Transition Planning for Students in Foster Care

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Transition Planning Guide for Students in Foster Care Receiving Special Education Services
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Texas Education Agency
Texas Health and Human Services
Children’s Commission
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Introduction

According to data exchanged between the Texas Education Agency (TEA) and the Texas Department of Family and Protective Services (DFPS), children and youth who experience foster care are almost three times as likely to receive special education services as the statewide student population.\(^1\) Of the youth who are involved in both the child welfare and special education systems, over a third have a primary disability classification of emotional disturbance.\(^2\) Students in foster care often experience severe trauma made worse by instability in their foster care and school experiences.\(^3\) For these vulnerable students, coordination between caring adults is very important to support their transition to adulthood.

The child welfare and education systems are charged with helping older youth transition to adulthood, and this is especially true for students with disabilities. While the child welfare and special education systems each have extensive policies and procedures related to transition planning, the processes often work in parallel, but not in coordination with each other. Those working in the child welfare and education systems are urged to collaborate and coordinate to the greatest extent possible in order to promote efficiency, reduce duplication of efforts, and streamline supports and services for the student. This guide clarifies the similarities and differences in the transition planning processes in the child welfare and special education systems. The information also includes best practices and recommendations for improved coordination between systems to better support youth in foster care with disabilities during the transition to adulthood.
### Questions to Consider

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**Child Protective Services (CPS)** is a division of DFPS charged with providing services to children and families who come into contact with the child welfare system.

Transition planning is required for “youth” and/or “young adults” of requisite age in the conservatorship, or custody, of the state. This document applies to those youth and young adults regardless of the residential placement setting. Some youth live in foster homes, others reside with kin or relatives, or in a residential facility.

Transition planning and Preparation for Adult Living (PAL) services are available for all youth in DFPS conservatorship, including youth with disabilities, when they reach the appropriate age.

**This document addresses transition planning for “youth” or “students” with disabilities who are eligible for or who are receiving special education services pursuant to the Individuals with Disabilities Education Act (IDEA) and related state laws and regulations.**

The child welfare and special education systems often use different terminology, but some terms are used interchangeably. A Glossary is included later in this document to help define some commonly used terms from both systems. Learning to speak the same language is critical to improving coordination between the child welfare and special education systems.

Note: Although this guide is focused on special education, it is also a best practice to coordinate planning for students receiving accommodations and services under Section 504.
### What are transition services?

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<td><strong>Transitional Living Services</strong> is a program administered by DFPS that assists youth in the conservatorship of DFPS in transitioning from foster care to independent living. The focus of the child welfare system is to transition the youth from foster care to independent living. The emphasis in special education is transitioning the student from a secondary environment to life after high school. Youth share common needs and goals for transitioning from each system. Collaboration and coordination by the adults in each system who work with the youth is encouraged early and often throughout the transition planning process.</td>
<td><strong>Transition services are a coordinated set of activities, based on the individual needs of a student with a disability, focused on improving the student’s academic and functional achievement to facilitate his or her movement from school to post-school activities.</strong></td>
<td><strong>Transition planning is required in both the child welfare and special education systems.</strong></td>
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Transitional Living Services is a program administered by DFPS that assists youth in the conservatorship of DFPS in transitioning from foster care to independent living. These services include development of a written description of the programs and services available to help with the youth’s transition to adulthood.

Transitional Living Services also include PAL supports, such as life skills classes, college and vocational exploration, and work readiness.
At what age is a student’s transition plan first developed?

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<td>CPS transition planning begins at 14 years of age. If the youth enters conservatorship at age 14 or older, transition planning must begin at the age of entry into foster care. Federal law also requires transition planning during the 90-day period immediately before the young adult turns 18 or leaves extended foster care. Note: Some eligible youth voluntarily remain in extended foster care after their 18th birthday and up to their 22nd birthday. If the youth will require the appointment of a guardian through the state, this process should be initiated at age 16.</td>
<td>Transition planning must begin not later than when the student who is eligible for special education services reaches 14 years of age. If the student does not become eligible for special education services before age 14, transition planning must begin when the student becomes eligible.</td>
<td>Transition plans are required in both systems starting at age 14. Child welfare and special education stakeholders can work with counselors, teachers, advocates, and community members to share information and make the transition planning meaningful throughout the student’s time in high school. Although the applicable laws require starting this process at age 14, starting earlier has many benefits.</td>
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### At what age is transition planning no longer required?

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<td>CPS transition planning is no longer required once the youth or young adult exits foster care. The goal is for every child or youth in foster care to achieve permanency, by returning to the biological family or forming another longer-term connection to supportive adults, and many do. However, some young adults “age out of care” at age 18. Others voluntarily remain in extended care up to age 22.</td>
<td>Transition planning is no longer required once the student is ineligible for special education.</td>
<td>Streamlined communication will facilitate a successful transition at an earlier age. Include youth and caregivers and identified support persons in the planning process and in any communication loops as early as possible. Consider holding regular interagency meetings to have all stakeholders engaged throughout the transition planning process. Delays in transition planning or waiting until the youth is close to exiting either system can lead to a lack of a realistic or sufficient plan to meet the student’s needs.</td>
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## Child Protective Services

The CPS transition plan is developed at the permanency conference. Once the youth turns 16, there are also Circles of Support (COS) or transition plan meetings. The COS is the preferred means of developing a transition plan but a transition plan meeting must occur if the youth does not want a COS or a COS cannot be convened.\(^{12}\)

## Special Education Services

The student’s admission, review, and dismissal (ARD) committee develops the individual transition plan (ITP).\(^ {13}\) The ITP is a component of the student’s individualized education program (IEP).

At ARD meetings where the ITP is discussed, parents of some students may be encouraged to initiate the guardianship process.

## Recommendations

Although the two systems operate independently, the student is at the center of each process. Youth voice is an important part of transition planning.

Locate the regional contact in the child welfare or special education system and work together to ensure the student’s needs and goals remain paramount.

Share copies of the education component of the CPS transition plan and the special education transition plan periodically between systems, such as by reviewing both plans at the annual ARD meeting to strengthen consistent planning activities that support the student’s transition goals.
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| **What documents/processes can be used to inform the transition plan?** | ARD committees consider information from a variety of sources when developing a student's transition plan. These sources include:  
- the student’s personal graduation plan (PGP);  
- transition-related assessments;  
- relevant information from the student’s CPS Transition Plan.  
- previous IEPs. | The PGP, permanency, and other plans contain a wealth of information about a student in foster care. To the greatest extent possible, share the recommendations in these documents using active networking efforts and document exchange protocols that are understood by all and that are distributed and updated regularly.  
Sharing of relevant information is allowable and encouraged. For example, CPS may share the relevant CPS plan information that impacts post-secondary planning for schools at the ARD meeting. The school may share the special education transition plan at an appropriate CPS planning meeting to aid in the development of the CPS transition plan. Sharing information will inform each transition plan and help achieve consistency for the youth while leveraging existing data sources and resources. |
| Children and youth in foster care have many plans related to their safety, permanency, and well-being including:  
- the child’s plan of service identifies the services recommended by the child welfare agency to support the child and family.  
- a permanency plan for every child or youth in foster care to identify a long-term plan for the child, including connections to supportive adults. | | |


**Child Protective Services**  
**Special Education Services**  
**Recommendations**

### Who participates in developing the transition plan?

The youth determines who should be invited to the circle of support or transition plan meetings.

