the Plaintiffs should have to offer evidence “linking any
15 particular lack of facility funding with actual evidence of sub-academic performance.”
16 MSJ at 12. Put another way, the state apparently thinks that the Plaintiffs must prove that
17 a leaking roof has an impact on academic performance.

18 The Supreme Court and Students FIRST have made that unnecessary. The
19 Supreme Court’s decisions require the state to provide school districts “financing
20 sufficient to provide facilities and equipment necessary and appropriate to enable
21 students to master the educational goals set by the legislature or by the State Board of
22 Education . . .” *Albrecht I*, 190 Ariz. at 524, 950 P.2d at 1145. Students FIRST codified
23 that holding at A.R.S. § 15-2011(F). That section provides that the School Facilities
24 Board shall adopt rules establishing minimum school facility adequacy guidelines no
25 later than April 30, 1999. The section goes on to provide that:

The guidelines shall provide the minimum quality and quantity of
school buildings and facilities and equipment necessary and
appropriate to enable pupils to achieve the academic standards . . .

The statutory language mimics almost perfectly the language in the Supreme Court’s
decision.

1 Therefore, the minimum facility guidelines, as a matter of law, are presumed to be
2 what is necessary and appropriate to enable pupils to achieve the state’s academic
3 standards. The state does not claim otherwise nor could it. After all, it was the state’s
4 obligation to adopt the guidelines as required by the Supreme Court decisions and
5 Students FIRST. Indeed, the state has confirmed that the guidelines are explicitly linked
6 to the academic standards. SOF, ¶ 33.

7 The state argues that while the School Facilities Board addressed the academic
8 goals in the minimum guidelines, “allowing Plaintiffs to rely exclusively on an alleged
9 inability to meet the minimum guidelines would undermine the benefits of requiring to
10 prove actual academic impacts” under the *Roosevelt* decisions. MSJ at 12. But the
11 state’s argument vitiates those decisions and Students FIRST. The state attempts to put
12 the burden on the districts to prove that the minimum guidelines do, in fact, represent the
13 minimum necessary for student’s to have the opportunity to achieve the state’s academic
14 standards. But the Supreme Court made it clear in *Albrecht* that it is the *state’s*
15 responsibility to determine adequacy and then provide it. *Albrecht II*, 192 Ariz. at 37,
16 P.2d at 637. Having made that determination when it adopted the minimum guidelines,
17 the state cannot now avoid its responsibility by challenging its own guidelines. In
18 adopting the guidelines, the state in essence declared that facilities that do not meet these
19 guidelines are inadequate; the state is bound by that declaration and the plaintiffs need
20 only prove that they cannot meet the guidelines.

21 **VI. SUBJECT TO CERTAIN CONSTRAINTS, STUDENTS FIRST**
22 **PROVIDES SCHOOL DISTRICTS WITH DISCRETION AS TO**
23 **HOW BUILDING RENEWAL FUNDS WILL BE SPENT.**

24 The state complains that the Plaintiff school districts have used relatively small
25 amounts of their Building Renewal Funds on non-minimum guidelines issues. The state
acknowledges that school districts are not prohibited from using Building Renewal Funds
for those purposes but nevertheless argues that the use of Building Renewal Funds for
non-guideline issues should preclude districts from claiming “as a current need any
project anticipated at the time a non-guidelines project was funded.”

1 The short answer to this argument is that even if the amounts identified by the
2 state as having been spent on non-guidelines issues are removed from current needs in the
3 Plaintiff school districts, there still remains a substantial shortfall. For example, the state
4 claims that Sierra Vista has spent \$67,000 over the years on items that are not covered by
5 the minimum guidelines. Even if the state is correct, which it is not, Sierra Vista still has
6 in excess of \$1 million in current unmet needs related to the minimum guidelines. SOF,
7 ¶¶ 20, 21.

8 The slightly longer answer to the state’s argument is that Students FIRST provides
9 school districts with discretion as to how their Building Renewal Funds should be spent.
10 School districts do not need to get the state’s permission to expend Building Renewal
11 Funds in any particular fashion. SOF, ¶ 10. In fact, the only limitation is that school
12 districts are prohibited from spending Building Renewal Funds on certain items including
13 new construction, remodeling for aesthetic reasons, exterior beautification, demolition or
14 routine maintenance. A.R.S. § 15-2031(C). Otherwise, school districts are free to spend
15 their Building Renewal Funds as they see fit without any involvement from the state.
16 SOF, ¶ 11.

17 Students FIRST leaves it up to individual school districts to know best how to
18 apply their limited funding to the particular needs of their district. While there is a
19 preference in Students FIRST for using Building Renewal Funds primarily for academic
20 buildings, it is not a requirement. The statute provides that a school district “shall use the
21 monies primarily for any buildings in the data base . . . and secondly for any other
22 buildings owned by the school district . . .” A.R.S. § 15-2031(B). All other things being
23 equal, a school district will ordinarily spend Building Renewal Funds first on academic
24 buildings and second on its other buildings, including its administrative offices, which are
25 not covered by the minimum guidelines. But all other things are not always equal, and it
is sometimes necessary to spend Building Renewal Funds on nonacademic facilities
when the circumstances warrant. That result was fully anticipated by Students FIRST,
which is why it declined to limit spending of Building Renewal Funds to only academic
facilities.

