

Oakland Unified School District Board of Education

The Oakland Branch of the National)
Association for the Advancement of Colored)
People (NAACP) *Petitioner*)

**ADMINISTRATIVE PETITION
TO IMPROVE LITERACY SCORES
AMONG OAKLAND PUBLIC
SCHOOL STUDENTS**

Petitioner, the Oakland Branch of the National Association for the Advancement of Colored People (NAACP), requests that Oakland Unified School District Board of Education (the “OUSD Board”) take immediate and effective action to implement changes to improve transitional kindergarten through fifth grade student literacy scores.

Our students are not receiving the free and appropriate education they need to successfully navigate college, careers, societal institutions, or opportunities to be of service to the Oakland community. Our Black, Latino and Pacific Islander students in the Oakland Unified School District ("OUSD") are four times more likely to be reading multiple years below grade level than our white students (Figure 1). Without the ability to read, they are denied learning and denied the opportunity to identify, cultivate, and leverage their talents in whichever way they choose. The failure of OUSD to educate our students has resulted in reduced earning potential, racialized health disparities and communities vulnerable to gentrification.

Presently, there is no OUSD policy to require a research-based reading curriculum that is designed to teach the largest number of students to read in core instruction (Tier 1) and which aligns to the brain science and research consensus. Moreover, any curriculum chosen must demonstrate: (1) evidence of contributing significantly to improved student reading achievement with students of similar demographics to the students in OUSD and all sub-groups (e.g. English Language Learners and special education, including those with dyslexia) and (2) planning time parameters, needed for full implementation, that fall within the bounds of the teachers’ contract.

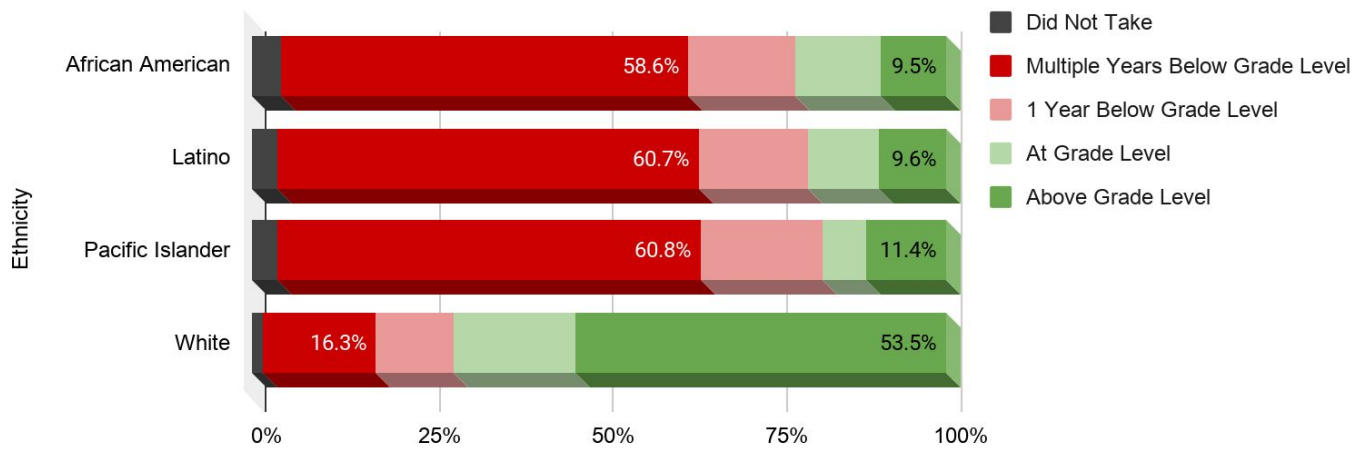
This lack of a reading policy harms Oakland students who struggle to achieve literacy by not providing the support they need in order to read at grade level. Specifically, data shows that African American students and English Language Learners face significant literacy challenges within OUSD. Research informs us that slow reading acquisition has cognitive, behavioral, and motivational consequences that slow the development of other cognitive skills and inhibit performance on many academic tasks¹. Additionally, research shows that low literacy rates due to dyslexia can trigger post-traumatic stress disorder (PTSD) in public school students.² The following chart represents student performance, by ethnicity, of 3rd, 4th and 5th graders in OUSD, based on the Reading Inventory assessment.³