Some important participants may include:
- the youth;
- the youth's caregiver;
- the youth's education decision-maker and/or surrogate parent;
- at the option of the youth, up to two members of the case planning team who are chosen by the youth and who are not a foster parent of, or caseworker for, the youth. This may include the youth's biological parents, siblings, and extended family members; and
- other caring adults who can provide support as the youth ages out of care.
- the youth's appointed attorney, guardian ad litem, and other relevant professionals may be invited to participate.  

### Special Education Services

- Whenever appropriate, the student;
- the parents;
- at least one of the student’s regular education teachers, if applicable;
- at least one of the student’s special education teachers or at least one of the student’s special education providers, as appropriate;
- a school district representative who:
  - is qualified to provide, or supervise specially designed instruction;
  - is knowledgeable about the general education curriculum; and
  - is knowledgeable about the availability of district resources;
- at the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate;
- an individual who can interpret the instructional implications of evaluation results.  

Note: Students in foster care may have a foster parent or another individual serving as a surrogate parent.

### Recommendations

Certain individuals must be invited and/or attend transition planning meetings for students in care receiving special education services. While many of these individuals will be different in each meeting, there is overlap. Even if an individual participates in one transition planning process but not the other, both systems would operate more efficiently by understanding who is involved in each process and having access to the contact information for all individuals who participate.

In addition to required participants, on a case-by-case basis, invite others who have an interest in the student’s successful transition.
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| Note: DFPS may reject an individual selected by a youth to be a member of the case planning team if DFPS has good cause to believe that the individual would not act in the best interests of the youth. | When a purpose of the ARD committee meeting is the consideration of postsecondary goals and transition services, the ARD committee must invite:  
• the student, but if the student does not attend, the school district must consider the student’s preferences and interests; and  
• as appropriate, with the consent of the parents or adult student, a representative of any participating agency that is likely to be responsible for providing or paying for transition services. |  |
| If the student is in foster care, the school must notify the education decision maker and caseworker of significant events including any ARD committee meeting. In addition, the student’s surrogate parent must consult with the student’s caseworker and other persons involved in the student’s education. |  |
| In certain circumstances, additional personnel must be at ARD committee meetings. |  |
What information is included in the transition plan?

DFPS policy requires certain transition-related issues to be discussed at 14, with additional topics at age 16 and 18.

For youth taking psychotropic medications, the plan must include provisions that inform the youth about:
- managing long-term physical and mental health needs after leaving foster care
- the use of the medication;
- the resources that are available to assist with medication management; and
- informed consent and the provision of medical care.21

For youth age 16 and older, the transition plan must include provisions that:
- identify the cost of housing, related to sources of income, including any available benefits or rental assistance;
- if the youth’s housing goals include residing with family or friends, DFPS must address:

The following issues should be considered by the ARD committee and, if appropriate, included in the student’s IEP no later than when a student reaches 14 years of age:
- appropriate student involvement in his or her transition to life outside the public school system;
- if the student is younger than 18 years old, appropriate parental involvement in the student’s transition;
- if the student is at least 18 years old, appropriate parental involvement in the student’s transition for parents who are invited to the ARD committee meeting by the student or the school district;
- any postsecondary education options;
- a functional vocational evaluation;
- employment goals and objectives;
- if the student is at least 18 years old, the availability of age-appropriate instructional environments;
- independent living goals and objectives; and
- appropriate circumstances for referring a student or the student’s parents to a governmental agency for services.25

Recognizing individual student needs and goals, it is critical for individuals working in each of these systems to develop a common language and an understanding of both systems.

Plans, activities, and services can and should be coordinated whenever possible to jointly support the youth through transitions. Information relevant to the youth’s education needs and goals should be shared with the school as transition plans may be updated and may inform the youth’s special education transition plan. The school should also share relevant information with CPS to inform the CPS transition plan.

Taken together, the transition plans should provide a clear path for the child’s education, career, living, and well-being in the future.
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| the length of time the youth expects to stay in the housing arrangement; | Beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:  
  - appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment,  
  - where appropriate, independent living skills; and  
  - transition services, including courses of study, needed to assist the student in reaching the postsecondary goals. | Pre-planning, ahead of formal planning meetings, is absolutely critical. While the formal planning occurs and all decisions are made at the ARD committee meeting, COS, or transition planning meeting, informal efforts can strengthen the transition planning process and promote the development of thorough and comprehensive transition plans. |
| expectations for the youth regarding paying rent and meeting other household obligations; |  
| the youth’s psychological and emotional needs, as applicable; and | IDEA and state regulations necessitate certain transition evaluations before a student’s transition plan is created. These include a functional vocational evaluation and age-appropriate evaluations related to training, education, employment, and, when appropriate, independent living skills. The student’s ARD committee must consider the outcomes of these evaluations when developing the student’s transition plan. |
| any potential conflicts with other household members or any difficulties that may arise based on an psychological and emotional needs; |  
| • inform the youth about emergency shelters and housing resources, including supervised independent living and housing at colleges and universities, such as dormitories; | Adults working with the youth in each system are encouraged to communicate between formal meetings to strengthen coordinated activities, services and plans to best support the youth. |
| • DFPS must review a common rental application with the youth and ensure that the youth has all required documentation to obtain rental housing; and |  
| • identify any individuals who are able to serve as cosigners or references on the youth’s applications for housing. |  

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| During the 90-day period immediately before the youth turns 18, the transition plan, personalized at the direction of the youth, includes specific information regarding:  
- housing,  
- health insurance,  
- education,  
- local opportunities for mentors and continuing support service,  
- and workforce supports and employment services, and  
- other provisions as applicable. | The IEP Model Form, developed by the Texas Education Agency, includes a supplement for transition services. | |
<p>| Also during this time, the CPS caseworker ensures that the youth is provided with a Youth Transition Portfolio, Almost 18? Letter, and required checklist documents related to identification, social security, health insurance, citizenship status, birth records, etc. |  |
| For CPS transition planning, DFPS Form 2500 is used to document the transition plan. It includes guidance on how to fill in information about a youth's hopes and dreams, strengths, fears, needs, and concerns, and permanency goal. |  |</p>
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<td><strong>How often should the plan be reviewed and who reviews it?</strong></td>
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<td><strong>Regularly meeting and reviewing the transition plan is essential to ensuring the student’s needs are anticipated and met. As the youth progresses through secondary schooling, different needs and goals may develop or change, so it is critical that the review of the transition plan is deliberate and extensive. Regular review of the transition plan allows for greater adaptability to the student’s needs as they evolve over time.</strong> Close coordination between systems is encouraged to ensure that changing circumstances and life developments that can affect transition outcomes for the youth are promptly addressed and reflected in updated transition plans. Flexibility in scheduling reviews based on fluid life events is important in this process.</td>
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A caseworker can review a transition plan with the youth at any time, but must review and update:
- every six months\(^{28}\); and
- within 90 days before the date that the youth leaves foster care (whether that occurs when the youth ages out of care at 18 years old, or later when the youth leaves extended foster care.)\(^{29}\)

<p>| | After the ARD committee has developed the student’s transition plan, the committee must review it at least once a year.(^{30}) In addition, if the student changes school districts within the school year, the student’s IEP must be reviewed within 30 school days of the school verifying the student is eligible to receive special education services.(^{31}) The receiving school must provide the student with a free, appropriate public education until it adopts the student’s IEP from a previous school or it develops, adopts, and implements a new IEP.(^{32}) |  |</p>
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**Who are the key points of contact for transition planning in each system?**

Under the Fostering Connections to Success and Increasing Adoptions Act of 2008, child protective services must coordinate with local education agencies to promote educational success. Recent passage of the Every Student Succeeds Act mirrors the coordination requirements and strengthens ties between state and local child welfare and education partners. Coordination and collaboration are also encouraged in the CPS policy handbook.

