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Focus: Fair Discipline

Federal School Safety Commission Recommendations Could Lead to Less Safe Schools

by Morgan Craven, J.D.

In response to the violent school shooting in Parkland, Florida, last year, President Trump appointed the Federal Commission on School Safety, comprised of Secretary of Education Betsy DeVos, former Acting Attorney General Matthew Whitaker, Secretary of Health and Human Services Alex Azar, and Secretary of Homeland Security Kirstjen Nielson. The president tasked the commission to provide recommendations on improving school safety. In December 2018, the commission issued its final report.

The report contains some research-based suggestions for improving school climates, including expanding in-school supports for students. But it also features several recommendations that would actually harm young people, particularly those most vulnerable to discrimination in their schools.

One of the most troublesome recommendations is that the U.S. Departments of Justice and Education rescind Obama-era guidance that was issued in 2014 to address race-based discrimination in school discipline. The Obama Administration’s guidance did not create new law; rather it advised school districts on how to comply with existing civil rights laws and regulations prohibiting racially discriminatory practices in schools as they relate to exclusionary discipline, such as suspension or placement in an alternative school.

The guidance also advises school districts on

best practices for creating safe, supportive school environments for all students. The guidance was informed by extensive literature reviews, input from advocates and experts, and conversations with students, parents and educators most impacted by school discipline and climate policies.

The commission’s recommendations follow a disturbing trend in “school safety” policy. Too many decision makers will ignore what true safety looks like for all students in order to adopt extreme security measures that can actually compromise the wellbeing of young people.

Research tells us that extreme security and surveillance measures are not only expensive and ineffective but also can make schools feel less safe for students and educators. These extreme measures are more likely to be taken in schools with higher concentrations of students of color, often with no relationship actual security concerns.

Increased security, surveillance and law enforcement in schools, adopted in the name of “school safety,” can actually push students into the school-to-prison pipeline, which makes them less safe. This is particularly true for students of color, students with disabilities and LGBTQ students, who are already more likely than their peers to have contact with the punitive discipline system in their schools.

(cont. on Page 8)

“To respond to horrific school shootings by pushing students into the school-to-prison pipeline and undercutting their civil rights only begets further tragedy.”

– Celina Moreno, J.D.,
IDRA President and CEO

Principles for School Safety, Privacy and Equity

Note: IDRA is one of 40 national organizations that signed on to this statement of principles, released on March 27, 2019.

We believe all students have a right to an education that is safe, addresses their individual needs, and affords them equal opportunities. Efforts to keep schools safe must protect all students' privacy and dignity, as well as their right to an equal education. Schools must not discriminate against or target students based on their disability or perceived differences.

1. School safety measures should focus on prevention, through the creation of a safe, supportive and inclusive school climate for all students.
2. Schools must not discriminate, and school safety measures should not reinforce biases against, or rely on profiling of, students based on race, color, national origin, sex, religion, disability, sexual orientation, gender identity or other similar characteristics.
3. The fact that a student has a disability diagnosis, a history of receiving services for a disability, or an individualized education program (IEP) or 504 plan that addresses disability-related behaviors does not mean the student is a potential threat to his or her school community.
4. The role and responsibility of law enforcement, if any, within a school needs to be clearly defined by written agreement. Schools should not rely on law enforcement officers to handle school disciplinary matters.
5. If school safety measures include monitoring of students (physically and/or digitally), such measures should be evidence-based, be subject to ongoing evaluation and focus on threats of actual harm. They should be transparently developed in consultation with experts and community stakeholders, including students, parents, and educators.
6. If security cameras or other types of surveillance are used in schools, school administrators must ensure that the data collected are not misused and ensure compliance with all applicable privacy laws. Clear policies must be established regarding:
 - a. What data are collected, who has access, how the data will be used, and when the data will be destroyed.
 - b. How to act upon data collected through the surveillance of students.
 - c. Sharing data, especially if data will be shared with law enforcement or others outside of school, with clear responsibilities and accountability as well as consequences for those who violate these data sharing protocols.
 - d. Transparency to educators, parents and students.
7. Algorithms used for school safety are imperfect, often based on historical and biased data, and can produce false positives and replicate bias. Final decisions about whether a student is categorized as a threat and the actions to take should be made by school administrators, who are able to take into account the student's particular needs and circumstances, and not by algorithms.
8. Comprehensive school-based mental and behavioral health services are critical to ensuring a positive and safe school climate. School safety measures can and should be undertaken to promote, not undermine, students' mental health and well-being.
9. Students who are designated as a threat, and their families, should have an opportunity for recourse, have access to the information used to make the determination, and have the opportunity to dispute the determination.
10. Surveillance measures should be reviewed regularly to verify that they are fulfilling the goal of protecting student safety and are not producing deleterious unintended effects, and to ensure that unnecessary surveillance is not continued.

