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# EDUCATION

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*Please see the Checklist Section for the Education checklist.*

## A. Education Data

National studies show that youth in foster care have poor educational outcomes when compared to their peers in the general population. Youth in foster care are more likely to be suspended or expelled, score lower on statewide standardized tests, repeat a grade, and to drop out, and are less likely to graduate. For more information on these studies, please see: [National Working Group on Foster Care and Education \(2014, January\), “Fostering Success in Education: National Factsheet on the Educational Outcomes of Children in Foster Care”](#).<sup>18</sup>

According to data collected by the Texas Education Agency (TEA) Public Education Information Management System (PEIMS) during the 2012-2013 school year, which captured the “leaver” status, the reason why a student left school, only 38.8 percent of Texas youth in foster care left because they graduated, compared to 72.4 percent of the general student population. During the same school year, the leaver status of students in foster care who left school because they dropped out was 28.6 percent, compared to 8.3 percent of the general student population. Youth in foster care in Texas also had lower high school achievement, were more likely to be served in special education programs, and were less likely to be in gifted and talented programs. For further detail, please see [Data on Foster Children Attending Texas Public Schools](#).<sup>19</sup>

Although many children experience educational challenges, students in foster care face additional hurdles, including multiple residential and school changes, missed school days for visits with parents and siblings, court appearances, or therapeutic or other case-related appointments that are only available during school hours, as well as an often chaotic educational, social, emotional, and family history prior to entering foster care.

Children and youth who are of school-age and in foster care may also find themselves lost in-between child welfare and education – two systems with overlap, but often inadequate ongoing and effective communication. If Texas judicial, child welfare, and education stakeholders coordinate efforts, especially during school transitions, students in foster care are less likely to experience a damaging loss of records, credits, services, and support systems, which can hinder academic success.

## B. School Stability

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**Special Issue:** School is often a source of stability as well as a place for academic and social development of children and youth in foster care. If a child must be removed from his or her home or change placements, consider the potential impact on the child’s education and what efforts were made to keep the child in the same school, if possible.

## 1. Fostering Connections

Congress passed the most sweeping child welfare law in a decade with the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act).<sup>20</sup> 42 U.S.C. § 675. The Fostering Connections Act includes important provisions regarding the educational stability of youth in foster care, calling on child welfare agencies to keep the child in the same school any time the child’s placement changes, unless it is not in the child’s best interest. If the child cannot remain in the same school, the child must be promptly enrolled in a new school. The legislation also increases the amount of federal funding that may be used to cover education-related transportation costs and requires child welfare agencies to work with local education agencies (LEAs)<sup>21</sup> to ensure educational stability. Provisions in the Fostering Connections Act highlight the importance of improving educational outcomes of children and youth in foster care across the nation.

### a. Education Stability Provisions of the Fostering Connections Act

- *Proximity to school* – Each placement decision for a child in foster care must take into account the appropriateness of the child’s current educational setting and the proximity to the school in which the child is enrolled. 42 U.S.C. § 675(1)(G)(i).
- *Coordinate with local education agencies* – The child welfare agency must coordinate with LEAs to ensure that the child can remain in the school where the child is enrolled at the time of each placement. 42 U.S.C. § 675(1)(G)(ii)(I). For further detail, please see U.S. Departments of Education and Health & Human Serv., Admin. for Children & Families (2014) joint letter.<sup>22</sup>
- *Immediate enrollment and timely transfer of records* – Alternatively, if remaining in that school is not in the child’s best interests, the agencies must ensure that the child is immediately enrolled and that all educational records are provided to the new school. 42 U.S.C. § 675(1)(G)(ii)(II).
- *Transportation* – Foster care maintenance payments may cover reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. 42 U.S.C. § 675(4)(A).

## 2. Educational Stability Plan

To meet the requirements of the Fostering Connections Act regarding education stability,

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DFPS must develop, in accordance with [42 U.S.C. § 675](#), a plan to ensure the educational stability for children in foster care. [Tex. Fam. Code § 264.1072](#).

In recognition of the need for agency coordination, DFPS must collaborate with the Texas Education Agency (TEA) to develop policies and procedures to ensure that the needs of foster children are met in every school district. [Tex. Fam. Code § 266.008\(d\)](#).

### **3. Every Student Succeeds Act**

In December 2015, the most recent reauthorization of the Elementary and Secondary Education Act, known as the Every Student Succeeds Act (ESSA), became law.<sup>23</sup> [20 U.S.C. § 6301 et seq.](#) ESSA makes substantial changes to the education system, including giving more flexibility to states to determine student performance measures. ESSA also mirrors in the education law many of the provisions affecting students in foster care from the Fostering Connections Act.

#### **a. Education Stability Provisions of the Every Student Succeeds Act**

- *Best interest determination* – A student in foster care is entitled to enroll or remain in the school of origin unless a determination is made that it is not in such child’s best interest to attend the school of origin, which decision shall be based on all factors relating to the child’s best interest, including consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement. [20 U.S.C. § 6311\(g\)\(1\)\(E\)\(i\)](#).
- *Streamlined transitions* – When a determination is made that it is not in such child’s best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment. [20 U.S.C. § 6311\(g\)\(1\)\(E\)\(ii\)](#). The enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records. [20 U.S.C. § 6311\(g\)\(1\)\(E\)\(iii\)](#).
- *Liaisons at the state and local education agencies* – ESSA requires designation of a state point of contact to coordinate with child welfare agencies. [20 U.S.C. § 6311\(g\)\(1\)\(E\)\(iv\)](#). LEAs must also designate a point of contact upon written request. [20 U.S.C. § 6312\(c\)\(5\)\(A\)](#).
- *Transportation* – LEAs must ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with [42 U.S.C. 675\(4\)\(A\)](#) and ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the local educational agency will provide transportation to the school of origin if:

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- the local child welfare agency agrees to reimburse the local educational agency for the cost of such transportation;
  - the LEA agrees to pay for the cost of such transportation; or
  - the LEA and the local child welfare agency agree to share the cost of such transportation. [20 U.S.C. § 6312\(c\)\(5\)\(B\)](#).

#### **4. School Placement**

A student who was enrolled in a primary or secondary public school before the student entered the conservatorship of DFPS and who is placed at a residence outside the attendance area for the school or outside the school district is entitled to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. [Tex. Educ. Code § 25.001\(g\)](#).

If a student who is in the conservatorship of DFPS is enrolled in a primary or secondary public school, other than the school in which the student was enrolled at the time the student was placed in the conservatorship of DFPS, the student is entitled to continue to attend that school without payment of tuition until the student successfully completes the highest grade level offered by the school at the time of enrollment in the school, even if the child's placement is changed to a residence outside of the attendance area for that school or outside the school district. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. [Tex. Educ. Code § 25.001\(g-1\)](#).

**Special Issue:** Although [Tex. Educ. Code § 25.001\(g\)](#) and [Tex. Educ. Code § 25.001\(g-1\)](#) allow a child to remain in his or her school at the time of placement into foster care, it does not address related transportation issues, including costs of transportation and the person responsible for providing it. The presumption is that the child's caregiver will be responsible for any costs related to the transportation, although transportation plans required under ESSA may create more opportunities for some school districts in the 2017-2018 school year to work with the caregiver to find a solution to the transportation challenge.