Child Protective Services established points of contact for the following roles in the state office and each of its 11 other regions:

- Preparation for Adult Living Coordinator – focus on preparing youth and young adults for the transition to adulthood.
- Education Specialists – serve as subject matter experts for issues related to education, including attending ARD meetings.

Each school district or shared services arrangement must designate at least one employee to serve as the district or shared services arrangement’s designee on transition and employment services for students enrolled in special education programs.

The designated individual must provide information and resources about effective transition planning and services and interagency coordination to ensure that local school staff communicate and collaborate with:

- students enrolled in special education programs and their parents; and
- as appropriate, local and regional staff of the Health and Human Services Commission (HHSC), the Department of Family and Protective Services (DFPS) and other state agencies.

Coordination and collaboration are not only best practices focused on improving outcomes of students in foster care receiving special education services, but they are also addressed in state and federal law. There is a large array of services and supports to help youth who experience foster care transition to adulthood.

These students are some of the most vulnerable in the state public education systems, and every effort to facilitate the transition out of foster care and/or high school will bolster the student’s future opportunities, confidence, and ability to function independently as an adult.
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<td>• Developmental Disability Specialists – provide consultation on service and placement options.</td>
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<td>• Caseworker – primarily responsible for transition planning when child is younger than 16.</td>
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## Glossary of Commonly Used Terms

### Child Protective Services (CPS)

- **Another Planned Permanent Living Arrangement (APPLA)**: A permanency goal designed to promote a stable and secure living arrangement that includes building relationships with significant people in a youth’s life that will continue after the youth leaves substitute care; refers to placements other than a reunification with a parent, adoption or permanent managing conservatorship to a relative.

- **Attorney ad Litem (AAL)**: An attorney who provides services for the purposes of the legal action only, including representation of a child, and who owes to the person the duties of undivided loyalty, confidentiality, and competent representation.

- **Caregiver**: Caregiver may be a relative, guardian, or a representative, such as a foster parent, charged with providing day-to-day care to a child or youth.

- **CPS Caseworker**: The CPS caseworker has multiple responsibilities to the child or youth in care. The CPS caseworker ensures a child’s needs are met while in foster care. The caseworker is the direct link with the child, caregiver, court system, and multiple service providers. Caseworkers and foster parents are to be notified by school staff if they have concerns about a child or youth in DFPS conservatorship.

- **College Tuition and Fee Waiver**: Qualified youth who were or are in the conservatorship of DFPS are eligible to have college tuition and fees waived at Texas state-supported colleges or universities, public medical schools, public dental schools, public junior colleges, and public technical institutes.

- **Court Appointed Special Advocate (CASA) [http://texascasa.org/](http://texascasa.org/)**: A specially screened and trained volunteer, appointed by the court, who conducts an independent investigation of child abuse, neglect, or other dependency matters and submits a formal report proffering advisory recommendations as to the best interests of a child. In some jurisdictions, volunteers without formal legal training, such as CASAs, are appointed to represent abused and neglected children, serving in the capacity of a Guardian ad litem.

- **Circle of Support (COS)**: Held soon after a youth who has been removed from the home reaches age 16. Primary purpose is to develop a transition plan for the youth and to connect youth to supportive and caring adults who can help the youth when the youth leaves foster care. Circles of Support are led by the youth and the youth determines who is invited to participate.

- **Child Protective Services (CPS) [http://www.dfps.state.tx.us/Child_Protection/](http://www.dfps.state.tx.us/Child_Protection/)**: A division of Texas DFPS that investigates reports of abuse and neglect of children. It also: provides services to children and families in their own homes; places children in foster care; provides services to help youth in foster care make the transition to adulthood; and places children in adoptive homes.
- **Conservatorship (CVS)**: Legal care, custody, and control of a child given by court order. If the court appoints managing conservatorship to DFPS, the state acts as the child’s parent, regardless of the placement setting (foster home, group home, kinship home, residential facility, etc.)
- **Department of Aging and Disability Services (DADS) Guardianship**: See entry for Health and Human Services Commission.
- **Department of Assistive and Rehabilitative Services (DARS)**: See entry for Health and Human Services Commission.
- **Department of Family and Protective Services (DFPS) [http://www.dfps.state.tx.us](http://www.dfps.state.tx.us)**: A state agency that is charged with protecting children, adults who are elderly or have disabilities living at home or in state facilities, and licensing group day-care homes, day-care centers, and registered family homes.
- **Department of State Health Services (DSHS) [http://www.dshs.state.tx.us](http://www.dshs.state.tx.us)**: A state agency that promotes optimal health for individuals and communities while providing effective health, mental health and substance abuse services to Texans.
- **Education Decision-Maker (EDM)**: An individual designates by CPS to make educational decisions on behalf of children and youth in foster care. Typically, the caregiver and the EDM are the same person. If the child receives special education services, a surrogate parent may be appointed to make decisions related to special education. The identity and contact information for this individual is included on DFPS Form 2085-E Designation of Education Decision Maker.
- **Education and Training Voucher (ETV)**: A federally funded and state administered program that offers financial assistance to attend post-secondary colleges and training programs for qualified youth and young adults currently or formerly in the conservatorship of DFPS between the ages of 16 to 21 or 23.
- **Education Specialist**: Point of contacts in the state office and each of the 11 DFPS regions. Serve as liaisons with the school district foster care liaisons, participate in ARD committee meetings, and have subject matter expertise to advise caseworkers and other CPS staff.
- **Extended Foster Care (Ages 18 up to 21 or 22)**: Extended Foster Care is a voluntary program that offers young adults opportunities to continue foster care placement and facilitate the transition to independence with DFPS supervision, if there is an available placement.
- **Former Foster Care Children (FFCC) program**: The FFCC program provides Medicaid coverage and help with benefits for former foster youth through age 25. Young adults will get Medicaid through STAR Health until age 21 and then receive Medicaid through the STAR plan of their choice.
- **Guardian ad Litem (GAL)**: A person appointed by a judge to represent the best interests of a child in an abuse or neglect case; in many counties the GAL is the CASA.
- **Health and Human Services Commission (HHSC) [https://hhs.texas.gov/](https://hhs.texas.gov/)**: The state agency that oversees operations of the health and human services system, including DFPS, DADS, and DSHS. Guardianship programs formerly operated under DADS have been moved to HHSC effective September 1, 2016. Vocational and other support services formerly operated under DARS have been moved to HHSC or the Texas Workforce Commission effective September 1, 2016.
• **Kinship Care**: Children in DFPS managing conservatorship can be placed with relatives or kin who take care of their everyday needs. This can include adults who are not actually related to the child but have a long-term connection to the child. Like other children in state conservatorship, transition planning is required for those living with kin.