¹ Stanovich, Keith E. "Matthew Effects in Reading: Some Consequences of Individual Differences in the Acquisition of Literacy." *The Journal of Education*, vol. 189, no. 1/2, Theory, Research, Reflection on Teaching and Learning (2008/2009), pp. 23-55 (33 pages). Sage Publications, Inc.: <https://www.jstor.org/stable/42748659>

² Alexander-Passe, J Psychol Psychother 2015, “Investigating Post-Traumatic Stress Disorder (PTSD) Triggered by the Experience of Dyslexia in Mainstream School Education?”, *Journal of Psychology & Psychotherapy*: <https://www.longdom.org/open-access/investigating-post-traumatic-stress-disorder-ptsd-triggered-by-the-experience-of-dyslexia-in-mainstream-school-education-2161-0487-1000215.pdf>

³ The earliest grade for which SRI data is available is 3rd grade.

Figure 1. Reading Inventory scores of 3rd, 4th and 5th grade levels by ethnicity, 2019-20 (Fall).⁴



The OUSD Board is under a legal obligation, as described in the Board Bylaws (BB 9000), to serve Oakland students in the following ways: (1) establish measurable Goals for Student Achievement, (2) establish a Theory-of-Action, a coherent strategy for achieving its student achievement goals, and (3) establish policies consistent with the Goals for Student Achievement and the Theory-of-Action, and systematically monitor the implementation and effectiveness of such policies.⁵ This includes, but is not limited to adopting administrative rules, allocating resources and creating personnel positions to enhance student achievement in situations where there is a high risk of students falling behind academically.

Whereas the OUSD Strategic Plan 2020-23 has identified that the first priority for cultivating thriving students is a citywide literacy campaign, with a focus on improved early literacy, **petitioners request that the agency fulfill their legal duty and this district-wide vision by taking the following actions** to address the previously stated problems (details for each are found under Relief Requested):

1. Adopt a detailed district Administrative Regulation covering reading and literacy
2. Create a cabinet-level position to address literacy for students from transitional kindergarten through fifth grade
3. Create guidelines for the district’s human resources department to recruit and prioritize hiring educators trained in evidence-based reading methodologies
4. Provide instructional staff, including teachers, principals, coaches, and paraprofessionals, ongoing access to literacy training and materials which support the neurodiversity of the district’s students
5. Create, publish, and distribute to internal and external stakeholders, an ELA skill-based scope and sequence for transitional kindergarten through fifth grade that includes the timing and sequence of intervention, and allows for academic freedom to reach learning targets
6. Allocate additional resources in support of the district’s citywide literacy campaign, with a focus on resources supporting students reading below grade level
7. Implement testing to screen students between kindergarten through second grade for dyslexia
8. Cease and desist the practice of denying students the opportunity to read grade level books through a modern form of tracking known as Leveled Reading.

⁴ Oakland Unified School District Data Dashboard, Reading Inventory (SRI) by Student Groups: Ethnicity, Academic Year: 2019-20, Grade Levels: 3rd/4th/5th, Selected Test Status: Expected, Select Test Admin(s): Fall, Select Networks: All, View by Network/School/Pathway: District, Select Network/School/Pathway: All Schools, View By Grade Group: All Grades, Select Grade Groups: All Grades

⁵ Oakland Unified School District, Board Bylaw, BB 9000 <https://boepublic.ousd.org/Policies.aspx>

Further, failure to incorporate these measures increases the demand for special education services which are nearly four times as expensive as classroom instruction, destabilizes district finances, compromises the ability to provide adequate services to students, and undermines the opportunity to allocate more resources towards competitive salaries for employees. This is, therefore, a critical important matter of fiscal solvency.

A Department of Justice Report clearly states that criminality and recidivism is “welded” to low reading scores, and that research-based reading instruction can be used to reduce recidivism and increase employment opportunity.⁶ Given that the bipartisan First Step Act, signed into law by President Trump in 2019, provides dyslexia screening and research-based instructional support for individuals entering federal prison, OUSD has an obligation to provide its students with at least a similar level of care, which includes dyslexia screening and research-based support, curriculum and instruction. **Our students should not have to wait for future entry into the federal prison system to receive the support they need to become college and career ready.**

The OUSD Board has the authority to grant these actions and lay the groundwork for a meaningful and sustained effort to significantly improve literacy rates in the district. Any agenda or roadmap which does not address the root of the school-to-prison pipeline, illiteracy, is incomplete.

