

Cultivating Motherwork: Gender, Race, and Rights in Special Education Advocacy

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ABSTRACT: The Individuals with Disabilities Education Act, a landmark civil rights statute, bestows extensive rights to parents to protect their children against educational discrimination based on disability. Interpretations of the federal statute by lawmakers and courts suggest that all parents can use those rights to protect children living with disabilities equally. While previous literature has established that class affects a parent's ability to advocate, few have looked at the Black parental experiences across the class spectrum, with very little attention paid to Black class-privileged parents. This is surprising; the sociological and legal literature suggests that class-privileged parents have all the resources—economic, social, and cultural capital—to actively “cultivate” their children as they move into adulthood.

But class-privileged Black children with disabilities in predominantly White schools are still, after fifty years, being miseducated through disparities in diagnosis, inappropriate placements, and harsh discipline. Black class-privileged parents have turned to a crop of professional Black mothers working as non-attorneys with children in special education who have translated their experience advocating for their own child into businesses. I conceptualize their advocacy work through the frame of what I term “cultivating motherwork.” “Cultivating” draws on the sociological literature that recognizes a parenting style that works to actively mold children into adulthood. In special education law, cultivation is the goal; an individually tailored education program that follows a child from elementary education through the transition to adulthood. “Motherwork,” a lens developed by Black feminists to describe the ways in which Black women have always been both workers and mothers, recognizes the connection between raising a Black child and Black people as a group. Black motherworkers

* Professor of Law, UCLA School of Law. Thank you to Yvette Borjas, Guy-Uriel Charles, Osamudia James, Jamelia Morgan, and Lindsay Wiley for helpful comments. Thank you to LaMecia Ross for excellent research assistance. Many thanks also to the wonderful editors at the *Iowa Law Review*. This article is not possible without the extraordinary work of Madeline (Maddie) Bello, UCLA School of Law Class of 2026. Thank you, Maddie, for all your work these past two years. I truly cannot thank you enough and I am so excited to watch your legal career take off! Thank you to the *motherworkers* who took time from your busy schedules to share your experience with me. And thank you to my children, Ahmir, Amina, and Ahmad, for whom my experiences parenting has brought me to my own *motherwork*. Any and all mistakes are mine.

advocate for Black children within a structure where Black children's flourishing is inextricably connected to anti-Blackness. Black motherworkers understand and navigate the dialectic connection between race and disability and engage in racialized and gendered identity work needed to overcome stereotypes that may affect their advocacy effectiveness.

Through the frame of motherwork, this Article turns a critical race eye on the ability of rights rhetoric to secure needed resources that are available under the special education civil rights framework. Motherworkers must navigate race-based gaps in parent-school trust, often through deploying rights and class-based professional expertise in situations that swing between formality and informality. This Article contributes to broader discussions about formal equality in civil rights enforcement and the unique interaction between race, gender, and rights in legal educational advocacy.

PROLOGUE.....	1904
INTRODUCTION	1905
I. CULTIVATING WHILE BLACK: MOTHERWORK.....	1912
II. THE IDEA OF PARENTAL RIGHTS.....	1919
III. MOTHERWORKING CIVIL RIGHTS.....	1925
A. TRUST AND DISTRUST.....	1927
B. FORMALITY AND INFORMALITY	1930
C. RIGHTS AND NEEDS	1933
IV. MOTHERWORK IN SPECIAL EDUCATION.....	1937
A. MOTHERS @ WORK	1937
B. RESISTING RACIALIZED ABLEISM.....	1940
C. WORKING IDENTITY.....	1946
V. CONSIDERING MOTHERWORK.....	1952
CONCLUSION	1954
EPILOGUE	1954

PROLOGUE

In the Garden of Many Trees, a young oak grew. With his rich dark bark, Young Oak differed from the other young trees, mostly aspen, birch, poplar, and sycamore, trees with white barks all year round. While these other young trees grew as the white-tree gardeners expected—orderly, tall, and straight, less challenging for the gardeners tasked with their

care to cultivate—Young Oak’s branches playfully bent and danced, resisting the exasperated gardeners’ efforts to tame them. The young oak’s branches were beautiful in their chaos, creating intricate patterns in the sky and soft murmurs of rustling leaves, but they were also stubbornly unruly.

The gardeners called in Mother Oak for an emergency meeting. They berated the Mother Oak for her failure to control Young Oak. They called his difficulties “twisted roots,” a diagnosis that relegated most young oaks to the edges of the garden, far away from other young trees. They held meetings where Mother Oak just cried, unable to keep up with the names and people, unsure if her words were even being considered.

Mother Oak consulted an Oak Whisperer, another wise Mother Oak, who’d been through this before. The Oak Whisperer arrived at the Garden of Many Trees with purpose, carrying years of experience of her own battles. She too had once been a mother oak to her own young oak, had battled the same gardeners, had struggled with the same diagnoses. But also, had won.

The Oak Whisperer comforted Mother Oak, and convinced the mother to allow the expert to take over.

INTRODUCTION

On January 20, 2020, nine Black mothers (and one Black father) gathered for a virtual discussion about special education advocacy. These parents populating the ethereal space of the Zoom room were middle-class professionals: nurses, counselors, and special education advocates. Some of them led organizations dedicated to helping Black parents navigate special education. Some of them had been parenting within the confines of special education for years.

The title of the discussion was, “Tactics Used by Schools to Retaliate Against Black Parents Who Advocate for Special Education.”¹ The specificity of the title was striking. “Tactics” suggested intentionality and strategy. “Retaliate Against” suggested a reaction and a desire for revenge. “Advocate” suggested zealousness. And perhaps most importantly, “Black” indicated that these tactics were perceived to be intimately connected to race.

The moms discussed how they felt an additional burden as Black mothers to secure the law’s entitlement to education for their children with disabilities. They told narratives of David and Goliath, battling against a foe that is powerful, strategic, reactionary, and systemically racist. These moms shared confessional stories of general and specific battle fatigue, sharing their

1. Lisa Lightner, *Tactics Used by Schools to Retaliate Against Black Parents Who Advocate for Special Education*, YOUTUBE (July 30, 2020), <https://www.youtube.com/watch?v=r5Ik81pJeXs> [<https://perma.cc/97WJ-6GAH>].

experiences not only as parents of a child with a disability but as Black mothers parenting Black children in the painful context of anti-Blackness.

* * *

Although Black children nominally won the right to be educated equally to White² children in 1954,³ it would be another twenty years before schools openly greeted children with disabilities. In 1975, a landmark disability civil rights statute, the Education for All Handicapped Children—now the Individuals with Disabilities Education Act (“IDEA”)—formally welcomed millions of children into public schools who were otherwise deemed incompatible with general education.⁴ In this era of the mid-1970s, and on the coattails of the legal developments of the Civil Rights Movement for Black lives,⁵ the law for this disfavored minority of children promised an education and integration with non-disabled students.⁶ The IDEA was passed in the aftermath of state litigation brought by parents, and parents insisted upon legal tools they could wield to protect their and their children’s rights.⁷

Special education law, through its myriad of statutes, doctrines, rules, and interpretations, projects parental rights as the anti-ableist shield to protect their children with disabilities from discrimination by public schools.⁸ Who the law claims to protect, which rights it grants, the substance of those rights, and the enforcement of those rights are interactions that form the basis for the “parental rights” as discrimination shield narrative. “Parent” and “child” are unraced, unclassed, and ungendered. Parental rights implicitly assume a White

2. For why I capitalize “White” when referring to the racial category, see LaToya Baldwin Clark, *Stealing Education*, 68 UCLA L. REV. 566, 568 n.1 (2021) (“I believe that capitalizing ‘Black,’ . . . without also capitalizing ‘White’ normalizes Whiteness, while the proper noun usage of the word forces an understanding of ‘White’ as a social and political construct and social identity in line with the social and political construct and social identity of ‘Black.’”).

3. *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954) (“Such an opportunity [to receive an education], where the state has undertaken to provide it, is a right that must be made available to all on equal terms.”).

4. Education for All Handicapped Children Act of 1975, Pub. L. No. 94-142, 89 Stat. 773.

5. See, e.g., Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241; Civil Rights Act of 1968, Pub. L. No. 90-284, 82 Stat. 73; Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437; Fair Housing Act, 42 U.S.C. §§ 3361–3601 (2018).

6. 34 C.F.R. § 300.114(a)(2)(i) (2025) (defining “least restrictive environment” as “[t]o the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled”).

7. See, e.g., *Pa. Ass’n for Retarded Child v. Pennsylvania*, 343 F. Supp. 279, 302–03 (E.D. Pa. 1972) (consent decree establishing that children with intellectual disabilities could not be excluded and laying groundwork for due process/individualized education plan (“IEP”) concepts); *Mills v. Bd. of Educ.*, 348 F. Supp. 866, 876 (D.D.C. 1972) (holding that no child may be denied a public education for disability and rejecting “insufficient funds” as a defense).

8. See Jerome McCristal Culp, Jr., Response, *Telling a Black Legal Story: Privilege, Authenticity, “Blunders,” and Transformation in Outsider Narratives*, 82 VA. L. REV. 69, 73 (1996) (arguing that the point of narrative in critical race legal scholarship is to “educate with our stories and to alter the status quo”).

middle-class baseline under which all parents share the same experience of rights. The law largely relegates non-White middle-class families to the margins. This Article presents an effort to move a parent's race, class, and gender from the footnotes to the main text.

Federal law requires schools to serve and educate children from three to twenty-one years old under thirteen disability categories.⁹ The IDEA guarantees these children with disabilities a "free appropriate public education" ("FAPE").¹⁰ FAPE's foundation is the Individualized Education Plan ("IEP"), a document crafted by educators, education professionals, and parents that is tailored to a child's unique needs.¹¹ The team meets to develop the IEP collaboratively, consulting psychological, educational, and behavioral assessments as data¹² encapsulated in standard bell curves to identify a child's needs and set goals. Parents monitor the IEP implementation with regular progress reports and can convene an IEP meeting anytime to discuss matters requiring the entire team's contributions.¹³ If a parent chooses to legally object to the IEP or force implementation through the statute's due process mechanisms, parents can also have legal representation, and courts may require schools to reimburse legal fees if the parent prevails.¹⁴ Parents deploy rights and work with schools to cultivate the child in the context of the substantive guarantee of FAPE. To grow in special education, children depend on their parents' rights to realize their own.

But not all children are being equally protected. Congress recognized (and continues to acknowledge in subsequent reauthorizations) the subordinating experiences of Black children in special education, especially in predominantly White schools.¹⁵ The statute recognizes that significantly disproportionate representation—too many Black students receiving special education services as compared to some population baseline—is problematic. The findings explicitly note that Black children are overrepresented in the most stigmatizing categories of "intellectual disabilit[y] and emotional

9. 34 C.F.R. § 300.101(a) ("A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in § 300.530(d).").

10. 20 U.S.C. § 1400(d)(1)(A) ("The purposes of this chapter are to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.").

11. *Id.* § 1414(d)(1)(A)(i) (defining the "individualized education program" or "IEP"); *id.* § 1414(d)(1)(B) (defining the required composition of the "individualized education program team").

12. *See id.* § 1414 (establishing requirements for the "[e]valuations, eligibility determinations, individualized education programs, and educational placements").

13. Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, 71 Fed. Reg. 46540, 46676 (Aug. 14, 2006) ("The parent can request an additional IEP Team meeting at any time . . .").

14. 20 U.S.C. § 1415(i)(3)(B) (describing a court's authority to "[a]ward . . . attorneys' fees").

15. *Id.* § 1400(c)(12)(A)–(E).

disturbance.”¹⁶ Crucially, the statute noted that these are acute problems in predominantly White schools where Black children are a distinct minority.¹⁷ It is in these schools that the subordinating of disparate treatment is felt most acutely.

In a previous paper, I argued that special education resources come to be unequally distributed because parents, in their advocacy role, enter the bargaining process with unequal levels of economic security, advocacy skills, and dispositions.¹⁸ I argued that the law fails to account for race and class differential access to important “capitals” a parent needs to mobilize to advocate effectively.¹⁹ Access to money (economic capital) and networks (social capital), as well as knowing “the rules of the game” (cultural capital), makes it easier for White middle-class parents to navigate the morass of special education law and get the resources and services they desire for their child.²⁰ Although I did not specifically focus on Black class-privileged parents, arguably, middle-class Black parents should have many of these same resources and should be able to advocate as effectively as a White middle-class parent.²¹ But the disproportionate representation of Black children and overall negative experiences in special education suggest that having these capitals is necessary but insufficient, or that another force is at play.²²

Race, class, gender, and disability collide in special education in ways that uniquely position the class-privileged Black parent, specifically a mother, who nevertheless lives under the subordinating pressures of race. The general experience of Black children in special education, general education, and overall society differently positions class-privileged Black parents as advocates. Their experience of intersectional oppression of gender, race, and association with disability—together with class privilege—shapes their understanding of advocacy and the entitlement guaranteed to their children.

In part to aid class-privileged Black parents, an industry of non-attorney parent advocacy businesses run by Black mothers has emerged over the last ten years or so. These paid mother-advocates fill the gap left by a dearth of affordable special education legal advocacy. Most special education lawyers require a hefty retainer and moderate their fees depending on whether a parent succeeds in a due process complaint, which by law is reimbursed by

16. *Id.* § 1400(c)(12)(C) (“African-American children are identified as having intellectual disabilities and emotional disturbance at rates greater than their White counterparts.”).

17. *Id.* § 1400(c)(12)(E) (“Studies have found that schools with predominately White students and teachers have placed disproportionately high numbers of their minority students into special education.”).

18. See generally LaToya Baldwin Clark, *Beyond Bias: Cultural Capital in Anti-Discrimination Law*, 53 HARV. C.R.-C.L. L. REV. 381 (2018).

19. *Id.* at 391–92.

20. *Id.* at 386–87, 387 n.30.

21. *Id.* at 415.

22. *Id.* at 431.

school districts. A non-attorney parent advocate can, for a cost that is much lower than an attorney, assist parents in preparing for IEP meetings, contribute to IEP discussions, help parents monitor the IEP implementation, and in some states, represent a family in a due process legal proceeding.²³

In this Article, I conceptualize the work these mother advocates do under Black feminist theorist Patricia Hill Collins's framework of "motherwork." In this Article, *motherwork* describes the distinctive racial motivations, tactics, and practices that define Black mothers' orientation toward educational advocacy.²⁴ It pushes back on some White feminist theorizing about motherhood that separates the world of work from the sphere of the family: These women bridge the two.

Motherworking advocates, given their training and experience as repeat players advocating for children and their families, especially Black families, carry the knowledge of Black children's experience in schools, as well as the racial experience of parenting Black children in a world that is hostile to them. These advocates know that although a non-Black mother may have many reasons to worry about their child with a disability, they need not contend with the racial reality of how education can be a potent space of racial subordination.

Why have Black mothers taken on this cause? Mothers shoulder the work of childcare and rearing, and mothers predominate in educational advocacy in K-12 education.²⁵ Black mothers have also been blamed for the ills of the

23. At present, only Texas, New Jersey, and Virginia permit non-attorney advocacy in special education due process hearings. There is no national uniform regulatory framework or credentialing system in place. Moreover, state statutes and courts may subject non-attorney advocates to the jurisdiction of state bar associations, potentially exposing them to penalties for improper representation, including actions for the unauthorized practice of law. *See, e.g.*, 19 TEX. ADMIN. CODE § 89.1175 (2026) (Representation in Special Education Due Process Hearings); PARENT EDUC. ADVOC. TRAINING CTR., SPECIAL EDUCATION DUE PROCESS HEARING TOOLKIT 3 (2023), <https://peatc.org/wp-content/uploads/2023/06/Due-Process-Toolkit.pdf> [<https://perma.cc/ESK6-UMRg>]; Comm. on the Unauthorized Practice of Law, Op. 57: Non-Lawyer Special Education Advocates and the Unauthorized Practice of Law – Superseding Opinion 56, at 13 (Apr. 9, 2021), <https://www.njcourts.gov/sites/default/files/notices/2021/04/n210414a.pdf> [<https://perma.cc/8HRN-K764>].

24. Patricia Hill Collins, *Shifting the Center: Race, Class, and Feminist Theorizing About Motherhood*, in AMERICAN FAMILIES: A MULTICULTURAL READER 197, 198–99 (Stephanie Coontz, Maya Parson & Gabrielle Raley eds., 1999) [hereinafter Hill Collins, *Shifting the Center*].

25. *See, e.g.*, RACHEL MINKIN & JULIANA HOROWITZ, PEW RSCH. CTR., PARENTING IN AMERICA TODAY 19 (2023), https://www.pewresearch.org/wp-content/uploads/sites/20/2023/01/PS_T_2023.01.24_parenting_REPORT.pdf [<https://perma.cc/E3CS-W6UW>] (describing how a majority of mothers perceive they do more childcare than fathers in a variety of areas, including meeting basic childcare needs and helping with school-related tasks like homework); *see also* SHARON HAYS, THE CULTURAL CONTRADICTIONS OF MOTHERHOOD 54–57 (1996) (arguing that although modern child-rearing manuals “are addressed in egalitarian fashion,” they nonetheless operate on the assumption that child-rearing duties fall primarily on mothers).

Black community, encapsulated in the infamous Moynihan Report,²⁶ decried as an attack on Black women.

This Article proceeds as follows. In Part I, I describe *motherwork* as a theoretical frame by which to understand how these non-attorney parent advocates work on behalf of Black families in special education. *Motherworkers* must simultaneously consider both the specific parent-child client and the racialized space in which she is advocating. For their Black clients, she advocates for the individual needs of the child and family through a deep understanding of the collective experience of anti-Blackness, racial hostility, and the unique experience of being a Black person in a predominantly White space interacting with a law that ignores how race and disability are co-constructed. Her work proceeds from the understanding that her client's experience is intimately intertwined with the general experience of Black people. Their collective experience sits in the forefront of her advocacy.²⁷

In Part II, I describe the legal terrain in which these *motherworkers* advocate: the IDEA's parental rights provisions. This is a legal space in which parents fiercely advocated for strong rights and have more rights than in any other area of education law. Through these rights, this civil rights law imagines children being adequately protected against ableist discrimination. But not all children are equally protected, as the IDEA tackles racial discrimination not through parental rights, but through other mechanisms like monitoring and giving technical assistance to reduce disproportionality. These Black *motherworkers* take a different tack, engaging in direct services that use the law as the IDEA suggests—and their class privilege—to resist not just ableist discrimination, but intersectional discrimination on disability *and* race, as well as intersectional oppressions that accompany being a Black woman.²⁸

These *motherworkers* advocate in spaces that seem to be designed for lawyers deploying rights, despite not being lawyers themselves. Nevertheless, in Part III, I introduce the reader to five *motherworkers*, Black mothers who are non-attorney parent advocates, and show how they deploy parental rights rhetoric strategically to ensure that school districts provide the services and resources they are legally obligated to provide to a child with a disability. In this space, parents and schools often distrust each other in the litigious world of special education. I argue that their work gives new life to a decades-long debate about the efficacy of civil rights to access progressive gains. Although deploying rights

26. DANIEL PATRICK MOYNIHAN, U.S. DEP'T OF LAB., *THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION* 30–34 (1965).

