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Focus: Student Rights

Restorative Practices Can Prevent and Heal Bias-based Harm

By Paige Duggins-Clay, J.D.

Every year, millions of students experience harmful bias-based behaviors, such as identity-based bullying, harassment and hate crimes in school. Left unchecked, these incidents detract from student success, increase the risk of physical and mental health issues, and violate students’ civil rights. However, educators can use restorative practices to prevent and heal the harm caused by hate crimes and harassment.

Students Face Increasingly Hostile Climates

In January of this year, the FBI reported an all-time high for reported incidents of hate crimes from 2018 to 2022. Schools are the third most common place where these offenses occur, and school-based incidents have steadily increased

in proportion to other hate crime locations (FBI, 2024). (See graph on next page.)

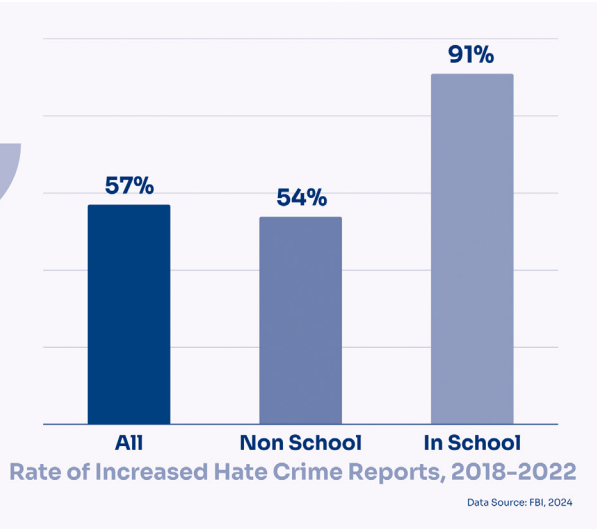
Continuing a disturbing, decades-old trend, the most common bias type motivating hate crime offenses at schools was anti-Black bias (FBI, 2024).

For example, from 2018-2022, Black students experienced a total of 1,690 hate crime incidents. Other groups only reported experiencing between nine and 245 incidents during that same period. Anti-LGBTQ+, anti-Jewish, and anti-Arab and anti-Muslim hate crimes also increased in the last year due largely to the conflict in Palestine and Israel (Duggins-Clay & Lyons, 2024).
 (cont. on Page 2)

Rather than relying on traditional frameworks for responding to hate crimes and harassment that focus on punishment and isolation, schools can cultivate the capacity to implement restorative responses that support meaningful accountability, healing and collective resistance and resilience to bias-based harm.

Reports of Hate Crime Offenses in Schools are Increasing

“Rather than relying on traditional frameworks for responding to hate crimes and harassment that focus on punishment and isolation, schools should cultivate the capacity to implement restorative responses that support meaningful accountability, healing and collective resistance and resilience.”
 — Paige Duggins-Clay, J.D.



(Restorative Practices Can Prevent and Heal Bias-based Harm, continued from Page 1)

Over 30% of young people who reported a hate crime experienced it at school. Nearly 36% of youth perpetrating a hate crime committed the offense at school (FBI, 2024).

Other bias-based harms are also on the rise across the nation. For example:

- One-fifth of teens see hate words or symbols (e.g., anti-Semitic symbols, homophobic slurs, and references to lynching) written in their schools (GAO, 2021).
- One out of every four bullied students reported experiencing identity-based bullying – threatening and harmful behavior directed against a student based on their immutable characteristics or legally protected status (Duggins-Clay & Lyons, 2024; GAO, 2021).
- The Office for Civil Rights (OCR) received over 19,000 complaints in 2023 alone – the highest number of complaints received in the department’s history (Lhamon, 2024).
- OCR experienced an 187% increase in the number of complaints between 2008 and 2019 (Leadership Conference, 2024).

These trends mirror the broader reality of our society, which has been increasingly shaded by rises in extremism, hate and bigotry (Carey, 2022).