STATEMENT OF FACTS

Presently, OUSD’s adopted kindergarten through fifth grade curriculum, Units of Study, has not satisfactorily supported the acquisition of foundational literacy skills.

Previous to August 2020, the OUSD Assessment for early reading, has measured the skill of patterned reading rather than acquisition of foundational literacy skills.

The district has promoted the use of Leveled Reading Groups in which students were regularly denied access to grade level text, content, and materials. Indeed, **many students went entire years without being allowed to read a book or engage with the designated content that was at their grade level.** Moreover, the author of OUSD’s previously adopted core curriculum, Units of Study, now acknowledges its inadequate support for students in need of foundational skills.⁷ The double edged sword of choosing a curriculum with limited foundational reading skill development while simultaneously restricting access to grade level text to students with grade level reading skills, has created racialized and economic impacts which privilege those with the resources and advocacy to supplement the development of reading skill. This sword of inequity, creating and justifying the denial of students’ access to grade level text and content, was welded by institutional leaders who failed to evaluate their educational practices and philosophies using the prisms of the reading research consensus, brain science, or the students’ civil rights.

Additionally, the district is lacking in overall compliance with AB1369 which ensures that all students referred for testing be screened for phonological processing challenges. There’s a lack of training and awareness related to the law and its implications.

Mitigating these gaps requires resources, personal bandwidth, and advocacy, which are often unavailable to families and students. District-wide conditions related to staff turnover, budgetary constraints, and other related issues exacerbate these inequalities and further contribute to negative, racial and class outcomes.

⁶ National Institute of Justice, Office of Justice Programs, U.S. Department of Justice (1993), Michael S. Brunner. Reduced Recidivism and Increase Employment Opportunity Through Research-Based Reading Instruction.

<https://www.ncjrs.gov/pdffiles1/Digitization/141324NCJRS.pdf>

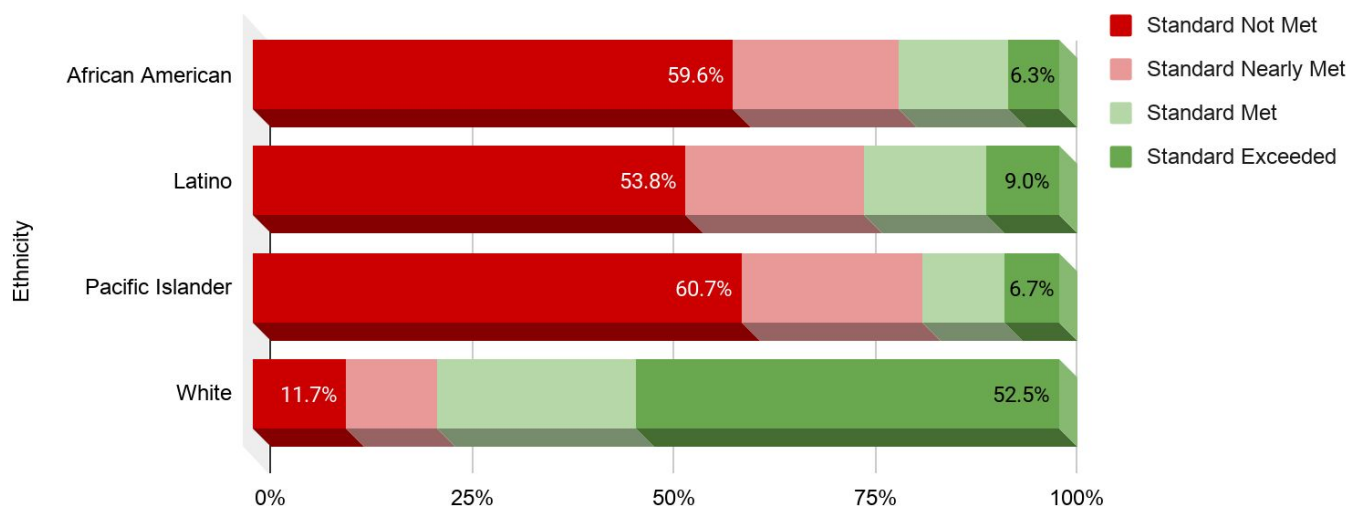
⁷ <https://blog.heinemann.com/note-from-lucy-calkins>