27. Hill Collins, *Shifting the Center*, *supra* note 24, at 199 (“[T]his ‘reproductive labor’ or ‘motherwork’ goes beyond ensuring the survival of one’s own biological children or those of one’s family. This type of motherwork recognizes that individual survival, empowerment, and identity require group survival, empowerment, and identity.”).

28. See Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 139–40.

rhetoric is not their initial default tactic, *motherworkers* will deploy rights talk when trust is low and a child's needs are not being met in the informality of school. If not engaging in rights-talks, these *motherworkers* will deploy their class-based privilege, in the form of professional expertise, to signal their authority to shape a child's situation.

In Part IV, I describe three concrete ways these Black *motherworkers* advocate. First, these mothers translate their experiences into a profitable business that advocates for other Black families. She is a literal mother-worker: Her firsthand experience in mothering a Black child with a disability gives her a unique position from which to advocate broadly. Second, these Black mothers engaging in special education advocacy do so with a deep understanding of the co-constitutive nature of race and disability²⁹ by which school officials in majority White schools may perceive Black children. Given her experience, she knows the lens of negative stereotypes about intelligence and behavior wrought from Black children's subordination.³⁰ Third, in her *motherwork* advocacy, she must "work" her race and gender identity³¹ and that of her clients to effectively advocate by strategically employing credentials and codeswitching while navigating the IEP's formal-informal norms that are laden with cultural norms

29. See Catherine Kramarczuk Voulgarides & Adai Tefera, *Reframing the Racialization of Disabilities in Policy*, 56 THEORY INTO PRAC. 161, 161–62 (2017); David J. Connor, *Who Is Responsible for Racialized Practices Evident Within (Special) Education and What Can Be Done to Change Them?*, 56 THEORY INTO PRAC. 226, 227–29 (2017); Beth Hatt, *Racializing Smartness*, 19 RACE ETHNICITY & EDUC. 1141, 1143–44 (2016); Alfredo J. Artiles, *The Dilemma of Difference: Enriching the Disproportionality Discourse with Theory and Context*, 32 J. SPECIAL EDUC. 32, 32–35 (1998); Alfredo J. Artiles, *Untangling the Racialization of Disabilities: An Intersectionality Critique Across Disability Models*, 10 DU BOIS REV. 329, 329–31 (2013); Amanda L. Sullivan & Alfredo J. Artiles, *Theorizing Racial Inequity in Special Education: Applying Structural Inequity Theory to Disproportionality*, 46 URB. EDUC. 1526, 1527–28 (2011).

30. For an example of racial discrimination in the special education context, see Dear Colleague Letter from Catherine E. Lhamon, Assistant Sec'y for Civ. Rts., Off. for Civ. Rts., U.S. Dep't of Educ. 17–18 (Dec. 12, 2016) [hereinafter Dear Colleague Letter], <https://www.ed.gov/media/document/guidance-prevention-of-racial-discrimination-special-education-112242.pdf> [<https://perma.cc/3ZS5-BG7S>]. An elementary school teacher notices that two students, one White and one Black, both have trouble focusing, staying on task, organizing, and turning in homework on time. *Id.* at 17. "The teacher suspects that the [W]hite student may have attention-deficit/hyperactivity disorder (ADHD), or another disability . . . and refers the student for evaluation." *Id.* However, the Black student exhibiting the same behaviors is not referred for evaluation. *Id.* at 17–18. The teacher believes that the Black student lacks commitment and that "his family does not value education." *Id.* at 18. "The teacher arranges a conference with the parents . . . to discuss how the family can provide additional support . . . and [to stress] the importance of completing . . . assignments and following [directions]." *Id.* The Office for Civil Rights ("OCR") "would find sufficient evidence that the district violated the Section 504 obligation" to have the student evaluated, as well as Title VI of the Civil Rights Act of 1964, for treating similarly situated students differently, "unless there is a legitimate, non-discriminatory reason for doing so." *Id.*

31. Devon W. Carbado & Mitu Gulati, *Working Identity*, 85 CORNELL L. REV. 1259, 1262 (2000) (arguing that "because members of these groups [with lower racial status] are often likely to perceive themselves as subject to negative stereotypes, they are also likely to feel the need . . . to counter those stereotypes").

that posit Black women as angry, aggressive, and incompetent. Part V concludes with thoughts about how to consider *motherwork* in special education advocacy.

I. CULTIVATING WHILE BLACK: *MOTHERWORK*

In the 1970s and 1980s, feminist theorizing about motherhood centered on the White middle class and affluent mother in the nuclear family.³² According to this literature, the threat to women and mothers was the domination of men who economically lead in the world of work and in the home. Work and home, according to these theories, are separate spheres.³³ Feminists of color challenged these assumptions of work/home separation and the source of oppression as solely patriarchy, arguing that these assumptions did not reflect the experiences of mothers with different orientations toward the world of work and the burden of racial subjugation.³⁴ Black mothers have worked outside the

32. For Black feminist critiques of this literature, see PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS AND THE POLITICS OF EMPOWERMENT* 173-74 (2nd ed. 1990). See also DOROTHY ROBERTS, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* 295 (1997) ("[T]he liberal reliance on seemingly neutral principles actually legitimates the interests and experiences of white people. Government neutrality conceals the racist origins of social practices that do not overtly discriminate on the basis of race."); The Combahee River Collective: A Black Feminist Statement (1977), in *CAPITALIST PATRIARCHY AND THE CASE FOR SOCIALIST FEMINISM* 371 (Zillah R. Eisenstein ed., 1979) ("As Black feminists we are made constantly and painfully aware of how little effort white women have made to understand and combat their racism, which requires among other things that they have a more than superficial comprehension of race, color, and Black history and culture."); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, 587-88 (1990) ("Not surprisingly, the story they tell about 'women,' despite its claim to universality, seems to black women to be peculiar to women who are white, straight, and socioeconomically privileged.").

33. See, e.g., Harris, *supra* note 32, at 591-92 (responding to Catharine MacKinnon's "dominance theory"); see also PAULA GIDDINGS, *WHEN AND WHERE I ENTER: THE IMPACT OF BLACK WOMEN ON RACE AND SEX IN AMERICA* 159-70 (1984) (describing divergence between the goals of Black and White women during the women's suffrage movement of the 1910s and 20s). See generally BELL HOOKS, *AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM* 119-58 (1981) (discussing the counter-productive interplay between sexism and racism throughout the history of the women's movement and arguing "[w]omen's liberationists, white and black, will always be at odds with one another as long as our idea of liberation is based on having the power white men have"); ANGELA Y. DAVIS, *WOMEN, RACE & CLASS* 222-44 (1981) (arguing that, unlike White women, housework has never occupied a central role in Black women's lives, leading Black women to carry "the double burden of wage labor and housework").

34. Black feminist theorists have long interrogated these assumptions. See, e.g., HOOKS, *supra* note 33, at 119-58; BELL HOOKS, *FEMINIST THEORY FROM MARGIN TO CENTER* 95-105 (1984); BELL HOOKS, *TALKING BACK: THINKING FEMINIST, THINKING BLACK* 112-13 (1989); DAVIS, *supra* note 33, at 222-44; HILL COLLINS, *supra* note 32, at 115-37; ROBERTS, *supra* note 32, at 8-21; ELIZABETH V. SPELMAN, *IN ESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT* 3 (1988); GLORIA I. JOSEPH & JILL LEWIS, *COMMON DIFFERENCES: CONFLICTS IN BLACK AND WHITE FEMINIST PERSPECTIVES* 75-126 (1981); Hortense J. Spillers, *Mama's Baby, Papa's Maybe: An American Grammar Book*, 17 *DIACRITICS* 65, 79-80 (1987); Hazel V. Carby, *White Woman Listen! Black Feminism and the Boundaries of Sisterhood*, in *THE EMPIRE STRIKES BACK: RACE AND RACISM IN 70s BRITAIN* 212, 213 (1982) (arguing "most contemporary feminist theory does not begin to adequately account for the experience of black women"); Harris, *supra* note 32, at 585-89; Crenshaw, *supra* note 28, at 150-52; Address by Sojourner Truth (1851), *reprinted in BLACK WOMEN IN NINETEENTH-*

home longer than White women and engaged in self-sustaining economic participation. Black women experience *racialized* gender oppression—“[p]atriarchy does not treat Black and white motherhood identically. In America, the image of the Black mother has always diverged from, and often contradicted, the image of the white mother.”³⁵

“*Motherwork*,” as characterized by Patricia Hill Collins, insists that the experience of motherhood requires understanding the social context in which she is mothering³⁶—“[m]ost white mothers do not know the pain of raising Black children in a racist society.”³⁷ Dorothy Roberts describes this pain:

It is impossible to explain the depth of sorrow felt at the moment a mother realizes she birthed her precious brown baby into a society that regards her child as just another unwanted Black charge. Black mothers must bear the incredible task of guarding their children’s identity against innumerable messages that brand them as less than human.³⁸

Black mothers support their families and children in the context of active attempts to undermine all aspects of Black family life.³⁹ For the Black mother, mothering understands that her child’s survival requires the group’s survival.⁴⁰

A *motherwork* frame encourages us to examine Black mothers’ specific experiences in Black motherhood and mothering that is firmly rooted in concern for her child in the context of community-level anti-Blackness.⁴¹ First, Black mothers work to ensure the physical survival of their children in a world where their lives do not matter.⁴² For example, and in case one needs to be reminded, Black children are more likely than non-Black children to die after

CENTURY AMERICAN LIFE: THEIR WORDS THEIR THOUGHTS THEIR FEELINGS 234, 235–36 (Bert James Loewenberg & Ruth Bogin eds., 1976).

35. Dorothy E. Roberts, *Racism and Patriarchy in the Meaning of Motherhood*, 1 AM. U. J. GENDER & L. 1, 6 (1993).

36. Hill Collins, *Shifting the Center*, *supra* note 24, 212–13; *see also* Chasity Bailey-Fakhoury, *Navigating, Negotiating, and Advocating: Black Mothers, Their Young Daughters, and White Schools*, 18 MICH. FAM. REV. 57, 62 (2014) (“Motherwork is the ‘reproductive labor’ that women of color engage in to ensure the survival of family, community, and self.”).

37. Roberts, *supra* note 35, at 4.

38. *Id.* at 4–5.

39. Hill Collins, *Shifting the Center*, *supra* note 24, at 198–99.

40. *Id.* at 199.

41. *Id.* at 198.

42. *Id.* at 201 (“Physical survival is assumed for children who are white and middle-class. The choice to thus examine their psychic and emotional well-being and that of their mothers appears rational. The children of women of color, many of whom are ‘physically starving,’ have no such choices however. Racial ethnic children’s lives have long been held in low regard[. . .].”).

birth.⁴³ Black children are the most likely group of children to be killed by the police, six times more likely than White children.⁴⁴

Motherwork for “the mother-child unit closely ties the mothering experiences to wider political and economic issues.”⁴⁵ Black mothers are tasked with the great responsibility to “save the race” by cultivating her Black children, even as they have been demonized as are the figureheads of Black community pathology.⁴⁶ Black mothers have long been denied the legitimacy of the statute of “mother” given to the White mother; enslaved Black women had no right to the protective role of mother, as their children could be bought and sold or traded.⁴⁷ The current family policing system does the same work of devaluing Black motherhood. As Professor Dorothy Roberts has convincingly shown, the state uses the power to separate as a mechanism of racial domination,⁴⁸

43. Heather H. Burris & Michele R. Hacker, *Birth Outcome Racial Disparities: A Result of Intersecting Social and Environmental Factors*, 41 SEMINARS IN PERINATOLOGY 360, 361 tbl. (2017).

44. See *Black Children Are Six Times More Likely to Be Shot to Death by Police*, EQUAL JUST. INITIATIVE (Dec. 2, 2020), <https://ejii.org/news/black-children-are-six-times-more-likely-to-be-shot-to-death-by-police> [https://perma.cc/CBJ6-85UY]. Latine students were three times as likely to be killed by the police compared to White children. *Id.*

45. Hill Collins, *Shifting the Center*, *supra* note 24, at 202.

46. See LaToya Baldwin Clark, *Family | Home | School*, 117 NW. U. L. REV. 1, 27–28 (2022) (discussing excerpts from MOYNIHAN, *supra* note 26).

47. See Spillers, *supra* note 34, at 78.

48. See DOROTHY ROBERTS, SHATTERED BONDS: THE COLOR OF CHILD WELFARE 7–10 (2002); DOROTHY ROBERTS, TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD 1–5 (2022); Dorothy Roberts, *The Failure of Dobbs: The Entanglement of Abortion Bans, Criminalized Pregnancies, and Forced Family Separation*, in *ROE V. DOBBS: THE PAST, PRESENT, AND FUTURE OF A CONSTITUTIONAL RIGHT TO ABORTION* 175, 177–83 (Lee C. Bollinger & Geoffrey R. Stone eds., 2024); Joyce McMillan & Dorothy Roberts, *Social Work and Family Policing: A Conversation Between Joyce McMillan and Dorothy Roberts*, in *ABOLITION AND SOCIAL WORK: POSSIBILITIES, PARADOXES, AND THE PRACTICE OF COMMUNITY CARE* 116, 116–25 (Mimi E. Kim, Cameron W. Rasmussen & Durrell M. Washington Sr. eds., 2024); Dorothy Roberts, *The Community Impact of Racial Disproportionality: The Racial Geography of Child Welfare*, in 11 *RACIAL DISPROPORTIONALITY AND DISPARITIES IN THE CHILD WELFARE SYSTEM* 235, 235–36 (Alan J. Dettlaff ed., 2021); Dorothy Roberts, *Family Policing as Counterinsurgency and the Gathering Abolitionist Force*, 74 AM. Q. 221, 221–22 (2022); Dorothy Roberts, *The Racial Geography of Child Welfare: Toward a New Research Paradigm*, 87 CHILD WELFARE 125, 138 (2008); Dorothy Roberts & Lisa Sangoi, *Black Families Matter: How the Child Welfare System Punishes Poor Families of Color*, APPEAL (Mar. 26, 2018), <https://theappeal.org/black-families-matter-how-the-child-welfare-system-punishes-poor-families-of-color-33ad20e2882e> [https://perma.cc/M958-SE47]; Dorothy Roberts, *Prison, Foster Care, and the Systemic Punishment of Black Mothers*, 59 UCLA L. REV. 1474, 1481–84 (2012); Dorothy Roberts, *The US Welfare State's Punishment of Black Women's Childbearing and Care Giving*, in *RACE, ETHNICITY AND WELFARE STATES: AN AMERICAN DILEMMA?* 72, 74–78 (Pauli Kettunen, Sonya Michel & Klaus Petersen eds., 2015); Dorothy Roberts, *The Regulation of Black Families*, REGUL. REV. (Apr. 20, 2022), <https://www.theregreview.org/2022/04/20/roberts-regulation-of-black-families> [https://perma.cc/DP8T-Y2WQ].

affecting not only that family but also inflicting terror on the entire community.⁴⁹ Education itself can be structurally violent toward Black families.⁵⁰

Motherwork requires efforts to shield Black children against “the pervasive efforts by the dominant group to control [Black] . . . children’s minds.”⁵¹ Black mothers navigate predominantly White schools as key institutions in which racial power operates.⁵² Black children face anti-Blackness across multiple areas of schooling, including curricula,⁵³ course tracking,⁵⁴ and disciplinary practices.⁵⁵ Data also show that Black children are disproportionately

49. Hill Collins, *Shifting the Center*, *supra* note 24, at 205 (“Physical and/or psychological separation of mothers and children, designed to disempower individuals, forms the basis of a systematic effort to disempower racial ethnic communities.”); Margaret M. C. Thomas, Jane Waldfogel & Ovíta F. Williams, *Inequities in Child Protective Services Contact Between Black and White Children*, 28 CHILD MALTREATMENT 42, 43 (2023) (“National estimates suggest that 53% of Black children will experience CPS contact by age 18, as compared to 28% of White children.”).

50. See LaToya Baldwin Clark, *Barbed Wire Fences: The Structural Violence of Education Law*, 89 U. CHI. L. REV. 499, 502–03 (2022).

51. Hill Collins, *Shifting the Center*, *supra* note 24, at 206. Sociologists have documented how Black parents explicitly teach their children about how the world views them while also instilling a strong sense of one’s racial self. See *id.* at 208 (describing racial socialization that “foster[s] a meaningful racial identity in children within a society that denigrates people of color”); see also JESSIE BERNARD, MARRIAGE AND FAMILY AMONG NEGROES 147 (1966) (arguing that Black parents “must teach, and the child must learn, that no matter how unjustly he is treated he must control his anger and conceal his hostility. He must be obsequious and subservient even to those he knows to be his inferiors. He must be polite in the face of provocation. He must walk with eyes straight ahead, unmoved by the taunts and jeers on all sides.”); A. Wade Boykin & Forrest D. Toms, *Black Child Socialization: A Conceptual Framework*, in BLACK CHILDREN: SOCIAL, EDUCATIONAL, AND PARENTAL ENVIRONMENTS 33, 44–45 (Harriette Pipes McAdoo & John Lewis McAdoo eds., 1985) (noting that possible strategies of socialization should take into account the extent to which parents stress: “(1) . . . an active versus a passive role in the confronting of the realities of racism and oppression . . . ; (2) . . . system engagement or disengagement . . . ; and (3) . . . orient[ation] toward system maintenance or toward system change”); Signithia Fordham & John U. Ogbu, *Black Students’ School Success: Coping with the “Burden of ‘Acting White,’”* 18 URB. REV. 176, 178–79 (1986) (“[B]lack Americans traditionally have been provided with substandard schooling, based on white Americans’ perceptions of the educational needs of black Americans; and white Americans have controlled black Americans’ education. Another feature of their ecological structure is that black Americans have faced a job ceiling, so that even when they achieved in school in the past, i.e., had good educational credentials, they were not necessarily given access to jobs, wages, and other benefits commensurate with their academic accomplishments.”).