#### **5. McKinney-Vento Homeless Assistance Act**

Previously, a child who is "awaiting foster care placement" met the federal McKinney-Vento Homeless Assistance Act (McKinney-Vento Act) definition of homeless and the child was entitled to attend the school that the child attended when permanently housed or the school in which the child was last enrolled, with transportation and other services

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provided by the district. [42 U.S.C. § 11431 et seq.](#)<sup>24</sup> ESSA amends the McKinney-Vento Act and effective December 10, 2016, the “awaiting foster care placement” will be removed from the definition of homelessness. [Pub. L. No. 114–95](#). Note, guidance from the Department of Education on ESSA is still under development and this date is subject to change.

## C. Roles and Responsibilities Related to Education

### 1. Designation of Education Decision-Maker

[Tex. Fam. Code § 263.004](#) requires DFPS to provide notice to the court and others of the entity or person holding education decision-making authority for a child or youth in foster care. Generally, when appointed temporary or permanent managing conservator, DFPS is given the rights and duties of a non-parent managing conservator pursuant to [Tex. Fam. Code § 153.371](#), which includes the right to make decisions regarding the child’s education. [Tex. Fam. Code § 153.371\(10\)](#).

Unless the court order limits the rights and duties of DFPS under [Tex. Fam. Code § 153.371\(10\)](#) to make decisions regarding the child’s education, DFPS must file with the court the name and contact information for each person who has been:

- Designated by DFPS to make educational decisions on behalf of the child; and
- Assigned to serve as the child’s surrogate parent in accordance with [20 U.S.C. § 1415\(b\)](#) and [Tex. Educ. Code § 29.001\(10\)](#), for purposes of decision-making regarding special education services, if applicable. [Tex. Fam. Code § 263.004\(a\)](#).

Not later than the fifth day after the date of an Adversary Hearing held under [Tex. Fam. Code § 262.201](#) is concluded, DFPS must file the information required by [Tex. Fam. Code § 263.004\(a\)](#) with the court and provide a copy to the school the child attends. [Tex. Fam. Code § 263.004\(b\)](#).

If a person other than a person identified under [Tex. Fam. Code § 263.004\(a\)](#) is designated to make educational decisions or assigned to serve as a surrogate parent, DFPS shall file the updated information in a permanency progress report filed under [Tex. Fam. Code § 263.303](#) or [Tex. Fam. Code § 263.502](#). The updated information must be provided to the school the child attends not later than the fifth day after the date of the designation or assignment. [Tex. Fam. Code § 263.004\(c\)](#).

In order to comply with this mandate, DFPS created [Form 2085-E Designation of Education Decision-Maker](#),<sup>25</sup> to be filled out by the caseworker and provided to the school by the child’s caregiver.

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**Special Issue:** Every student in foster care will have an education decision-maker. Only certain students in foster care who are eligible to receive special education services will have a surrogate parent appointed, as outlined below.

## 2. Court Hearings

During the Permanency Hearing Before Final Order, the Court must review the permanency progress report determine whether an education decision-maker for the child has been identified, the child's education needs and goals have been identified and addressed, and there have been major changes in the child's school performance or there have been serious disciplinary issues. [Tex. Fam. Code § 263.306\(a-1\)\(4\)\(F\)](#).

At the Permanency Hearing After Final Order, the court must determine whether an education decision-maker for the child has been identified, the child's education needs and goals have been identified and addressed, and there are major changes in the child's school performance or there have been serious disciplinary events. [Tex. Fam. Code § 263.5031\(3\)\(I\)](#).

**Special Issue:** In light of the DFPS duty to notify the court of the name and contact information of the education decision-maker within five days of the designation, if DFPS does not provide Form 2085-E in the permanency progress report, the court might inquire on the record during the Permanency Hearings Before or After Final Order about the identity of the education decision-maker for the child.

Upon request of a person providing substitute care for a child who is in the managing conservatorship of DFPS, DFPS shall allow the person to provide the child with an education in the home setting unless:

- The right of DFPS to allow the education of the child in a home setting has been specifically limited by court order;
- A court at a hearing conducted under [Tex. Fam. Code Chapter 263](#) finds, on good cause shown through evidence presented by DFPS in accordance with the applicable provisions in the DFPS CPS Handbook, that education in the home setting is not in the best interest of the child; or
- DFPS determines that federal law requires another school setting. [Tex. Fam. Code § 263.0045](#).

## 3. Notice of Significant Events

School districts, campuses, and open-enrollment charter schools must provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including:

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- Requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973, [29 U.S.C. § 794](#), or special education under [Tex. Educ. Code § 29.003](#);
  - Admission, review, and dismissal (ARD) committee meetings;
  - Manifestation determination reviews required by [Tex. Educ. Code § 37.004\(b\)](#);
  - Any disciplinary actions under [Tex. Educ. Code Chapter 37](#) for which parental notice is required;
  - Citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
  - Reports of restraint and seclusion required by [Tex. Educ. Code § 37.0021](#); and
  - Use of corporal punishment as provided by [Tex. Educ. Code § 37.0011](#). [Tex. Educ. Code § 25.007\(b\)\(10\)\(A\)-\(G\)](#).

**Special Issue:** State law requires schools to notify caseworkers of the enumerated major events, including the issuance of a Class C misdemeanor citation at school. Please note, however, that since 2013, ticketing is no longer permitted for school-related misbehavior constituting a Class C misdemeanor.

DFPS must provide notice of significant events, including a major change in school performance or a serious disciplinary event at school not later than the 10<sup>th</sup> day after the date DFPS becomes aware of a significant event affecting a child in the conservatorship of DFPS to:

- The child's parent;
- An attorney ad litem appointed under [Tex. Fam. Code Chapter 107](#);
- A guardian ad litem appointed under [Tex. Fam. Code Chapter 107](#);
- A volunteer advocate appointed for the child under [Tex. Fam. Code Chapter 107](#);
- The licensed administrator of the child-placing agency responsible for placing the child or the licensed administrator's designee;
- A foster parent, prospective adoptive parent, relative of the child providing care to the child, or director of the group home or general residential operation where the child is residing; and
- Any other person determined by the court to have an interest in the child's welfare. [Tex. Fam. Code § 264.018\(a\)\(5\)\(D\)](#) and [Tex. Fam. Code § 264.018\(f\)](#).



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#### 4. Education-Related Requirements for AALs and GALs

An attorney ad litem appointed to represent a child in the managing conservatorship of DFPS must, before each scheduled hearing under [Tex. Fam. Code Chapter 263](#), determine whether the child’s educational needs and goals have been identified and addressed. [Tex. Fam. Code § 107.004\(d-2\)](#).