As an example of racial inequity in Oakland; compared to a White child born in the affluent Oakland Hills, an African American child born in West Oakland can expect to live 14 fewer years. On top of this, Alameda County homicide rates are nearly eight times greater in high poverty neighborhoods compared to affluent neighborhoods.⁸

Further, according to the California Department of Education, only 19% percent of African-American students⁹ in Oakland are reading at level, 24% of Latino students¹⁰ are reading at grade level, and 73% of White students¹¹ are reading at grade level.

In addition to the aforementioned racial disparities (see Figure 1), the SBAC comparison assessment scores for students meeting the standard reinforce the profound disparities between student groups in OUSD.

Figure 2. SBAC scores of 3rd-5th grade levels by ethnicity, 2018-19.¹²



Moreover, the educational data for Black male youth in particular paints a similarly unequal picture, based on the following data collected by OUSD:

- For every White male that was suspended in OUSD, 14 African American males were suspended.¹³
- 58.6% of African American male elementary school students (3rd, 4th and 5th grade) were evaluated as “Multiple Years Below Grade Level,” while only 16.3% of White male elementary school students were evaluated as “Multiple Years Below Grade Level.”¹⁴
- When it came to the percent of 8th grade students who were ready for high school, four out of five students or 80.9% of African American boys were assessed as not ready, while 47.7% of White males were assessed as not ready.¹⁵

⁸ Alameda County Public Health Department (ACPHD) (2013). How Place, Racism and Poverty Matters for Health in Alameda County [PowerPoint slides]. Retrieved from <https://acphd-web-media.s3-us-west-2.amazonaws.com/media/data-reports/social-health-equity/docs/health-and-social-inequities-in-ac-presentation.pptx>

⁹ <https://tinyurl.com/BlackReaders>

¹⁰ <https://tinyurl.com/LatinoReaders>

¹¹ <https://tinyurl.com/WhiteReaders>

¹² Oakland Unified School District Data Dashboard, SBAC Comparisons by Student Groups: Ethnicity, Academic Year: 2018-19, Grade Levels: Grades 3-5, Selected Test Subject: SBAC ELA, View by Overall or Claim: Overall, Select Claims: ELA/Literacy, View by Network/School: District, Select Network/School: All Schools, View By Grade Group: All Grades.

¹³ OUSD Public Reports: <http://www.ousddata.org/public-dashboards.html>, 2018-19

¹⁴ Oakland Unified School District Data Dashboard, Reading Inventory (SRI) by Student Groups, 2019-20

¹⁵ OUSD Public Reports: <http://www.ousddata.org/public-dashboards.html>, 2018-19

This situation is harmful to the public by undermining students' future educational and career opportunities. Additionally, it is more costly to address literacy challenges in the later stages of a child's education, through referral to special education. Therefore, it is fiscally prudent to invest in establishing strong literacy skills early in a child's education. Research highlights the importance of early reading interventions from transitional kindergarten through second grade as a critical ingredient for long-term college and career readiness. Otherwise, the Matthew Effect takes hold and literacy disparities increase over time. In the words of researcher Keith Stanovich, who wrote about the Matthew Effect, "Slow reading acquisition has cognitive, behavioral, and motivational consequences that slow the development of other cognitive skills and inhibit performance on many academic tasks."¹⁶

Districts throughout the country have proven that implementing the recommended changes enumerated within this petition have improved student achievement across all subgroups. Education Trust featured these districts in its series titled "Extraordinary Districts." When three elementary schools in Jefferson County, Georgia with historically weak student achievement implemented a research-backed literacy curriculum through a Georgia Striving Readers grant, the results were immediate. Looking at the performance of fourth grade classes at the participating schools, at the end of the first year Jefferson ranked 1st of 14 counties in fluency growth and 1st of 14 counties for comprehension growth. The next year, as more counties participated, Jefferson fourth graders ranked 1st of 15 in fluency growth and 1st of 20 in comprehension.¹⁷

Similar to schools in Jefferson County, Seaford School District serves high-poverty communities and ranked last ranked last in English Language Arts according to assessments by the Delaware Department of Education¹⁸. That was until they implemented a structured literacy curriculum. Now, just five years after implementing research-based strategies as part of their new curriculum, Seaford now outperforms the state average in reading and writing.¹⁹

Petitioners have engaged with experts around the country²⁰ who are directly involved in system-level improvement and have determined that such pathways for change are readily available to OUSD to improve student literacy scores.