52. Hill Collins, *Shifting the Center*, *supra* note 24, at 206.

53. LaToya Baldwin Clark, *The Critical Racialization of Parents’ Rights*, 132 YALE L.J. 2139, 2200 (2023) (“The [anti-Critical Race Theory and parents’ rights] movements’ attempt to excise race from schools shields White children from grappling with the country’s racial history and the contemporary manifestation of anti-Blackness and racism. Moreover, they deny non-White children, especially Black children, an inclusive role in U.S. history and how that history reveals racial patterns today.”).

54. *Id.* at 2198.

55. See, e.g., WALTER S. GILLIAM, ANGELA N. MAUPIN, CHIN R. REYES, MARIA ACCAVITTI & FREDERICK SHIC, YALE CHILD STUDY CTR., DO EARLY EDUCATORS’ IMPLICIT BIASES REGARDING SEX AND RACE RELATE TO BEHAVIOR EXPECTATIONS AND RECOMMENDATIONS OF PRESCHOOL EXPULSIONS AND SUSPENSIONS? 6–7 (2016) (finding that when researchers instructed teachers to monitor a

underrepresented in gifted and talented programs compared to their peers.⁵⁶ *Motherwork* in schools involves consideration of the child and the ideology of anti-Blackness that pervades schools.⁵⁷

This Article focuses intentionally on Black *motherworkers* with class privilege advocating in predominantly White schools. Many authors writing about the failures of special education have focused on poor and working-class Black parents raising children within schools with few resources.⁵⁸ According to this literature, the inequities in special education suggest that the “real” problem in special education is not one of race but of class.

This is a common refrain in education scholarship about race and class. For example, sociologist Annette Lareau’s celebrated study of poor, working-class, and middle-class parents argued that class, more than race, impacted how parents parented.⁵⁹ Middle-class parents engaged in what she called “concerted cultivation,” a tailored, individualized childhood experience.⁶⁰ As one would do with a cherished plant, parents fed, watered, and fertilized their children with specific aims of social mobility in mind. Working-class and poor parents engaged in what she called the “accomplishment of natural growth,” a more hands-off approach to child-rearing where children have lots of free time out of the constantly watchful eyes of their parents.⁶¹ These children learned by natural experience how to be and behave in the world.

Other scholars have criticized Lareau’s work for dismissing race from the phenomenon she uncovered.⁶² Indeed, she downplayed her research subjects’

racially diverse preschool classroom for misbehavior, their gaze disproportionately lingered on Black boys).

56. See Allison List & Cass Dykeman, *Disproportionalities in Gifted and Talented Education Enrollment Rates: An Analysis of the U.S. Civil Rights Data Collection Series*, 65 PREVENTING SCH. FAILURE: ALT. EDUC. FOR CHILD. & YOUTH 108, 108 (2021).

57. Gabrielle Peterson, *Black Women’s Words: Using Oral History to Understand the Foundations of Black Women’s Educational Advocacy*, 8 ISSUES RACE & SOC’Y 197, 198 (2019) (explaining a strategy of a “combination of care and activism”). *Motherwork* is protective resistance for individual Black children and Black survival. Jennifer C. Nash, *The Political Life of Black Motherhood*, 44 FEMINIST STUD. 699, 712 (2018); Mia Brantley, *Can’t Just Send Our Children Out: Intensive Motherwork and Experiences of Black Motherhood*, 72 SOC. PROBS. 470, 479 (2025).

58. See, e.g., Eloise Pasachoff, *Special Education, Poverty, and the Limits of Private Enforcement*, 86 NOTRE DAME L. REV. 1413, 1417–19 (2011); Carla O’Connor & Sonia DeLuca Fernandez, *Race, Class, and Disproportionality: Reevaluating the Relationship Between Poverty and Special Education Placement*, 35 EDUC. RESEARCHER 6, 8–10 (2006); James E. Ryan, *Poverty as Disability and the Future of Special Education Law*, 101 GEO. L.J. 1455, 1457–59 (2013).

59. ANNETTE LAREAU, *UNEQUAL CHILDHOODS: CLASS, RACE, AND FAMILY LIFE* 3–4 (2003).

60. *Id.* at 2–3.

61. *Id.* at 3.

62. See, e.g., Alex Manning, *The Age of Concerted Cultivation: A Racial Analysis of Parental Repertoires and Childhood Activities*, 16 DU BOIS REV. 5, 8 (2019) (“Lareau (2011) acknowledges that both working-class and middle-class Black parents face racism and think about race when raising their children. Yet, this recognition of how race and racism influence parenting is fleeting. Some scholars have critiqued Lareau’s limited engagement with race and racism. Others have challenged

discussions of how raising Black children in this world differs from raising White children.⁶³ Black middle-class parents engaged in conversations about racial oppression, often focusing on things like academic advancement and the policing of behavior—two issues that are acutely at play in special education. Special education law imagines parents and schools engaging in “concerted cultivation,” individualized goals met through specialized instruction.⁶⁴

The predominantly White school is a “White space” that Black families must navigate. White spaces are institutions where “[B]lack people are typically absent, not expected, or marginalized when present.”⁶⁵ These spaces “reinforce[] a normative sensibility”⁶⁶ where “Whiteness goes unquestioned,”⁶⁷ where Black people are often perceived through stereotypes,⁶⁸ granted little individualized consideration, and they constantly need to prove their belonging through racial performance.⁶⁹ It is these schools, the White space of White schools, where Black children stand out. For Black middle-class families in the White space of predominantly White schools, acceptance and belonging can be provisional,⁷⁰ and inclusion is often constantly being negotiated. Schools have long been key sites of racial subordination, often through banishment and punishment.⁷¹

the claim that class is more important in parents’ socialization practices and that social class can level off effects of racial stratification with regards to obtaining social capital.” (citations omitted)).

63. LAREAU, *supra* note 59, at 120 (quoting a Black middle-class parent’s description of talking to their child about race: “What we try and do with Alexander [a Black middle-class child] is teach him that race unfortunately is the most important aspect of our national life. I mean, people look at other people and they see a color first. But that isn’t going to define who he is . . . He will succeed, despite racism. And I think he lives his life that way. I mean, he is amazingly, refreshingly an individual. Uh, and he continues to be able to draw people to him . . . He just—he makes friends easily, and I’m happy for him.”).

64. *See generally id.* at 165–81 (describing a middle-class Black mother intentionally managing and advocating for her child’s experiences across institutional settings).

65. Elijah Anderson, “*The White Space*,” 1 SOCIO. RACE & ETHNICITY 10, 10 (2015).

66. *Id.*

67. *Id.*; David L. Brunsma et al., *The Culture of White Space: On the Racialized Production of Meaning*, 64 AM. BEHAV. SCIENTIST 2001, 2002 (2020).

68. Anderson, *supra* note 65, at 13 (“In other words, whites and others often stigmatize anonymous black persons by associating them with the putative danger, crime, and poverty of the iconic ghetto, typically leaving blacks with much to prove before being able to establish trusting relations with them.”).

69. *Id.* (“Strikingly, a black person’s deficit of credibility may be minimized or tentatively overcome by a performance, a negotiation, or what some blacks derisively refer to as a ‘dance,’ through which individual blacks are required to show that the ghetto stereotypes do not apply to them; in effect, they perform to be accepted. This performance can be as deliberate as dressing well and speaking in an educated way or as simple as producing an ID or a driver’s license in situations in which this would never be demanded of whites.”).

70. *Id.* (“Depending on how well the black person performs or negotiates, he or she may ‘pass inspection,’ gaining provisional acceptance from the immediate audience.”).

71. *See* John B. Diamond & Amanda E. Lewis, *Opportunity Hoarding and the Maintenance of “White” Educational Space*, 66 AM. BEHAV. SCIENTIST 1470, 1472, 1477–78 (2022) (“From its founding, the educational system in the United States was organized in a manner that supported and reinforced racial hierarchies and thus can be thought of as a white space with structures and

It is in the context of this White space that a Black *motherworker* navigates her social identity⁷² and those of the children for whom she advocates.⁷³

practices that reinforce white supremacy. This is true not only structurally in the way school systems are organized, funded, and operated but also in the daily functioning of schools and classroom organizational routines within the system.” (citation omitted)).

72. See Roberts, *supra* note 35, at 35 (“Our unity with men in the struggle for Black liberation is grounded in the reality that being Black in America is part of our identity, critical to what it means for us to be women.”).

73. This is not to say that economic issues do not matter for the Black middle class. Although the Black middle class may be nominally comparable to the White middle class, Bart Landry & Kris Marsh, *The Evolution of the New Black Middle Class*, 37 ANN. REV. SOCIO. 373, 378–79 (2011), and although they may share space, the Black middle class is not comparable to the White middle class on most measures of economic well-being. In 2019, the median Black employee earned almost twenty-five percent less than the median White worker. VALERIE WILSON & WILLIAM DARTY JR., ECON. POL’Y INST., UNDERSTANDING BLACK-WHITE DISPARITIES IN LABOR MARKET OUTCOMES REQUIRES MODELS THAT ACCOUNT FOR PERSISTENT DISCRIMINATION AND UNEQUAL BARGAINING POWER 1 (2022), <https://files.epi.org/uploads/215219.pdf> [<https://perma.cc/96B8-YCH6>]. In 2018, the Black–White household income gap was over \$33,000. Ricardo Mimbela & Katie Duarte, *Visualizing the Racial Wealth Gap*, ACLU (Aug. 10, 2023), <https://www.aclu.org/news/racial-justice/visualizing-the-racial-wealth-gap> [<https://perma.cc/4UVW-875L>]. Black middle-class children are more likely to experience downward class mobility as adults as compared to their White counterparts. JESSICA WELBURN PAIGE, RAND CORP., EXAMINING THE LOSS OF WEALTH AND DOWNWARD MOBILITY OF AFRICAN AMERICANS: A REVIEW OF CHALLENGES FOR THE BLACK MIDDLE CLASS 2 (2022), https://www.rand.org/content/dam/rand/pubs/research_reports/RR1200/RR1259-3/RAND_RRA1259-3.pdf [<https://perma.cc/NE3V-6CZ7>] (“Yet, even when African Americans reach the middle class, they may have trouble maintaining their position there. Several studies have demonstrated that African Americans face disproportionately high downward mobility rates, meaning that Black children who grow up in middle-class households are less likely than white children who grow up in middle-class households to replicate their parents’ socioeconomic status.”). The median Black household has over \$240,000 less wealth than the median White household. Andre M. Perry, Hannah Stephens & Manann Donoghoe, *Black Wealth Is Increasing, But So Is the Racial Wealth Gap*, BROOKINGS (Jan. 9, 2024), <https://www.brookings.edu/articles/black-wealth-is-increasing-but-so-is-the-racial-wealth-gap> [<https://perma.cc/DB55-79KV>] (“[F]rom 1989 to 2022, the Black-white median wealth gap has averaged \$172,000, and rarely dropped below 10% of this. However, between 2019 and 2022, the gap breached 10% of the average—signaling an increase in disparity not seen since 2007, when the gap reached \$214,970. The growing disparity means that in 2022, for every \$100 in wealth held by white households, Black households held only \$15.”). In 2021, one-quarter of Black households had zero or negative wealth, compared to only about nine percent of White households. Briana Sullivan, Donald Hays & Neil Bennett, *Wealth by Race of Householder*, U.S. CENSUS BUREAU (Apr. 23, 2024), <https://www.census.gov/library/stories/2024/04/wealth-by-race.html> [<https://perma.cc/GDJ4-SF7V>]. Thus, the Black class-privileged is a unique social group with a particular orientation to society that matters; as Professor Audrey McFarlane writes, “Problems of class in the United States are racialized; they are never separate from the racial structures of subordination that still operate here. Accordingly, problems currently cognizable as being merely about class are necessarily still cognizable as problems of race.” Audrey G. McFarlane, *Operatively White?: Exploring the Significance of Race and Class Through the Paradox of Black Middle-Classness*, 72 LAW & CONTEMP. PROBS. 163, 166 (2009). Professor Khiara Bridges strongly makes this case for the importance of studying the Black middle class in legal scholarship about racial discrimination. See generally Khiara M. Bridges, *Excavating Race-Based Disadvantage Among Class-Privileged People of Color*, 53 HARV. C.R.-C.L. L. REV. 65 (2018).

For these women, they advocate not only as a job, but as “a form of political resistance to domination and oppression.”⁷⁴ Given their collective experience in advocating over many years, they have gathered a wealth of data points that influence the ways in which they advocate and the specific race, class, and gender dynamics they must navigate.⁷⁵

II. THE IDEA OF PARENTAL RIGHTS

According to the provisions of the IDEA, parents occupy a singular exalted position endowed with legal protections that empower them to protect their child’s substantive rights for a free appropriate public education, or “FAPE.”⁷⁶ FAPE means an education provided at no cost⁷⁷ to the parent⁷⁸ that is tailored to a child’s individualized needs and provides educational benefits geared toward that child being able to advance from grade to grade,⁷⁹ as appropriate. The most substantive effect parents have on the child’s special education experience is through the formal development of the IEP. The IEP is “a written statement for each child with a disability that is developed [and] reviewed . . . that includes” present levels of accomplishment, areas of deficit, description of services and accommodations, and measurable annual goals, among other requirements.⁸⁰

74. Camille Wilson Cooper, *School Choice as ‘Motherwork’: Valuing African-American Women’s Educational Advocacy and Resistance*, 20 INT’L J. QUALITATIVE STUD. EDUC. 491, 495 (2007).

75. These women provide individual advocacy for parents and children and run workshops and classes on the role of an advocate, as well as the relationship between race and disability. This data was collected as part of a larger project gathering the experiences of middle-class Black women advocating in special education for their children. I conducted semi-structured interviews with parents and advocates, lasting about one hour each. I asked about their children, the types of schools they attend, their children’s disability eligibility, and their experience in advocating for those children. I specifically asked about the intersection of race and disability, and the ways they manage and navigate that intersection in advocacy.

76. 20 U.S.C. § 1415 (defining procedural safeguards affording parents participation and enforcement rights).

77. 34 C.F.R. § 300.17 (2025).

78. *Id.* (defining FAPE as “special education and related services . . . provided at public expense, under public supervision and direction, and without charge” that “[m]eet the standards of the [State Educational Agency], . . . include an appropriate . . . school education,” and conform with a student’s IEP).

79. *Andrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist.* RE–1, 580 U.S. 386, 400–01 (2017) (“Progress through this system [of general education] is what our society generally means by an ‘education.’ . . . Accordingly, for a child fully integrated in the regular classroom, an IEP typically should . . . be ‘reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.’”).

80. 20 U.S.C. § 1414 (d)(1)(A)(i)(I)–(IV) (providing that the IEP includes “a statement of the child’s present levels of academic achievement and functional performance . . . a statement of measurable annual goals, including academic and functional goals . . . a description of how the child’s progress toward meeting the annual goals . . . will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided; [and] a statement of the special education and related services and supplementary

In *Schaffer v. Weast*, the Supreme Court declared that “[t]he core of [the IDEA] is the cooperative process that it establishes between parents and schools,”⁸¹ and the formal rules and procedures set the stage for such cooperation in developing the IEP. The entire IEP team, including parents, must collaborate in its preparation.⁸² The IEP is the roadmap by which schools provide FAPE to children with disabilities.

In the first case in which the Supreme Court interpreted the substantive FAPE guarantee of the IDEA, it heralded how Congress embedded extensive procedures to protect individual parents and their children.⁸³ Advocates pushed the Court to read into the statute a robust substantive guarantee that required schools to help children with disabilities reach their highest potential.⁸⁴ The Court rejected that conception and argued that the statute rested not on a standard substantive guarantee but on the robust parental involvement mandates.⁸⁵ Through the formal procedure, the Court stated that parents would protect children without Congress needing to articulate a substantive guarantee.⁸⁶ According to that Court, parents “will not lack ardor” when protecting and advocating for their children⁸⁷ against the biases of the government.

aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child”).

81. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 53 (2005); accord Ruth Colker, *Blaming Mothers: A Disability Perspective*, 95 B.U. L. REV. 1205, 1224 (2015) (“There is no easy solution to this problem, in part because the special education laws are modeled on a cooperative parent-participation model in which the parents’ views are supposed to be taken seriously.”).

82. 20 U.S.C. § 1414 (d)(1)(B) (defining the composition of an IEP Team as including parents, regular and special education teachers, a local educational agency representative, an evaluator, and others with relevant knowledge or expertise, as well as the child when appropriate).

83. *Bd. of Educ. v. Rowley*, 458 U.S. 176, 205–06 (1982) (“When the elaborate and highly specific procedural safeguards . . . are contrasted with the general and somewhat imprecise substantive admonitions contained in the Act, we think that the importance Congress attached to these procedural safeguards cannot be gainsaid. It seems to us no exaggeration to say that Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process . . . as it did upon the measurement of the resulting IEP against a substantive standard.” (citation omitted)).

84. *Id.* at 198–200.

85. *Id.* at 208–09.

86. *Id.* at 209.

87. *Id.* at 208–09 (“Entrusting a child’s education to state and local agencies does not leave the child without protection. Congress sought to protect individual children by providing for parental involvement in the development of state plans and policies, . . . and in the formulation of the child’s individual educational program. . . . As this very case demonstrates, parents and guardians will not lack ardor in seeking to ensure that handicapped children receive all of the benefits to which they are entitled by the Act.” (citations omitted)).

To aid in that advocacy, the IDEA grants parents formal participatory rights, including strict timelines for legal compliance,⁸⁸ participation opportunities,⁸⁹ rules about hearings for disciplinary outcomes,⁹⁰ and more. To this end, schools must provide a copy of a “Notice of Procedural Safeguards” to every parent involved in special education, from initial requests for evaluations to signing the IEP, informing them of their rights under the law.⁹¹ The document must be presented to parents at different points in the special education relationship, such as the initial referral, consent for assessment and testing, consent for services, and dispute resolution.⁹² These rights include the right to initiate an evaluation for a child,⁹³ to be given notice of an assessment,⁹⁴ to consent to or reject evaluations and offers of FAPE,⁹⁵ to participate in all meetings where decisions are being made,⁹⁶ to be informed of program changes,⁹⁷ to inspect records,⁹⁸ to record meetings,⁹⁹ to review and amend such recordings,¹⁰⁰ and to have a hearing.¹⁰¹

Parents can vindicate these rights in federal court.¹⁰² In *School Committee v. Department of Education*, the Supreme Court upheld the right of parents who disagree that their child was receiving FAPE in public school to unilaterally pull that child from public school and be reimbursed for private school costs

88. See U.S. DEP’T OF EDUC., GUIDANCE ON REQUIRED CONTENT OF FORMS UNDER PART B OF THE IDEA 23–28 (2009), https://sites.ed.gov/idea/files/modelform_Procedural_Safeguards_June_2009.pdf [<https://perma.cc/3XDE-P9NE>].