A guardian ad litem appointed to represent a child in the managing conservatorship of the DFPS shall, before each scheduled hearing under [Tex. Fam. Code Chapter 263](#), determine whether the child’s educational needs and goals have been identified and addressed. [Tex. Fam. Code § 107.002\(i\)](#). Guardians ad litem are now required by law to interview the child’s educators. [Tex. Fam. Code § 107.002\(b\)](#).

**Special Issue:** Consider whether to continue the appointment of the attorney and guardian ad litem, especially CASA, on the case to address education issues until the youth permanently leaves care. If the attorney ad litem is dismissed before the youth leaves care, consider whether to identify an education advocate by court order.

#### 5. Decisions Related to Special Education

A foster parent for a child may act as a parent for the child, as authorized under [20 U.S.C. § 1415\(b\)](#), if:

- The rights and duties of the department to make decisions regarding the child’s education under [Tex. Fam. Code § 153.371](#) have not been limited by court order; and
- The foster parent agrees to participate in making special education decisions on the child’s behalf and complete a training program that complies with TEA minimum standards before the next ARD meeting but no later than 90 days after assuming the role. [Tex. Fam. Code § 263.0025\(a-1\)](#), [Tex. Educ. Code § 29.015\(a\)\(3\)](#), and [Tex. Educ. Code § 29.015\(b\)](#).

If the foster parent completes a training provided by DFPS, a school district, an Education Service Center, or any other entity that receives federal funds to provide special education training to parents, the foster parent need not retake the training. [Tex. Educ. Code § 29.015\(b-1\)](#).

**Special Issue:** In the 85<sup>th</sup> Legislative Session, the requirement that a child live in a foster home for 60 days before the foster parent could act as parent, for the purposes of making special education-related decisions, was removed. As a default, the foster parent will now serve as parent from Day 1 and there will be no surrogate parent appointed.

Under the Individuals with Disabilities Education Act (IDEA), if a “parent” cannot be



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identified or located the school district must assign an individual to act as a surrogate for the parents for a child with a disability in foster care who is eligible to receive special education services. [20 U.S.C. § 1415\(b\)\(2\)\(A\)](#). The school district has 30 days to appoint a surrogate parent upon realizing the need. [20 U.S.C. § 1415\(b\)\(2\)\(B\)](#).

To ensure the educational rights of a child are protected in the special education process, the court may appoint a surrogate parent for the child if:

- The child's school district is unable to identify or locate a parent for the child; or
- The foster parent of the child is unwilling or unable to serve as a parent for the purposes of [Tex. Fam. Code Chapter 263, Subchapter A. Tex. Fam. Code § 263.0025\(b\)](#).

**Special Issue:** School districts have a mandatory duty to appoint a surrogate parent if a parent cannot be identified or located. Courts have permissive authority to appoint a surrogate parent.

Except as provided by [Tex. Fam. Code § 263.0025\(d\)](#), the court may appoint a person to serve as a child's surrogate parent if the person is willing to serve in that capacity and meets the requirements of [20 U.S.C. § 1415\(b\)](#). [Tex. Fam. Code § 263.0025\(c\)](#). Employees of DFPS, TEA, a school or school district, or any other agency involved in the education or care of the child cannot serve as surrogate parents. [Tex. Fam. Code § 263.0025\(d\)](#).

The court may appoint a child's guardian ad litem or court-certified volunteer advocate, as provided by [Tex. Fam. Code § 107.031\(c\)](#), as the child's surrogate parent. [Tex. Fam. Code § 263.0025\(e\)](#). To act as a surrogate parent for the child, the volunteer advocate must complete a training program for surrogate parents that complies with minimum standards established by TEA rule within the time specified by [Tex. Educ. Code § 29.015\(b\)](#). [Tex. Fam. Code §107.031\(c\)\(4\)](#).

In appointing a person to serve as the surrogate parent for a child, the court may consider the person's ability to meet the following qualifications:

- Be willing to serve in that capacity;
- Exercise independent judgment in pursuing the child's interests;
- Ensure that the child's due process rights under applicable state and federal laws are not violated;
- Complete a training program that complies with minimum standards established by TEA rule within the time specified in [Tex. Educ. Code § 29.015\(b\)](#);
- Visit the child and the school where the child is enrolled;

- Review the child's educational records;
- Consult with any person involved in the child's education, including the child's teachers, caseworkers, court-appointed volunteers, guardian ad litem, attorney ad litem, foster parent and caregiver; and
- Attend meetings of the child's ARD committee. [Tex. Educ. Code § 29.0151\(d\)\(2\)-\(8\)](#) and [Tex. Fam. Code § 263.0025\(f\)](#).

**Special Issue:** Consider appointment of a surrogate parent for youth in Residential Treatment Centers who are receiving special education services.

Pursuant to [Tex. Educ. Code § 29.001\(10\)\(A\)](#), an individual assigned to act as a surrogate parent must complete a training program in which the individual is provided with an explanation of the provisions of federal and state laws, rules, and regulations relating to:

- The identification of a student with a disability;
- The collection of evaluation and re-evaluation data relating to a student with a disability;
- The ARD committee process;
- The development of an individualized education program (IEP), including the consideration of transition services for a student who is at least 16 years of age;
- The determination of least restrictive environment;
- The implementation of an IEP;
- The procedural rights and safeguards available under [34 C.F.R. § 300.148](#), [34 C.F.R. § 300.151-300.153](#), [34 C.F.R. § 300.229](#), [34 C.F.R. § 300.300](#), [34 C.F.R. § 300.500-300.520](#), [34 C.F.R. § 300.530-300.537](#), and [34 C.F.R. § 300.610-300.627](#), relating to the issues described in [34 C.F.R. § 300.504\(c\)](#); and
- The sources that the surrogate parent may contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations relating to students with disabilities. [19 Tex. Admin. Code § 89.1047\(a\)\(1\)](#).

If a court appoints a surrogate parent for a child with a disability under [Tex. Fam. Code § 263.0025](#) and the school district determines that the surrogate parent is failing to perform or is not properly performing the duties listed under [Tex. Educ. Code § 29.0151\(d\)](#), the district shall consult with DFPS and appoint another person to serve as the surrogate parent for the child. [Tex. Educ. Code § 29.0151\(f\)](#).

On receiving notice from a school district under [Tex. Educ. Code § 29.0151\(f\)](#), DFPS

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must promptly notify the court of the failure of the appointed surrogate parent to properly perform the duties required under [Tex. Educ. Code § 29.0151](#). [Tex. Educ. Code § 29.0151\(g\)](#).

For more information on special education, see *Section F of this chapter, Special Education and Section 504*.

## D. School Transitions

### 1. Foster Care Liaison in Each Texas School District and at the Texas Education Agency

Each school district and open enrollment charter school must appoint at least one employee to facilitate the enrollment in and transfer to a public school of a child in the district who is in the conservatorship of the state. [Tex. Educ. Code § 33.904\(a\)\(1\)](#). Each school district and open-enrollment charter school must also report the liaison's name and contact information to TEA. [Tex. Educ. Code § 33.904\(a\)\(2\)](#).