• **Permanency Conference (PC)**: Used to develop a youth’s permanency plan and the family’s service plan when a family group conference is not appropriate. For youth age 14 and 15, the transition plan is developed at the PC. Information in the other plans may be helpful for planning purposes.

• **Permanency Plan**: A plan that is developed by Child Protective Services and the Judge to arrange for the most permanent living situation possible for a child or youth in care, while considering best interests. The plan tells where and with whom a child in foster care will live and the proposed legal relationship between the child and the permanent caregiver(s).

• **Permanent Managing Conservatorship (PMC)**: Placement of a child in the permanent conservatorship of an entity or person, by court order, (e.g. Texas DFPS, relative) with no intention of returning the child to the parent’s custody.

• **Preparation for Adult Living (PAL)**: A CPS program focused on preparing youth for adult life after leaving foster care. The program includes services, benefits, resources, and supports to help youth become healthy, productive adults. The program connects youth to community resources to assist with the transition to a successful adulthood.

• **Substitute Care**: Term used to describe a situation where a child a youth is removed from biological parents and the state becomes conservator for the child. Foster care implies the child lives in a foster home, and the term substitute care has broader implications including situations where a youth lives with other family members (e.g. grandmother) while technically under the conservatorship of the state.

• **Supervised Independent Living (SIL)**: A type of voluntary Extended Foster Care placement where young adults can live on their own, while still getting casework and support services to help them become independent and self-sufficient.

• **Temporary Managing Conservatorship (TMC)**: The awarding of conservatorship of a child to Texas DFPS. This may include children remaining in their home with orders from the court for particular requirements to ensure the safety of the child or the removal of a child from the family for safety and well-being purposes.

• **Transitional Living Services (TLS)**: Transitional Living Services provide a systemic and integrated approach to transition planning, services, and benefits for older foster youth and those who have aged out of foster care. Services are available to youth ages 14 up to age 23.

• **Transition Plan Meeting (TPM)**: A meeting held soon after a youth who has been removed from the home reaches age 16.

• **Transition Centers (TC)**: TCs provide a central clearinghouse of one-stop services for current and former foster youth, youth experiencing homelessness, and other at-risk youth. There are 17 Transition Centers throughout Texas supported by DFPS, providers, and the Texas Workforce Commission. See [www.texasyouthconnection.org](http://www.texasyouthconnection.org) for more information.
**Special Education**

- **Admission, Review, and Dismissal (ARD) Committee**: A committee composed of a student’s parent(s) or the adult student and certain required school personnel and service providers who are involved with the student. Sometimes the student is also a member of the ARD committee. The ARD committee determines a student’s eligibility to receive special education services and develops the student’s individualized education program (IEP) and transition plan. The ARD committee is also referred to as the IEP team.

- **Free Appropriate Public Education (FAPE)**: A free appropriate public education for a student with a disability. FAPE includes the special education and related services in a student’s individualized education program (IEP) that the ARD committee determines are necessary to provide the student with an appropriate education at public expense.

- **Foster Care Liaison**: An individual designated by the school district or open enrollment charter school to facilitate the enrollment, transfer, and withdrawal of students in foster care. Each Texas public institution of higher education must also designate a liaison to support students formerly in foster care.

- **Graduation**: The successful completion of all curriculum requirements and satisfactory performance on the secondary exit-level assessment instrument or successful completion of an IEP and the criteria for graduating pursuant to an IEP. A student with a disability may graduate by completing the same program required of non-disabled students or by completing the requirements of his/her IEP and meeting certain criteria.

- **Individualized Education Program (IEP)**: A written statement for each student with a disability that is developed, reviewed and revised by the ARD committee, of which parents or adult students are active members. The IEP includes, in part, the student’s present levels of academic achievement and functional performance, participation in state and district-wide assessments, transition services, annual goals, related services, supplementary aids and services, extended school year services, and instructional setting.

- **Individuals with Disabilities Education Act (IDEA)**: A federal education law designed to ensure that all students with disabilities have the opportunity to receive a FAPE, which includes the special education and related services necessary to meet their unique needs and to prepare them for further education, employment, and independent living.

- **Individual Transition Plan (ITP)**: A plan included in the student’s IEP that documents coordinated, measurable, and annual postsecondary goals.

- **Local Educational Agency (LEA)**: This is the term used in IDEA and other federal education law. Also referred to as a school district.

- **Parent**: A natural or adoptive parent, a foster parent who meets State requirements for serving as a parent, a legal guardian (but not the State if the child is ward of the State), an individual acting in the place of a natural or adoptive parent with whom the child lives, an individual who is legally responsible for the child’s welfare, or an individual assigned to be a surrogate parent.
- **Personal Graduation Plan (PGP):** A working document used to, among other things, promote college and workforce readiness and track progress towards completion of graduation requirements. Every student attending a Texas public high school has a PGP that is developed in the 9th grade.

- **Section 504 of the Rehabilitation Act of 1973 (Section 504):** A civil rights law that prohibits recipients of federal funding from discriminating against individuals with disabilities. Under Section 504, students with disabilities may receive accommodations and modifications as well as supplementary aids and services to ensure that their individual educational needs are met as adequately as those of non-disabled students. Under Section 504, children with disabilities must be educated with their non-disabled peers "to the maximum extent appropriate."

- **Surrogate Parent (SP):** The individual assigned by the school district or court to act as a surrogate for the parents whenever the parents are not known, cannot, after reasonable efforts, be located, or when the student is a ward of the State to ensure that the rights of a student with a disability are protected. The surrogate parent must not be an employee of the Texas Education Agency (TEA), the school district, or any other agency that is involved in the education or care of the child. The district must try to assign a surrogate parent within 30 days of determining that a student needs a surrogate parent. A surrogate parent must complete a training program within 90 after being assigned as a surrogate for the first time.

- **Special Education:** Specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings and includes instruction in physical education.

- **Texas Education Agency (TEA):** The state educational agency (SEA) in Texas that is primarily responsible for the State supervision of public schools.