89. *Id.* at 15–25.

90. *Id.* at 25–30.

91. 34 C.F.R. § 300.504 (2025) (defining the requirements of a “[p]rocedural safeguards notice”). States and localities have released and distributed their own versions of the safeguards. See, e.g., *Notice of Procedural Safeguards*, CAL. DEP’T EDUC. (June 2022), <https://www.cde.ca.gov/sp/se/qa/documents/pseng.pdf> [<https://perma.cc/362D-VBA5>].

92. 34 C.F.R. § 300.504(a)(1)–(4).

93. *Id.* § 300.301(b) (describing a parent’s right to “initiate a request for an initial evaluation”).

94. *Id.* § 300.503(a)(1) (establishing a parent’s right to receive written notice prior to a school’s evaluation of their child).

95. *Id.* § 300.300(a)(3)(i), (b)(1), (b)(3)(i) (providing requirements for “[p]arental consent”).

96. *Id.* § 300.501(b) (defining when parents “must be afforded an opportunity to participate in meetings”); *id.* § 300.322(a) (requiring that “one or both of the parents . . . are present at each IEP Team meeting or are afforded the opportunity to participate”).

97. *Id.* § 300.503(a) (establishing a parent’s right to receive written notice before changing “the identification, . . . or educational placement of the child or the provision of FAPE to the child”).

98. *Id.* § 300.613(a) (describing a parent’s “[a]ccess rights” to their child’s records).

99. Although the IDEA does not explicitly provide parents the right to record IEP meetings, the right to record varies by state; for example, California allows parents to record IEP meetings if they provide twenty-four hours’ notice. See CAL. EDUC. CODE § 56341.1(g)(1) (West 2026).

100. 34 C.F.R. § 300.618(a) (providing requirements for the “[a]mendment of records at [a] parent’s request”).

101. *Id.* § 300.511(a) (establishing a parent’s right to participate in “an impartial due process hearing” after filing a complaint).

102. See 20 U.S.C. § 1400(d)(1)(B) (“The purposes of this chapter are . . . to ensure that the rights of children with disabilities and parents of such children are protected . . .”).

if a court finds that the public school placement offer was inappropriate.¹⁰³ It argued that failure to allow “conscientious parents who have adequate means and who are reasonably confident of their assessment” to be compensated for a unilateral placement in the face of a lack of FAPE would undermine their rights.¹⁰⁴ If reimbursement were unavailable, FAPE, the court argued, would be a hollow right that interfered with “the parents’ right to participate fully in developing a proper IEP.”¹⁰⁵ The idea that including parents leads to a “proper” IEP emphasizes how crucial parents’ formal rights are in securing FAPE. Failure to include parents results in the denial of FAPE and violates the IDEA.¹⁰⁶

Courts have protected parents’ rights to litigate on their own behalf in federal court to vindicate those rights. Before *Winkelman v. Parma City School District*,¹⁰⁷ the Supreme Court interpreted FAPE as the substantive entitlement of the child, not the parent. Parents without lawyers could not represent their children because they were not lawyers.¹⁰⁸ The *Winkelman* Court rejected that interpretation of the statute, emphasizing the Act’s recognition of parents as parties in administrative proceedings and the rights granted to them.¹⁰⁹ In other words, the formal methods of parents’ rights are not merely derivative of the child’s right to FAPE but represents rights that parents, too, hold. On

103. *Sch. Comm. v. Dep’t of Educ.*, 471 U.S. 359, 373 (1985).

104. *Id.* at 370 (“In the meantime, the parents who disagree with the proposed IEP are faced with a choice: go along with the IEP to the detriment of their child if it turns out to be inappropriate or pay for what they consider to be the appropriate placement. If they choose the latter course, which conscientious parents who have adequate means and who are reasonably confident of their assessment normally would, it would be an empty victory to have a court tell them several years later that they were right but that these expenditures could not in a proper case be reimbursed by the school officials. If that were the case, the child’s right to a *free* appropriate public education, the parents’ right to participate fully in developing a proper IEP, and all of the procedural safeguards would be less than complete.”).

105. *Id.*

106. *Doug C. v. Haw. Dep’t of Educ.*, 720 F.3d 1038, 1047 (9th Cir. 2013).

107. *See generally Winkelman ex rel. Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007) (holding that the IDEA grants parents’ independent enforceable rights).

108. *Id.* at 522 (citing *Cavanaugh ex rel. Cavanaugh v. Cardinal Loc. Sch. Dist.*, 409 F.3d 753, 756 (6th Cir. 2005) (“[T]he language of the IDEA evidences a congressional intent to prohibit non-lawyer parents from representing their minor children in suits brought under its provisions.”)). In *Winkelman*, the Court determined that parents have the right to proceed *pro se* when litigating their own claims under IDEA, as contrasted to their child’s claims, a question the Court left unanswered. *Id.* at 535 (“The Court of Appeals erred when it dismissed the Winkelmans’ appeal for lack of counsel. Parents enjoy rights under IDEA; and they are, as a result, entitled to prosecute IDEA claims on their own behalf. . . . In light of our holding we need not reach petitioners’ alternative argument, which concerns whether IDEA entitles parents to litigate their child’s claims *pro se*.”). *Id.*

109. *See id.* at 527 (“Nothing in these interlocking provisions [listing how the statute contemplates parents as parties] excludes a parent who has exercised his or her own rights from statutory protection the moment the administrative proceedings end. Put another way, the Act does not *sub silentio* or by implication bar parents from seeking to vindicate the rights accorded to them once the time comes to file a civil action. Through its provisions for expansive review and extensive parental involvement, the statute leads to just the opposite result.”).

its face, the IDEA is extraordinary in the explicit rights afforded to parents of children with disabilities, rights not explicitly afforded to parents under any other federal education law.¹¹⁰

Despite this formal equality of parents, some children are more protected than others, and parental advocacy occurs in the context of scarcity. Congress, when it enacted the IDEA's predecessor, pledged to supplement federal funding to cover forty percent of the excess cost of educating children with disabilities.¹¹¹ Since 1975, Congress has appropriated no more than eighteen percent of the excess cost.¹¹² Although the IDEA is seemingly cost-blind, it is unrealistic to think that schools are acting without costs in mind. As Ruth Colker argues, the IDEA presupposes that "school districts . . . have ample resources, and teachers . . . have the time to develop and implement individualized education programs. Unfortunately, none of these aspirations is realistic."¹¹³

The law also operates in the context of stark racial disparities. The law has declared Black disproportionality—the overrepresentation of Black children in special education¹¹⁴—a scourge. The congressional findings discuss the problem of disproportionality,¹¹⁵ and these disparities have been a central focus of the IDEA regulations. In 2016, the U.S. Department of Education

110. Although parents may adjudicate these rights under the IDEA in federal court, *see* 20 U.S.C. § 1415(i)(2), they can also file less formal complaints with the Department of Education's Office of Civil Rights ("OCR") to investigate potential violations, negotiate resolution agreements, and, in cases of systemic noncompliance, initiate enforcement actions under Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. *See* 29 U.S.C. § 794; 42 U.S.C. §§ 12131–12134. However, unlike the IDEA, these statutes lack procedural safeguards and enforceable parental rights in the development of a child's education plan. Because the provisions of Section 504 of the Rehabilitation Act and IDEA can sometimes overlap, particularly in cases involving the denial of FAPE, OCR may refer parents to a State Educational Agency ("SEA") for an IDEA-specific investigation under 34 C.F.R. § 300.151, ensuring that the dispute is resolved through IDEA's more comprehensive procedural framework, further elevating the IDEA's exceptional standing on parental empowerment and protection. 34 C.F.R. § 300.151 (2025).

111. NAT'L COUNCIL ON DISABILITY, *BROKEN PROMISES: THE UNDERFUNDING OF IDEA* 13 (2018), <https://www.ncd.gov/assets/uploads/docs/ncd-brokenpromises-508.pdf> [<https://perma.cc/BAP4-PHBG>].

112. *Id.* at 20.

113. Colker, *supra* note 81, at 1224.

114. Some argue that the underrepresentation of non-White children in special education in some categories suggests that otherwise eligible non-White children are not receiving the legal entitlement of FAPE. *See* Paul L. Morgan et al., *Minorities Are Disproportionately Underrepresented in Special Education: Longitudinal Evidence Across Five Disability Conditions*, 44 EDUC. RESEARCHER 278, 288 (2015). Nevertheless, the IDEA does not require school districts to report on underrepresentation. OCR enforcement, on the other hand, does consider underrepresentation as a possible basis for racial bias.

115. The Act defines different levels of disproportionality, including a formula for determining whether a school district has "significant disproportionality." 34 C.F.R. § 300.647(a)(6) (defining the risk ratio for significant disproportionality as "a calculation performed by dividing the risk of a particular outcome for children in one racial or ethnic group within an LEA [local education agency] by the risk for children in all other racial and ethnic groups within the LEA").

released final regulations “aimed at promoting equity by targeting widespread disparities in the treatment of students of color with disabilities.”¹¹⁶

Nationally, Black, Native American, and Native Hawaiian learners have higher risks of being placed in special education than their non-similar-race peers.¹¹⁷ Compared to non-Native American students, Native American students are seventy percent more likely to be placed in special education; that rate is forty percent more for Black students and fifty percent more for Latine students.¹¹⁸ But these numbers obscure significant intersectional differences. For example, compared to White students of the same socioeconomic background, Black children are identified thirteen percent *less* often than predicted compared to White students.¹¹⁹ For the most stigmatizing categories of disability, specifically intellectual disability and emotional disturbance,¹²⁰ non-low-income Black students have “twice the likelihood of being identified” for those categories as compared to non-low-income White students.¹²¹

These disparities depend on a school’s racial composition. In majority-White schools, Black children are placed in special education more often than their White peers.¹²² When White students attend schools where they are a minority, disability disparities in diagnosis are less affected by school composition.¹²³ This suggests a dynamic of race that is context specific. Race is also correlated with students being educated in more restrictive environments. Among students with disabilities, fifty-five percent of White students spend more than eighty percent of their class day in a general education classroom,

116. NASET’s *Discipline in Special Education Series: Equity in IDEA*, NAT’L ASS’N SPECIAL EDUC. TCHRS. 1 (2018), https://media.naset.com/fileadmin/USER_UPLOADS_PROTECTED/Discipline/2018/NASET_s_Discipline_in_Special_Education_-_Equity_in_IDEA.pdf [<https://perma.cc/YZ65-Q3Z4>]; Assistance to States for the Education of Children with Disabilities; Preschool Grants for Children with Disabilities, 81 Fed. Reg. 92376, 92376 (Dec. 19, 2016) (codified at 34 C.F.R. § 300). The OCR issued a “Dear Colleague” letter to accompany the regulations. Dear Colleague Letter, *supra* note 30.

117. Jiaxin Jessie Wang & Blair Wriston, *Focusing on the Intersection of Race, Disability, and Equity*, EDTRUST (Apr. 11, 2024), <https://edtrust.org/blog/intersection-of-race-disability-and-equity> [<https://perma.cc/WK2D-BUU2>].

118. See NAT’L CTR. FOR LEARNING DISABILITIES, SIGNIFICANT DISPROPORTIONALITY IN SPECIAL EDUCATION: CURRENT TRENDS AND ACTIONS FOR IMPACT 2 fig.1 (2020), <https://ncld.org/wp-content/uploads/2025/09/2020-Significant-Disproportionality-in-Special-Education.pdf> [<https://perma.cc/PZ4Z-ET22>].

119. Todd E. Elder, David N. Figlio, Scott A. Imberman & Claudia L. Persico, *Segregation and Racial Gaps in Special Education*, 21 EDUC. NEXT 62, 62 (2021).

120. These are subjective categories, reliant on professional judgment of the assessors and susceptible to racial bias. NAT’L CTR. FOR LEARNING DISABILITIES, *supra* note 118, at 3; see also Rachel Elizabeth Fish, *Stratified Medicalization of Schooling Difficulties*, SOC. SCI. & MED. 1 (2022), <https://www.sciencedirect.com/science/article/pii/S0277953622003458> [<https://perma.cc/ES2X-FNRG>] (“Racial and gender disparities in disability incidence are well-documented . . .”).

121. NAT’L CTR. FOR LEARNING DISABILITIES, *supra* note 118, at 3.

122. Elder et al., *supra* note 119, at 62.

123. See *id.* at 67 (“[Disability] classification rates for white students are far less sensitive to school racial composition.”).

but only thirty-three percent of Black students spend more than eighty percent in general education classrooms.¹²⁴ Discipline, too, is stratified; approximately twenty to twenty-five percent of Native American, Black, and Native Hawaiian students with disabilities experienced out-of-school suspension, compared to less than ten percent for White and Asian students with disabilities.¹²⁵ The same is true when socioeconomic status is accounted for.¹²⁶

Amidst these challenges, an industry of Black mothers turned non-attorney parent advocates has emerged to provide advocacy for parents who do not want or cannot afford a lawyer. Some of these advocates are self-certified as competent in offering services, but many obtain certification through national organizations that provide education and skills training in special education law.¹²⁷ The rest of this Article asks: How do these *motherworkers* advocate within special education's parental rights laws to positively impact the experiences of Black children with disabilities? Before moving to that question, it's important to address another theoretical question: Why rights?

III. MOTHERWORKING CIVIL RIGHTS

My analysis draws on semi-structured interviews I conducted with Black women non-attorney advocates working in the United States on behalf of parents navigating special education.¹²⁸ These interviews took place in the summer of 2025 as part of an ongoing larger project interviewing Black parents of children with disabilities, focusing on class-privileged Black parents.

These advocates—Nicole, Jada, Aaliyah, Michelle, and Faith—are college-educated professionals, and most have earned advanced degrees. They all charge fees for their services in direct advocacy, and most have extensive online presences where they offer free resources as well. They range in age from mid-thirties to fifties. Some of them are focused only on one disability category, while others advocate for children under all the categories. Some focus only on Black families, while others also advocate for non-Black parents.

124. NAT'L CTR. FOR LEARNING DISABILITIES, *supra* note 118, at 4 fig.2.

125. *Id.* at 5 fig.3 (reporting that among Native American students with disabilities, twenty-nine percent of boys and twenty percent of girls experienced an out-of-school suspension; for Native Hawaiian students with disabilities, twenty-five percent of boys and eighteen percent of girls received an out-of-school suspension; for Black students with disabilities, twenty-seven percent of boys and nineteen percent of girls have experienced an out-of-school suspension; whereas among Asian students with disabilities, only ten percent of boys and six percent of girls have experienced an out-of-school suspension; and among White students with disabilities, twelve percent of boys and six percent of girls experienced an out-of-school suspension).

126. *Id.* at 5.

127. See, e.g., *NASET Certifications*, NAT'L ASS'N SPECIAL EDUC. TCHRS., <https://learn.naset.com/certs> [<https://perma.cc/BD3K-BXZC>]; NAT'L SPECIAL EDUC. ADVOC. INST., <https://www.nsea.org> [<https://perma.cc/GK98-9KE3>]; ARC@SCHOOL, <https://thearcatschool.org/best-practices> [<https://perma.cc/TK76-D85B>].

128. Zoom interviews with Nicole, Jada, Aaliyah, Michelle, and Faith were recorded during separate interviews conducted by the Author (July 2025) (transcripts on file with the *Iowa Law Review*).

Because I focus here only on five interview participants and these participants have national businesses and personalities, I've chosen to give them pseudonyms and refrain from reporting additional information that may reveal their identities.

My goal is not to necessarily generalize. Yet, these *motherworkers* comprise a core group of Black non-attorney advocates who explicitly help, as part of their business, Black parents in White schools. They are all nationally recognized for their work, and in attempting to find new interview participants, these names came up time and time again.

* * *

In the late 1970s, the Critical Legal Studies ("CLS") movement launched an attack on the promise of rights to achieve progressive outcomes. The movement sought to cast a "cautionary tale" for progressive lawyers' reliance on rights.¹²⁹ In their view, rights had several drawbacks that made them ill-equipped to create substantive and material changes for subordinated groups.¹³⁰ First, rights are indeterminate, meaning they are articulated at a level of abstraction that leaves them vulnerable to contradictory meanings.¹³¹ Second, rights are inherently individual, which can work against asserting systematic, group-based change.¹³² Third, a "win" based on rights can generate complacency, where progressive groups and lawyers see that win as the endpoint, effectively taking their eye off the ball as counterforces strategize to reinscribe hierarchy and subordination.¹³³ And lastly, rights assertions can spark counter-rights, such as how a woman's "right to choose" to terminate a pregnancy is countered by a fetus's "right to life."¹³⁴ Ultimately, CLS scholars argued that a more fruitful mode of securing material gains was to focus on what people need, versus securing rights.¹³⁵

Patricia Williams, an early voice in Critical Race Theory, defended rights from CLS's critique. She argued that CLS's arguments ignored the lived reality of the people who have "breathe[d] life" into rights as a strategy toward asserting personhood and citizenship.¹³⁶ She argued that rights held a special place in the Black freedom struggle, and the CLS characterization of rights epitomizes the different relationship that race-subordinated people and race-superordinated people have to the law.¹³⁷ As a result, she chastised CLS scholars

129. See Mark Tushnet, *The Critique of Rights*, 47 SMU L. REV. 23, 25 (1993).

130. *Id.* at 28.

131. See *id.* at 32-33.

132. *Id.* at 26-27.

133. *Id.* at 30.

134. *Id.* at 31.