Signed by: AASA: *The School Superintendents Association* • American Association of People with Disabilities • The Advocacy Institute • The Arc of the United States • Association of Educational Service Agencies • Association of Latino Administrators & Superintendents • Association of School Business Officials International • Association of University Centers on Disability • Autism Society • Autistic Self Advocacy Network • Bazelon Center for Mental Health Law • The Campaign to Keep Guns off Campus • Center for Public Representation • Council of Administrators of Special Education • Council of Parent Attorneys and Advocates • Disability Independence Group, Inc. • Disability Rights Education & Defense Fund • EPIC • Florida Association of School Psychologists • Florida League of Women Voters • Florida Parent Teacher Association PTA • Future of Privacy Forum • Intercultural Developmental Research Association • Lawyers' Committee for Civil Rights Under Law • Learning Disabilities Association of America • Mental Health America • National Association of Councils on Developmental Disabilities • National Center for Learning Disabilities • National Center for Special Education in Charter Schools • National Center for Youth Law • National Disability Rights Network • National Education Association • National PTA • National Rural Education Advocacy Consortium • National Rural Education Association • Public Advocacy for Kids • Sandy Hook Promise • School Social Work Association of America • Southern Poverty Law Center • TASH.

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Publication offices:
5815 Callaghan Road, Suite 101
San Antonio, Texas 78228
210-444-1710; Fax 210-444-1714
www.idra.org | contact@idra.org

Celina Moreno, J.D.
IDRA President and CEO
Newsletter Executive Editor

Christie L. Goodman, APR
IDRA Director of Communications
Newsletter Production Editor

Three Approaches for Dismantling Discriminatory Discipline in Schools

by Paula N. Johnson, Ph.D., & José A. Velázquez, M.Ed.

Schools across the country are focused on resolving behavior issues in ways that minimize students' out-of-class time. The use of exclusionary practices has declined over the past several years (U.S. Department of Education Office for Civil Rights, 2018). An increasing number of schools are adopting a "whole child" approach to student learning and success built on relationships and community (Grayson, 2016). In this article, we explore equitable approaches for addressing student behavior.

The most recent Civil Rights Data Collection reports (2016; 2018) show a decline in suspension rates for both males and females. There also have been significant decreases in out-of-school suspensions for Black, Hispanic and White students. However, racial disparities in suspensions are still apparent in K-12 schools. Out-of-school time due to suspension is one of the leading variables impacting poor academic performance and attrition in school.

Disproportionate representation in out-of-school suspensions is most notable for Black students. Though Black males and White males account for 24 percent to 25 percent of male out-of-school suspensions, Black males represent only 8 percent of all male students enrolled compared to 25 percent for White males. This means that Black males experience exclusionary disciplinary practices at more than three times their rate of enrollment. Similarly, Black female students are experiencing out-of-school suspensions at almost twice the rate of their enrollment.

Building School Capacity

The IDRA EAC-South has a three-pronged approach to addressing disparities in school discipline. Our technical assistance builds capacity to increase positive school climates through a series of research-based services, including cultural competency and implicit bias training related to school discipline practices for administrators, faculty and staff. Second, we work with schools to

revise discriminatory student discipline practices to better align with the district's tiers of support for behavior. And third, we build capacity for effective family and parent engagement based on IDRA's family leadership model.

As a result, districts across the region report lower rates of suspension and expulsion each year. Additionally, administrators, teachers and staff are implementing strategies designed to de-escalate conflict and foster more positive learning environments. Parents report an increase in self-regulation and less out-of-class time for their children.

In one example, technical assistance provided to one partner district in our region aided in implementing a comprehensive plan to address disproportional discipline practices, attrition and graduation rates. Racial disparities between Black and White student achievement had troubled the district for many years. With just under 8,000 students, enrollment is almost equally divided between the two student groups. Administrators were pleased with the district's progress and grateful for the four-year partnership with IDRA, including IDRA's data tools and training.