In recognition of the challenges faced by students in substitute care, TEA shall assist the transition of substitute care students from one school to another by designating at least one agency employee to act as a liaison officer regarding educational issues related to students in the conservatorship of DFPS. [Tex. Educ. Code § 25.007\(b\)\(14\)](#).

Special Issue: TEA developed several resources regarding foster care liaisons:

- Updated contact information for the district and open enrollment charter school foster care liaisons is now located in the Ask Texas Education Directory (AskTED), available online at:

[http://mansfield.tea.state.tx.us/TEA\\_AskTED\\_Web/Forms/Home.aspx](http://mansfield.tea.state.tx.us/TEA_AskTED_Web/Forms/Home.aspx).

- If the court cannot locate the school district liaison on the AskTED system, please reference TEA AskTED guidance, located online at:

<http://tea.texas.gov/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=25769817937&libID=25769818040>.

- Other resources for liaisons, including contact information for Education Service Center Foster Care Champions, can be found at :

<http://tea.texas.gov/FosterCareStudentSuccess/liaisons/>.

### 2. Enrollment

If DFPS takes possession of a child under [Tex. Fam. Code Chapter 262](#) during the school year, DFPS shall ensure that the child returns to school not later than the third school day

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after the date an order is rendered providing for possession of the child by DFPS, unless the child has a physical or mental condition of a temporary and remediable nature that makes the child's attendance infeasible. [Tex. Fam. Code § 264.115\(a\)](#).

**Special Issue:** CPS has revised the policy handbook to require enrollment within two days of the initial removal or placement change. More information is available at: [https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS\\_pg\\_x15000.asp#CPS\\_15300](https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x15000.asp#CPS_15300).

A child may be enrolled by any person showing evidence of legal responsibility of the child. [Tex. Educ. Code § 25.001\(j\)](#). A child in foster care may attend a school free of charge in the district where the foster parent resides. [Tex. Educ. Code § 25.001\(f\)](#). A school district shall accept a child for enrollment in a public school without the documentation required by [Tex. Educ. Code § 25.002\(a\)](#) if DFPS has taken possession of the child under [Tex. Fam. Code Chapter 262](#). DFPS must furnish that documentation to the school district not later than the 30th day after the date the child is enrolled in the school. [Tex. Educ. Code § 25.002\(g\)](#).

A child may be provisionally admitted to an elementary or secondary school if the child has begun the required immunizations and if the child continues to receive the necessary immunizations as rapidly as is medically feasible. [Tex. Educ. Code § 38.001\(e\)](#).

**Special Issue:** In general, DFPS delegates day to day decision-making to the child's caregiver, including responsibility for school enrollment. Upon enrollment in school, a caregiver should present DFPS Forms 2085 and 2085E to ensure the school recognizes the caregiver's legal authority to enroll the child. These documents also serve to notify the school that the child is in foster care and provide the name of the education decision-maker and the surrogate parent, if applicable. For more information on acceptable forms for school enrollment, please see TEA PEIMS supplemental guidance at: <http://tea.texas.gov/FosterCareGuidance.pdf>.

### **3. Records Transfer**

TEA shall assist the transition of students in substitute care from one school to another by ensuring that school records for a student in substitute care are transferred to the student's new school not later than the 10th working day after the date the student begins enrollment at the school. [Tex. Educ. Code § 25.007\(b\)\(1\)](#).

**Special Issue:** Districts failing to provide the required information within 10 calendar days of a written request by the receiving school district may be reported to the Texas Records Exchange Help Desk: (512) 463-7246 or [TREx@tea.texas.gov](mailto:TREx@tea.texas.gov).

### **4. Education Passport**

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Each child in DFPS conservatorship must have an education passport. The education passport contains educational records of the child, including the names and addresses of educational providers, the child's grade-level performance, and any other important educational information. [Tex. Fam. Code § 266.008\(a\)](#). DFPS shall maintain the passport as part of DFPS records for the child as long as the child remains in foster care. [Tex. Fam. Code § 266.008\(b\)](#). DFPS has a duty to make the education passport available to any person authorized by law to make educational decisions for the child in foster care. [Tex. Fam. Code § 266.008\(c\)\(1\)](#).

**Special Issue:** For more information about the education passport, referred to as the Education Portfolio or "green binder," please see:

- CPS Policy Handbook Section 15400, located online at:

[https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS\\_pg\\_x15000.asp#CPS\\_15410](https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x15000.asp#CPS_15410).

- Education for Children Resource Guide, available at:

[http://www.dfps.state.tx.us/handbooks/CPS/Resource\\_Guides/Education\\_Resource\\_Guide.pdf](http://www.dfps.state.tx.us/handbooks/CPS/Resource_Guides/Education_Resource_Guide.pdf).

## 5. Confidentiality of Education Records

The federal Family Educational Rights and Privacy Act of 1974 (FERPA) allows for release of student records between school districts without parental consent in compliance with a court order upon enrollment in the receiving school. [20 U.S.C. § 1232g](#).<sup>26</sup>

The Uninterrupted Scholars Act of 2013 amended FERPA to permit caseworkers and other child welfare or tribal organization representatives to access personally identifiable student information without parental consent and allows for disclosure of student records pursuant to a judicial order related to a child welfare proceeding without further notice to the parent. [20 U.S.C. § 1232g \(b\)\(2\)\(B\)](#).<sup>27</sup>

The Uninterrupted Scholars Act provisions also apply to special education-related records for children ages birth to 21 with disabilities under IDEA Parts B and C, [20 U.S.C. §§ 1400 et seq.](#)<sup>28</sup>

## 6. Collection of State-Level Education Data

TEA collects data through PEIMS regarding the foster care status of students. [Tex. Educ. Code § 7.029\(b-1\)](#). In addition, DFPS provides child-level data on a yearly basis to TEA and TEA performs a data match to ascertain, on an aggregate level, how students in foster care are faring educationally. [Tex. Educ. Code § 7.029\(a\)](#).

## 7. Credit Transfer and Recovery

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In recognition of the challenges facing students in foster care, TEA is now required to develop policies and procedures to address:

- Awarding credit, including partial credit if appropriate, for course work, including electives, completed by a student in substitute care while enrolled at another school, [Tex. Educ. Code § 25.007\(b\)\(3\)](#);
- Placing a student in comparable courses or educational programs to those offered at a previous school to the extent comparable courses and programs are available, [Tex. Educ. Code § 25.007\(b\)\(4\)](#);
- Allowing a student in substitute care who was previously enrolled in a course required for graduation the opportunity, to the extent practicable, to complete the course, at no cost to the student, before the beginning of the next school year, [Tex. Educ. Code § 25.007\(b\)\(11\)](#); and
- Ensuring that a student in substitute care who is not likely to receive a high school diploma before the 5th school year following the student's enrollment in grade 9, as determined by the district, has the student's course credit accrual and personal graduation plan reviewed. [Tex. Educ. Code § 25.007\(b\)\(12\)](#).