135. See *id.* at 24-25.

136. Patricia J. Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401, 430 (1987).

137. *Id.* at 404-05.

for playing rhetorical “word games” instead of looking to why race-subordinated people rely on rights for legal needs in the first place.¹³⁸

Williams pointed to three ways in which the CLS critique of rights falls short. First, it denies the existence of a “trust gap” associated with Black people in advocating for needs.¹³⁹ Second, when trust is low, Black people rely on formality and rights to establish oneself as deserving of an opportunity, whether it be a rental lease (versus a verbal agreement) or special education services as provided by an IEP (versus a verbal agreement with a school or teachers).¹⁴⁰ Third, Black people often deploy rights strategically when pleading for needs is ineffectual, as it has been historically.¹⁴¹

These three differences can help explain when and why special education rights are important to *motherworkers* who seek material change for Black children with disabilities attending White schools. First, these *motherworkers* contend with a large “trust gap” created over time and over generations leading to Black miseducation in White schools. Second, these *motherworkers* strategically use professional and legal formalities to establish equality between parents and schools in the special education process, with formality signaling that parents are deserved and equally considered. Third, Black *motherworkers* reject the distinction between needs and rights, explicitly using rights to gain resources when it seems deploying rights is the only way to secure needed resources for their client families.

A. TRUST AND DISTRUST

Sociologists over the past several decades have produced volumes on the issue of trust and distrust.¹⁴² Generalized trust is the expectation that “most people” are trustworthy; someone high in generalized trust has an individual disposition to be trusting.¹⁴³

Group members tend to trust other members over non-group members.¹⁴⁴ All people use social categories, such as race, religion, and class, to sort into in-groups (“one’s own kind”) and out-groups (“others”),¹⁴⁵ and Black people tend to have less trust towards most people (“others”) than toward other Black people. In other words, Black people tend to believe in, or trust, other Black

138. *Id.* at 409–10.

139. *See id.* at 408–09.

140. *Id.* at 406–08. While contrasting apartment transactions, Williams explains that what looks like “trust” to a White CLS colleague (a handshake without paperwork) reads as “distrust” in most White-on-Black dealings; therefore she deliberately uses a “detailed, lengthily-negotiated, finely-printed lease” to signal reliability and protect herself, because “such ‘informality’ in most white-on-black situations signals distrust, not trust.” *Id.* at 407–08.

141. *Id.* at 412–13.

142. Sandra Susan Smith, *Race and Trust*, 36 ANN. REV. SOCIO. 453, 454–55 (2010).

143. *Id.* at 455. Generalized trust is often the product of early life experiences where children’s expectations are being formed. *Id.*

144. *Id.* at 463.

145. *Id.*

people more than they do “most people,” namely, White people.¹⁴⁶ In predominately White spaces, schools are full of people “not like” Black mothers. Teachers and administrators in public schools are predominately White women.¹⁴⁷ Black mothers may not see themselves in the other¹⁴⁸ because womanness, here, is not the relevant in-group.¹⁴⁹ It is the intersection of several statuses—race, gender, class, and motherhood—that set these groups of women apart from each other. White administrators are not, for Black mothers, “people like me.”

Thus, the Black *motherworker* advocating in White schools on behalf of Black children with disabilities does so under a “trust gap.” It is unfortunate that this trust gap manifests in school relationships between Black parents and White schools, because trust is a key component of healthy parent-school relationships.¹⁵⁰ Parents’ trust in schools depends on their “willingness to be vulnerable to [the school] based on the confidence that the latter party is benevolent, reliable, competent, honest, and open.”¹⁵¹ As illustrated by the description of the video that opened this Article, *motherworkers* often encounter school officials they find to be unreliable, incompetent, dishonest, and laden with negative stereotypes about Black children.

To be sure, building trust in special education is fraught for all parents of children with disabilities, but it is even more so for Black mothers and their

146. *Id.*

147. The teaching force in the United States is overwhelmingly White and female across school types (urban, suburban, rural) and class. Eighty percent of public-school teachers are White, and seventy-seven percent of public-school teachers are women. Katherine Schaeffer, *Key Facts About Public School Teachers in the U.S.*, PEW RSCH. CTR. (Sept. 24, 2024), <https://www.pewresearch.org/short-reads/2024/09/24/key-facts-about-public-school-teachers-in-the-u-s> [<https://perma.cc/2GS7-FKAG>]. Sixty-nine percent of teachers in urban schools are White. Katherine Schaeffer, *America’s Public School Teachers Are Far Less Racially and Ethnically Diverse than Their Students*, PEW RSCH. CTR. (Dec. 10, 2021), <https://www.pewresearch.org/short-reads/2021/12/10/americas-public-school-teachers-are-far-less-racially-and-ethnically-diverse-than-their-students> [<https://perma.cc/SAG9-HMVF>].

148. Toni Morrison, *What the Black Woman Thinks About Women’s Lib*, N.Y. TIMES (Aug. 22, 1971), <https://www.nytimes.com/1971/08/22/archives/what-the-black-woman-thinks-about-womens-lib-the-black-woman-and.html> (on file with the *Iowa Law Review*) (“Black women are different from white women because they view themselves differently, are viewed differently and lead a different kind of life.”).

149. See Catharine A. MacKinnon, *From Practice to Theory, or What Is a White Woman Anyway?*, 4 YALE J.L. & FEMINISM 13, 18 (1991).

150. See, e.g., Smith, *supra* note 142, at 454 (noting that trust-relevant situations are characterized by four conditions: (1) when trust is contingent on trusters’ future discretion to achieve a desirable end; (2) when trustees have a choice to either “act in ways consistent with trusters’ interests, or they can frustrate trusters’ ambitions”; (3) when trusters are uncertain given their “relative ignorance about trustees’ motivations and intentions”; and (4) when “the costs associated with a negative outcome are significant and potentially greater than the benefits associated with a positive outcome”).

151. Curt M. Adams, Patrick B. Forsyth & Roxanne M. Mitchell, *The Formation of Parent-School Trust*, 45 EDUC. ADMIN. Q. 4, 20 (2009) (quoting Wayne K. Hoy & Megan Tschannen-Moran, *Five Faces of Trust: An Empirical Confirmation in Urban Elementary Schools*, 9 J. SCH. LEADERSHIP 184, 189 (1999)).

motherworkers. For one, history and personal experiences hamper trust in education.¹⁵² For example, Jada argues that Black parents, knowing the history of Black educational trauma, tend to distrust the system of education writ large. She says:

Remember literacy laws? You could be killed or beat if you were a slave, found reading, or if you were a slave owner teaching your slaves to read. You could be killed for that. . . . [R]ealize, . . . we're at a generation still where grandparents were going to segregated schools. I'm . . . in that range of first generation full integration. . . . [T]here's trauma of some of the parents that are coming into these systems, because the system was so harsh on them.¹⁵³

Jada enters her *motherwork* advocacy with a general understanding that schools are not designed for Black learners to thrive. She operates with the perception that Black children may be generally unwelcome in predominantly White schools as informed by experiences with racism.

Special education depends on evaluations, which themselves can be traumatic experiences that hinder collaborative participation. Michelle explains: "I feel like parents that have been reluctant to participate before, I feel like those have been some helpful things to kind of get them to see ['']this could be beneficial for you,[''] because in the past, testing, special education, all that has had such a bad rap."¹⁵⁴ Faith expressed a similar sentiment when she reflected on her advocacy for her child who was selectively mute. According to Faith, a teacher was feeding words into her child's mouth that she was adamant that her child did not speak. In doing so, the teacher destroyed any trust Faith may have had in the system, which was shallow at best. She told me that because of that incident,

trust was completely gone and it went from the classroom teacher all the way up to the superintendent. Yeah, that['s] part of the reason why I just felt, just this lack of trust. And else, I'll preface that by saying, I never had a whole bunch of trust in the public school system to begin with.¹⁵⁵

Faith's description illustrates both the generalized distrust and specific distrust she developed due to her experiences. She told me that it was not "a hard stretch" for her to move from the specific distrust to the general.¹⁵⁶ She

152. See Smith, *supra* note 142, at 464–66 (defining "strategic trust").

153. All quotations attributed to Jada were recorded during an interview conducted by the Author on July 1, 2025 (transcript on file with the *Iowa Law Review*) [hereinafter *Interview with Jada*].

154. All quotations attributed to Michelle were recorded during an interview conducted by the Author on July 29, 2025 (transcript on file with the *Iowa Law Review*) [hereinafter *Interview with Michelle*].

155. All quotations attributed to Faith were recorded during an interview conducted by the Author on July 21, 2025 (transcript on file with the *Iowa Law Review*) [hereinafter *Interview with Faith*].

156. *Id.*

explained that, as a result, she “will do anything and everything I have to do to, to protect them from a system that I know that I’ve seen firsthand destroy children.”¹⁵⁷

Many states allow team members, primarily parents, to record meetings.¹⁵⁸ This suggests that the law contemplates this type of misunderstanding. Jada gave this concrete advice for parents that illustrates this trust gap: “That’s one thing. Don’t believe [the] school. . . . Record your meetings if you . . . live in a state like I do, where you’re allowed to record your IEP meetings. Please, please. Record them. School personnel will lie on you. Because they’re going to protect their job.”¹⁵⁹

Recording meetings is the manifestation of the expectation that trust will be broken. Going into meetings with the expectation that teachers, staff, and administrators will “lie on you,” or lie about what you did or did not say during a meeting, illustrates the lack of trust these Black *motherworkers* have in schools. It also suggests that relying on formality is another way the Black *motherworkers* give special education rights “life.”

B. FORMALITY AND INFORMALITY

One way a fragile trust can be built between schools and Black parents navigating special education is to insist upon formality in what is otherwise an informal setting. Special education’s formalities in creating the IEP, monitoring

157. *Id.* Faith also recounted a specific time where she attended an IEP meeting alone and disagreed with the IEP’s characterization of her concerns. Faith encourages her clients to prepare a statement that clearly explains their concerns to be discussed during the meeting. After taking her own advice, she became dismayed at how her concerns were captured in the IEP itself, feeling that the school misrepresented her words:

I was trying to get some things added on for my son around social, social communication and just protecting him when he goes into the school building. And I went in there and . . . there’s the parent statement, parent input, and I gave my input on what I thought was needed, what my concerns were. And we left the meeting. I got the paperwork, the IEP, and it had the parent statement in there. And it wasn’t what I said. It did not outline what my issues were, what my concerns were for, not just him academically, but socially and physical safety.

Id. When she asked them to revise the document, they refused:

And so I emailed the coordinator and I said, “Oh, this is, this is not what I said.” And I wrote in the email, “[T]his is what I would include.” And she emailed me back. She said, “I’ll speak to the team and see if we agree that, that that’s what you said.” She spoke to the team. She came back and she said, “We spoke and we decided that what you said[] you said[,] is not what you said. We’re not gonna put that in there. We’re not gonna change it.”

Id. The refusal to include Faith’s concerns in the IEP broke down trust quickly between Faith and the school, as she believed they misrepresented and misconstrued her concerns. *Id.*

158. See Letter from Stephanie S. Lee, Dir., Off. of Special Educ. Programs, U.S. Dep’t of Educ. (June 4, 2003), <https://sites.ed.gov/idea/files/idea/policy/spced/guid/idea/letters/2003-2/redact060403iep2q2003.pdf> [https://perma.cc/4DB9-L3K2].

159. Interview with Jada, *supra* note 153.

enforcement, and seeking legal redress for violations epitomize the way the law purports to protect parents. When *motherworkers* rely on formality it often reflects the “trust gap” in the special education space.

Williams in *Alchemical Notes* illustrates the “trust-gap” and its relationship to formality in her retelling of a White colleague’s and her experiences in renting an apartment.¹⁶⁰ Williams, a Black woman, insisted on signing a formal lease that described in detail her and her landlord’s rights and responsibilities.¹⁶¹ Her White male colleague, on the other hand, eschewed signing a lease, arguing that a formal lease would engender distrust, as if he was not a person who could be trusted informally.¹⁶² As Williams explains, for her, a Black woman, in signing a formal lease she sought to establish trust between herself and the landlord.¹⁶³ Formality engendered trust, signaling to the homeowner that she, someone who once held no rights as a Black person, is trustworthy. For Williams’s White male colleague, informality was possible to create this relationship because he is the “kind of person” who can anticipate that others will trust him.¹⁶⁴ The oppressed need formality to assert equal belonging. For the dominant, informality can suffice.

The IEP process, regardless of the rhetoric of “collaboration” that many *motherworkers* seek to contribute to, is formally structured around legal rights and borrowed notions of contract.¹⁶⁵ It is a legally binding and enforceable set of promises from the school district and its employees toward the child and their parents. Material failures to implement the formal IEP are denials of the legal entitlement of FAPE, and federal courts can vindicate parents.

Yet the IEP creation, monitoring, and enforcement is embedded in limitless informal interactions between the school, teachers, child, and the parent. Parents talk to teachers at pick-up and drop-off, when attending back-to-school nights, science fairs, and field trips. Parents make informal inquiries from teachers about how their child performs academically and outside the classroom. For example, Faith described how she balances these formal and informal interactions by selectively deploying her credentials in her advocacy for her

160. Williams, *supra* note 136, at 406–08.

161. *Id.* at 406–07.

162. *Id.* at 407–08.

163. *Id.* at 407 (“As Peter and I discussed our experiences, I was struck by the similarity of what each of us was seeking We both wanted to establish enduring relationships with the people in whose houses we would be living; we both wanted to enhance trust of ourselves and to allow whatever closeness . . . was possible.”).

164. *See id.* at 408.

165. *See, e.g.,* Steven Marchese, *Putting Square Pegs into Round Holes: Mediation and the Rights of Children with Disabilities Under the IDEA*, 53 RUTGERS L. REV. 333, 351 (2001); Daniela Caruso, *Bargaining and Distribution in Special Education*, 14 CORNELL J.L. & PUB. POL’Y 171, 173–78 (2005). *See generally* Matthew Saleh, *Public Policy, Parol Evidence and Contractual Equity Principles in Individualized Education Programs: Marking the “Four Corners” of the IEP to Mitigate Unequal Bargaining Power Between Parent-Guardians and School Districts*, 43 J.L. & EDUC. 367 (2014) (arguing that courts should implement contractual principles when handling IEP disputes).

child while still wanting to maintain a collaborative approach. It's not something she does always, but it's a strategy she has available, especially when she perceives that race is at play with her own child's education.

I use my personal email for some communication with clients [and] I do have my signature [explaining my credentials] at the bottom. Typically, I'll erase the signature and just put my name, because I just, I want to be mom, right? And I want to give them the space to do what they need to do. [But] [a]t times when I feel my voice is kind of, being dismissed. . . . [S]ometimes it's kind of a little "race whistle" where it's, "Hmm, maybe I need to sign my name with this . . . and let them know that I know what their job is. I know what you're supposed to do."¹⁶⁶

By letting the team know her credentials when she perceives a racial slight (a "race whistle"), she is putting the team on notice that she knows what they are supposed to be doing.¹⁶⁷ In doing so, she is inserting formality selectively, only when she thinks it's necessary to confront negative racialization.

As Faith's example illustrates, in special education, formality sets the tone and boundaries for the informal norms of participation and cooperation.¹⁶⁸ But the *motherworkers* understood, however, that most parents do not care too much about the formality when trying to secure resources for their child. For example, Michelle shared how she understands the burden of paperwork for schools,¹⁶⁹ but parents, too, get discouraged by the paperwork involved in the formal process, where "parents feel like [they're] just here to do some paperwork, not to talk about [their] child's future. So that's where some of the negative interactions come in."¹⁷⁰ In other words, too much formality, as illustrated by the sheer volume of documents that need to be signed to prove that the school has fulfilled its legal obligations toward a child, is not optimal for the school or for families to get their child's needs met.

166. *Interview with Faith*, *supra* note 155.

167. *Id.*

168. See Ronald J. Gilson, Charles F. Sabel & Robert E. Scott, *Braiding: The Interaction of Formal and Informal Contracting in Theory, Practice, and Doctrine*, 110 COLUM. L. REV. 1377, 1382 (2010) (defining braiding as "intertwine[ing] elements of formal and informal contracting in a way that allows the parties to assess each other's disposition and capacity to respond cooperatively and effectively to unforeseen circumstances").

169. *Interview with Michelle*, *supra* note 154 ("I feel like educators are definitely in a hard spot, because it's always ['']do more with less[''] and that type of thing. I feel like a lot of educators are in meetings thinking, well, this is one out of six meetings today, and we've got to finish this by one o'clock, because [the] next family is going to be [here] and . . . this is paperwork[,] check off the boxes. And I think if you're trying to work with that volume of students, you can lose touch of this is a person, like, this is somebody's child, and it can kind of become a little bit dehumaniz[ing].").

170. *Id.*

C. RIGHTS AND NEEDS

A key concept for the CLS critique of rights is the idea that rights are inherently indeterminant. Indeterminacy refers to the ability of any legal concept or right to be interpreted and given the substance of conflicting political commitments.¹⁷¹ Because of that indeterminacy, the argument goes, rights are futile to spark progressive change. For example, on the one hand, the right of “association” should permit intentional racial segregation, as all White schools can claim that the racial composition is a result of that right.¹⁷² On the other hand, those wishing to integrate racially can also claim the “right of association” to interact with people of a different race.¹⁷³ The substance of the right requires understanding the political commitment that underlies it.

As a result of indeterminacy, CLS scholars argued that progressives should focus on the *needs* of the subordinated versus the *rights* of the subordinated,¹⁷⁴ as focusing on needs, as opposed to rights rhetoric, will lead to material changes. Some CLS scholars argued that not only were rights unlikely to bring about material change, but that rights assertion itself may have adverse effects.¹⁷⁵

Williams, in her defense of rights, pushed back on this “word game.”¹⁷⁶ For example, a CLS scholar might restyle an argument for the “rights” of unhoused people to shelter to the “needs” of unhoused people to shelter.¹⁷⁷ This seems to not only be a semantic distinction without a difference, but as Williams notes, “[B]lacks have been describing their needs for generations”¹⁷⁸

171. See Daria Roithmayr, *Left (Over) Rights*, 5 LAW TEXT CULTURE 407, 413–14 (2000) (summarizing Mark Tushnet’s argument that rights are inherently indeterminate as they must be balanced against competing interests).

172. See *id.* at 424 (“Like the language of rights discourse, the definition of the identity group was often (but not always) indeterminate. Identity groups often consisted of members with multiple and intersecting identities that pulled them towards different and competing rights claims. ‘Rights that supposedly flow from a particular group identity may be oppression for subgroups that have a crosscutting allegiance.’” (citation omitted)).

