

# An Anti-Ableist Starting Point: The Disability Rights of Our Students

OUSD Community Advisory  
Committee for Special Education

October 25, 2021

# **WELCOME & INTRODUCTIONS**

# **BASELINE VALUES**

Kristen Zimmerman and  
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# **BASELINE VALUES**

There is no such thing as normal.

The law is not a moral compass.

ACCESS is a practice, a culture, and a  
value.

We create safety, we are the experts  
of our own lives.

# **BASELINE VALUES**

People with impairments are most disabled by the attitudes, actions, and systematic exclusions in society.

We value our diversity—in our bodymind experiences and in our experiences of race, gender, class, sexuality, culture, language, nationality, etc.



*No one is actually independent.*

*We are all interdependent.*

*The difference between the needs that many disabled people have & the needs of people who are not labeled as disabled is that non-disabled people have had their dependencies normalized.*

*-Ki'tay D. Davidson*

# WHAT IS ABLEISM?

...form of systemic oppression [that] leads to people and society determining who is valuable or worthy based on people's appearance and/or their ability to satisfactorily produce, excel, & 'behave.'

~ Talila L. Lewis

# WHAT IS ABLEISM?

A system that places value on people's bodies and minds based on societally constructed ideas of normalcy, intelligence, and excellence.

These ideas are deeply rooted in anti-Blackness, eugenics, and capitalism.

*Our educational system is ableist,  
and so is **ignoring** that it is.*



# **ABLEISM THEN & NOW**

Patty Juergens

# OUSD HISTORY OF ABLEISM

## 3. Exclusions

Pupils whose physical or mental disability is such as to cause attendance to be inimical to the welfare of other pupils may be excluded from school. Recommendations for exclusion may be made by the principal or the Special Services staff. Such exclusion will be made by the Assistant Superintendent in Charge of Special Services after investigation by the appropriate department. Exclusions except for communicable disease shall be reported to the principal, the Superintendent, and the Board of Education.

Education Code references are as follows:

- a. Filthy or vicious habits (Ed. Code 10552).
- b. Contagious or infectious disease (Ed. Code 10552).
- c. Physical or mental disability if it is such as to cause attendance to be inimical to the welfare of other pupils (Ed. Code 10553).

## Despite policy changes, ableist attitudes and practices persist.

Disabled students are excluded from and within schools.

District and community leaders continue to speak about being identified as needing "Special Education" as an inherently stigmatizing and negative experience for students.

In doing so, they stigmatize the fact of having a disability and the supports that our students need.

There is silence from leaders about promoting disability access more widely through built-in accommodations and universal design for learning, which can help all students.

Basic learning about the diversity of dis/ability experiences is not expected for students and school communities.

We need district and community leaders to change this discourse.

We need disability-positive messages that celebrate our students, their families, and the staff that support them.

All initiatives for equity (racial, gender, class, etc.) must tell the stories of children with dis/abilities as full members of diverse communities and experiences, and must fully advocate for them.

# Time for Dialogue

10 minutes

# OUR FOCUS FOR TODAY

Patty Juergens

# THE DISABILITY RIGHTS OF OUR STUDENTS

## The Truth Is in the Stories

The *Legal Assurances* Section of the Local Plan for Special Education ensures that we understand and protect the rights of students with dis/abilities under the law.

23 legal assurances are included in the Local Plan.

We chose to focus on 3 of them tonight.

1) FAPE: Free and Appropriate  
Public Education

2) Full Educational Opportunity

3) Procedural Safeguards



# **FREE & APPROPRIATE PUBLIC EDUCATION**

Kelly Bresso

# FREE AND APPROPRIATE PUBLIC EDUCATION

20 USC Section 1412(a)(1)

CA Ed Code ARTICLE 3. General Provisions [56040 - 56048]

“Free and appropriate education (FAPE) means special education and related services that are provided at public expense, under public supervision and direction, and without charge; **meet the standards of the California Department of Education**; include appropriate services for children aged 3 through 21 years; and are **provided in conformity with the student's individualized education program.**”

# **FREE AND APPROPRIATE PUBLIC EDUCATION**

Our children must not just “go to school.”

They must make meaningful progress in their individualized goals and in the standards that guide the education of all students.