- **Ward of the state:** A child who, as determined by the State where the child resides, is a foster child, is a ward of the State, or is in the custody of a public child welfare agency. The term does not include a foster child who has a foster parent who meets the definition of a parent.
Important Contacts

- District Foster Care Liaisons and Education Service Center (ESC) Foster Care Champions
  - [http://tea.texas.gov/FosterCareStudentSuccess/liaisons/](http://tea.texas.gov/FosterCareStudentSuccess/liaisons/)

- Foster Care Liaisons at Institutions of Higher Education

- Foster Care Liaison at Texas Education Agency
  - Foster Care Education & Policy Coordinator
    - Kelly Kravitz
    - 512-463-9235
    - Kelly.Kravitz@tea.texas.gov

- Foster Care Liaison at Texas Higher Education Coordinating Board
  - Director of Recruitment and Retention
    - Natalie Coffey
    - (512) 427-6227
    - natalie.coffey@thecb.state.tx.us

- DFPS Education Specialists
  - [https://www.dfps.state.tx.us/Child_Protection/State_Care/education_specialists.asp](https://www.dfps.state.tx.us/Child_Protection/State_Care/education_specialists.asp)

- DFPS Preparation for Adult Living Coordinators
  - [https://www.dfps.state.tx.us/child_protection/Youth_and_Young_Adults/Preparation_For_Adult_Living/PAL_coordinators.asp](https://www.dfps.state.tx.us/child_protection/Youth_and_Young_Adults/Preparation_For_Adult_Living/PAL_coordinators.asp)
Resources for Additional Information


National Technical Assistance Center on Transition (NTACT): http://www.transitionta.org/

Texas Department of Family & Protective Services Transitional Living Services:
  http://www.dfps.state.tx.us/Child_Protection/Youth_and_Young_Adults/Transitional_Living/default.asp

Texas Education Agency
  – Foster Care & Student Success: http://tea.texas.gov/index4.aspx?id=2147512292&menu_id=2147483761

Texas Foster Care Handbook for Youth: https://www.dfps.state.tx.us/txyouth/foster-care-handbook.pdf

Texas RioGrande Legal Aid Texas Foster Youth Justice Project: http://texasfosteryouth.org/

Texas Project First (Education Service Center 9) http://www.texasprojectfirst.org/

Texas Transition and Employment Guide:

Texas Workforce Solutions: http://www.twc.state.tx.us/jobseekers/career-exploration-trends

Think College! College Options for People with Intellectual Disabilities: http://www.thinkcollege.net/

Transition in Texas (Education Service Center 11): http://www.transitionintexas.org/site/default.aspx?PageID=1

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Endnotes

1 See Information on Children in Foster Care Attending Texas Public Schools 2012-2013, available online at http://texaschildrenscommission.gov/foster-care-education/education-resources.aspx.
2 Id.
4 Tex. Fam. Code § 264.121(b)(3).
5 42 U.S.C. § 675(1)(D).
11 For more information about permanency options and efforts, see http://www.dfps.state.tx.us/Adoption_and_Foster_Care/About_Adoption/permanency.asp.
12 See CPS Policy Handbook, Section 6252, supra.
14 See CPS Policy Handbook, Section 6252, supra.
17 34 C.F.R. § 300.321(b) (Authority: 20 U.S.C. §1414(d)(1)(B)–(d)(1)(D)).
20 19 Tex. Admin. Code § 89.1050(c).
21 Tex. Fam. Code § 264.121(g).
24 DFPS Form 2500 is available online at https://www.dfps.state.tx.us/site_map/forms.asp.
26 34 C.F.R. § 300.320(b) (Authority: 20 U.S.C. § 1414(d)(1)(A) and (d)(6)).
27 The IEP Model Form is available online in English and Spanish at http://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/IEP_Model_Form/.
32 34 C.F.R. § 300.323(e).
35 See CPS Policy Handbook, Section 15100, available online at https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x15000.asp.
Information Sharing Between Child Welfare and Schools:
Maintaining Privacy and Promoting Educational Success
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This document was created by Supreme Court of Texas Children’s Commission Foster Care & Education Confidentiality Workgroup on April 3, 2017. All information is accurate as of the date this guide is released.
Background

Children and youth in foster care often face significant challenges to educational success, including adjustments to living in a different home with new caregivers, a history of traumatic experiences due to abuse and neglect, and sometimes missed school days for family visits, court hearings, and required appointments. Additionally, children and youth in foster care can experience multiple residential and school moves that can result in the loss of course credit, school records, and connections to family, teachers, and friends. Education is a lifeline for many students in foster care and the opportunities for success are much greater when the child welfare and education systems work together.

The education and child welfare systems each have complex and extensive confidentiality laws. Privacy is important for students in foster care who do not want to feel stigmatized or labelled by their foster care status. However, in some instances information sharing within the school system and across systems is absolutely critical to support a student’s educational success.

This document is intended to clarify complicated confidentiality laws and provide guidance on exchanging information about students in foster care between child welfare and education partners. Ultimately, decisions about the amount or type of information to share in any specific situation must be evaluated on a case-by-case basis. These decisions should be carefully re-evaluated any time circumstances change.

WHY DO SCHOOLS NEED TO IDENTIFY STUDENTS IN FOSTER CARE?

Some important considerations include:

- Improving education outcomes for this student population, pursuant to the Every Student Succeeds Act (ESSA)\(^1\) of 2015, the Fostering Connections to Success and Increasing Adoptions Act of 2008\(^3\), and Texas state law.
- Collaborating with the child welfare agency to develop transportation plans for students in accordance with ESSA.
- Ensuring that students can remain in their schools of origin, unless it is not in their best interest, under federal and state law.
- Providing assistance for students transitioning from one school to another, such as:
  - Providing supportive services to ease transitions for students during the first two weeks of enrollment in a new school;
  - Ensuring records are transferred to a new school within 10 working days;
  - Ensuring that the school awards credit for coursework, including partial credit and credit for electives, if appropriate;
o Promoting practices that facilitate access to extracurricular programs, summer programs, credit transfer services, electronic courses, and after-school tutoring programs at a nominal fee or no cost; and
o Implementing local procedures to lessen the adverse impact to the student of moving to a new school.³

• To implement other supportive educational services available to students in foster care, such as compensatory instructional services, tutoring, and credit recovery to assist with high school completion.
• To provide additional counseling for students who are truant, in accordance with state law.⁴
• To enroll students in the National School Lunch Program and the School Breakfast Program.
• To establish proof of legal authority of the caregiver and of CPS for enrollment and education decision-making.

Child Abuse and Neglect Reporting Basics

Educators are often the first to recognize signs of child abuse or neglect and, as professionals, they are mandated by law to report the abuse or neglect.⁵ If there is a suspicion of either abuse or neglect, the educator must report the suspected abuse or neglect within 48 hours or less after learning of facts giving rise to the suspicion of abuse or neglect. The written or oral report must be made by the educator to a local or state law enforcement agency, the Texas Department of Family and Protective Services, a local office of Child Protective Services, or the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.⁶ The professional may not delegate to or rely on another person to make the report.

The current hotline information is: 1-800-252-5400 or 

If known, the person making the report of alleged abuse or neglect must identify the name and address of the child, the name and address of the person responsible for the care, custody, or welfare of the child (generally the child’s parent), and any other pertinent information concerning the alleged or suspected abuse or neglect.⁷
Family Educational Rights and Privacy Act (FERPA) Basics

The federal Family Educational Rights and Privacy Act (FERPA) requires educational agencies and institutions that receive federal funds under any program administered by the United States Department of Education to protect a student’s personally identifiable information in education records. FERPA grants parents the rights to:

- Inspect and review the education records of their child;
- Challenge and require the school to amend any portion of the education records concerning the student that are inaccurate, misleading, or otherwise in violation of the student’s privacy rights; and
- Require written consent prior to the disclosure of personally identifiable information, except in those instances specifically noted in statute.8

FERPA defines “parent” of a student as a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.9

Because of the lack of clarity about whether a child welfare agency might have access to the school records of students in foster care, the Uninterrupted Scholars Act amended FERPA to specifically permit educational agencies and institutions to release a student’s education records to an agency caseworker or other representative of a state or local child welfare agency who has the right to access a student’s case plan when such agency or organization is legally responsible for the care and protection of the student.10 When a child is in foster care, the Texas Department of Family and Protective Services (DFPS) is appointed as temporary or permanent managing conservator of the child and becomes legally responsible for the care and protection of the student. Thus, DFPS may access education records for the child.