173. See *id.* at 417–18 (“Reconfiguring rights to include [Black people] symbolically conferred the visibility, the respect, and the agency of personhood for those communities who had been denied those benefits of citizenship. As [Patricia] Williams put it, ‘[rights] is the magic wand of visibility and invisibility, of inclusion and exclusion, of power and no power. The concept of rights both positive and negative is the marker of our citizenship in relation to others.’” (alteration in original) (quoting Williams, *supra* note 136, at 431)).

174. See *id.* at 417 (“Other critical scholars like Tushnet argued that rights discourse should be abandoned in favor of a discourse of needs—‘[p]eople need food and shelter right now, and demanding that those needs be satisfied—whether or not satisfying them can be characterized as enforcing a right strikes me as more likely to succeed than claiming that existing rights to food and shelter must be enforced.’” (quoting Mark Tushnet, *An Essay on Rights*, 63 TEX. L. REV. 1363, 1394 (1984))).

175. See *id.* at 427 (referencing Duncan Kennedy’s argument that others “could reinterpret a transgressive performance,” including rights assertions, “redescribe it in various iterations, and adapt it for their own purposes, thereby diluting its subversive force”).

176. Williams, *supra* note 136, at 410.

177. *Id.* at 412.

178. *Id.*

with little effect that actually fulfills those needs. For Black people, Williams argues, “describing needs has been a dismal failure as political activity.”¹⁷⁹

Rights matter, as they mark the basic humanity and citizenship of those asserting those rights. Rights are especially salient for oppressed groups, as Williams writes: “For the historically disempowered, the conferring of rights is symbolic of all the denied aspects of humanity: rights imply a respect which places one within the referential range of self and others, which elevates one’s status from human body to social being.”¹⁸⁰

Jada explicitly directed her clients to know the law and use it. She especially implores them to read and keep their parental procedural safeguard document. She tells them:

Please stop throwing away those procedural safeguards or treating them like wallpaper, or treating them like the school district does when they hand them out, and they’re like, “Oh, we know you get this every year, blah blah blah.” No, stop treating them [like that]. Read it. It’s there for a reason. It literally has information in there to help you advocate for your child. Read[] it. Read it and use it. Take it to the meeting, highlight pieces you don’t understand, so as you’re going through the process. And if you think it’s what they’re saying, you can say, “Can you point this out to me in my procedural safeguards, what you’re telling me?”¹⁸¹

Unfortunately, although Jada suggests that parents read and understand the procedural safeguards, they are not, for the most part, user-friendly or accessible to parents. She is correct, however, that schools are required to explain a parent’s rights to them if they questioned.¹⁸²

The *motherworkers* never sought simply to vindicate a right. Rights are not sought in and of themselves. Instead, they are a “mechanism that can confront the *denial* of need.”¹⁸³ Michelle explains how she works with Black parents for who special education rights are “new.”¹⁸⁴ She notes that as an advocate, parents are actually more concerned about their child’s experience, not “which statute lines up with what they need, unless we’re going to file a state complaint or something like that.”¹⁸⁵ But when that need arises, she advocates for parents to exercise their statutory rights, even though she knows that they aren’t “worried about what part of the statute, or things like that.”¹⁸⁶ As she put it, “I just kind of talk to them about, yes, you’re allowed to do this. And here’s

179. *Id.*

180. *Id.* at 416.

181. *Interview with Jada, supra* note 153.

182. *See* 34 C.F.R. § 300.504(c) (2025).

183. Williams, *supra* note 136, at 413.

184. *Interview with Michelle, supra* note 154.

185. *Id.*

186. *Id.*

why, even though the school hasn't highlighted this part of the parent rights, it's in there you have access to your full set of rights that you're able to use."¹⁸⁷

Importantly, special education rights imply special education duties, things that can be demanded of those in power. The *motherworkers* used rights to explicitly pressure schools to fulfill a duty. For example, Nicole explains a situation where she worked to secure services for a Black child who was in foster care and only temporarily attending a school.¹⁸⁸ She had to educate that child's caregiver about her responsibility to advocate for the child, a situation where she tends to see "a lot more violation of rights."¹⁸⁹ Schools, according to Nicole, often use the caregivers' ignorance to give parental rights a short shrift. She then needs to

gently remind[] [the school] that, hey, you have a legal obligation, state level, federal level, to do what is in this child's best interest. And this is what we're recommending, and we are expecting you to at least attempt to do what you supposed to do. And if you can't, or you won't, then you have to justify that properly. And where's your documentation, things like that. When it comes to the question about the legal and the rights, that's where I . . . have to use it a lot more. I have to use it a lot more.¹⁹⁰

For this child, who, given his fluctuating living situation and inconsistent parenting, had great needs, Nicole must use the language of rights to secure those needs when a school is reluctant to do so.

All the *motherworkers* stressed the importance of parents knowing their rights even as they hope the process will be collaborative but not combative. For example, Nicole suggested parents look to state resources for training not just for professional skills, but to learn how to collaborate effectively.¹⁹¹ But while the advocates encourage parents to know their rights, they also cautioned about getting lawyers involved. Nicole expressed that lawyers tend to change

187. *Id.*

188. All quotations attributed to Nicole were recorded during an interview conducted by the Author on July 24, 2025 (transcript on file with the *Iowa Law Review*) [hereinafter *Interview with Nicole*].

189. *Id.*

190. *Id.*

191. *Id.* ("But I would definitely say that every state has a parent, call it a Parent Training Center, or something like that. . . . Every state has this entity where the state has to provide free training to parents of children with disabilities. It's just a matter of finding your state's Parent Training arm and really connecting with them. And usually everything that you need, they'll use. They offer, they offer the trainings, they offer the sample letters, they offer coaching, they offer advocates, everything that you need for that process, and it's free, just a matter of finding them and connecting with them, and you can trust that information, because usually they're in their training, they're very intentional. And most of the trainings I've seen . . . they're very intentional about not being combative, and then in their approach and in training their parents not to be combative, really, communication, communicating effectively, and just . . . all of the little steps in this process that can kind of get overwhelming. They can guide you through.").

the energy of the space to one about liability versus the needs of the child.¹⁹² In Nicole's experience, even having a lawyer in the room "changes the dynamic" from one of calm collaboration to adversarial.¹⁹³ And although lawyers are sometimes needed (in most states, although parents can file due process complaints on their own, non-lawyer advocates cannot do so on their behalf while a lawyer would be able to), rights seem to swamp needs.

Nicole cautions her clients against immediately involving lawyers as schools may be more relenting without them:

My goal is always to never get to that level, period. My goal is to always try to work through it. Work through, work through as much as possible. And usually, the beauty of it is because the school districts have gotten maybe accustomed dealing with advocates, and they don't want to deal with the lawyers. They don't want to have to escalate that just them knowing that an advocate is working with this family really does move the needle and helps us to really come together and work it out.¹⁹⁴

In her experience, schools want to avoid lawyers as much as possible and thus are more collaborative towards servicing that child's needs than had a lawyer been in the IEP room.¹⁹⁵ In this case, asserting rights did not need to also involve a lawyer to do so.

* * *

In conclusion, although all parents may approach special education with some skepticism, Black *motherworkers* face additional challenges in predominantly White schools where they must contend with the collective memory of anti-

192. *Id.* ("And then lawyers just coming into[,] coming to the table To me, it becomes more about the district and the liability piece than about the child. And then, even if it's . . . on the parent side [the parent has brought the lawyer], the caregiver side, sometimes it's . . . more [about] . . . the fight than the child, and sometimes the focus of the child gets lost in this battle . . . I hate to say, but sometimes that[s] just how it plays out. . . . And it's about . . . proving a point, and it's about trying to get you to comply, or get this side to concede, or the other side trying to get them to comply. And it's like, [']Okay, we're here for this child. You know what we need to do. And if this school or this district cannot serve this child, that's okay.['] . . . I think if we can really try to have those conversations, sometimes the lawyers, they have to get involved. That's fine, and I've seen it even where the lawyers there, but the lawyers maybe not even saying very much, and it really is not really part of that conversation, but they're present, and because they're present, then it changes the dynamic without even saying a word. There's a time and a place and a space for that, and I think it's very necessary, but in most cases, I think it really isn't. And then, even with parents, I try to tell them, because some of them will start throwing out, . . . [']I'm going to get my lawyer involved.['] Like, why is that necessary for you to say that? Like, why are you threatening with the lawyer thing? Because [the school district is] going to bring their team. You have one person. They have a team of people. What are you trying to prove here? Let's calm down and just take it easy . . .").

193. *Id.*

194. *Id.*

195. *Id.*

Black discrimination in education and contemporary experiences with racism and ableism. These *motherworkers* sometimes inject formality into the process by selectively deploying their professional credentials—a signal of their class privilege—to justify their authority. This Section illustrates the blurred line of asserting rights and securing needs. Although *motherworkers* encouraged asserting rights, they did so solely to secure needed resources for their clients and their disabled learners.

IV. MOTHERWORK IN SPECIAL EDUCATION

What, then, are the strategies *motherworkers* deploy to advocate for Black children with disabilities in predominantly White schools? First, these are literal mother-workers—a *motherworkers* advocacy transforms a Black mother's personal experience in advocating for her Black child in White spaces to advocate for other families, including Black families in White spaces. It's in that experience that *motherworkers* develop the professional skills and personalities to engage on an equal plan as school officials. Second, *motherwork* advocates work to undermine racialized notions of ability but also work to ensure racial parity in needed services based on disability. There, *motherworkers* must navigate trust and distrust with school officials both in creating the child as a racialized disabled person and securing services for them. Third, *motherwork* advocacy manages the race and gender stereotypes that inhibit *motherworkers'* and Black parents' self-expression, strategically deploying formalities to resist those stereotypes.

A. MOTHERS @ WORK

The five *motherworkers* I discuss here all came to *motherwork* through their own experiences as Black mothers advocating for Black children in special education. For example, Jada recounts a racist experience she encountered when advocating for her son with selective mutism. She recollects an interaction with a speech pathologist who blamed her Blackness for her child's speech concerns:

I . . . remember a speech pathologist telling me that she wanted to discharge his speech therapy services because when he [did] start[] talking, or whatever he was saying, she was like, "I don't know if it's really a speech delay or if you're just talking Black English to him at home. . . ." And I remember being very hurt by that statement, because I felt that she was blaming my Blackness on my child's neural developments.¹⁹⁶

Jada immediately recognized the racism inherent in the pathologist's words, suggesting that Ebonics, or "Black English," was the primary mode of communication in her household, even though Jada had never given the pathologist

196. Interview with Jada, *supra* note 153.

any reason to believe that was the case. Jada acted immediately, including attending school board meetings and contacting her local NAACP chapter.¹⁹⁷ Eventually, the speech pathologist was reassigned and Jada insisted on a Black speech pathologist going forward. She credits this experience with her start as a *motherworker*:

And at that point, especially after that insult, I had already said, “I’m going to learn everything I can learn to protect my child, because now I’ve experienced this is what they do to Black males. They don’t try and help them, they want to put it on the family.”

I found out everything I needed to know, everything I know now about [special education] and the work that I do because of that racist speech pathologist. Had she not said those words and hurt me as bad as she had, I still would be an advocate, but it wouldn’t have [been] that deep.¹⁹⁸

What’s “that deep” is her dedication to serving Black parents given her experience.

Aaliyah shares a similar experience where she vehemently opposed a diagnosis in advocating for her child. The school official, citing her years of experience, refused to assign an autism label to Aaliyah’s child, instead telling Aaliyah and her husband that the more appropriate label is oppositional defiance disorder.¹⁹⁹

197. *Id.*

198. *Id.*

199. All quotations attributed to Aaliyah were recorded during an interview conducted by the Author on July 15, 2025 (transcript on file with the *Iowa Law Review*) [hereinafter *Interview with Aaliyah*]. Aaliyah described the conversation:

[O]nce we got his diagnosis and everything, the special education teacher actually said, “I’ve been doing this for 13 years, and I’ve never seen an autistic child behave the way he is, you really need to consider oppositional defiant disorder.” And I was, “Well, I’m the only one in this room with education to diagnose and y’all got one more time to bring up oppositional defiant disorder to me.” And I said it just like that. And I sat back and I didn’t say anything else. And my husband was, “I was very proud of you.” I said, “Yep, they have one more time.” And I was catching a charge.

Id. Here, Aaliyah vocally and forcefully rejected the oppositional defiant disorder label, a diagnosis that may put her child in the federal disability category of emotional disturbance. See (3.11) *My Child Has Been Diagnosed with a Conduct/Behavior Disorder, Such as Oppositional Defiant Disorder. Can They Qualify for Special Education?*, DISABILITY RTS. CAL. (2025), <https://serr.disabilityrightscal.org/serr-manual/chapter-3-information-on-eligibility-criteria/3-11-my-child-has-been-diagnosed-with-a-conduct-behavior-disorder-such-as-oppositional-defiant-disorder-can-they-qualify-for-special-education> [<https://perma.cc/B5KZ-LY2G>] (“Conduct or behavior disorders and Oppositional Defiant Disorder are not specific eligibility categories for special education. However, students exhibiting serious or long-term behavior issues may still qualify for special education under categories such as . . . Specific Learning Disability (SLD)[;] Emotional Disturbance (ED)[;] Other Health Impairment (OHI) which includes conditions such as Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD).” Emotional disturbance is a category which the federal government notes as being diagnosed more often in Black children as compared to

As I'll discuss more fully in the next Section, *motherworkers* routinely resist what they see as particularly stigmatizing diagnoses. For example, oppositional defiant disorder—a diagnosis that may have put her child in the federal disability category of emotional disturbance—is a category that the federal government notes as a stigmatizing label for which Black children are over-diagnosed and under-educated.²⁰⁰

Aaliyah explained how the experience contributed to her *motherwork* by consistently resisting labels for her clients as she did with her own child:

Bias and prejudice really [have] an impact in how our learners are diagnosed, if they're diagnosed at all, and that is why I [resist the label]—even when they might qualify for the criteria. I've supported a lot of different families, and I just outright tell them, "Yeah, I'm gonna say no to that category," and I give them the racial history, and thankfully, I have yet to have a [IEP] team fight me on it.²⁰¹

In recognizing the bias at play with her own child, she uses that personal—and professional—expertise to resist that label for other people's children. As she told me, "I always say again, the reason why I did start this does come back to our experience of ableism and racism that we experienced."²⁰²

Other *motherworkers* also translated their personal experiences of advocacy parenting in the special education process. During the early years of the COVID pandemic, Faith started her advocacy business.²⁰³ Thinking about the racial tensions that existed at the time, Faith reflected on her experience advocating for her Black child and determined that working on behalf of other Black families was part of her calling. She explained: "[H]ow did I experience the special education process and access to appropriate intervention for my

their White peers. 20 U.S.C. § 1400(c)(12)(C). In the meeting, her anger was palpable as this was not the first time she rejected that label ("they have one more time"), and she remembers being almost physically violent ("catching a charge" is slang for being arrested for assault). See *supra* Interview with Aaliyah.

200. DISABILITY RTS. CAL., *supra* note 199. Aaliyah explains why she so strongly resisted the ODD diagnosis:

As a mental health professional, I think that diagnosis is bullshit. Excuse my language, and I've always said that because and finding out that I'm autistic made it make more sense for me, just because I was just like, you're literally punishing a child for not complying. Oppositional defying disorder is just that. It's saying that they disregard adult requests, don't obey. It literally says, "obey adult directives." And a lot of [B]lack and [B]rown learners, just because I delve into the research, a lot of [B]lack and [B]rown learners are labeled under the emotional disturbance category for special education or emotionally behaviorally disturbed, whichever category it falls under in your state, and that's typically those [B]lack and [B]rown learners that have been diagnosed as oppositional defiant disorder when really they are autistic or ADHD.

Interview with Aaliyah, supra note 199.

201. *Interview with Aaliyah, supra* note 199.

202. *Id.*

203. *Interview with Faith, supra* note 155. ("I founded it in 2020. This was during the pandemic, it was right after the murder of George Floyd.")

child as a [B]lack parent? And that's how it was born. It was just a reflection in that moment in time."²⁰⁴

As *motherwork* advocates, they often literally step into the shoes of the parent, acting as their voice during the IEP meetings. Michelle recounts an instance where her client wanted Michelle to be her voice, articulated during a meeting to prepare for an IEP: "I've had multiple parents that will just tell me during that prep session. [']Look, I know I'm too emotional. You just do the talking, unless you need me to say something and then let me know.[']"²⁰⁵

B. RESISTING RACIALIZED ABLEISM

In representing Black families, *motherworkers* engaged with the knowledge that Black children often enter schools, especially White space schools, under a cloud of low expectations. As soon as they walk through the schoolhouse doors, they are the products of centuries of the co-construction of race and disability, where racial differences and subordination depended on the belief in the intellectual, behavioral, and cultural deprivation of Black people.²⁰⁶

Faith describes what this looks like in schools today, noting that schools have lower expectations of Black children than they do White children:

With my son, I was told . . . ["]It's okay if his reading is on the low-end average,['"] right? That's the expectation that you're going to put into place and he's in kindergarten. That doesn't[,], it doesn't make any sense. But that's what we experience, right? [Schools do not raise flags] when you have a classroom filled with [B]lack children who are not reading at a proficient level. And in that pool of children, there are some students who have dyslexia who need what everyone else is getting, but then they need so much more of it. And if they're [experiencing] co-occurring disorders, then they need even more, but they're[,], the expectation isn't there.²⁰⁷

Here, Faith is describing how schools expect Black children to fail, as evidenced by a lack of concern when Black children underachieve. In doing so, schools may miss disabilities because the expectations are low. Many Black children's

204. *Id.*

205. *Interview with Michelle, supra* note 154.

206. See Jamelia Morgan, *On the Relationship Between Race and Disability*, 58 HARV. C.R.-C.L. L. REV. 663, 678–79 (2023) (“[R]ace continues to inform perceptions of disability. For example, research in the field of education has shown that race informs which students are perceived as disabled and therefore entitled to legal protections under the Individuals with Disabilities Education Act and which students are labeled as troublemakers, or even criminals, deserving of suspension, expulsion, or criminal charges. Though more research is needed to determine the extent of their vulnerabilities, when it comes to disabled people of color, race may even inform whether and how disabilities (diagnosed or not) are perceived by law enforcement in police encounters. It can also inform whether and how hospital staff, nurses, and physicians perceive the disabilities of people of color and whether they respond with treatment, force, or arrest.”).