School districts must make credit by examination available, at any point during the school year, to students in foster care. [19 Tex. Admin. Code § 74.24\(a\)\(2\)](#). Credits earned towards state graduation requirements in an accredited school district are transferable and must be accepted by another school district in the state. [19 Tex. Admin. Code § 74.26\(a\)\(1\)](#). A school district shall award credit proportionately to a student in substitute care who successfully completes only one semester of a two-semester course. [19 Tex. Admin. Code § 74.26\(e\)](#).

## **E. Attendance and School Experience**

### **1. School Year**

A child who is required to attend school under [Tex. Educ. Code § 25.085](#) shall attend school each school day for the entire period the program of instruction is provided. [Tex. Educ. Code § 25.085\(a\)](#). Unless specifically exempted by [Tex. Educ. Code § 25.086](#), a child who is at least six years of age, or who is younger than six years of age and has previously been enrolled in first grade, and who has not yet reached the child's 19<sup>th</sup> birthday shall attend school. [Tex. Educ. Code § 25.085\(b\)](#). On enrollment in prekindergarten or kindergarten, attendance is also compulsory. [Tex. Educ. Code § 25.085\(c\)](#).

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**Special Issue:** When considering the timing of a school move, courts, DFPS, and school staff should be aware of both the sending and receiving local school district calendars, including the administration schedule for the State of Texas Assessment of Academic Readiness (STAAR), which can be found on the TEA Website and on local school district websites.

## 2. Minimum Attendance for a Class Credit or a Final Grade

A student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered. [Tex. Educ. Code § 25.092\(a\)](#). A student who is in attendance for at least 75 percent but less than 90 percent of the days a class is offered may be given credit or a final grade for the class if the student completes a plan approved by the school's principal that provides for the student to meet the instructional requirements of the class. [Tex. Educ. Code § 25.092\(a-1\)](#). [Tex. Educ. Code § 25.092\(a\)](#) does not apply to a student who receives credit by examination for a class as provided by [Tex. Educ. Code § 28.023](#). [Tex. Educ. Code § 25.092\(a-2\)](#).

## 3. Excused Absences for Court-Ordered Activities

A school district shall excuse a student from attending school, including travel, if the student is in the conservatorship of DFPS, participating, as determined and documented by DFPS, in an activity:

- Ordered by a court under [Tex. Fam. Code Chapter 262](#) or [Tex. Fam. Code Chapter 263](#), provided that it is not practicable to schedule the participation outside of school hours; or
- Required under a service plan under [Tex. Fam. Code Chapter 263, Subchapter B](#). [Tex. Educ. Code § 25.087\(b\)\(1\)\(F\)](#).

A student whose absence is excused under [Tex. Educ. Code § 25.087\(b\)](#) may not be penalized for that absence, shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district, and must be allowed a reasonable time to make up school work missed on those days. [Tex. Educ. Code § 25.087\(d\)](#).

**Special Issue:** If feasible, judges may consider scheduling court hearings for school-aged children outside of school hours. Additionally, to ensure a child does not incur unnecessary unexcused absences, it is helpful to clarify in the court order which appointments and activities require the child's presence or involvement.

## 4. Truancy



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With certain exceptions, if a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district shall within 10 school days of the student's 10th absence refer the student to a truancy court for truant conduct under [Tex. Fam. Code § 65.003\(a\)](#). [Tex. Educ. Code § 25.0951\(a\)](#). Truant conduct may be prosecuted only as a civil case in a truancy court. [Tex. Fam. Code § 65.003 \(b\)](#). However, if a student fails to attend school without excuse as specified by [Tex. Educ. Code § 25.0951\(a\)](#), a school district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under [Tex. Educ. Code § 25.093](#), if the school district provides evidence of the parent's criminal negligence. [Tex. Educ. Code § 25.0951\(b\)](#).

A school district shall adopt truancy prevention measures designed to address student conduct related to truancy in the school setting before the student engages in conduct described by [Tex. Fam. Code § 65.003\(a\)](#) and minimize the need for referrals to truancy court for conduct described by [Tex. Fam. Code § 65.003\(a\)](#). [Tex. Educ. Code § 25.0915\(a\)](#). A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of being in the state foster program. [Tex. Educ. Code § 25.0915 \(a-3\)](#).

For more information, please see the [Texas Judicial Branch website truancy resources](#).<sup>29</sup>

## 5. Extracurricular Activities

A child in foster care may attend a school in the district where the foster parent resides free of charge and a durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by the school district. [Tex. Educ. Code § 25.001\(f\)](#). The Office of the Attorney General of Texas interpreted this language to mean that the University Interscholastic League cannot apply any durational residency requirement to children placed in foster care, regardless of whether the placement is the child's first placement or a move from one placement to another.<sup>30</sup>

## 6. Discipline

If a school district permits the use of corporal punishment as a method of student discipline, the person having lawful control of a student must provide a signed, written statement each school year to prohibit corporal punishment for that student. [Tex. Educ. Code § 37.0011\(c\)](#). It is CPS policy to prohibit the use of corporal punishment for all children in foster care and caregivers are directed to "opt out" of school policy on corporal punishment in writing on an annual basis.<sup>31</sup>

In 2015, the [Tex. Educ. Code Chapter 37](#) was amended to require the designation of a person to serve as the campus behavior coordinator. [Tex. Educ. Code § 37.0012](#). In addition to other duties, the campus behavior coordinator shall promptly notify the student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in

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a juvenile justice alternative education program or is taken into custody by a law enforcement officer. [Tex. Educ. Code § 37.0012\(d\)](#). A campus behavior coordinator must:

- Promptly contact the parent or guardian by telephone or in person; and
- Make a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student’s parent or guardian. [Tex. Educ. Code § 37.0012\(d\)](#).

[Tex. Educ. Code § 37.0012](#) also allows for written notice to be mailed or given by the principal or other designee if the parent or guardian is not reached on the first business day. [Tex. Educ. Code § 37.0012\(e\)](#) and [Tex. Educ. Code § 37.0012\(f\)](#).

With limited exceptions for serious offenses, a student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension. [Tex. Educ. Code § 37.005](#).

## 7. High School Graduation

Beginning with the 2014-2015 school year, the minimum, recommended, and advanced high school programs were replaced with the foundation program. [Tex. Educ. Code § 28.025\(h\)](#). Graduation planning now includes review of a personal graduation plan (PGP) for some junior high or middle school students and all high school students. [Tex. Educ. Code § 28.0212](#) and [Tex. Educ. Code § 28.02121](#). For further information on the graduation programs, please see the [TEA Graduation Toolkit](#).<sup>32</sup>

**Special Issue:** A PGP provides each student with a roadmap for academic progress, graduation, and college and career readiness. A PGP is a helpful tool to keep students in foster care on track for graduation, especially when their progress is disrupted by school changes.

Until September 2019, if a student in the 11th or 12th grade has failed to comply with the end-of-course assessment instrument performance requirements under [Tex. Educ. Code § 39.025](#) for not more than two courses, the school district that the student attends shall establish an individual graduation committee at the end of or after the student’s 11th grade year to determine whether the student may qualify to graduate. [Tex. Educ. Code § 28.0258](#).<sup>33</sup>

If an 11<sup>th</sup> or 12<sup>th</sup> grade student in the conservatorship of DFPS transfers to a different school district and is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student’s request, if the student meets the graduation requirements of the district from which the student transferred. [Tex. Educ. Code § 28.025\(i\)](#).

