

Monterey County Board of Supervisors

Resolution

Resolution No.: 21-015

Resolution Celebrating the 50th Anniversary of the Landmark Education and Civil Rights Case of Diana v. California State Board of Education the Ended the Use of Discriminatory IQ Tests in California Public Schools.....)

WHEREAS, In 1969, Diana v. California State Board of Education (CA 70 RFT (N.D. Cal. 1970) originated when a group of Spanish-Speaking students from Soledad, California, were inappropriately assigned to EMR ("Educaable Mentally Retarded") classes based on an assessment by an unqualified assessor; and

WHEREAS, The Diana case arose because a monolingual psychologist at Soledad Elementary School tested Spanish speakers in English, made determinations of intellectual disability, and used his data to wrongly place students in special education classes; and

WHEREAS, The landmark case was the first effort to outlaw the insidious IQ testing practices that unjustly led to thousands of Mexican-American Limited English Proficient children being placed in special education classes. The tests heavily depended on verbal responses and the questions that were culturally biased; and

WHEREAS, Soledad children complained to their Spanish-speaking farmworker parents, but their parents didn't know what to do initially; and

WHEREAS, The parents didn't realize the children were among 13,000 Mexican-American students wrongfully placed in California's EMR classes after given an IQ test in English, a language their children barely understood, not just linguistically, but culturally; and

WHEREAS, In 1969, two Soledad parents had the courage to complain to the late legendary California Rural Legal Assistance (CRLA) Community Worker Hector De La Rosa, a resident of Soledad, who eventually worked closely with the families throughout all the legal preparation and proceedings; and

WHEREAS, Created by President Lyndon Johnson and Sargent Shriver as part of the national legal services program, the Salinas CRLA legal aid law office held evening of office hours at the Catholic Church in Soledad; and

WHEREAS, CRLA attorneys, staff and its Executive Director Cruz Reynoso initially took on the case on behalf of nine Soledad migrant children, Diana, Arturo, Maria, Manuel, Rachel, Ramón, Armando, Margarita and Ernesto, ages 6 to 13, who were kept in the same classroom all day long, coloring, cutting out pictures and occupying themselves with other activities the children described as "baby stuff"; and

WHEREAS, CRLA attorneys Marty Glick and Maurice "Mo" Jourdan discovered that California public schools were misusing English-language, culturally biased IQ tests. Additionally, Mexican-American children were not the only minorities impacted. At the time, African-American and Mexican-American students made up 21.5 percent of the state population, they were 48 percent of special education program pupils; and

WHEREAS, CRLA Attorneys Glick and Jourdan filed the class-action lawsuit, Diana v. the State Board of Education, on January 7, 1970, on behalf of the 13,000 Mexican American children already placed in EMR classes and another 100,000 at risk of being relegated to a virtual purgatorium and a life of illiteracy and public dependency; and

WHEREAS, The San Jose Federal District Court Justice Robert Peckham ultimately ruled in favor of Diana, et. al, and outlawed the discriminatory use of IQ tests. The nine students were to be reassessed for special education in their primary language. The court ruled that in the State of California all current and future students being assessed for special education needed to be tested in their primary language or use a non-verbal assessment; and

WHEREAS, The settlement agreement and court order required that the California Department of Education to monitor school for racial imbalance, correct any imbalances, college data annually and use representative of the Latino community when audits are performed in school districts; and

WHEREAS, The Diana case inspired state legislation by then-Senator Sinclair Burgener (Senate Bill 1317) to codify the court ruling and was signed into law on September 20, 1970 by Governor Ronald Reagan so that no child will be placed in special education only because of limited ability to speak English; and

WHEREAS, The Diana case also inspired a subsequent landmark case of Larry P. v. Riles (495 F. Supp. 926 (ND Cal. 1979) to ban culturally biased IQ test against African American children; and

WHEREAS, The book "Soledad Children: The Fight to End Discriminatory IQ Tests" documents the history and impact of this case and all those involved; and

WHEREAS, Last year marked the 50th Anniversary of the Diana case and exemplifies the courageous efforts by Monterey County students, parents and advocates to champion for the education and civil rights of children of color in California.

NOW, THEREFORE BE IT RESOLVED, that the Monterey County Board of Supervisors, on behalf of the County and all residents thereof, celebrates the 50th Anniversary of Diana v. California State Board of Education and recognizes and commends the heroism and courage of all the children plaintiffs, their farmworker parents, and CRLA attorneys Marty Glick and Maurice "Mo" Jourdan and the late CRLA Community Worker Hector De La Rosa for their exemplary efforts to outlaw unfair testing practices that led to children of color being unjustly placed in special education classes in the State of California.

PASSED AND ADOPTED on this 26th day of January 2021.



Supervisor Wendy R. Ashley, Chair

Supervisor Mary L. Adams, Vice Chair

Supervisor Luis A. Alejo

Supervisor John M. Phillips

Supervisor Chris Lopez