Powerful Role of Educators

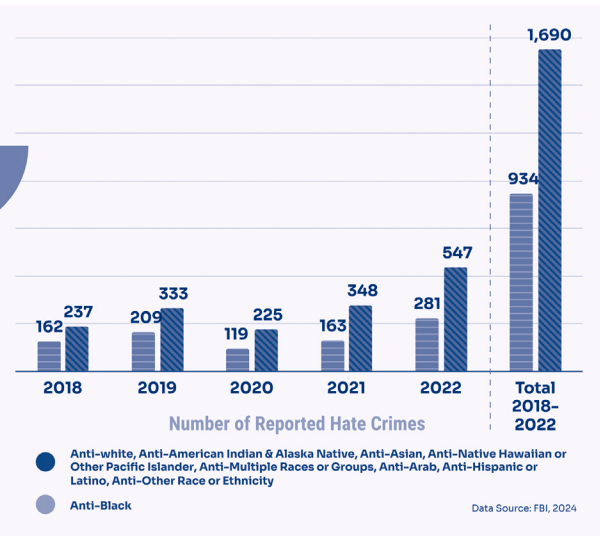
Given this reality, preventing and addressing bias-based harm in schools requires intentional efforts to address the underlying causes of bullying behaviors and community cultures that allow discrimination to occur.

Schools can and must be central to our nation’s efforts to address and end discrimination, harassment and bias-based harm perpetrated against youth in our communities.

Children First
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Transforming Education

Black Students Experience Hate Crime Incidents More than All Other Groups Combined

“Preventing and addressing bias-based harm in schools requires intentional efforts to address the underlying causes of bullying behaviors and community cultures that allow discrimination to occur.”
Restorative practices help us do this.
— Paige Duggins-Clay, J.D.



To build safe schools free from hate crimes and harassment, policymakers and school leaders should invest in a multi-pronged approach rooted in evidence-based interventions and authentic student, family and community engagement.

For example, rather than relying on traditional frameworks for responding to hate crimes and harassment that focus on punishment and isolation, schools should cultivate the capacity to implement restorative responses that support meaningful accountability, healing and collective resistance and resilience to bias-based harm (Luan, 2022; Craven, 2023).

Under a restorative framework, students who engage in bias-based harm are expected to repair it to the fullest extent possible with the support of adults and other community members (Duggins-Clay, 2022). By working to repair the situation, the person who caused harm is able to regain respect and trust from the community.

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IDRA Releases Analysis of Project 2025 “Five Threats to Public Education in Our States and Communities”

IDRA believes every young person should have access to excellent public schools that support students’ academic success and overall well-being and prepare them to succeed in college and life.

There have always been competing ideas about the purpose of public education, what students should learn, who deserves access, and the role of public schools in shaping our society. Currently, there are deep and fundamental differences in these ideas.

IDRA created a new guide to help our community better understand our vision for students and our public education system and to address some of the prominent challenges to that vision, including Project 2025 and similar agendas.

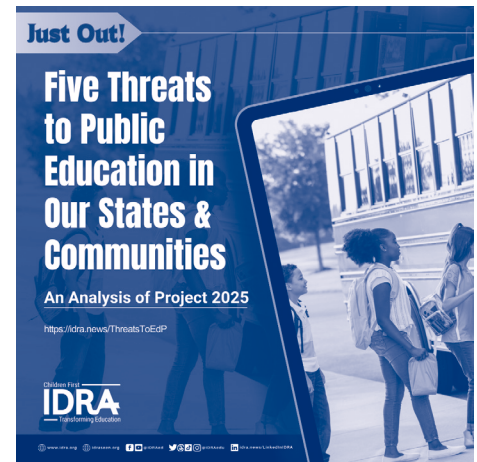
This new explainer gives an overview of some of the most significant education policy proposals in Project 2025 and their potential impact on students, states and school districts.

The threats fall into five categories:

- Cutting billions in federal funds for schools,
- Dismantling public education by imposing federal vouchers,
- Compromising civil rights enforcement and protections for diverse students,
- Failing to protect students from discriminatory discipline practices, and
- Erecting barriers to public education for Immigrant students.

For this analysis, we drew upon our deep expertise in school funding, school discipline, access to higher education, culturally-sustaining curriculum and instructional methods, student leadership and family engagement, and educational programs for emergent bilingual (English learner) students.