## F. Special Education and Section 504

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## 1. The Individuals With Disabilities Education Act (IDEA)

Under IDEA, all children with disabilities between the ages of 3 and 21 are entitled to a free, appropriate public education (FAPE). [20 U.S.C. § 1412\(a\)\(1\)\(A\)](#). A child qualifies for special education if he or she has an identified disability and that disability adversely affects the child's performance in school. [20 U.S.C. § 1400 et seq.](#) and [Tex. Educ. Code § 29.003](#).

## 2. Section 504

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal law aimed at protecting individuals from discrimination on the basis of a physical or mental disability that substantially impairs a major life activity.<sup>34</sup> [29 U.S.C. § 794](#).

**Special Issue:** Some children may qualify for Section 504 accommodations to "level the playing field" without changing what the child is expected to master. For example, a child with dyslexia may not be eligible for special education services, but might qualify for Section 504 accommodations, such as additional time to complete an exam or preferred seating in the classroom.

## 3. Referral and Consent

School districts have a "Child Find" duty to identify, locate, and evaluate children with disabilities to determine which children are currently receiving needed special education and related services. [20 U.S.C. § 1412\(a\)\(3\)\(A\)](#).

If a parent or legal guardian makes a written request to a school district's director of special education services or to a district administrative employee for a full individual and initial evaluation of a student, the district shall, not later than the 15th school day after the date the district receives the request:

- Provide an opportunity for the parent or legal guardian to give written consent for the evaluation; or
- Refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under [20 U.S.C. § 1415\(b\)](#). [Tex. Educ. Code § 29.004\(c\)](#).

If the rights of a parent have been terminated or subrogated by court order or the school has made reasonable efforts and cannot locate the parent, an initial evaluation may be initiated without parental consent. [20 U.S.C. § 1414\(a\)\(1\)\(D\)\(iii\)](#).

The school has 45 days to complete a full individual and initial evaluation of the student for special education services. [Tex. Educ. Code § 29.004\(a\)\(1\)](#).

## 4. Individualized Education Program (IEP)

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Children who receive special education services will have an IEP. [20 U.S.C. § 1414\(d\)](#). Members of the child’s IEP team, known in Texas as the ARD committee, participate in the formulation and approval of the IEP.<sup>35</sup> [Tex. Educ. Code § 29.005](#).

It is the responsibility of the school district to ensure the ARD Committee includes:

- The parents of a child with a disability;
- Not less than one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
- Not less than one special education teacher, or where appropriate, not less than one special education provider of such child;
- A representative of the local educational agency who:
  - is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - is knowledgeable about the general education curriculum; and
  - is knowledgeable about the availability of resources of the local educational agency;
- An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in [20 U.S.C. § 1414\(d\)\(1\)\(B\)\(ii\) – \(vi\)](#);
- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- Whenever appropriate, the child with a disability. [20 U.S.C. § 1414\(d\)\(1\)\(B\)](#).

## 5. Special Education Transitions

A receiving school must accept a referral for special education services made for a student in substitute care by a school previously attended by the student. [Tex. Educ. Code § 25.007\(b\)\(9\)](#). If there is an existing IEP for the child, the receiving school must provide services comparable to those described in the previous IEP, until it either adopts the previous IEP or develops a new IEP. [20 U.S.C. § 1414\(d\)\(2\)\(C\)\(i\)\(I\)](#) and [Tex. Educ. Code § 25.007\(b\)\(9\)](#).

## 6. Manifestation Determination Review

The right to FAPE includes students who have been suspended or expelled from school. [20 U.S.C. § 1412\(a\)\(1\)\(A\)](#). If a student with a disability is removed for more than 10 school

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days, members of the ARD committee must conduct a manifestation determination review to determine if:

- The conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or
- The conduct in question was the direct result of the local educational agency’s failure to implement the IEP. [20 U.S.C. § 1415\(k\)\(1\)\(E\)](#).

## 7. Graduation

A child who successfully completes their IEP under [Tex. Educ. Code § 29.005](#) is eligible for a high school diploma. [Tex. Educ. Code § 28.025\(c\)](#).

## G. Eligibility for Special Programs

### 1. Prekindergarten

A school district must offer free prekindergarten if it identifies at least 15 eligible children who are at least four years old. [Tex. Educ. Code § 29.153\(a-1\)](#). A child is eligible for prekindergarten, without paying tuition, if the child is or ever has been in the conservatorship of DFPS following an Adversary Hearing held as provided by [Tex. Fam. Code § 262.201](#). [Tex. Educ. Code § 29.153\(b\)\(6\)](#).

**Special Issue:** The school district will require a prekindergarten verification letter from DFPS to verify eligibility for children currently or formerly in DFPS conservatorship.

### 2. Compensatory, Intensive, or Accelerated Instruction

Students in foster care are considered to be at risk of dropping out of school and are eligible for supplemental education services. [Tex. Educ. Code § 29.081\(d\)\(11\)](#). A school district shall offer an intensive program of instruction to any student who does not perform satisfactorily on an assessment instrument administered under [Tex. Educ. Code Chapter 39, Subchapter B](#), or is not likely to receive a high school diploma before the fifth school year following the student’s enrollment in the 9<sup>th</sup> grade, as determined by the district. [Tex. Educ. Code § 28.0213\(a\)](#).

### 3. Nutrition

Students in foster care are categorically eligible for all U.S. Department of Agriculture child nutrition programs including: the National School Lunch Program /School Breakfast Program, Special Milk Program, Fresh Fruit and Vegetable Program, Summer Food Service Program, and the Child and Adult Care Food Program. [42 U.S.C. § 1758](#).

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**Special Issue:** Schools use DFPS Form 2085 to verify that a child is in foster care and thus eligible for free school meals. If it is not otherwise addressed in the court reports, a court might ask the caseworker about whether the child's nutritional needs are being met in both the school and home settings.

#### 4. Texas Virtual School Network (TxVSN)

Each school district must have a written policy about opportunities to enroll in electronic courses provided by TxVSN. [Tex. Educ. Code § 30A.007](#). Children in foster care are eligible for part or full time enrollment in the TxVSN, regardless of whether the student was enrolled in a public school in this state in the preceding school year. [Tex. Educ. Code § 30A.002](#).

**Special Issue:** The TxVSN is an online resource offered by state certified teachers that can assist students in foster care with obtaining course credit. On a case by case basis, DFPS will determine whether enrollment in virtual instruction is appropriate for a child in foster care. If the child receives special education services, that determination will be made in consultation with the child's ARD committee.