Efforts by many school and community leaders to reverse the disparity trends are paying off nationally as well. The rate of out-of-school suspensions fell from 38 percent to 25 percent for Black males from 2013-14 to 2015-16. Likewise, there was a surprisingly steep decline in the percentage of Black females receiving out-of-school suspensions over the same two-year period to 14 percent in comparison to the staggering 47 percent two years prior. The rates for Hispanic and White students also saw declines (see table on Page 4).

Social Emotional Learning

The human connection within a community of learners is key to creating safe learning spaces. A positive school culture hinges upon meaningful relationships grounded on trust, mutual

(cont. on Page 4)

Out-of-school time due to suspension is one of the leading variables impacting poor academic performance and attrition in school.

IDRA EAC-South

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(Three Approaches for Dismantling Discriminatory Discipline in Schools, continued from Page 3)

respect and deep regard for human dignity. Social emotional learning (SEL) plays a key role in this process. The Collaborative for Academic, Social, and Emotional Learning (CASEL, 2019) describes SEL as “the process through which children and adults acquire and effectively apply the knowledge, attitudes and skills necessary to understand and manage emotions, set and achieve positive goals, feel and show empathy for others, establish and maintain positive relationships, and make responsible decisions.” It is a process by which educators and students build capacity and sustainability as they learn and grow together.

A few potential SEL opportunities that contribute to the overall school culture include the manner by which students and parents are greeted as they walk into the campus, the words and tone used by the principal as she provides individual feedback to teachers after observations, and the classroom interactions created by collaborative learning activities.

A growing body of scientific evidence links SEL to improved academic performance (Aspen Institute National Commission on Social, Emotional, and Academic Development, 2018). Giving students the opportunity to practice social and emotional skills while learning academic content fosters a sense of self-efficacy while boosting self-confidence and a sense of belonging. Such experiences help children counter the detrimental pressures felt by testing, social inequities and economic disparities, among others.

Teacher Professional Development Related to Student Trauma

While developing a positive and equitable learning environment for all children, educators can build on their skills to appropriately respond to the effects of trauma on youth. The Substance Abuse and Mental Health Services Administration (SAMHSA, 2017) found that more than two thirds of children suffered at least one traumatic incident by age 16.

As school counselors take on more administrative roles related to testing, scheduling and academic guidance, teachers struggle to create trauma-informed learning environments that are safe havens for students who have had adverse childhood experiences. Without professional development and support, “teachers who are unaware of the dynamics of complex trauma can easily mistake its manifestations as willful disobe-

Percentage Distribution of U.S. Students Receiving One or More Out-of-School Suspensions

	Males				Females			
	Enrollment		Out-of-School Suspensions		Enrollment		Out-of-School Suspensions	
	2013-14	2015-16	2013-14	2015-16	2013-14	2015-16	2013-14	2015-16
American Indian or Alaskan Native	0.6%	1.0%	1.3%	1.0%	0.5%	1.0%	1.5%	1.0%
Asian American	2.4%	3.0%	1.1%	1.0%	2.4%	2.0%	0.7%	0.3%
Latino	12.7%	13.0%	21.8%	15.0%	12.1%	13.0%	20.6%	6.0%
Black	7.9%	8.0%	37.5%	25.0%	7.6%	8.0%	46.9%	14.0%
White	26.0%	25.0%	35.0%	24.0%	24.4%	24.0%	27.0%	8.0%
Native Hawaiian or Pacific Islander	0.2%	0.2%	0.4%	0.3%	0.2%	0.2%	0.4%	0.1%
Two or more races	1.5%	2.0%	3.0%	3.0%	1.5%	2.0%	3.0%	1.0%

Data source: U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection 2013-14, 2015-16

2019, Intercultural Developmental Research Association

dience, defiance or inattention, leading them to respond to it as though it were mere “misbehavior” (Terrasi & Crain de la Galarce, 2017).

Systemic, ongoing professional development must engage district and campus leadership to ensure fidelity of implementation. This requires preparing teachers with trauma-informed practices and structures that provide effective and efficient support systems.

The dynamics of meaningful human relationships are at the heart of effective response support to students impacted by trauma. Restorative dialogues that include fellow classmates, classroom teachers and significant adults during “circle” processes have the potential to transform the way educators and students perceive each other in positive ways. (For more information about restorative practices, see article on Page 6.)

Removing a student from the education environment or, in some cases, from the school entirely, impedes their opportunity to learn. For all students to be academically successful, we must develop a system of supports to increase positive behaviors that increase time for teaching and learning.