In situations where DFPS does not have legal responsibility for the child, FERPA permits school districts to release records in compliance with a court order or subpoena.11 For example, when DFPS provides Family Based Safety Services while the child remains in the home and the child is not in the conservatorship of the state, there must be a court order or subpoena to release the records to DFPS.

For all students, including students in foster care, FERPA permits student records to be released without parental consent by a school district to another school district where the student seeks or intends to enroll or where the student is already enrolled so long as the disclosure is for purposes related to the student’s enrollment or transfer.12

Confidentiality of child abuse and neglect records and information (including records and information relating to reports, investigations, legal actions, and the provision of services to children and families) is governed by a combination of federal and state laws and regulations.

The primary controlling federal laws include Section 106 of the Child Abuse Prevention and Treatment Act\(^\text{13}\) and Section 471 of Title IV-E of the Social Security Act\(^\text{14}\) and related federal rules.\(^\text{15}\) State law has incorporated these two federal laws into state law and rules as follows: Texas Family Code § 261.201, Human Resources Code § 40.005, and related DFPS rules.\(^\text{16}\) These laws provide the statutory basis for policies regarding confidentiality and the sharing of child welfare information.

In Texas, DFPS is the umbrella agency over Child Protective Services (CPS or child welfare agency). Conservatorship is sometimes referred to as "custody," "substitute care," or "foster care." Conservatorship can include a child placed by CPS in the care of a relative or "fictive kin" (a person who is not a relative but with whom the child has a pre-existing relationship).\(^\text{17}\)

Both federal and state law allow CPS to share selected confidential information about a child in the state's conservatorship with those responsible for the child's protection, diagnosis, care, treatment, supervision, or education when necessary to meet a child's needs.

Sharing CPS-Related Information in the Education Setting

Decisions to share confidential information about a child in the state's conservatorship must be made on a case-by-case basis, sharing only the minimum information necessary and only to individuals who need to know the information to support the child's education and well-being.

It is important to remember that most children and youth in foster care do not want the fact that they are in foster care shared with others and this is generally information they do not share. Please keep this in mind when developing protocols and when discussing matters involving a child in foster care. Note, these principles will apply regardless of the child's school setting. For example, even if a school is associated with a Residential Treatment Center and all the enrolled children are in foster care, each child's privacy should nonetheless be respected and safeguarded.
WHAT INFORMATION IS GENERALLY APPROPRIATE FOR CPS TO SHARE WITH SCHOOL PERSONNEL?

DFPS Form 2085 Placement Authorization and DFPS Form 2085-E Designation of Education Decision-Maker.

- CPS caseworker and supervisor contact information.
- The fact that the student is in DFPS conservatorship and living in a foster home or in a relative or fictive kin placement.
- The student’s birth certificate, immunization records, names of previous schools attended, transcripts and report cards, Individual Education Programs, Section 504 Plans, and other documents relating to special education and related services, and other educational records.
- Vision & hearing evaluations.
- Information regarding medications for the student that are administered by the school nurse during the school day, with doctor's written orders.
- Medicaid eligibility or number, if necessary for School Health and Related Services.
- Relevant information from the CPS Transition Plan as it relates to older youth receiving special education services.

WHAT INFORMATION MAY BE SHARED ON A CASE-BY-CASE BASIS ONLY?

The following information may be shared if it relates to the child’s care and needs in the educational setting:

- The DFPS 2085 Forms should serve as proof that the child is in the conservatorship of the state. A CPS caseworker may also provide the court order that granted the agency conservatorship of the child to the school upon request. If a court order is provided, non-relevant or unnecessary information should be redacted by CPS staff. The only information that should be shared in the order will be language establishing DFPS as the child's managing conservator.
- Relevant medical, disability, or health information, including mental or behavioral health issues, services, and medications that are not administered at school.
- The effects of trauma and potential triggering events that may cause a behavioral response in the school setting.
- Information in psychological evaluations, if relevant to the child’s care and needs in the educational setting. Information from mental health and psychological evaluations not directly related to assisting the school in meeting the child’s needs should be redacted.
- Effective behavior supports used by the caregiver to encourage consistency in the school and home environments.
• Although CPS is under no obligation to share information that a child or youth has been arrested, CPS may share this information as appropriate.
• Specific details about the abuse or neglect history. Information about the impact of the abuse or neglect history and how it may affect the child in school can be shared when appropriate.

**WHAT INFORMATION MAY NEVER BE SHARED BY CPS?**

• The name of the person who reported the abuse or neglect.
• The fact that the child was adopted; this may be sensitive information to the child and adoptive family.
• Alcohol or substance abuse history and treatment of the student, **unless** clearly relevant and only if the release is specifically consented to by the student.
• Biological or foster family income.
Sharing Education-Related Information with Child Welfare Partners

When a child or youth enters foster care, there are many adult partners who become involved in the child’s life.

The child’s caseworker must have access to all information for a child in the state’s custody. A child’s attorney ad litem, guardian ad litem, or Court Appointed Special Advocate (CASA) may also receive school-related information if the person provides a copy of the court order to the school. Others are entitled to information as described below.

WHO MAKES EDUCATION-RELATED DECISIONS FOR STUDENTS IN FOSTER CARE?

Schools → CPS Unless limited by court order, DFPS has authority to make education decisions for a child in the state’s conservatorship. CPS generally designates an individual, such as the child’s foster parent or relative caregiver, to make the day-to-day educational decisions for each child. This individual is called the "Education Decision-Maker" and state law requires DFPS to provide their name and contact information to the court with jurisdiction over the CPS case and the child’s school. DFPS uses DFPS FORM 2085-E Designation of Education Decision-Maker to provide this information to the school. The 2085-E may also include information about any rights to be involved in the child’s education retained by the child’s biological family,
as specified by court order. If the child in foster care is eligible for special education services, a Surrogate Parent may be appointed by the school or the judge in the child's case. If CPS is aware of the Surrogate Parent appointment, that information will also be included in Form 2085-E.

For a child placed in a foster home or with a relative or "fictive kin" caregiver, the Education Decision-Maker will most likely be the foster parent or relative with whom the child resides. In some cases, especially for children living in residential facilities, the child's caseworker may be designated as the Education Decision-Maker.

Form 2085-E includes all the rights and responsibilities of the Education Decision-Maker and the child's caseworker, including who should be contacted in certain kinds of situations and who can have access to information about the child. For example, the Education Decision-Maker is responsible for signing the annual directive to the school prohibiting the use of corporal punishment for the child and providing a copy to the caseworker for the child's case file. The duty of the caseworker is then to ensure that the directive is on file with the school and placed in the child's case file. The caseworker is responsible for informing the school within five days of a change in the designation of the Education Decision-Maker or Surrogate Parent.