Related to how Oakland Unified has not sufficiently supported its students with regard to literacy, the California Department of Education states, "One of the greatest contributing factors to lower achievement scores in reading is the lack of early and accurate identification of students with dyslexia."²¹ Unlike the Los Angeles or Palo Alto Unified School Districts, Oakland Unified neither screens its students nor trains its general education staff to identify and support students showing signs of dyslexia.²² The petitioners have passed a statewide resolution on dyslexia and provided concrete examples of next steps that OUSD can take to address this problem.²³ Families with resources are able to bridge this gap with private screening and support, further exacerbating disparities among students.

¹⁶ Stanovich, Keith E. "Matthew Effects in Reading: Some Consequences of Individual Differences in the Acquisition of Literacy." *The Journal of Education*, vol. 189, no. 1/2, Theory, Research, Reflection on Teaching and Learning (2008/2009), pp. 23-55 (33 pages). Sage Publications, Inc.: <https://www.jstor.org/stable/42748659>

¹⁷ [Data Shows Student Growth \(edreports.org\)](https://edreports.org)

¹⁸ <https://www.delawareonline.com/story/news/education/2018/08/06/delaware-test-scores-education-laurel/875778002/>

¹⁹ [Learning to be 'Bookworms' | UDaily \(udel.edu\)](https://www.udel.edu)

²⁰ [Fearless Conversations Summit \(campaign-archive.com\)](https://campaign-archive.com)

²¹ California Dyslexia Guidelines, Special Education Division of the California Department of Education (CDE), (2017, last modified December 2018). Edited by John McLean. <https://www.cde.ca.gov/sp/se/ac/documents/cadyslexiaguidelines.pdf>

²² CA School Districts Lag on Dyslexia, Hurting Low-Income Kids of Color Most, Lee Romney, 6/16/20. <https://www.kalw.org/post/ca-school-districts-lag-dyslexia-hurting-low-income-kids-color-most#stream/0>

²³ [Resolution.pdf \(myftpupload.com\)](https://myftpupload.com)

Finally, low literacy scores deprive students of future opportunities. This is borne primarily by non-White students and impacts public safety, as well as correlates to increased incarceration rates, underscored by the following statistics:²⁴

- A longitudinal study of four thousand children has shown that those who cannot read on level by third grade are four times more likely to drop out of high school. Those unable to master even basic reading skills by third grade are six times more likely to drop out.²⁵
- The incidence of institutionalization (incarceration) among high school dropouts is more than 63 times higher than among four year college graduates.²⁶
- Among incarcerated juveniles, more than half have reading skills that are below grade level²⁷

PETITIONERS

The NAACP is a non-profit organization that is dedicated to secure the political, educational, social, and economic equality of rights in order to eliminate race-based discrimination and ensure the health and well-being of all persons. To this end, the NAACP is active in researching and outreach to promote literacy best practices throughout Oakland. **The organization's Oakland Branch has identified literacy as a priority and hereby petitions the Oakland School Board.**

AUTHORITY

The right to petition administrative bodies is contained in the California Constitution, Article 1, Section 3 and California Government Codes 11340.6 and 11340.7 which provide that any interested person may petition a state agency requesting the adoption, amendment, or repeal of a rule or regulation. In support of this, the Administrative Procedure Act (APA), enacted in 1946, provides a petition mechanism for an individual or stakeholder to call on an administrative body or agency to take action, "Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule" (5 U.S.C. §553(e)).