**What are some examples of systemic barriers to FAPE for our children?**

# EXAMPLE

- Multi-grade Special Day classrooms make meeting CDE standards almost impossible.
- Combo General Education classrooms with two grade levels are already widely opposed in OUSD.

Special Day Classroom teachers are asked to teach students at **THREE GRADE LEVELS.**

# EXAMPLE

This arrangement translates into classrooms where:

- subjects are not taught
- students are taught at the wrong grade level
- teaching only relates to narrow IEP goals

Why do we combine many students into three-grade Special Day classrooms in this way?

# Time for Dialogue

10 minutes

# **FULL EDUCATIONAL OPPORTUNITY**

Ashley Demelo & Sheila Haynes

# FULL EDUCATIONAL OPPORTUNITY

20 USC Section 1412(a)(2)

“Students with disabilities have the right to full educational opportunities to meet their unique needs, including access to the variety of educational programs and services available to non-disabled students.”



# DO STUDENTS WITH DIS/ABILITIES ACCESS?

Afterschool Programs    Enrichment Programs    Electives  
Summer Programs    Lunch Clubs and School Day Clubs  
Leadership Groups    Field Trips    Arts Programs  
Dual Language Learning    Cultural and Affinity Groups  
Restorative Justice Activities    Career Linked Learning  
Group Counseling    Tutoring    Expositions    Assemblies  
Reading and Math Intervention    Internships/Work  
Experiences    Ceremonies & Recognitions    College Prep  
& So Much More...

# OUSD MUST REQUIRE 'ACCESSIBILITY'

Our children must be included in all that can make education effective, rich, and meaningful for other students.

Special Education supports the **disability-related** needs of students; it is not meant to replace General Education.

**What are some examples of systemic barriers to Full Educational Opportunity for our children?**

# COVID-19 EXAMPLE

Due to state legislation and the rush to return to in-person learning, parents and guardians of students with dis/abilities are made to go through increasingly difficult and sometimes punitive measures to find accommodations that work for their student. Alternatives to in-person learning were not designed for them.

In General Education, a parent or guardian can opt to send their child to 'independent study' as a Covid prevention, while a parent or guardian of a student with an IEP must call for an IEP meeting, causing up to a 30-day delay in the child's education. After that, the student can still be denied access.

When the parent/guardian and the student are ready to return to in-person education, it must be done within 5 days. However, there is no guarantee where their student will be placed. Historically, the school placement of students with dis/abilities in OUSD has been an after-thought with very limited spaces at only certain schools, creating great anxiety in both the parent/guardian and student that they will be displaced. The fact that OUSD has no plan in place that is evident to the community, continues to exacerbate this.

# COVID CONTINUES TO TEACH US THAT WE MUST CENTER DISABILITY ACCESS

When the School Board and other leaders do not proactively plan for disability access when crafting policies and protocols, they can inadvertently deny access to students with dis/abilities and set up OUSD to having to correct course in the future. For example, planning is needed for:

- unique needs of some students with disabilities as it relates to the vaccine mandate
- guidance and policy for teaching in home settings in union contracts and other contracts
- addressing the increased mental health impacts and negative consequences for already sensitive students with disabilities that can manifest in behavior

# FOCUSING ON 'ACCESS'

We celebrate the adoption and look forward to the implementation of:

OUSD Board Resolution No. 2021-0159 -  
Ensuring Access to Social-Emotional and  
Academic Supports for Students with  
Disabilities

[Link](https://drive.google.com/file/d/1Vf_v3vSIL0ofkBZuiKHL7S79avykgaOf/view?usp=sharing) - [https://drive.google.com/file/d/1Vf\\_v3vSIL0ofkBZuiKHL7S79avykgaOf/view?usp=sharing](https://drive.google.com/file/d/1Vf_v3vSIL0ofkBZuiKHL7S79avykgaOf/view?usp=sharing)

# PROVIDING FOR ACCESSIBILITY TO COUNTER ABLEISM



It is the attitudes and physical barriers imposed on them by society

# Time for Dialogue

10 minutes

# **PROCEDURAL SAFEGUARDS**

Corvette Kirtman and Patty Juergens



# PROCEDURAL SAFEGUARDS

20 USC Section 1412(a)(2)

“In order to protect the rights of students with disabilities and their parents/guardians, the district shall follow all procedural safeguards as set forth in law.

