

# United States Senate

WASHINGTON, DC 20510

COMMITTEES:  
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SMALL BUSINESS AND ENTREPRENEURSHIP  
SPECIAL COMMITTEE ON AGING

March 5, 2018

The Honorable Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

The Honorable Jeff Sessions  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Secretary DeVos and Attorney General Sessions:

In the wake of the February 14, 2018 horrific shooting at Marjory Stoneman Douglas High School in Parkland, Florida, disturbing reports have indicated that federal guidance may have contributed to systemic failures to report Nikolas Cruz's dangerous behaviors to local law enforcement.

A January 2014 directive, "Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline," and subsequent guidance developed by the Department of Education, in collaboration with the Department of Justice, discouraged schools from referring students to local law enforcement. The 2014 guidance encouraged schools to emphasize "constructive interventions" over certain disciplinary actions. This guidance also states that school policies should "[e]nsure that school personnel understand that they, rather than school resource officers and other security or law enforcement personnel, are responsible for administering routine student discipline."

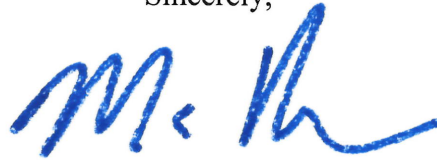
This policy allowed the Departments to initiate an investigation into schools and, if found to be noncompliant, could be at risk of losing federal funding. Further, the 2014 directive and subsequent guidance included onerous requirements and harsh penalties that arguably made it easier for schools to not report students to law enforcement than deal with the potential consequences.

The overarching goals of the 2014 directive to mitigate the school-to-prison pipeline, reduce suspensions and expulsions, and to prevent racially biased discipline are laudable and should be explored. However, any policy seeking to achieve these goals requires basic common sense and an understanding that failure to report troubled students, like Cruz, to law enforcement can have dangerous repercussions. The 2014 directive lacked such common sense, but the guidance can be revised to strike an appropriate balance that marries school safety with student discipline and counseling.

To that end, I strongly urge you to immediately revise the 2014 directive and associated guidance to ensure that schools appropriately report violence and dangerous actions to local law enforcement. These revisions must take into account input from state and local education agencies, law enforcement, and behavioral health specialists. Additionally, states should not fear harsh, financial repercussions for reporting a student to law enforcement, if that student is reasonably believed to be a threat to themselves or others. As you begin this process, I respectfully request to receive updates on the revisions as necessary.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Rubio', with a stylized flourish at the end.

Marco Rubio  
U.S. Senator