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Paula N. Johnson, Ph.D., is an IDRA education associate and director of the IDRA EAC-South. Comments and questions may be directed to her via email at paula.johnson@idra.org. José A. Velázquez, M.Ed., is an IDRA education associate. Comments and questions may be directed to him via email at jose.velazquez@idra.org.

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Discipline Policies Must Not Come at the Expense of Any Group of Students

by Morgan Craven, J.D.

Recently, a federal judge ruled that the U.S. Department of Education, led by Secretary Betsy DeVos, illegally delayed Obama-era regulations designed to address racial disparities in special education placements and discipline.

The regulations are designed to tackle these race-based disparities in three important ways. First, they require districts to examine and address disproportionalities in identification of students with disabilities. Second, they require districts to address race-based differences in the placement of students with disabilities so that children of color are not unfairly placed in overly-restrictive settings. And third, the regulations require school districts to address racial disproportionalities in how students with disabilities are disciplined in their schools.

Research shows that Black and American Indian children are misidentified as having disabilities at higher rates than other groups of students, resulting in unnecessary special education services and restrictive placements. Students of color, with and without disabilities, are often over-represented in exclusionary, punitive school discipline systems.

The judge's ruling is important. Our laws, regulations and policies must protect all students, particularly students who are most vulnerable to the structural, systemic and individual biases that can lead to discrimination in schools. A critical part of protecting students – the part that gives power to policies like the delayed regulations – requires ensuring that accurate, timely data are collected, analyzed and made available to the public. When we examine the data, we can recognize disparities and disproportionalities, identify trends over time, and evaluate the impact of programs and practices.

Since its founding, IDRA has been committed to collecting data and conducting research to design our practical tools and technical assistance and to inform our policy work, including in the area

of addressing the impact of the school-to-prison pipeline. This pipeline involves the use of punitive discipline practices (like suspensions and alternative school placements), criminalization of students in schools (through the misuse of police and courts), and the absence of research-based supports and professionals to address the needs in the school community. We published an analysis of disciplinary alternative education programs in Texas in 1999 and an update in 2009 (Cortez & Robledo Montecel, 1999; Cortez, 2009).

We are continuing this work and have prioritized ending the school-to-prison pipeline in our policy efforts. Importantly, many of the policy proposals related to these issues rely on data that show their impact if adopted on individual students and the overall school climate.

In Texas, for example, important work is being done to ensure that measures do not re-introduce zero tolerance policies and that policies protect vulnerable student populations from harmful school exclusions and increase the presence of school-based counseling and mental health professionals.

One of the most exciting proposals of the 2019 Texas legislative session would create ratios between counselors (or other school-based professionals like social workers) and school-based law enforcement so that no student in the state would go to a school where they were more likely to encounter a police officer than a counselor. Data show that, across the country, 1.7 million students attend schools where there is a police officer but no counselor (Whitaker, et al., 2019).

Even though the recommended student-to-counselor ratio is 250:1, only three states are currently meeting that recommendation. Texas' student-to-counselor ratio is nearly 450:1, even though the benefits of counselors, social workers, school psychologists and other professionals are (cont. on Page 7)



IDRA National Director of Policy Morgan Craven, J.D., testified before the Texas Senate education committee on school safety proposals. “The students who are most likely to have disproportionate contact with police, despite not being more likely to misbehave, are students of color & students with disabilities. And these overly-punitive approaches can cause students to disengage from school.”



See video of her testimony:
<https://idra-resource.center/YT032619>

Restorative Practices – Informal and Formal Processes for Addressing Behavior

by Paula N. Johnson, Ph.D.

Traditional discipline in schools often excludes students from the classroom learning environment as a means to exert control and punish wrongdoing. Restorative approaches on the other hand foster inclusion, engagement and meaningful accountability. Restorative practice is a “relational approach to building school climate and addressing student behavior” (Armour, 2012). It focuses on teaching students how to take responsibility for their actions. This article includes an overview of the processes of restorative practice, preliminary research findings and recommendations for implementation.

The Restorative Process

Restorative practice is both proactive (developing community by building relationships) and reactive (restoring relationships by repairing harm). Schools and programs that only use the reactive elements without building the social capital first are less likely to see positive results (Watchel, 2013).

Introducing restorative practice usually requires a complete paradigm shift for stakeholders involved. Rather than ignoring behavior (*neglect*), punishing behavior (*doing to*), or enabling behavior (*doing for*), restorative practice uses informal and formal processes to address behavior *with* students. The restorative practices continuum ranges from informal processes (affective statements and questions) to formal processes (impromptu conferencing, “circles” and formal conferencing).