**HOW DOES CONFIDENTIALITY IMPACT STUDENTS RECEIVING SPECIAL EDUCATION SERVICES?**

A parent for purposes of the Individuals with Disabilities Education Act (IDEA) is defined as:

- A biological or adoptive parent;
- A foster parent unless prohibited by state law;
- A guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child;
- An individual acting in the place of a biological or adoptive parent with whom the child lives, including other relatives, or an individual legally responsible for the child's welfare; or
- The Surrogate Parent.

Under Texas law, a foster parent may act as a parent under IDEA if DFPS is appointed as the temporary or permanent managing conservator of the child, the child has been placed with the foster parent for at least 60 days, the foster parent agrees to participate in making educational decisions on the child's behalf, the foster parent agrees to complete a training program for Surrogate Parents, and the foster parent has no interest that conflicts with the child's interests. If serving the role of a Surrogate Parent or parent for special educational purposes, foster parents or caregivers may request an independent educational evaluation if they disagree with the findings of the evaluation conducted by the school. Additionally,
they are to be notified about and included in the ARD Committee process and should be included in the development of any Individualized Education Program (IEP).22

Notably, the Uninterrupted Scholars Act clarified FERPA and IDEA Parts B and C regarding access to special education information.23 As a result, information related to special education may be shared with a child welfare agency employee who is legally responsible for the care and protection of the student as well as any individual acting as the child's IDEA parent as defined above.

WHAT INFORMATION MUST SCHOOL PERSONNEL SHARE WITH CPS PARTNERS?

School districts, campuses, and open-enrollment charter schools are legally required to provide notice to the Educational Decision-Maker and caseworker of a child in foster care regarding events that may significantly impact the education of the child.24 Under Texas law, events that may significantly impact the education of the child include:

- Requests or referrals for an evaluation under Section 504, Rehabilitation Act of 197325 or special education services under Texas Education Code § 29.003;
- Admission, Review, and Dismissal (ARD) committee meetings;
- Manifestation Determination Reviews required by Texas Education Code § 37.004(b);
- Any disciplinary actions under Texas Education 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 Texas Education Code § 37.0021; and
- Use of corporal punishment as provided by Texas Education Code § 37.0011.26

WHAT INFORMATION MAY BE APPROPRIATE FOR SCHOOL PERSONNEL TO SHARE WITH CPS PARTNERS?

Education information about a child in foster care can always be shared with the child’s caseworker and the Education Decision-Maker. Depending on the circumstances, information may also be shared with the child's foster parent, caregiver, or Surrogate Parent. School personnel may reference DFPS FORM 2085-E for questions about who to contact.

Some examples of appropriate information to share with the child’s caregiver, Education Decision-Maker, Surrogate Parent, and/or caseworker include:
• Notice when a child is injured or becomes sick at a school activity on or off school grounds.
• Report cards, permission slips, and other routine school correspondence, including receiving homework assignments on behalf of the child if necessary.
• The Child’s IEP, including information about transition planning for youth age 14 and older.

Unless otherwise indicated in DFPS Form 2085-E, the daily caregiver with whom the child lives (foster parent, relative caregiver, or facility staff) may be involved in and notified of activities and decisions listed above which have a clear impact on the child's home life. For example, the caregiver is generally responsible for decisions about participation in extracurricular activities, sporting activities and events, dances, clubs, etc., regardless of whether the caregiver is also the child's designated Education Decision-Maker or Surrogate Parent.

Please note, the Education Decision-Maker may be instructed by the caseworker to notify or consult with the DFPS caseworker or supervisor on any of these matters before communicating a decision to the school.

If there are concerns about the decisions the Education Decision-Maker is making for the child, school personnel should contact the DFPS caseworker or supervisor listed on DFPS Form 2085-E.

**Conclusion**

Education is a critical component of any child’s transition to a successful and productive adulthood. The challenges of when and how to share information will ultimately depend on the circumstances in each student’s life. This is no different for students in foster care. For students in foster care there is a balance between maintaining privacy and sharing information that will promote their educational success. Personnel in both the CPS and education systems can coordinate and collaborate to address questions and concerns as they arise and ultimately make the child’s school experience positive and enriching.
Commonly Used Terms

**Child Protective Services (CPS):** A division of Texas DFPS that investigates reports of abuse and neglect of children. It also: provides services to children and families in their own homes; places children in foster care; provides services to help youth in foster care make the transition to adulthood; and places children in adoptive homes.

**Conservatorship (CVS):** Legal care, custody, and control of a child given by court order. If the court appoints managing conservatorship to DFPS, the state acts as the child’s parent, regardless of the placement setting (foster home, group home, kinship home (which includes relatives or "fictive kin), residential facility, etc.).

**Court Appointed Special Advocate (CASA):** A specially screened and trained volunteer, appointed by the court, who conducts an independent investigation of child abuse, neglect, or other dependency matters and submits a formal report proffering advisory recommendations as to the best interests of a child. In some jurisdictions, CASAs are appointed to represent abused and neglected children as the child’s Guardian ad litem.

**Department of Family and Protective Services (DFPS):** A state agency that is charged with protecting children, adults who are elderly or have disabilities living at home or in state facilities, and licensing group day-care homes, day-care centers, and registered family homes.

**Education Decision-Maker:** An individual designated by CPS to make educational decisions on behalf of children and youth in foster care. Typically, the caregiver and the Education Decision-Maker are the same person. If the child receives special education services, a Surrogate Parent may be appointed to make decisions related to special education. The identity and contact information for this individual is included on DFPS Form 2085-E Designation of Education Decision-Maker.

**Surrogate Parent (SP):** The individual assigned by the school district or court to act as a surrogate for the parents whenever the parents are not known, cannot, after reasonable efforts, be located, or when the student is a ward of the state to ensure that the rights of a student with a disability are protected. The Surrogate Parent must not be an employee of the Texas Education Agency (TEA), the school district, DFPS, or any other agency that is involved in the education or care of the child. The district must assign a Surrogate Parent within 30 days of determining the need unless the court has appointed one.
Appendix A: Additional Resources

Administration of Children and Families


Child Welfare Information Gateway


Department of Education


Legal Center for Foster Care & Education


National Childhood Traumatic Stress Network

- Child Trauma Toolkit For Educators – http://www.nctsn.org/resources/audiences/school-personnel/trauma-toolkit

Texas Court Appointed Special Advocates


Texas Education Agency

- Foster Care & Student Success Resource Guide - http://tea.texas.gov/FosterCareStudentSuccess/resource-guide.pdf

Texas Department of Family & Protective Services

Appendix B: DFPS Form 2085-E

**DESIGNATION OF EDUCATION DECISION-MAKER**
**CHILD PROTECTIVE SERVICES (CPS) - PERMANENCY**

**Purpose:** DFPS must ensure that this form is provided to the court and the child's school under Texas Family Code §263.004 within five days of the Adversary Hearing. DFPS must inform the court of any changes in the Education Decision-Maker or Surrogate Parent, if applicable, in the next permanency hearing report. DFPS must provide the updated information to the school no later than five days after any changes in the Education Decision-Maker or Surrogate Parent, if applicable.

**Directions:** To complete this form, fill in all applicable fields. For additional questions, contact your Regional Education Specialist. DFPS staff may not appoint a surrogate parent. DFPS staff may only list the name of the surrogate parent appointed by the court or the school.