#### 5. Early College

An at risk student, as defined by [Tex. Educ. Code § 29.081](#), can participate in an early college education program that:

- Enables a participating student to combine high school courses and college-level courses during grade levels 9 through 12;
- Allows a participating student to complete high school and, on or before the fifth anniversary of the date of the student's first day of high school, receive a high school diploma and either an associate degree; or at least 60 semester credit hours toward a baccalaureate degree;
- Includes articulation agreements with colleges, universities, and technical schools in this state to provide a participating student access to postsecondary educational and training opportunities at a college, university, or technical school; and
- Provides a participating student flexibility in class scheduling and academic mentoring. [Tex. Educ. Code § 29.908](#).

#### 6. Dual Credit

Each school district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. [Tex. Educ. Code § 28.009\(a\)](#).

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A program implemented under [Tex. Educ. Code § 28.009](#) must provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

- That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree and is approved by the Texas Higher Education Coordinating Board (THECB); and
- For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements. [Tex. Educ. Code § 28.009\(a-1\)](#).

A school district is not required to pay a student's tuition or other associated costs for taking a course under this section. [Tex. Educ. Code § 28.009\(a-2\)](#).

## H. Post-Secondary Opportunities

**Special Issue:** During hearings involving middle and high school students in foster care, courts may inquire about the youth's post-secondary education goals. If the youth or caregiver is present at the hearing, a court may encourage options, including vocational and technical training, certificate programs, and two and four-year higher education opportunities.

### 1. Tuition and Fee Waiver

A student is exempt from the payment of tuition and fees, including tuition and fees charged by an institution of higher education for a dual credit course or other course for which a high school student may earn joint high school and college credit, if the student:

- Was in the conservatorship of DFPS:
  - on the day preceding the student's on his or her 18th birthday; or
  - on or after the student's 14<sup>th</sup> birthday, if the student was also eligible for adoption on or after that day; or
  - on the day the student graduated from high school or received the equivalent of a high school diploma; or
  - on the day preceding the date the student is adopted or PMC is awarded to a person other than a parent, if that date is on or after September 1, 2009; or
  - during an academic term in which the student was enrolled in a dual credit course or other course for which a high school student may earn joint high school and college credit; and
- Enrolls in an institution of higher education as an undergraduate student or in a



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dual credit course or other course for which a high school student may earn joint high school and college credit not later than the student's 25th birthday. [Tex. Educ. Code § 54.366\(a\)](#).

Notwithstanding [Tex. Educ. Code Ann § 54.366\(a\)\(1\)](#), a child who exits the conservatorship of DFPS and is returned to the child's parent, including a parent whose parental rights were previously terminated, may be exempt from the payment of tuition and fees if DFPS determines that the child is eligible under department rule. [Tex. Educ. Code § 54.366\(c\)](#). Youth age 14 or older in PMC or youth age 16 or older in TMC who subsequently exit conservatorship to the legal responsibility of a parent are eligible for the tuition and fee waiver. [40 Tex. Admin. Code § 700.1630\(a\)](#). If after exiting the foster care system the youth returns to DFPS conservatorship, the youth's eligibility will be based on their current foster care circumstances. [40 Tex. Admin. Code § 700.1630\(b\)](#).

A student is also exempt from the payment of tuition and fees if the student was adopted and was the subject of an adoption assistance agreement under [Tex. Fam. Code Chapter 162, Subchapter D](#), that:

- Provided monthly payments and medical assistance benefits; and
- Was not limited to providing only for the reimbursement of nonrecurring expenses, including reasonable and necessary adoption fees, court costs, attorney's fees, and other expenses directly related to the legal adoption of the child. [Tex. Educ. Code § 54.367\(a\)](#).

Note, [Tex. Educ. Code § 54.2001\(g\)](#) specifically states the conditional receipt of the exemptions and waivers does not apply to students who receive the exemption in accordance with [Tex. Educ. Code § 54.366](#) or [Tex. Educ. Code § 54.367](#). [Tex. Educ. Code § 54.2001\(g\)\(3\)](#).

## 2. Information about Higher Education

TEA and the THECB must develop outreach programs to ensure that students in the conservatorship of DFPS or adopted students in grades 9-12 are aware of the availability of the exemptions from the payment of tuition and fees. [Tex. Educ. Code § 54.366\(b\)](#) and [Tex. Educ. Code § 54.367\(b\)](#).

TEA must also develop procedures to ensure that a student in substitute care who is in grade 11 or 12 be provided information regarding tuition and fee exemptions under [Tex. Educ. Code § 54.366](#) for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit. [Tex. Educ. Code § 25.007\(b\)\(13\)](#).

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**Special Issue:** Regional Preparation for Adult Living staff or the adoption eligibility specialists determine eligibility for the tuition and fee waiver. For more information about informing youth and young adults about the waiver, please see CPS Policy Handbook Section 10300, located online at:

[https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS\\_pg\\_x10300.asp#CPS\\_10311](https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x10300.asp#CPS_10311).

In coordination with DFPS, each school district must facilitate the transition of each child enrolled in the district who is eligible for a tuition and fee waiver under [Tex. Educ. Code § 54.366](#), and who is likely to be in the conservatorship of the department on the day preceding the child's 18th birthday to an institution of higher education by:

- Assisting the child with the completion of any applications for admission or for financial aid;
- Arranging and accompanying the child on campus visits;
- Assisting the child in researching and applying for private or institution-sponsored scholarships;
- Identifying whether the child is a candidate for appointment to a military academy;
- Assisting the child in registering and preparing for college entrance examinations, including, subject to the availability of funds, arranging for the payment of any examination fees by the department; and
- Coordinating contact between the child and a liaison officer designated under [Tex. Educ. Code § 61.0908](#) for students formerly in DFPS conservatorship. [Tex. Fam. Code § 264.1211\(c\)](#).

**Special Issue:** To encourage postsecondary success, it is important for the court, attorneys ad litem, schools, caseworkers, and others to explain the tuition and fee waiver and other benefits to assist youth with the transition out of foster care. A great resource for youth in care is the DFPS Texas Youth Connection, available online at:

<https://www.dfps.state.tx.us/txyouth/>.

### **3. Education Training Voucher (ETV) and Other Programs**

Under the *John H. Chaffee Foster Care Independence Program*, eligible youth are entitled to up to \$5,000 a year to cover education-related expenses from the federal ETV program.<sup>36</sup> [42 U.S.C. § 677](#). For more details about the DFPS Preparation for Adult Living services and other higher education resources, please see [DFPS Transitional Living Services](#).<sup>37</sup>

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#### 4. Liaisons at the THECB and Institutions of Higher Education

Each institution of higher education, [as defined by [Tex. Educ. Code § 61.003](#)] shall designate at least one employee of the institution to act as a liaison officer for current and incoming students at the institution who were formerly in the conservatorship of DFPS. The liaison officer shall provide to those students information regarding support services and other resources available to the students at the institution and any other relevant information to assist the students. [Tex. Educ. Code § 51.9356\(b\)](#).

The THECB shall designate at least one employee of the board to act as a liaison officer for current and incoming students at institutions of higher education who were formerly in the conservatorship of DFPS. The liaison officer shall assist in coordinating college readiness and student success efforts relating to those students. [Tex. Educ. Code § 61.0908](#).