The APA requires that administrative bodies respond to petitions in a timely manner. Specifically, Section 555(b) states that "with due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it."²⁸ This provision has generally been interpreted to apply to a number of potential matters brought to an administrative body, including administrative petitions such as this, "Citing various combinations of §§ 553(e), 555(b), and 555(e), courts have repeatedly found that agencies must at least 'respond' to petitions."²⁹

Whereas the Oakland Unified School District Board of Education states that it exists under and derives its powers and duties from the Constitution of the United States, Constitution of the State of California, Charter of the City of Oakland and acts of the Congress of the United States,³⁰ this administrative petition is also

²⁴ Literacy Mid-South: <http://www.literacymidsouth.org/news/the-relationship-between-incarceration-and-low-literacy/>

²⁵ Hernandez, D. (2011). Double Jeopardy: How Third-Grade Reading Skills and Poverty Influence High School Graduation. New York: The Annie E. Casey Foundation.

²⁶ Sum, A. e. (2009). The Consequences of Dropping Out of High School. Boston: Center for Labor Market Studies, Northeastern University. <https://repository.library.northeastern.edu/files/neu:376322>

²⁷ Center, T. C. (2015). Locked Out: Improving Educational and Vocational Outcomes for Incarcerated Youth. New York: The Council of State Governments Justice Center.

²⁸ 5 U.S.C. §555(b).

²⁹ Schwartz and Revesz, Petitions for Rulemaking, p. 12.

³⁰ Oakland Unified School District, Board Bylaw, BB 9000 <https://boepublic.ousd.org/Policies.aspx>

filed under Section 3 of the California Constitution and the 1st Amendment to the U.S. Constitution, both of which give the public the right to petition the government for the redress of grievances.

RELIEF REQUESTED

Petitioners request that the Oakland Unified School District Board of Education take the following actions in order to address the issues highlighted in Statement of Facts:

1. Adopt the following as a district Administrative Regulation covering reading and literacy:

“The district's selection and support of reading curriculum shall incorporate, at a minimum, the following elements:

- A. Background Information: An assessment of the state of the District's reading, in terms of student learning and professional development, based on the current curriculum options being offered, including:
 - i. Descriptions of current curriculum offered at the district level
 - ii. Data and assessments on the student efficacy, educator feedback and time needed to effectively learn the current curriculum offerings
 - iii. Overview of professional development opportunities that are available to educators vis-a-vis the current curriculum offerings
 - iv. Description of the relevant research behind the strategies and/or methods in the curriculum and how the research supports the curriculum's curricular and professional development goals

- B. Curriculum Selection: In selecting a curriculum, the selection committee and district leadership (staff and board) must consider the following evaluation criteria:
 - i. Inclusion, for kindergarten through third grade, of explicit instruction for phonemic awareness, phonics, fluency, vocabulary and comprehension
 - ii. Verifiable evidence of student improvement at districts with similar student demographics and test results similar to the Oakland Unified School District. Specifically, any curriculum must have verifiable evidence of being used to promote improvement in reading of African-American, Latino, Language learners, and students with Free and Reduced Lunch designations. Each of these groups constitutes more than 20% of the district's student population and has struggled with reading.³¹
 - iii. Credible evidence of teacher usability, with a learning curve which is not prohibitive within the most challenging school contexts
 - iv. Planning and preparation requirements that fall within the parameters of the teachers' contract
 - v. A core reading curriculum that is consistent with the research consensus on effective reading instruction as documented by the American Federation of Teachers³²
 - vi. Instructional materials aligned with research, such that teachers have access to core reading instructional materials aligned with the research consensus, which include texts with which students can practice their skills *and* rich children's literature, as well as informational texts through which students' vocabulary, background knowledge and interest will be enhanced
 - vii. Appropriate reading assessment tools for educators to:
 1. Identify children at risk of reading failure

³¹ [Workbook: Enrollment \(ousd.org\)](https://www.ousd.org/Workbook/Enrollment)

³² [Effective Reading Programs | American Federation of Teachers \(aft.org\)](https://www.aft.org/effective-reading-programs)