We hope this document will help students, families, teachers, policymakers and other advocates develop thoughtful strategies for supporting excellent public schools and fighting



Available in English and Spanish

<https://idra.news/ThreatsToEdW>

back against efforts to defund, demonize and privatize our public education system at the expense of our nation’s children.



Immigrant Students’ Right to Attend Public School

From Seattle to Miami, we deserve a country that enables us to take care of our families, regardless of our citizenship status. While certain politicians in power want to deny the children of undocumented workers access to our neighborhood’s public schools, IDRA continues to work to strengthen public schools for all students, no matter their zip code. Our history shows that when families and communities come together, we ensure that all students have the freedom to learn, thrive and succeed in the classroom.

As this new school year begins, IDRA issued an alert as a reminder that public schools, by law, must serve all students.

See IDRA’s bilingual infographic, Welcoming Immigrant Students in School, which is also available as a poster. Other free resources and tools are available online.

<https://idra.news/ImmigEd>

(Restorative Practices Can Prevent and Heal Bias-based Harm, continued from Page 2)

In addition, school and community leaders can use community building and healing circles to discuss issues impacting school climate, safety and belonging, including hate crimes and other discrimination (Duggins-Clay, 2022).

Restorative practices can also promote healing for individuals and communities impacted by hate crimes and bias through restorative storytelling and connection. Because bias-based harm reflects community attitudes, norms and cultures, it is critical to counteract harmful speech and action through community dialogue (Hooker, 2016).

When an individual or community's identity and sense of self are attacked through hate crimes and harassment, school and community leaders should take steps to create welcoming, non-divisive spaces for dialogue and validate the lived experience of those harmed.

To begin building capacity to use restorative practices in this context, school leaders should do the following.

- Remove unnecessary policy barriers to implementing restorative practices, such as mandatory referrals to exclusionary discipline placement, involving law enforcement in school discipline matters, and bans on using restorative justice.
- Use restorative practices to identify and provide supportive measures to students impacted by bias-based harm to ensure safety and continued access to education after bullying or harassment occurs.
- Establish partnerships with community-based organizations with expertise in facilitating restorative responses to bias-based harm to build capacity and increase the impact of school-based restorative justice interventions.
- Invest in training and ongoing support of educators working to implement restorative practices, including training in restorative justice facilitation, de-escalation and trauma-informed practice.
- Update and mandate training on evidence-based anti-discrimination and harassment prevention and response programs and practices for students, families and educators.

The graphic features a central blue square with a white circle inside, set against a background of blue and white geometric shapes. To the right, the text reads: 'IDRA Model Policy Identity-Based Bullying'. Below this, it states: 'All students deserve to learn in an environment free from racism, bullying and harassment. No one can expect children to learn, thrive, and grow in a hostile environment. Identity-based bullying, is bullying targeting a student because of their race, ethnicity, color, national origin, sex, gender, religion or disability status.' It then says: 'To develop safe and healthy school environments, schools must be able to respond to bullying and harassment appropriately and take deliberate action to prevent it. We can make that happen with state and local policies that are informed by communities and research.' At the bottom, it provides the URL: 'idraseen.org/identity-based-bullying'. On the left side of the graphic, under the heading 'What's included...', there is a list: 'State-Level Legislation', 'Policy Brief', 'Advocacy Guide', and 'And more!'. The IDRA logo is at the bottom left of the graphic.

IDRA's model policy package on preventing and addressing identity-based bullying discusses these and other policy recommendations on this topic at length. It also provides resources, such as research briefs, advocacy toolkits and educational practice guides (<https://idraseen.org/identity-based-bullying>).

Resources

Carey, M.H. (2022). Returning to the Schoolhouse Steps, Extremist Groups' Reactionary Anti-Student Inclusion Efforts. *The Year in Hate & Extremism 2022*. SPLC.

Craven, M. (January 2023). Schools Should Prioritize Prevention, Education and Support Over Exclusionary Discipline in Cases of Identity-Based Bullying and Harassment – IDRA Statement.

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The Leadership Conference on Civil and Human Rights. (February 2024). Letter Urging the White House to Double Funding for the Department of Education's Office for Civil Rights.

Lhamon, C.E. (2024). Fiscal Year 2023 Annual Report. U.S. Department of Education, Office for Civil Rights.