**Special Issue:** Contact information for designated liaisons at Texas institutions of higher education is available online at:

<http://www.collegeforalltexans.com/apps/financialaid/tofa2.cfm?ID=429>.

### I. Resources

#### **The Texas Blueprint: Transforming Education Outcomes for Children and Youth in Foster Care**

In 2010, the Supreme Court of Texas issued an Order Establishing the Education Committee (Education Committee) of the Permanent Judicial Commission for Children, Youth and Families (Children's Commission). The Order was the result of a Texas Action Plan drafted by a team of child welfare experts and designed to study the educational outcomes of Texas children and youth in foster care. The Education Committee, a high-level group of court, education, and child welfare decision-makers, created a collaborative initiative designed to improve educational outcomes of children and youth in the Texas foster care system. The order resulted in over 100 court, education, and child welfare stakeholders coming together over an 18-month period to listen and learn from each other, discuss and debate the issues, and ultimately develop recommendations to improve educational outcomes of children and youth in foster care. Recommendations included changes in legislation, policy, and practice related to:

- Judicial practices;
- Data and information sharing;
- Multi-disciplinary training;

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- School readiness;
  - School stability and transitions;
  - School experience, supports, and advocacy;
  - Post-secondary education; and
  - Future collaboration.

The recommendations and commentary may be found in the Education Committee's final report, [\*The Texas Blueprint: Transforming Education Outcomes for Children and Youth in Foster Care\*](#), found at:

<http://texaschildrenscommission.gov/media/1119/thetexasblueprint.pdf>

### **Texas Foster Care and Education Summit, February 2013**

In February 2013, over 200 court, child welfare, and education leaders met in Austin at Texas' first Foster Care and Education Summit and Texas took another step in its long-term initiative to improve how children and youth in its foster care system fare in schools. This step represented a new chapter in the initiative to improve education outcomes of students in foster care by bringing together a large group of multi-disciplinary stakeholders to raise awareness of the need to improve these outcomes and to begin establishing connections among the courts, DFPS, and local school districts. The summit was initially conceived as a recommendation in the *Texas Blueprint*.

- [Education Issues for Students in Foster Care](#)<sup>38</sup>
- [Education Unplugged](#)<sup>39</sup>
- [Connecting Child Welfare and Education Law](#)<sup>40</sup>

### **The *Texas Blueprint* Implementation Task Force**

As envisioned by the Supreme Court of Texas, the Education Committee was to be a short-term effort of less than two years. But, as part of its charge, the Court directed the Education Committee to develop a collaborative model to continue systemic improvement of educational outcomes after the submission of the *Texas Blueprint*. That collaborative model, the *Texas Blueprint* Implementation Task Force (Task Force), was created by order of the Supreme Court of Texas in December 2012 to ensure implementation of the *Texas Blueprint's* recommendations and suggested strategies. In prioritizing the recommendations, three primary issue areas emerged: Data, Training and Resources, and School Stability. The Task Force formed three workgroups based on these issues, identified chairs, and met from July 2013 through December 2014. Many of the workgroup members participated in the Education Committee, attended the summit and, hailing from diverse and multi-disciplinary

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backgrounds, brought a wealth of professional expertise to their respective workgroup's efforts at reform and collaboration.

In February 2015, the Task Force assessed progress and presented recommendations for future collaboration in the [Texas Blueprint Implementation Task Force Final Report](#).<sup>41</sup> Going forward, the Children's Commission approved the Task Force recommendation to create a standing Foster Care and Education Committee to systematically address the intermediate and long term goals of the *Texas Blueprint*.

### **Resource Guide for Foster Care Liaisons in School Districts**

TEA, DFPS, and the Children's Commission collaborated on a resource guide for education professionals that has information of use to courts and others involved with CPS cases entitled [Foster Care & Student Success: Texas Systems Working Together to Transform Education Outcomes of Students in Foster Care](#),<sup>42</sup> In addition, TEA has additional resources that may be found on the Foster Care and Student Success webpage, listed below.

### **Texas Court Appointed Special Advocates (CASA) Educational Advocacy Toolkit**

In 2015, Texas CASA released the first resource in its Fierce Advocate Series, the [Educational Advocacy Toolkit](#).<sup>43</sup> The toolkit was a deliverable of the Task Force Training and Resources Workgroup and resulted from several months of collaboration across education, child welfare, court, and advocate stakeholder groups. The toolkit addresses a variety of education-related issues and includes tips and resources for CASA volunteers.

### **Foster Care and Education Data Workgroup Infographic**

In November 2015, the Data Workgroup released an infographic prepared by the University of Texas at Austin entitled, [Texas Commits to Transform Education Outcomes of Students in Foster Care: Findings from the Texas Blueprint Implementation Data Workgroup](#).<sup>44</sup> The infographic highlights the education outcomes of students in foster care in Texas and emphasizes the importance of collaboration and using data to drive decision-making.

### **Confidentiality Guide**

In April 2017, DFPS, TEA, and the Children's Commission developed guidance around [Information Sharing between Child Welfare and Schools: Maintaining Privacy and Promoting Educational Success](#).<sup>45</sup> The document provides information about when and how to share child welfare and education information while respecting confidentiality.

### **Transition Planning**

DFPS, TEA, and the Children's Commission created a [Transition Planning Guide for Students in Foster Care Receiving Special Education Services](#) in April 2017.<sup>46</sup> The Guide includes a side by side comparison of the transition planning processes in the special

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education and child welfare systems, revealing best practices to encourage improved collaboration and outcomes.

### **Higher Education Information and Resource Guide**

In June 2017, DFPS, THECB, Education Reach for Texans, and the Children’s Commission collaborated on the [Texas Higher Education Information and Resource Guide for Foster Care Liaisons](#).<sup>47</sup> Although the guide is designed with the higher education foster care liaison in mind, it is also available as a resource for the legal community to encourage improved postsecondary outcomes for foster care alumni.

### **Judicial Checklists**

*Asking the Right Questions II: Judicial Checklists to Meet the Educational Needs of Children and Youth in Foster Care*. Permanency Planning for Children Department, National Council of Juvenile and Family Court Judges (2008), found at:

<http://www.ncjfcj.org/sites/default/files/education%20checklist%202009.pdf>.

*Foster Youth Education Judicial Checklist*. Texas specific one-page checklist on education, found at:

[http://benchbook.texaschildrenscommission.gov/library\\_item/gov.texaschildrenscommission.benchbook/223](http://benchbook.texaschildrenscommission.gov/library_item/gov.texaschildrenscommission.benchbook/223).

### **Websites**

American Bar Association Legal Center on Foster Care and Education website:  
<http://www.fostercareandeducation.org/Home.aspx>.

Child Protective Services Policy Handbook on Education:  
<https://www.dfps.state.tx.us/handbooks/CPS/Menu/MenuCPSa15000.asp>.

Texas Education Agency (TEA) Foster Care and Student Success website:  
<http://tea.texas.gov/FosterCareStudentSuccess/>.

Children’s Commission Foster Care and Education website:  
<http://texaschildrenscommission.gov/our-work/foster-care-education/>