207. *Interview with Faith, supra* note 155.

needs go unaddressed as a product of disbelief in their ability to learn, and many are tracked into special education with stigmatizing diagnoses, also due to low expectations.²⁰⁸

The IDEA frames the problem of race in special education as one of identification and placement. Couched in terms of the importance of an “increasingly diverse society,”²⁰⁹ the statute focuses on how “[g]reater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.”²¹⁰ It laments that “[m]ore minority children continue to be served in special education than would be expected,”²¹¹ given their proportion among all school-aged children. It notes how schools identify Black children with the more stigmatizing categories²¹² and notes that “schools with predominantly White students and teachers have placed disproportionately high numbers of their minority students into special education.”²¹³ The findings support that special education has long relied on deficit-based assumptions about ability, development, and behavior as they converge on non-White bodies.²¹⁴

208. Justin D. Garwood & Kelly M. Carrero, *Lifting the Voices of Black Students Labeled with Emotional Disturbance: Calling All Special Education Researchers*, 48 BEHAV. DISORDERS 121, 121 (2023) (noting that “low expectations that often accompany [Black children] come along with the federally required labels (e.g., learning disability, intellectual disability, emotional disturbance [ED]) to make students eligible for special education have also harmed students’ educational experiences”).

209. 20 U.S.C. § 1400(c)(10)(A) (finding that “[t]he Federal Government must be responsive to the growing needs of an increasingly diverse society”).

210. *Id.* § 1400(c)(12)(A).

211. *Id.* § 1400(c)(12)(B) (finding that “[m]ore minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population”).

212. For a discussion on how stigma affects people labeled with disabilities, see Marjorie L. Baldwin & Steven C. Marcus, *Stigma, Discrimination, and Employment Outcomes Among Persons with Mental Health Disabilities*, in WORK ACCOMMODATION AND RETENTION IN MENTAL HEALTH 56–60 (Izabela Z. Schultz & E. Sally Rogers eds., 2011); ERVING GOFFMAN, *STIGMA: NOTES ON THE MANAGEMENT OF SPOILED IDENTITY* 74 (1963); Sara Green, Christine Davis, Elana Karshmer, Pete Marsh & Benjamin Straight, *Living Stigma: The Impact of Labeling, Stereotyping, Separation, Status Loss, and Discrimination in the Lives of Individuals with Disabilities and Their Families*, 75 SOCIO. INQUIRY 197, 202–07 (2005); Bruce G. Link & Jo C. Phelan, *Conceptualizing Stigma*, 27 ANN. REV. SOCIO. 363, 366–71 (2001); Jeffrey W. Lucas & Jo C. Phelan, *Stigma and Status: The Interrelation of Two Theoretical Perspectives*, 75 SOC. PSYCH. Q. 310, 314–16 (2012); and J. Nicole Shelton, Jan Marie Alegre & Deborah Son, *Social Stigma and Disadvantage: Current Themes and Future Prospects*, 66 J. SOC. ISSUES 618, 619–20 (2010).

213. 20 U.S.C. § 1400(c)(12)(E).

214. See generally Sarah E. Redfield & Theresa Kraft, *What Color Is Special Education?*, 41 J.L. & EDUC. 129 (2012) (arguing for statutory and regulatory changes to address the disproportionality of children of color being placed in special education); Theresa Glennon, *Disabling Ambiguities: Confronting Barriers to the Education of Students with Emotional Disabilities*, 60 TENN. L. REV. 295 (1993) (arguing that perceptions of children with disabilities as needing either punishment or medical treatment, rather than education, prevents the development of effective special education); Theresa Glennon, *Race, Education, and the Construction of a Disabled Class*, 1995 WIS. L. REV. 1237 (arguing that unconscious and structural racism have led to the overrepresentation of Black children in special education).

In our conversations, these *motherworkers* note that racial disproportionality in the more stigmatizing categories continues to be a pressing concern. Michelle, a trained school psychologist, recounts an experience consulting for a school district where she had to call their attention to the problem of disproportionality and their legal responsibility:

It was a pretty interesting dynamic, because myself [as a] [B]lack school psychologist, the director of special ed[ucation], who was also a contract employee, so not there full time. She was a [B]lack lady with the [W]hite lady who's in charge of referring kids to us, she was very defensive and argumentative with us. And we're like, ["We're not making this up."] This is called disproportionality. And you probably had better check into this so your school doesn't get flagged.²¹⁵

When schools are in the thick of completing IEPs for many individual children, they may sometimes miss how their policies and procedures create disproportionate diagnosis and placements.

This concern is not limited to the most stigmatized labels: Autism misdiagnosis or late diagnosis is particularly prevalent among these *motherworkers*. In a previous paper, I chronicled how Black children are often misdiagnosed when an autism diagnosis might be appropriate.²¹⁶ While gaps in diagnosing have closed over the years as the number of cases has dramatically increased, Black children continue to lag non-Black children in the age of diagnosis, which impacts the early intervention services availability that have been shown to be important for early autistic learners.²¹⁷

Aaliyah explains how she thinks this disparity exists because of a lack of cultural competence around non-White children and autism:

There are not a lot of culturally competent school staff. They just aren't, they're not up to date on how autism presents in [B]lack and [B]rown learners, in second language learners, in the fact that even though schools don't diagnose—which they can use that conveniently when they want to. Sometimes that special education evaluation is the only evaluation that [B]lack or [B]rown learner is going to ever get.

215. Interview with Michelle, *supra* note 154.

216. See Baldwin Clark, *supra* note 18, at 429.

217. Florida Uzoaru et al., *Addressing Racial Inequities: A Systematic Review of Intervention Programs for Black/African American Children with Autism Spectrum Disorder and Attention-Deficit Hyperactivity Disorder (2019–2024)*, PEDIATRIC MED. 3, 10–12 (Aug. 28, 2025), <https://pm.amegroups.org/article/view/8457/pdf> [<https://perma.cc/G7AP-3Z4N>] (documenting that, even as autism spectrum disorder ascertainment and overall prevalence have increased over time, Black children are, on average, identified at older ages than non-Black peers; this age-at-diagnosis lag narrows eligibility windows and delays referral to IDEA Part C/early childhood programs and school-based services, thereby limiting access to timely, intensive, evidence-based early intervention during critical neurodevelopmental periods for autistic learners).

There is no outside private practitioner providing recommendations and support.²¹⁸

A few points from her description. As Aaliyah describes, schools are technically not medical professionals that can diagnose disorders. Instead, they engage in evaluations to determine if a child has met the eligibility requirements to receive special education services. That means that a child can be found eligible under an autism categorization without any medical diagnosis. It also means that, for an unaware parent, the school's evaluations may be the only evaluations a child receives. If a parent does not know about the right to receive an independent educational evaluation paid for by the school district, the district's say in what a child is eligible to receive may be the only evaluation a child receives. She's noting how, without the economic capital and cultural capital to get an evaluation outside of school, parents must depend on the school's evaluation alone for determining eligibility and services. If schools are unable or unwilling to suspect that a Black child has autism, that child can miss out on years of early intervention services.²¹⁹

As a result, Black *motherworkers* are keenly aware of how race and ability are co-constructed and use that knowledge to resist racialized ableism. For example, Faith describes how race, gender, and notions of ability can collide in the evaluation and diagnosis process:

[O]nce we got that evaluation, and [the team determined], ["]Oh, we'll just say he's cognitively impaired.["] . . . But for a [B]lack boy, we got to speak to every strength that he has, because I know that, yeah, technically, the [evaluation] might not follow him into kindergarten. But it might, right? . . . I didn't want that label on him around cognitive impairment, when I knew it wasn't true, because then it would become an excuse for him not to achieve.²²⁰

Parents know that racial bias exists in the education system, especially Black parents of Black children who attend predominantly White schools. Jada attributes this racial knowledge as widespread, and part of her advocacy work and why she is particularly competent to do this work: "[B]eing Black, I understood racism in education, right? I didn't need . . . that's a lived experience, that's a generational lived experience for Black folks, so we know what that means."²²¹ Black *motherworkers* know that schools think less of Black

218. Interview with Aaliyah, *supra* note 199.

219. Independent evaluations can be expensive, see, e.g., *How Much Does an IEE Evaluation Really Cost?*, BRIDGES MIND PSYCH. SERVS. INC., <https://bridgesofthemind.com/iee-evaluation-cost> [<https://perma.cc/8AWX-4TTJ>], and many parents don't know that if they disagree with the school's evaluation, they have a right to an independent educational evaluation.

220. Interview with Faith, *supra* note 155.

221. Interview with Jada, *supra* note 153; see Kirkland C. Vaughans, "And How Are the Children?": *Intergenerational Trauma and the Development of Black Children in America*, in *THE TRAUMA OF RACISM* 137, 147–48 (Beverly J. Stoute & Michael Slevin eds., 2023).

children and that schools interpret Black children's abilities and behavior through a general deficit lens that follows all Black people.²²²

Faith describes how Black children are assessed negatively at the school-house door and then further stigmatized through special education:

I think Black children entering a traditional school environment are typically erased from the beginning as learners, right? Really low expectations for them. And then when you have a child who has a learning difference or disability, depending on how you want to describe it, because the expectations were already so low for them, when they're having difficulty, no one is saying, well, why are they having difficulty? Is it because there's something else going on? And should we do a deeper dive? Because we actually expect that this child should learn to read, right?²²³

By "erased as learners," Faith is pointing to how Black children are not seen as learners—people who can learn and grow. The perceived intellectual incapacity of Black people as a "race" has been consistently used as a reason for the racial subordination of Black people. Thus, her last question is key: schools must believe that a Black child can learn.

These Black *motherworkers* understand that those tropes can lead to low expectations²²⁴ and punitive experiences.²²⁵ These encounters affect not only one student but also add to what these advocates might deem "master narratives"²²⁶ about Black people and education. *Motherworkers* help Black parents who want their children to be seen as capable as other children and resist the stereotypes of Black children's motivations and intellectual capabilities.

Black parents, too, must recognize that not all children learn the same and that children come to schools with a variety of needs. Disability is a natural part of living,²²⁷ and Black *motherworkers* work to focus on making sure that

222. Christina A. Samuels, *Yale Study Probes the Complexity of Bias in Preschool*, EDUC. WK, (Sept. 18, 2016), <https://www.edweek.org/teaching-learning/yale-study-probes-the-complexity-of-bias-in-preschool/2016/09> [https://perma.cc/JKW6-JJU2].

223. Interview with Faith, *supra* note 155.

224. See, e.g., Dara Shifrer, *Stigma of a Label: Educational Expectations for High School Students Labeled with Learning Disabilities*, 54 J. HEALTH & SOC. BEHAV. 462, 469, 473 (2013).

225. See generally KIMBERLÉ WILLIAMS CRENSHAW, PRISCILLA OCEN & JYOTI NANDA, BLACK GIRLS MATTER: PUSHED OUT, OVERPOLICED, AND UNDERPROTECTED (2015) (reporting the disproportionate and overly punitive use of disciplinary policies against Black girls in school).

226. See generally KHALIL GIBRAN MUHAMMAD, THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA (2010) (examining how crime statistics have long been used to shape narratives of Blackness in America).

227. See, e.g., Angela Frederick & Dara Shifrer, *Race and Disability: From Analogy to Intersectionality*, 5 SOCIO. RACE & ETHNICITY 200, 201 (2019); Dorothy Roberts & Sujatha Jesudason, *Movement Intersectionality: The Case of Race, Gender, Disability, and Genetic Technologies*, 10 DU BOIS REV. 313, 317–18 (2013); Subini Ancy Annamma, Darrell D. Jackson & Deb Morrison, *Conceptualizing Color-Evasiveness: Using Dis/ability Critical Race Theory to Expand a Color-Blind Racial Ideology in Education and Society*, 20 RACE ETHNICITY & EDUC. 147, 153–54 (2017); Jane Dunham et al., *Developing and*

disability in schools is not another way to retrench racial subordination in schools.²²⁸ Sometimes, these advocates must contend with parents who are resistant to evaluations, given the history of racialized ableism in schools. For example, Michelle explains how this appears in her advocacy practice, especially in majority-White, affluent schools:

[T]here is one other thing we talk about this a lot, like in the school psych world, and particularly the [B]lack school psych world . . . it's kind of seen as you're the gatekeeper for special education . . . And a lot of times [parents] around that testing process . . . in the affluent schools are like, ["Please test my child. Get them these services,"] whereas in the [B]lack community, a lot of times it's, ["I don't want you testing my child. I don't want to label those types of things."]²²⁹

Michelle notes how Black parents may be wary of the evaluation process before it even begins.²³⁰ She shows how Black parents have a keen awareness of the history of how testing tools can be racist.

On the positive side, Black *motherworkers* encourage parents not to forget all the wonderful things about their children, even as the school process focuses

Reflecting on a Black Disability Studies Pedagogy: Work from the National Black Disability Coalition, DISABILITY STUD. Q. (May 19, 2015), <https://dsq-sds.org/article/id/456> [<https://perma.cc/EG5R-MDKA>]; Wanda J. Blanchett, *Telling It Like It Is: The Role of Race, Class, & Culture in the Perpetuation of Learning Disability as a Privileged Category for the White Middle Class*, DISABILITY STUD. Q. (Apr. 9, 2010), <https://dsq-sds.org/article/id/1144> [<https://perma.cc/28FR-U4JK>]; Linda Ware, *The Again Familiar Trope: A Response to "Infusing Disability in the Curriculum: The Case of Saramago's Blindness"*, DISABILITY STUD. Q. (Mar. 15, 2006), <https://dsq-sds.org/article/id/5538> [<https://perma.cc/VJD2-98KX>]; Josh Lukin, *Disability and Blackness*, in THE DISABILITY STUDIES READER 459, 464–67 (Lennard J. Davis ed., 4th ed. 2013); Nirmala Erevelles & Andrea Minear, *Unspeakable Offenses: Untangling Race and Disability in Discourses of Intersectionality*, in THE DISABILITY STUDIES READER 530, 530–31 (Lennard J. Davis ed., 4th ed. 2013); SAMUEL R. BAGENSTOS, *LAW AND THE CONTRADICTIONS OF THE DISABILITY RIGHTS MOVEMENT* 3–8 (2009); Douglas C. Baynton, *Disability and the Justification of Inequality in American History*, in THE DISABILITY STUDIES READER 40, 40–41 (Lennard J. Davis ed., 4th ed. 2013). See generally DISCRIT: DISABILITY STUDIES AND CRITICAL RACE THEORY IN EDUCATION (David J. Connor, Beth A. Ferri & Subini A. Annamma eds., 2016) (compiling scholarly articles that explore the intersectionality between race and disability).

228. See, e.g., Alfredo J. Artiles, Elizabeth B. Kozleski, Stanley C. Trent, David Osher & Alba Ortiz, *Justifying and Explaining Disproportionality, 1968–2008: A Critique of Underlying Views of Culture*, 76 EXCEPTIONAL CHILD. 279, 285 (2010); Gregg D. Beratan, *The Song Remains the Same: Transposition and the Disproportionate Representation of Minority Students in Special Education*, 11 RACE ETHNICITY & EDUC. 337, 345 (2008). For literature on reform and retrenchment, see Baldwin Clark, *supra* note 53, at 2200; Devon W. Carbado, Afterword, *Critical What What?*, 43 CONN. L. REV. 1593, 1607–08 (2011); Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1360–63 (1988); Vivian E. Hamilton, *Reform, Retrench, Repeat: The Campaign Against Critical Race Theory, Through the Lens of Critical Race Theory*, 28 WM. & MARY J. RACE, GENDER & SOC. JUST. 61, 74–77 (2021); and Derrick A. Bell, Jr., Comment, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 518–19 (1980).

229. Interview with Michelle, *supra* note 154.

230. *Id.*

on deficits. Jada advises her parents to celebrate their child's gifts and not only focus on what they cannot do. She tells them:

Just . . . know that your child . . . [has] a disability, [and has] so much potential. Don't let the school steal that, even if they are struggling now, and they're not reading, and they're not doing that. Find that niche, because it's there, and just play on that, just play that up, love on that, make the school play on that and love that up, too.²³¹

Thus, even when school is not a place of achievement, *motherworkers* encourage, parent-to-parent, Black parents to remember their living examples of Black children's joy. This desire to build up Black children has long been noted by scholars of Black families, showing that Black parents do the work of informing their child how their race will be considered in the world while also building self-confidence and self-reliance.

C. WORKING IDENTITY

From the parents' viewpoint, special education can be an exhausting contest. Memes about the process abound on the internet; a popular one features a dual-panel cartoon.²³² The left side's caption reads: "This is a parent."²³³ Seemingly captured before an IEP meeting, the parent, a smiling White mom, holds in her hands a book labeled "Inclusion 101" and "L.R.E.,"²³⁴ references to IDEA's requirements that children with disabilities be included and educated in the least restrictive environment, measured by the amount of time the learner spends in the general education classroom.

In contrast, the right panel, labeled "This is a parent after an IEP meeting," portrays the same mom splayed out on her couch, holding her head.²³⁵ She's shoeless, with one leg hanging off the couch, and is connected to an IV of Valium,²³⁶ apparently to calm her down. Beer bottles and a wine glass are strewn on the floor, and there is a red telephone with someone yelling "Hello!" through the receiver, ignored by a parent too exhausted to pick up the phone.²³⁷

231. *Interview with Jada*, *supra* note 153. She continues:

That helps build their self-esteem . . . it's a skill that they can then build up on. "Oh, I'm good at being creative. What are the different kinds of ways that I can do this to get through this mess?" And then maybe later on in life, just find that niche, find that skill, find that thing that they like, and immerse them in it, and believe in them in it.

Id.

232. Flannery Sullivan, *At Long Last, the IEP Meme*, CONNOR CHRONICLES: LIVING ON SPECTRUM (Jan. 27, 2012), <https://theconnorchronicles.wordpress.com/2012/01/27/at-long-last-the-iep-meme> [<https://perma.cc/J6KN-R72F>].