The key to restorative practice lies in the questions asked of those involved. Giving students the opportunity to share their version of events enables them to be heard. Many times, students’ main complaint about discipline is that no one listened to them. Rather than asking a student, “What did you do?” or “Why did you do that?” restorative practice outlines five key questions that guide conversations to address harm:

- What happened?

- What were you thinking at the time?
- What have you thought about since?
- Who has been affected by your behavior or actions and in what way?
- What do you think needs to be done to make things as right as possible?

One of the most impactful elements of restorative practice is called *circles*. Around a circle, everyone has equal voice. A talking piece is passed around the circle as each person shares without interruption.

Circles can be used for a variety of purposes, such as building relationship and community, problem solving, decision making, conflict resolution, and for academic discussions about content. Restorative practice circles task each participant to (1) listen from the heart, (2) speak from the heart, (3) be honest and respectful, and (4) say enough, but not too much.

Outcomes and Recommendations

Given the recent growth of restorative practice use in schools, not much data has been collected on a large scale to determine effectiveness. Yet, there are studies that show that restorative practice is having a positive impact on student discipline.

In one large urban district, Denver Public Schools, for example, students in schools that implemented restorative practice in the fall semester had lower chances of receiving an office referral or being suspended in the spring (Anyon, et al., 2016).

A study found that the most frequently used component of the program is circles (Guckenburg, et al., 2016). Additionally, participants overwhelmingly agree that schools implementing restorative practice experience a large and quick decrease in the number of student suspensions and expulsions (Guckenburg, et al., 2016).

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Restorative practice develops community and manages conflict and tensions by building relationships and repairing harm.

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funded by the U.S. Department of Education

(Restorative Practices – Informal and Formal Processes for Addressing Behavior, continued from Page 7)

The restorative practice process does not come without challenges. Insufficient funding; resistance from administrators, staff, students and parents; and extensive training requirements can hinder a successful transition. But students are capable of succeeding in school with community support. The restorative approach is a guiding philosophy that values relationships as a fundamental requirement for learning, growth, and a positive school climate for students and adults.

Recommendations for districts considering restorative practice and for those in the beginning stages of implementation include:

- Provide teachers with comprehensive training prior to implementation;
- Understand that the first phase of implementation is about building relationships, not discipline; and
- Involve parents and caregivers in the process (Payne & Welch, 2015).

Through the IDRA EAC-South's partnership with the Florida and the Islands Comprehensive Center, we have provided turn-around training to nearly 100 restorative practice coordinators in six school districts across Florida between October and February. Our three-day training unpacks the components of restorative practice and integrates implicit bias discernment and cultural competence as part of the larger framework for increasing equity in schools. Three districts are

Immigrant Students' Rights to Attend Public Schools

As schools register students for the next school year, IDRA shares this infographic as a reminder that public schools, by law, must serve all children, regardless of immigration status.

This infographic is in full color and is available on IDRA's website along with many other resources for schools and advocates. We encourage you to share them across your networks.

Other Tools...



eBook in English and Spanish



One-page bilingual flier to copy and share

<https://budurl.me/2-IDRAimmiged>

Welcoming Immigrant Students in School

Immigrant students are guaranteed access to free public education by the U.S. Supreme Court.

Public schools cannot deny admission to a student on the basis of their immigration status.

Public schools cannot require students or parents to disclose their immigration status.

Public schools cannot require students or parents to provide a home address to ensure their enrollment status.

Public schools cannot require public security numbers from students or parents.

Public schools cannot demand that parents provide driver's licenses or other identification documents that are not required.

Public schools cannot engage in any practice that "chill" or "chase" the spirit of laws that require schools to accept students that parents can not afford to educate.

All children are eligible under state laws to attend school until they reach a mandated age.

School personnel have no legal obligation to enforce U.S. immigration laws.

U.S. Immigration and Customs Enforcement (ICE) agents are to refrain from enforcement activity at all public school locations, which include schools as detailed in ICE's own policies.

The Family Education Rights and Privacy Act prohibits schools from providing any outside agency (including ICE) with any information from a child's school file that would expose the student's unaccompanied status.

What schools can do...
 Focus on teaching all students. Pre-identify those parents that face barriers to their children's enrollment. Remove barriers and staff concerns by providing the right of choice and an enrollment competency. Show discretion with parents about resources for students, families and other language of the school. Review all of your enrollment and registration documents including forms, websites, and communications provided to ensure that the process of the child's school enrollment is clear, accessible, and that not providing such information will not bar a child's enrollment. Adults without valid security numbers who are applying for a new lease and/or residential program for a student must sign the application that they do not have a pending criminal record.