Parents/guardians shall receive written notice of their rights, including the right to a Due Process Hearing for any dispute related to the identification, assessment or educational placement of a child or the provision of a free, appropriate education to the child.”

## From "Advocates, Parents, and Disabled Students Want More Than Just Better Funding for Schools" *Forbes*, 8/29/20

“Too many disabled students are denied their rights to a ‘free, appropriate public education,’ known in education advocacy circles as FAPE, which is the core guarantee of IDEA.

“While IDEA sets this out as a general principle, execution happens one student at a time, with many people and conflicting forces to complicate things, and little practical mechanism to ensure that IDEA rights and principles are consistently followed.

“Too often, the quality of a disabled student’s education depends on how hard their parents are able to fight for it...parents in general face a “power disparity” that weakens their ability, and that of the students themselves, to advocate for a better, more equitable education.”

# THE DISEMPOWERMENT OF PARENTS

## Why Written Notice of Parents Rights Is Not Enough

- Lack of language and disability access
- Lack of time to have rights explained & to ask questions
- Perceived/actual complexity of written notice and Due Process or Compliance complaints
- Class/race/gender/disability bias and discrimination within the process
- Sterile and intimidating meeting protocols
- Families not (really) welcomed as part of the decision-making team
- Teams not understanding or addressing the daily life barriers of parents
- Absence of opportunities for collective parent/student empowerment and problem solving with each other and with staff (as classrooms, schools, etc.)

# Time for Dialogue

10 minutes

What do you need from us?

What do you see happening next?

## WHAT WE WOULD LIKE NEXT:

- 1) Move forward on joint leadership to reduce the grossly disproportionate suspension of Black students with dis/abilities and the intersection of race and disability in their lives.
- 2) Plan a joint initiative for shifting mindset and practice about dis/ability--a commitment to anti-ableism, as well as its intersection with racism
- 3) Develop a shared understanding of what we mean by "least restrictive environment", another of the rights of our students under IDEA

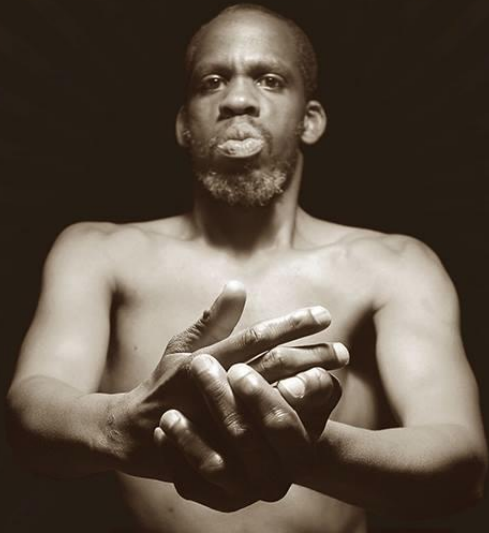
**ALL BODIES ARE UNIQUE AND ESSENTIAL.**

**ALL BODIES ARE WHOLE. ALL BODIES HAVE  
STRENGTHS AND NEEDS THAT MUST BE MET.**

**WE ARE POWERFUL NOT DESPITE THE COMPLEXITIES  
OF OUR BODIES, BUT BECAUSE OF THEM.**

**WE MOVE TOGETHER, WITH NO BODY LEFT BEHIND.**

**THIS IS DISABILITY JUSTICE.**



**TODOS LOS CUERPOS SON ÚNICOS Y ESENCIALES.**

**TODOS LOS CUERPOS SON COMPLETOS. TODOS LOS CUERPOS  
TIENEN FORTALEZAS Y NECESIDADES QUE SE DEBEN SUPLIR.**

**SOMOS PODEROSOS NO A PESAR DE LAS COMPLEJIDADES DE  
NUESTROS CUERPOS, SINO DEBIDO A ELLAS.**

**NOS MOVEMOS JUNTOS, SIN DEJAR NINGÚN CUERPO ATRÁS.**

**ESTO ES JUSTICIA DE DISCAPACIDAD.**

<https://www.sinsinvalid.org/>