Luan, L. (2022). Making Victims Whole Again: Using Restorative Justice to Heal Hate Crime Victims, Reform Offenders, and Strengthen Communities. *Temple International and Comparative Law Journal*, 37.1.

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Severe Implications of the *Loper Bright* Decision for Education and Civil Rights

– 2024 U.S. Supreme Court Recap

By Paige Duggins-Clay, J.D.

The latest U.S. Supreme Court term has been one of the most consequential in recent history, particularly for the future of civil rights, the fair and just division of responsibility in the federal government, and the health of our democracy.

With a series of rulings that have redefined the boundaries of federal authority and the protection of individual rights, the court's decisions raise serious concerns among advocates of historically marginalized communities.

For example, the Supreme Court sanctioned racial gerrymandering by states (*Alexander v. SC NAACP*; LDF, 2024a), allowed the federal government to deport and remove non-citizen spouses (*Dept of State v. Muñoz*; NIJC, 2024), and criminalized homelessness by allowing municipalities to impose penalties on people who have no private place to sleep (*City of Grants Pass v. Johnson*; AFJ, 2024).

These cases demonstrate ongoing and significant backlash to advances in social justice and progress in this country, including threats to equal and equitable public education.

From the breakdown of the separation of church and state to the dismantling of affirmative action, the current court's rulings have often tilted the balance away from protections that have long been considered fundamental to ensuring equity and justice in U.S. society (IDRA, 2022; 2023).

Among the many concerning decisions issued this term, the court handed down yet another seismic reversal of decades-old precedent in the *Loper Bright Enterprises v. Raimondo* decision, discussed below.

Background on the *Loper Bright* Decision

Loper Bright concerned a challenge to the “*Chevron* doctrine,” a legal principle established by the Supreme Court in 1984. It re-

quired courts to defer to federal agencies' interpretations of ambiguous statutes as long as the agencies' interpretations were reasonable. This deference recognized the expertise of agencies like the U.S. Department of Education and the Office for Civil Rights (OCR) in implementing complex statutory frameworks.

Loper Bright originated when commercial fishing companies, including *Loper Bright Enterprises*, objected to a regulation set by the National Marine Fisheries Service (NMFS). The regulation required fishing vessels to pay for federal observers to monitor compliance with environmental laws.

At first glance, it may seem nonsensical for education justice advocates to be concerned about a fishing regulation. But, the Supreme Court's decision effectively dismantled the *Chevron* doctrine, empowering courts to independently interpret statutory ambiguities without necessarily deferring to the interpretations of expert agencies. This shift fundamentally changes the landscape for federal regulation and oversight, including in education and civil rights.

Potential Impact on Education and Civil Rights

The elimination of *Chevron* deference likely will lead to an increase in legal challenges against U.S. Department of Education regulations and guidance, particularly those related to civil rights protections under Title IX, Title VI and federal disability laws.

Without the presumption of agency expertise, courts may be more inclined to scrutinize and potentially overturn regulations, creating uncertainty for schools and districts seeking to navigate compliance.

The decision likely will result in a patchwork of judicial interpretations across different juris-

(cont. on Page 6)

The Loper Bright decision is one of many cases that we have seen in the courts seeking to roll back civil and human rights, including the right of all children to access a high-quality public education that values and affirms every child.

(Severe Implications of the *Loper Bright* Decision for Education and Civil Rights, continued from Page 3)

dictions, leading to inconsistent application of federal education laws. This could exacerbate disparities in students' educational opportunities and outcomes as states and districts manage varying legal standards.

In addition, the decision could lead to a more cautious approach by agencies in issuing new regulations, slowing down progress in addressing the needs of systemically marginalized students.

Civil rights advocates are rightfully concerned that the *Loper Bright* decision will weaken the federal government's enforcement of protections against discrimination in education. By reducing the deference to agency interpretations of civil rights statutes, the decision may make it more difficult to uphold and expand protections for marginalized groups, particularly students of color, emergent bilingual students, and LGBTQ+ students.

Unfortunately, students and families are already experiencing the harmful impacts of the decision.

In one school district, Carroll ISD in Southlake, Texas, students, families and community advocates successfully advanced an administrative complaint with OCR challenging the district's failure to address systemic discrimination against Black students, other students of color and LGBTQ+ students (LDF, 2022a). The complaint described horrific and unacceptable instances of the school forcing students to endure racial and gender-based harassment.