233. *Id.*

234. *Id.*

235. *Id.*

236. *Id.*

237. *Id.*

The fact that this White mother, armed with law and policy, can come out of the IEP distraught, shows how difficult the process is widely experienced to be, regardless of a parent's race.²³⁸ But Black parents and their advocates experience this contest differently, given that they operate in a different social context that is structured by race, class, and gender. Black *motherworkers* navigate not only the racialization of ability for their clients, but the race-gender biases that follow them as Black women in White spaces. Although all mothers experience stereotypes, in special education, "black middle-class advocate as a white, middle-class mother."²³⁹

For example, Michelle describes conversations with her Black parent clients about how to present as nonconfrontational during the IEP meetings:

I usually describe it to [my families]; "[We] want to be assertive about what we want but not be aggressive about what we want and what might seem assertive but not aggressive to us, other people might see [our actions] in a different way.[]" We kind of talk about that a little bit too. I don't do [it] with everyone, but there have been times where we've talked about that in advance.²⁴⁰

Michelle describes how to manage stereotypes of "us"—Black parents—by instructing her parents on how to make demands. But what does not seem aggressive to Black people may come off that way to "other people"—White school officials. A Black mother can be labeled angry, irrational, or threatening, especially when perceived as challenging the status quo. Black women often face "aggressive encounters,"²⁴¹ which include those encounters where their capabilities as mothers and the intellectual abilities of their Black children are questioned. Black women must decide to either speak up and "risk backlash" or to stay silent and feel "complicit in [their] own oppression."²⁴²

238. See *Interview with Faith*, *supra* note 155. Faith explains her experience after IEP meetings:

I mean, you have to, if you're going to have an IEP meeting, if you have the luxury of not having anything after it, you almost need that [time off] because it can be so incredibly taxing and demanding on you emotionally. And if you have to fight a little bit, you just need to decompress, you need space to cry before, after, in between. Yeah, I don't cry in meetings, but, after the meeting, and then to have someone to call, right? I always need a lifeline after, if I call my mom or if I call my sister, I need someone to be, ["this is what happened.[]"] And help me decompress this or is what I'm saying really something that—am I just making this up? Or is this real? Am I making too much of this? Is my reaction right? There's a lot of checks that have to come in thereafter, you need a therapy session after an IEP meeting, unfortunately.

Id.

239. Baldwin Clark, *supra* note 18, at 418.

240. *Interview with Michelle*, *supra* note 154.

241. See Trina Jones & Kimberly Jade Norwood, *Aggressive Encounters & White Fragility: Deconstructing the Trope of the Angry Black Woman*, 102 IOWA L. REV. 2017, 2021–22, 2041 (2017).

242. *Id.* at 2057.

Michelle's instructions are an example of what Devon Carbado and Mitu Gulati call "working" one's identity.²⁴³ To be seen as "cooperative,"²⁴⁴ Black mothers must "work" their identities, performing in ways that repel stereotypes and signal belonging.²⁴⁵ Working one's identity as a race-subordinated person "is like being an actor on stage. There are roles one has to perform, storylines one is expected to follow, and dramas and subplots one should avoid at all cost."²⁴⁶

The law positions collaboration as the governing principle in parent-school relationships regarding special education. All the *motherworkers* I spoke to described that they approach new situations with parents and schools with a desire to be collaborative, but sometimes collaboration is undermined by racism. For example, Michelle expresses her preference to be collaborative with schools and teachers to focus on problem-solving:

I have a pretty collaborative approach to advocacy. I know that some people, their approach is, let's just come in scorched earth. And be aggressive towards everybody and lay down the law and things like that. And that's not necessarily the approach that I have found works for me. I come in more from, ["I'm curious to learn why you've made this decision for this student, because it doesn't seem like it's working.["]²⁴⁷

She believes that this approach has worked for the most part, but notes that this works because the school team realizes that she's a professional advocate. She explained that to be why schools "don't necessarily try to get . . . as many things by [us] because, I think they assume, ['she really knows we can and cannot do that.[']"²⁴⁸ Having that professional expertise, she thinks, reduces any tendency for a school to "get things by," or flaunt the law and policies because the school knows its futile to do so.

Other *motherworkers* shared similar thoughts about the use of expertise in advocacy. Nicole, a former special education teacher, describes how she initially did not want her child's team to know her background because she wanted to be seen as just "mom," but found that once the team was aware, she encountered less pushback when she was seen as a professional:

And I think that really did help. And we come to the table . . . whatever we said, like, ["I don't really agree with this. Let's look at

243. Carbado & Gulati, *supra* note 31, at 1262–63.

244. See Schaffer *ex rel.* Schaffer v. Weast, 546 U.S. 49, 53 (2005) ("The core of the statute, however, is the cooperative process that it establishes between parents and schools.").

245. Carbado & Gulati, *supra* note 31, at 1301–02.

246. DEVON W. CARBADO & MITU GULATI, ACTING WHITE?: RETHINKING RACE IN "POST-RACIAL" AMERICA 1 (2013) ("The central conflict is to demonstrate that one is black enough from the perspective of the supporting cast and white enough from the perspective of the main characters. The 'double bind' racial performance is hard and risky. Failure is always just around the corner. And there is no acting school in which to enroll to rehearse the part.").

247. Interview with Michelle, *supra* note 154.

248. *Id.*

this.["] They were a lot more open. . . . [A] lot more probably, compliant, maybe than [with] other families. . . . [U]nfortunately, . . . that's how that works, because they know, ["]Oh, okay, we know that you[,] this is your background. We know that you know certain things.["] The approach is going to be completely different.²⁴⁹

Despite her reluctance to have her credentials enter the IEP process, she ultimately found it useful as teachers regarded her as "one of us." Why was she reluctant? Because IEPs can be so contentious, she worried that, because the school knew that she was very knowledgeable, she would be more aggressive. But she notes how it must be different for other parents who lack such credentials.²⁵⁰

Displaying expertise is not the only way in which *motherworkers* work their identity. They engage in situational code-switching, by which a speaker changes language to insider status, portraying themselves as an equal partner. Faith explains a situation where she began speaking the "language" of special education to signal her equal status:

I've been in meetings where I, this is a little bit softer than, dropping your credentials, but just using the language of evaluations in the school building. . . . I remember this one very specifically where the head of special education . . . turned to me [and] said, "Oh, you're one of us." And, and I just smiled at her and I tell her what my background was . . . and said, "Yeah, I understand the language." Sometimes when you do things like that, it just raises a little bit of, okay, she kind of knows what she's talking about. She knows what's going on. She's been here before she might have been on the other side of the table. And they move a little bit differently with you, then they can't dismiss you as easily when you are speaking their language.²⁵¹

Faith using the language of evaluations is a form of cultural capital, by which she knows the game and its rules and has the right skills to play the game effectively.²⁵² Teachers and administrators must take her seriously because she signals that she knows the process intimately and cannot be taken advantage of.

249. Interview with Nicole, *supra* note 188.

250. *Id.*

251. Interview with Faith, *supra* note 155.

252. Baldwin Clark, *supra* note 18, at 412 ("Bourdieu's *habitus* is a 'system of dispositions which acts as a mediation between structures and practices.' An individual's *habitus* incorporates cultural knowledge, practices, and demeanor. In families, *habitus* is not instantaneously transmitted; parents transmit *habitus* through everyday experiences that socialize the child into the cultural group. *Habitus* can also be thought to include what sociologist Ann Swidler called 'strategies of action' that a group develops to solve problems specific to their social status. *Habitus*, thus, 'acts within [individuals] as the organizing principle of their actions[.]'" (alteration in original) (quoting PIERRE BOURDIEU, *Cultural Reproduction and Social Reproduction*, in 3 CULTURE: CRITICAL CONCEPTS IN SOCIOLOGY 63, 64 (Chris Jenks ed., 2003); Ann Swidler, *Culture in Action: Symbols and Strategies*,

In addition to using the proper language, one possible way to avoid being seen as aggressive is to adopt strategies that have been developed by White advocates that seemingly work to convey collaboration. *Motherworkers* told me about advice given to parents to dress up for meetings and to even bring snacks.²⁵³ This is an attempt to manage the experiences of the client by both formalizing their appearance and being informal with desserts, all in the interest of appearing cooperative and collaborative. But Jada recognizes that this advice can land differently for Black parents:

[T]hat just puts such a burden on families, because think about it, when you're in a . . . [W]hite setting and you're hearing, "This is what you're supposed to do," and you know they're talking about [W]hite people. You're thinking as a Black woman, "Well, I definitely have to do that, but I have to do even more work."²⁵⁴

Jada's observation highlights that while everyone works their identity to some degree, for racial outsiders, the burden is high.²⁵⁵ Some *motherworkers* decide to lead with their credentials to varying degrees of success and for various purposes. Consider Aaliyah's experience, where with one team, she believes she is being treated better because of those credentials, but with another team, she is regarded with wariness when she challenges a school team member:

I've come into meetings where all the staff is [W]hite, the family is not. And because I am not, but I am a professional, they go above and beyond to make me feel respected. [But] I walked into a meeting where I'm battling the other mental health professional that is with the school because the team has expected them to be the professional

51 AM. SOCIO. REV. 273, 276 (1986); and PIERRE BOURDIEU, OUTLINE OF A THEORY OF PRACTICE 18 (Richard Nice trans., 1977)).

253. *Interview with Jada*, *supra* note 153 ("[T]his was something that I heard in [W]hite spaces about advocacy to do that. So, I thought, 'Well, if [W]hite people have to dress up, you know Black people got to dress up, because this is twice as bad about the way they perceive us.' So that was my internal thought. . . . Pete Wright, he has a book called 'Emotions to Advocacy,' and that was a book that was really popular then, and he had things like that, you know, have cookies, bring food, be nice, dress like you're going to a business meeting, dress up, I mean, that was the advice.").

254. *Id.*

255. Carbado & Gulati, *supra* note 31, at 1261 n.2 ("The question becomes, how does one move from one socially stable impression of oneself to another? The answer relates, at least in part, to the 'attributal' [sic] conception of identity. Assume that Mary has come to think of herself as witty. Once she has developed this sense of self, her subsequent social interactions—more specifically, how she interprets them—likely will have one of three consequences: (1) confirm that she is witty, (2) raise doubts about whether she is witty; or (3) create the impression that she is not witty. To the extent that Mary is invested in a sense of herself as witty, she is likely to find ways to facilitate other peoples' interpretation of her as being witty. She may adopt specific presentational strategies to signal this characteristic. These strategies may or may not work. If they are successful, people will respond to Mary in ways that confirm (to Mary) that she is witty. In other words, they will 'attribute' this personal characteristic to Mary. To the extent that this occurs, Mary will have solidified her sense of self.").

who knows it, and I am going against what they're saying, but we hold the same credentials.²⁵⁶

The Black *motherworker* in special education is not a White mother, and she likely cannot act just as a White mother may and get the same result. Her performance in this space is unique—how to effectively use the formal rules that apply to everyone and comply to the informal norms and mechanisms of cooperation and compliance. Those who face oppressive stereotypes will need to put more effort and energy into constructing a “cooperative” identity that transcends race and gender.²⁵⁷

Black *motherworkers* must also contend with the fact that research shows that race and gender affect group decision-making.²⁵⁸ These *motherworkers* see themselves as fulfilling a crucial role in the contest between parents and schools. In response to a question as to how she sees herself as a Black advocate for Black families, Jada describes herself as an effective fighter for families who look like hers, families that often feel defeated by White administrators in White schools.²⁵⁹ She sees herself as a champion for Blackness:

Yeah, so [the families] probably do like the fact that I'm . . . knowledgeable. And I'm able to use that knowledge to stick up for them. To stick up for their Blackness, to be the voice of . . . “You're not hearing what this parent's saying to you. You're not seeing what you're doing.”²⁶⁰

Note that she is “sticking up for Blackness”—not just an individual child, but for Black children and families, writ large.

* * *

The preceding sections illustrate three fundamental aspects of Black *motherwork* in special education advocacy. First, these Black mothers have translated their experiences parenting in special education into working on behalf of Black families in special education. They do so explicitly based on their own experiences as Black parents advocating in White spaces. Second, to be effective advocates, *motherworkers* must balance the unsteady tension between resisting racial stereotypes about their Black children's abilities while simultaneously advocating for services. They resist stereotypes of Black children

256. Interview with Aaliyah, *supra* note 199.

257. Carbado & Gulati, *supra* note 31, at 1270–71 (“When the stereotype is strong, and the conditions are such that ordinary behavior is not likely to dissipate it, an outsider subject to a strong negative stereotype has an incentive to take actions to negate it. On the other hand, someone subject to strong positive stereotypes need not work as hard to achieve the same final evaluation as someone who is subject to negative stereotypes. Further, the stronger the stereotype, the greater the effect is likely to be on the employee's behavior.”).

258. See Lisa Slattey Walker, Sharon C. Doerer & Murray Webster, Jr., *Status, Participation, and Influence in Task Groups*, 57 SOCIO. PERSPS. 364, 372–74 (2014).

259. Interview with Jada, *supra* note 153.

260. *Id.*

as deficient and unable to learn, both in the diagnosis process and the provision of special education services. Third, Black mothers must carefully manage their identity and presentation during advocacy, particularly regarding stereotypes of aggression and assertiveness. This requires careful “identity work” where Black *motherworkers* must constantly assess their self-presentation, deciding when and where to selectively deploy credentials and experience within a collaborative team working space.

V. CONSIDERING *MOTHERWORK*

A question remains: so, what should we do? Unfortunately, my *motherworkers* were generally pessimistic about the state of special education, Black learners’ experiences in it, and options for reform. For example, when asked how to reform the process, Faith responded:

I think that my feeling is more along the lines of just abolishing the whole system. It doesn’t work. It is broken. It is broken to its core. And we have to rethink how we approach education for every child, and we can kind of look at the history of public education, the history of special education, to see that it was a system that truly is not designed to serve every student and that there is a permissible and allowable amount of failure to exist within the system. And I think we, I think it’s a start over. It’s a do over.²⁶¹

Other *motherworkers* had more concrete proposals. Aaliyah emphasized the importance of educating Black families who are wary about special education on the things that one only knows through engaging with the process time and time again.²⁶² For example, she described a family that worried about their child being labeled under emotional disturbance when the child presented with anxiety, and how she gave them insider information that assuaged their concerns:

Thankfully . . . we were able to walk through that and talk through that and process that and be “no,” because we are addressing a lot of the dysregulation where they have essentially, classified him under autism, and eventually he may not be perceived as eligible for that category anymore, right? That anxiety piece opens that door for that Other Health Impairment, but it never been explained to her.²⁶³

This parent needed an advocate to understand the strategy behind diagnosing and labeling to avoid placing herself and her child in a dis-

261. Interview with Faith, *supra* note 155. Jada had a similar response: “[T]here’s so much racism in our public education system. I don’t even know how to start to get it out. That’s why I say tear it down and hook it back up, because it’s embedded. It was a system that was never made for us. Never.” Interview with Jada, *supra* note 153.

262. Interview with Aayliaah, *supra* note 199.

263. *Id.*

advantageous position in the future. Without an advocate explaining the thinking behind decisions, the parent may have made a decision that would hurt her child down the line. Although she does not directly say so, Aaliyah is advocating for more advocates! To that end, schools can identify, train, and pay a racially diverse group of mothers, including Black mothers, who have been through the IEP process to assist other parents who are now navigating it. Paid advocates would be beneficial both to the school and to parents, and could work to bridge the trust gap Black families have with schools.

Another possible avenue of reform is in the identification and evaluation process. *Motherworkers* often found that Black parents are particularly distrustful in the diagnostic phase, afraid that schools were attempting to place their child in stigmatizing special education categories. Michelle explains how while White affluent families seek evaluation, Black parents are often skeptical:

[I]n the [B]lack community, a lot of times it's, I don't want you testing my child. I don't want to label those types of things. I think that a lot of discussions that I've had with people [as a school psychologist] have been around ["we're not testing you for a label, we're testing you because we want you to be able to access services that this student needs."] . . . I think when it would come from me as a school psychologist, ["Hey, I'm not trying to throw your kid in some classroom down the hall. I'm trying to help them. I'm not trying to just put a label on them. I'm trying to get them access to additional programs and services."] I feel like parents that have been reluctant to participate before, I feel like those have been some helpful things to kind of get them to see this could be beneficial for you, because in the past, testing, special education, all that has had such a bad rap.²⁶⁴

Although she does not directly state it, one implication from Michelle's observation is that the diagnostic process needs better guardrails for Black parents to feel comfortable that the process is about helping, not hurting. Federal law could require a presumption against placing Black children in the most stigmatizing categories, mandating multiple evaluations before labeling a Black child with emotional disturbance and intellectual disability. This type of race-based restriction has some precedent. In California, schools are disallowed from using IQ tests to place Black children into special education because of the known history of racial discrimination that are embedded in those tests.²⁶⁵ This reform would bring a race-consciousness to the IDEA itself,

264. Interview with Michelle, *supra* note 154.

265. See generally *Larry P. v. Riles*, 495 F. Supp. 926 (N.D. Cal. 1979) (instituting a permanent injunction against using IQ tests to place Black children in the category of intellectual disability). The injunction remains in place, although a 1995 case made an exception to allow parents to request IQ tests for categories other than intellectual disability. *Crawford v. Honig*, 37 F.3d 485, 488 (9th Cir. 1995). In 2022, the California Department of Education issued a memorandum that

a first step in going beyond just looking at disproportionality to focus on the individual experiences of children and parents.

CONCLUSION

This Article brings together three contributions. First, it reveals the words of *motherworkers*, a group of civil rights workers who have been overlooked. Through *motherwork*, we can see how Black parents who are not lawyers work the law to the benefit of their families, and families that look like them. Second, it highlights the tensions between effective advocacy and formal rights. Simply knowing special education law is not enough to effect equal rights for all Black children because how parents are received by schools differs by race and class. Black parents, and in particular Black mothers, cannot move through the advocacy space the way many White mothers could. Third, it brings to the forefront the co-constitutive nature of race and disability and how advocates take the theory of intersectionality and incorporate it into their advocacy work.

EPILOGUE

With the help of the Oak Whisperer, Young Oak began to receive the cultivation he needed to help him become the brilliant and authentic version of his brown-barked self. His branches still danced and bent, but now the gardeners cultivated him differently, giving him truly what he needed.

Over time, the Oak Whisperer helped one family, then ten, then a hundred. But she struggled against the logics of the garden itself, and the training the gardeners received. Yet, she persevered. This Oak Whisperer, and others like her, would continue their motherwork in white-barked gardens. They continue to translate, fight, and breathe life into a system that promised protection but too often delivered far less. They would continue because they must, because Young Oak and all the young oaks deserve to grow.

clarified the terms of the ban but affirmed that the injunction remained in place. Memorandum from the Dir. of Special Educ. on Special Education Assessment of African American Students (Sept. 14, 2022), <https://www.cde.ca.gov/sp/se/ac/memo091422.asp> [<https://perma.cc/GK66-PS6G>].