2. Provide periodic progress monitoring to ensure that instruction is appropriate and students are on track
 3. Offer diagnostic assessments to identify students' special needs
 4. Inform instruction, small-group placement, intervention and referral for special services
- viii. Any curriculum selected for Oakland's students must either currently be considered culturally competent by national experts **and** local stakeholders (not more than nine individuals, identified by the superintendent to represent the diversity of the community and which must include a representative of OEA) or must agree to partner with these local stakeholders to ensure materials sufficiently reflect the diversity of Oakland's students by the beginning of the 2023 school year
- ix. A plan for curriculum modification (viii) must be funded. OUSD must have a plan to support the acquisition of updated materials either by ensuring the curriculum is cost-effective to the degree that additional materials expense can be projected into the original cost and considered while evaluation and piloting occurs, or, additional resources can be secured and set aside to mitigate the additional expense of updated materials and training
- C. High-quality professional development: The district and its schools must ensure that staff have ongoing:
- i. Opportunities for high-quality professional development in early reading instruction
 - ii. Development opportunities to identify and support students with dyslexia
 - iii. Access to the full sequence of trainings needed to implement specific curriculum
 - iv. Access to the full sequence of trainings for healthy classroom management
- D. Student Interventions: The district must create a committee of stakeholders, including administrators, teachers, staff and community members to review the efficacy of:
- i. District-wide reading intervention (tier2) for students reading below grade level. must provide appropriate, timely, intensive and systematic intervention for such students. This plan must be supported at the district level so as to not adversely affect school budgets
- E. Monitoring and Evaluation of Curricular Efficacy: An evaluation process that enables the district and schools to monitor progress toward the specific goals and mid-course corrections in response to new developments and opportunities as they arise, including:
- i. The process for evaluating the curriculum's overall progress and impact on teaching and learning
 - ii. The schedule for evaluating the effect of curriculum implementation and a description of the process and frequency of communicating evaluation results to the public
 - iii. Creation of district-wide committee that monitors all students receiving Tier 2 reading intervention and tracks the support they are receiving, the effectiveness of those supports, as well as identifies trends in data (e.g. demographics, schools, etc), identifies **tier 2 interventions such as Read-in-40 (proven to with African-American and all student subgroups, including students with dyslexia) that should be piloted³³**, and provides regular updates on options for students and teachers through recommendations to the Superintendent or the individual serving in a cabinet-level role responsible for elementary students (2)
 - iv. Ongoing Partnership with OEA to receive feedback on implementation, support, and teacher response. *Ideally*, to promote confidence and support buy-in of monitoring

³³ <https://tinyurl.com/Readin40>

and evaluation of curriculum effectiveness, OEA would receive support to fund a staff position that supports implementation and communication.

2. Create a cabinet-level position to address literacy for students from transitional kindergarten through fifth grade, which reports directly to the Superintendent. The interview board for hiring the position should include the petitioner and other stakeholders as determined by the Superintendent. All members of the interview board shall have equal voting rights.
3. Create guidelines for OUSD's human resources department to recruit and prioritize hiring new transitional kindergarten through 5th grade educators trained by credentialing programs that teach and cultivate proficiency in evidence-based reading methodologies and the Science of Reading.
4. In furtherance of the district's *BP 6142.91: Reading/Language Arts Instruction*, provide instructional staff, including teachers, principals, coaches, and paraprofessionals, ongoing access to Orton Gillingham training (or similar), in order to learn how to educate with consideration for the neurodiversity of the district's students.
5. Create, publish, and distribute a skill-based scope and sequence for Language Arts for transitional kindergarten through fifth grade which clarifies timing and intervention sequence, and allows for academic freedom to reach learning targets.
6. Allocate additional resources in support of the district's citywide literacy campaign, with a focus on resources supporting students reading below grade level.
7. Implement universal screening of students, in kindergarten through second grade, for dyslexia.

CONCLUSION

In view of the seriousness of the present problem, petitioners urge that the Oakland Unified School District Board of Education immediately take the actions set forth in this petition.

To address the harm done to youth and the general public, it is incumbent upon the OUSD Board to invest significantly in literacy and ensure that any curricular adoptions and plans align with the research and scientific consensus. Further, curricular choices must align with labor contracts. If OUSD adopts a curriculum that has a planning threshold above and beyond what is contracted with teachers, it can be presumed that full implementation is not sought, nor are the academic benefits of full implementation a consideration of the adoption rationale. The two, educator contracts and planning requirements of evidence-based curriculum, are part and parcel of students' access to quality literacy instruction.

DATED: 1/26/2021.

Respectfully submitted,

National Association for the
Advancement of Colored People (NAACP)

By: *Cynthia Adams*
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