Black students in the district described being referred to with racial slurs, including the "N-word," and called names such as "porch monkey" and "the help." Other students described being subjected to harassment on the basis of their sexual orientation, being called offensive, anti-LGBTQ+ slurs and subjected to bullying and physical violence (LDF, 2022b).

After a protracted investigation, OCR found students' claims of racist, anti-Semitic and homophobic harassment credible as violations of federal civil rights laws and invited district officials to negotiate a resolution (Richmon, 2024). Southlake community members urged the school district to negotiate in good faith to resolve the issues (LDF, 2024b).

Check Out IDRA's Classnotes Podcast Episodes on Education in the Law

Plyler v Doe – Classnotes Episode 224

Rodríguez vs. San Antonio ISD – Classnotes Episode 233

Students Press for Affirmative Action – Classnotes Episode 229

Brown v Board of Education – Classnotes Episode 223

YCT v Smatresk at UNT – Classnotes Episode 243

<https://www.idra.org/classnotes-podcast>



Shortly after the *Loper Bright* ruling, however, school district leaders issued a statement refusing to address the findings of discrimination and harassment. The district cited, among three other factors, the Supreme Court's decision as justification to question "the ability of OCR to bring enforcement actions based on its interpretations" (Carroll ISD, 2024).

This claim is extremely troubling, not only for the students and families in Southlake who continue to endure a discriminatory learning environment but also for thousands of students and families across the nation who are counting on OCR to address similar claims in their communities (Duggins-Clay & Lyons, 2024).

OCR received nearly 20,000 complaints in 2023 – the highest number in the agency's history. It observed an 187-increase in the number of complaints since 2008 (Lhamon, 2024; Leadership Conference, 2024).

The *Loper Bright* decision is one of many cases that we have seen in the courts seeking to roll back civil and human rights, including the right of all children to access a high-quality public education that values and affirms every child. Although we cannot undo the damage done by this (and many other) Supreme Court decision overnight, we must continue to demand a federal government that will appropriately serve all communities and enforce civil rights laws and protections.

Resources

Carroll ISD. (August 5, 2024). Statement from the Carroll ISD Board of Trustees regarding OCR Complaints.
Duggins-Clay, P., & Lyons, M. (May 2024). *Preventing*

and Addressing Identity-based Bullying in Schools – IDRA Model Policy Issue Brief. IDRA.

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IDRA. (June 29, 2023) Students' Racial Diversity Should be Celebrated, Not Minimized or Erased. IDRA Statement.

JFJ. (2024). *2023-2024 Supreme Court Term Review*. Alliance for Justice.

LDF. (May 23, 2024a). U.S. Supreme Court Rejects Unanimous Post-Trial Decision and Long-Settled Precedent, Allows South Carolina's Racially Discriminatory Congressional Map to Stand. NAACP Legal Defense and Educational Fund.

LDF. (May 9, 2024b). Concerned Parents and Students Urge Carroll Independent School District in Southlake, Texas to Enter Good-Faith Negotiations with Department of Education's Office of Civil Rights to Resolve Finding of Civil Rights Violations. NAACP Legal Defense and Educational Fund.

LDF. (February 15, 2022a). LDF, Arnold & Porter File Title VI and Title IX Complaint on Behalf of Southlake Tx. Parents, Students. NAACP Legal Defense and Educational Fund.

LDF. (February 15, 2022b). Summary of Complaint: Cultural & Racial Equity for Every Dragon, Southlake Anti-Racism Coalition, et al. v. Carroll Independent School District, et al., Department of Education, Office of Civil Rights. NAACP Legal Defense and Educational Fund.

Leadership Conference on Civil and Human Rights. (February 14, 2024). Letter Urging the White House to Double Funding for the Department of Education's Office for Civil Rights.

Llamon, C.E. (2024). *Fiscal Year 2023 Annual Report*. U.S. Department of Education, Office for Civil Rights.

NIJC. (March 28, 2024). U.S. Department of *State v. Muñoz*. National Immigrant Justice Center.

Richman, T. (August 6, 2024). Southlake schools, federal investigators at impasse over civil rights complaints. *Dallas Morning-News*.