Get more info and resources, including IDRA's School Opening Heat Flare eBook. www.idra.org info@idra.org

planning a full implementation of restorative practice during the 2019-20 school year with continued support from the IDRA EAC-South. We will work with the districts to design evaluation tools to measure results as part of our continued partnership. For more information about restorative practice in-service training in Region II, contact the IDRA EAC-South at 210-444-1710 or eacsouth@idra.org.

Resources

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Paula N. Johnson, Ph.D., is an IDRA education associate and director of the IDRA EAC-South. Comments and questions may be directed to her via email at paula.johnson@idra.org.

(Discipline Policies Must Not Come at the Expense of Any Group of Students, continued from Page 5)

clear. We support this and other important, data-driven policy changes.

Unfortunately, some policy proposals in many states and at the federal level ignore data and research showing the harms that students can experience in their schools. For example, following the school shootings in Parkland, Florida, and Santa Fe High School in Texas, significant energy was put toward addressing targeted school violence. We know from research that schools are actually among the safest places in our communities and that the most effective way to reduce the likelihood of targeted violence in schools is to create safe, positive climates where students feel comfortable seeking help from adults.

Still, many "school safety" proposals involve pouring money into unnecessary and harsh school hardening and surveillance tools or would

increase the presence of and funding for school-based police officers. These approaches are not consistent with research about what works to create safe campuses and ignore data showing that students of color and students with disabilities suffer most when schools feel like prisons and police officers have a regular presence on campuses.

When we look at school discipline, school climate and school safety policy proposals, we must support those that are consistent with data and research showing effectiveness. Programs and practices should be research-based. When data show that certain student groups benefit or suffer disproportionately from a discipline particular practice, we should act swiftly to change the way those students are treated.

We look toward the future and exploring how changing technology and approaches to school climate affect students. And we will stay vigilant to monitor the impact of policy changes on high-quality education opportunities for all students.

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Morgan Craven, J.D., is the IDRA National Director of Policy. Comments and questions may be directed to her via email at morgan.craven@idra.org.

Focus: Fair Discipline

(Federal School Safety, continued from Page 1)

The focus on school security and hardening is not for a lack of alternatives. There are many research- and evidence-based approaches that improve school climate, reduce incidents of targeted school violence, and protect students from discriminatory discipline practices. Schools must spend energy and resources on these approaches, rather than on others that are not only ineffective but harm students.

Resources

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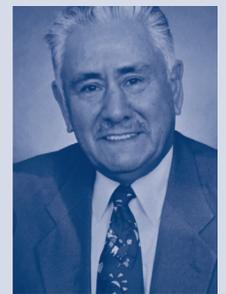
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Morgan Craven, J.D., is the IDRA National Director of Policy. Comments and questions may be directed to her via email at morgan.craven@idra.org.

In Memoriam – Mr. William Acosta

Mr. William Acosta, a member of the IDRA Board of Directors for 22 years, passed away this month peacefully of natural causes and surrounded by family. He led a life dedicated to cross cultural understanding around the world and to supporting others in their pursuit of higher education.

IDRA President Emerita, Dr. María "Cuca" Robledo Montecel, stated: "I am deeply grateful for the opportunity to work with Bill during his 22 years as an IDRA board member. We are grateful also to Bill's wife Grace and his family, especially his son Kevin, for their friendship and support. *Los acompañamos en sus sentimientos. Que en paz descanse Bill Acosta.*"



In the late 1950s and 1960s, Mr. Acosta worked with juvenile gang groups in Los Angeles and with incarcerated youth as a psychiatric social worker. He worked with the LA Head Start program and later as a community development consultant in Panama. In the 1970s, he worked with more than 300 Peace Corps volunteers in Bogota and directed Peace Corps operations in the Dominican Republic. He also served as the regional administrator for Health and Human Services for Region VI in Dallas. He became a naval aviator in 1953. After serving active duty, he was a reservist until 1984. Five years later, he retired from public service with the federal government and went straight to Thurgood Marshall School of Law to earn a law degree.

"Bill was committed to the understanding that education is life-changing. We at IDRA were blessed to have him serve alongside us to open possibilities for so many young people," said Mr. Juventino "Tino" Guerra, IDRA board chair.