

Oakland Unified School District Community Advisory Committee for Special Education (CAC) Advisory Letter—May 20, 2013

To: The Superintendent and OUSD School Board
From: The CAC and Members of the Community

Re: Protecting the Rights of Students with Special Needs in OUSD & Ensuring Strong Leadership and Accountability for Improved Student Achievement and Success

The CAC is a state-mandated advisory group that represents the special needs community in OUSD and advocates on the behalf of the 11-14% of OUSD's student body identified as having special needs and who are among the lowest achieving populations within the district. The CAC holds its meetings the first Monday of each month at locations rotating throughout the District to maximize representation. These meetings draw a multi-ethnic and multi-lingual crowd ranging from 30 to over 100 individuals, including parents, their children, District staff, community and legal representatives. Time is set aside at each meeting to give parents, guardians, educators and other community members a voice to share feedback and concerns. In addition, the CAC maintains an active email list of approximately 500 interested members and a web presence. School site reps also exist at schools throughout the district providing resources at the site level.

Last May, the CAC mobilized several thousand families and community members to take action to object to special education program and budget cuts, which were proposed without community input, validating the CAC's belief that this community cares deeply about these issues. **The stories the CAC has gathered from the community both during the 2012-13 school year and the years prior point to serious, pervasive and systemic issues throughout the district that the CAC believes jeopardize the success and even the basic civil rights of students with special needs.** We have consulted with several legal advocacy agencies (cc'd below) and they share our concerns.

Main Findings:

1. The District's insular and siloed approach to special education budgeting and program development has contributed to a dysfunctional system that promotes lax implementation of IEPs and 504 plans and other compliance violations, while fostering ongoing discrimination, marginalization, resentment, and frustration toward this already at-risk population and those who support them. This dysfunction is a direct result of repeated planning, budgeting and programmatic decisions made without a comprehensive and community-inclusive assessment of the needs of this population. Further aggravating the situation is the lack of district-wide, or site level accountability for the success of students with special needs. A major consequence of this lack of accountability is that the number one compliance violation special education faces is failure to implement IEPs. Additionally, frequent special education leadership turnover, including five Directors in the last seven years, combined with the disempowered status of the special education department, which is often subject to decisions made at the cabinet level running counter to the needs of the population, contribute to a lack of stability and continuity in the program.

2. Both present and past OUSD administrations have failed to support the CAC's mandated role and function (30 EC 56194) and the district's legal obligation to comply with the word and intent of the law. This includes a failure to include the CAC and the community in planning, development, changes and implementation of the Local Plan for Special Education, the district's Strategic Plan and subsequent Strategic Plan rollout. Consequently, the CAC has been denied its legally mandated role in the development of annual goals and priorities, programs, policies and procedures, budgeting, and other critical decisions affecting students with special needs. This same lack of support has also prevented meaningful outreach, community engagement, and parent/guardian education. Repeated requests by the CAC to remedy the situation have been largely ignored.

Initial Actions

To correct these historic and systemic deficiencies the CAC believes the following actions must be implemented:

1. Creation of a new position--Associate Superintendent for Special Education and Students with Disabilities--with the distinct function of ensuring that all departments, school sites, and initiatives of OUSD respond to the diverse and unique needs of children with Special Needs. A position distinct from that of *Director of Programs for Exceptional Children (PEC)* is required for responsiveness, alignment, and coordination with other programs.

The position of *PEC Director* shall be maintained for the purpose of overseeing the operations of the Department and that PEC remain as an autonomous department that can provide coordinated special education services. Strong budgetary and cost management support must be provided for the special education department and other programs and departments responsible for students with disabilities.

2. Full staffing of the special education program, including teachers, aides, specialists and administrative staff prior to the beginning of the 2013-14 school year and every year thereafter. OUSD must prevent the avoidable and ongoing annual shortage of teachers, aides, specialists, and administrative staff. In accordance with the law, substitute teachers and substitute aides must not be utilized to satisfy this goal.

3. Full support and integration of the CAC and its roles and functions. The CAC must become a full partner in discussions concerning development, implementation, or changes to the Local Plan for Special Education and play a commensurate role in the planning and oversight processes of OUSD as a whole. More broadly, we require compliance with both the spirit and the letter of the California Education Code, which places the CAC in this formal role. Full support includes staff support and resources needed to coordinate the regular and meaningful participation of the CAC community and the community at large. This support shall be provided by OUSD separate from designated resources for special education students and other students with special needs.

4. No program or budget cuts shall be imposed for Special Education until OUSD Administration, the CAC, and the community have jointly established growth targets and recommendations and significant progress has been made. Similarly, OUSD shall implement a moratorium on the transfer of staff and programs until OUSD, the CAC, and the community have established targets and recommendations. This moratorium shall be undertaken while observing the rights of individual staff to seek transfers under union contract.

5. Aggressive annual student achievement growth targets for students with disabilities linked to state and federal performance targets. These targets must be incorporated into all district-wide planning efforts and backed by the resources to make rapid progress toward these goals achievable.

Related Actions

5. Resource development for Special Education and students with disabilities, including access to all available public and private funding sources at the national, state, regional, and local levels shall be the responsibility of the OUSD Board, the Superintendent and central OUSD leadership. Special Education resource development must be undertaken as part of OUSD's overall resource development efforts and must not be a departmental function.

6. Monthly reporting to both the OUSD School Board and the CAC on the level necessary to evaluate progress toward student achievement targets, staffing levels, hiring, training, professional development and support activities. The reporting shall be extended to include enrollment figures and demographics and recommendations that result from and reflect the actual findings of a fully inclusive community engagement process. Similarly, we require policy, budgetary and program information including information about any proposed changes to the same.

We expect a written response concerning the timeframe and concrete next steps the District will take in implementing these solutions by June 30, 2013.

We need to remember that there are real students who are affected every day by the decisions that are being made and that these decisions can mean the difference between success and failure, self-confidence or self-defeat, and at times, even life and death. We cannot fail.

Cintya I. Molina, Chair
On behalf of the CAC

cc: Disability Rights Education and Defense Fund, Disability Rights California, National Center for Youth Law, and East Bay Community Law Center