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Groundbreaking New Law Review Article Explores “Youth Dignity Takings” and How to Remedy Them

“Today, systemically marginalized youth face a crisis of belonging in democracy,” argue four co-authors of a new law review article titled “Youth Dignity Takings: How Book and Trans Bans Take Youth Property and Dignity” (Camiscoli, et al., 2024). The article was published in August 2024 in the inaugural issue of the *Loyola Interdisciplinary Journal of Public Interest Law*, a newly established academic journal with an interdisciplinary and narrative-based approach to public interest advocacy and education.

The article begins by noting that state and local lawmakers have proposed and enacted dehumanizing “bans” on books, curricula, bathrooms, sports, and healthcare for youth of color and LGBTQ+ youth at an alarming rate.

With a unique focus on the rights of young people, the authors observe that if students protest these bans, they may face exclusionary discipline or harassment from peers, school staff and others in the community.

If they concede, they may face indefinite deprivation of culturally sustaining classrooms and loss of equitable access to other school facilities and programs essential to their belonging and success in public education, such as bathrooms, libraries, extracurriculars and athletic programs, and health services.

In “Youth Dignity Takings,” co-authors Sarah M. Camiscoli, Paige Duggins-Clay, Maryam Salmanova and Ibtihal Chamakh argue that such bans constitute an unconstitutional “dignity taking” – a state action that takes property from a marginalized group and dehumanizes and infantilizes that group in the process.

The authors draw on their experiences as a legal scholar-practitioner, a movement lawyer and education justice advocate, a youth community legal worker and a law student-activist. They practice participatory law scholarship (López,

2023) and movement law (Akbar, et al., 2021) to urge legal advocates to consider new strategies for redressing the harms caused by classroom censorship, anti-LGBTQ+ policies, and other discriminatory practices targeting historically-marginalized youth.

“Each week, these young people lose individual freedoms, political accountability, and public resources while enduring dehumanizing white supremacist and adultist laws, rhetoric and administrative violence,” the authors write.

“For example, K-12 students remain the only group of people that the Constitution permits state government agents to physically abuse as a form of discipline without due process. The U.S. Constitution also deprives students of Fourth Amendment protection from unreasonable search and seizure by requiring only reasonable suspicion for a warrantless search. The precarious nature of their rights in schools means that young people, particularly gender expansive youth and youth of color, face unmatched levels of battery, assault and violations of privacy under the rule of law.”

To remedy this injustice, the authors build on constitutional law scholar Bernadette Atuahene’s framework of “dignity restoration,” arguing that legal processes should not only restore material losses taken from young people but also affirm young people’s humanity and reinforce their agency (2016).

By “reimagining property law, legal services, legal norms, lawyers and legal systems,” the authors advance a “freedom dream” of legal advocacy that “results in laws and norms that ensure youth of color and gender expansive youth belong and thrive under law and in society.”

We remain committed to transforming the educational trajectories of students deemed at risk through innovative, research-based inter-

ventions that lead students to become engaged, informed and thoughtful leaders.

The law review article is available online at <https://idra-resource.center/YouthDignityTakings>.

Resources

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- Atuahene, B. (2016). Dignity Takings and Dignity Restoration: Creating a New Theoretical Framework for Understanding Involuntary Property Loss and the Remedies Required. *Law & Social Inquiry*, Vol 41, pp. 796-800.
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Focus: Student Rights

The Power of Voice and Action – Elevating the Promise

IDRA Releases 2021-2022 Impact Report

The years 2021 and 2022 marked dramatic shifts as the world headed out of COVID-19 shutdowns. Schools reemerged during the pandemic as the centers of community connection.

Despite wide support of families for their public schools, public education became a target. For financial and political gain, some actors proceeded to sow distrust and lodge racial and gender attacks on students, particularly across the U.S. South.

IDRA stood strong in this climate. We value our collaboration with schools, families, students, advocacy partners and funders that make results like these possible.

We are grateful to work together as we press forward to elevate the promise of public education through the power of voice and action!



<https://idra.news/ImpactReport2021-2022>

*achieving equal educational opportunity for every child
through strong public schools that prepare all students to access and succeed in college*