### SECTION 1: AUTHORITY TO MAKE EDUCATION DECISIONS

The Texas Department of Family and Protective Services (DFPS) is authorized by court order as provided in the Texas Family Code §153.371 to make education decisions on behalf of the following child currently in the conservatorship of DFPS.

<table>
<thead>
<tr>
<th>Child's Full Name:</th>
<th>Child's DFPS IMPACT Person ID:</th>
<th>Child's Medicaid Number:</th>
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**Date of Birth:** County: Court Number: Cause Number:

DFPS delegates to the following individual(s) (hereinafter referred to as the Education Decision-Maker) the education decision-making responsibilities on behalf of the child as described in this form. **Note: A representative of DFPS may be named as a primary and/or backup Education Decision-Maker.**

Designated primary Education Decision-Maker (and spouse, if applicable): Date of designation:

Email: Telephone Number(s):

Backup Education Decision-Maker: Date of designation:

Surrogate Education Decision-Maker for special education decisions: Date of designation: Designated by:

- [ ] Court
- [ ] ISD

Email: Telephone Number(s):

### SECTION 2: SPECIAL EDUCATION RIGHTS AND RESPONSIBILITIES — IF APPLICABLE

Federal and state law authorize the individual who is acting in the role of the child's parent or who is appointed by the school or the court to be the "surrogate parent" for the child to exercise the rights and responsibilities as outlined by the Individuals with Disabilities Education Act and state law and rule. The individual is usually the foster parent or daily caregiver, but may be a Court Appointed Special Advocate or other individual with knowledge of the child. In some cases the biological parent may retain the right to make certain special education decisions.

The law does not allow a DFPS staff person, school district staff, or anyone employed to provide care or treatment for the child to act as the parent or surrogate for special education decision-making. A foster parent is not considered a person employed to provide care for the child.

At age 18, the rights of the parent to make education decisions are transferred to the child, except for the child with a disability who has been determined to be incapacitated under state law.
SECTION 3: EDUCATION DECISION-MAKER RIGHTS AND RESPONSIBILITIES

Unless otherwise indicated by provisions in this form, the Education Decision-Maker has the right and responsibility to:

- Enroll a child in the school chosen by DFPS, including providing identity or immunization information needed for enrollment.
- Determine, in conjunction with the child, if appropriate, course selection and participation in academic electives and activities.
- Determine whether the child should participate in special programs such as compensatory programs, bilingual education, Gifted and Talented, after-school tutoring, etc.
- Attend routine activities such as “Parent’s Night,” parent-teacher conferences, PTA meetings, and similar activities that involve parents.
- Approve child’s participation in routine or non-routine school activities such as track and field, museum or field trips, etc.
- Be notified of injury or illness at a school activity on or off school grounds.
- Sign the Student Code of Conduct, and, if applicable, assist youth with understanding the Code of Conduct.
- Sign the annual directive to the school prohibiting the use of corporal punishment for the child and provide a copy to the caseworker for the child’s case file.
- Receive report cards, permission slips, and other routine school correspondence including receiving homework assignments on behalf of the child if necessary.
- Have access to education records and the Education Portfolio.
- Be notified of and take action regarding disciplinary or attendance matters.
- Determine when a referral for a special education evaluation is necessary or make a referral for an evaluation.

The Education Decision-Maker has the following additional responsibilities:

- Meet with the child before making education decisions to ensure that the child’s educational goals are appropriate and in the least restrictive environment.
- Review the child’s Education Portfolio and pertinent educational records.
- Provide regular updates about the child’s education to the DFPS caseworker, including copies of significant forms, records, and communication from the school.
- Inform the DFPS caseworker of any notification from the school regarding the child’s disciplinary hearings, manifestation determination reviews, use of physical restraints and/or seclusion, truancy, suspension, expulsion, or removal to a Disciplinary Alternative Education Program (DAEP) or Juvenile Justice Alternative Education Program (JJAEP). Inform the caseworker of notices for all education-related activities which involve Section 504 of the Rehabilitation Act or notices of special education Admission, Review, and Dismissal (ARD) committee meetings received.
- Ensure a copy of this Form 2085E has been provided to the child’s school within five days of being named Education Decision-Maker.

Notes:
The Education Decision-Maker may be instructed by the caseworker to notify or consult with the caseworker or supervisor on any of these matters before communicating a decision to the school.

Unless otherwise indicated in Section 1 or Section 4, the daily caregiver with whom the child lives (foster parent, relative caregiver, or facility staff) may be involved in and notified regarding activities and decisions listed above which have a clear impact on the child’s home life. For example, the caregiver is generally responsible for decisions about participation in extracurricular activities, sporting activities and events, dances, clubs, etc., regardless of whether the caregiver is also the child’s designated Education Decision-Maker.

If school personnel have concerns about the decisions the Education Decision-Maker is making for the child, they should contact the DFPS caseworker or supervisor listed on page 4 of this form.
SECTION 4: BIOLOGICAL FAMILY RIGHTS AND RESPONSIBILITIES, IF APPLICABLE

A biological parent of a child in DFPS Managing Conservatorship retains only the educational decision-making rights expressly ordered by the court. For the child named in this form, the following rights have been retained by or granted to the biological parents:

SECTION 5: CASEWORKER RIGHTS AND RESPONSIBILITIES

The DFPS caseworker has the right to:
- Access education records regarding the child.
- Select the appropriate school for the child.
- Receive notification regarding disciplinary hearings, manifestation determination reviews, use of physical restraints and/or seclusion, truancy, suspension, expulsion, Class C misdemeanor tickets, or removal to a Disciplinary Alternative Education Program (DAEP) or Juvenile Justice Alternative Education Program (JJAEAP).
- Receive notifications for all education-related activities which involve Section 504 of the Rehabilitation Act or special education Admission, Review, and Dismissal committee meetings.

The caseworker is responsible for:
- Informing the child’s attorney ad litem, guardian ad litem, CASA volunteer, caregiver, and education decision-maker of any notification from the school regarding the child’s disciplinary hearings, manifestation determination reviews, use of physical restraints and/or seclusion, truancy, suspension, expulsion, or removal to a Disciplinary Alternative Education Program (DAEP) or Juvenile Justice Alternative Education Program (JJAEAP).
- Informing the education decision-maker designee, the caregiver, or the surrogate parent, as applicable, of any education-related activities which involve Section 504 of the Rehabilitation Act and/or special education Admission, Review, and Dismissal committee meetings, if known.
- Informing the school of any changes in naming the Education Decision-Maker or Surrogate Parent, if applicable, within five days of the change.
- Ensuring that the annual directive to the school prohibiting the use of corporal punishment for the child is on file with the school and placed in the child’s case file.
- Updating the Education Portfolio.

The DFPS caseworker must ensure that this form is provided to the court and the child’s school under Texas Family Code, Section 263.004 within five days of the Adversary Hearing. The caseworker must inform the court of changes in naming the Education Decision-Maker (or Surrogate Parent, if applicable) in the next permanent progress report.

SECTION 6: SCHOOL RESPONSIBILITIES

- Keep this 2085 E form confidential with the student’s other privacy-protected education records.
- Ensure records are transferred within ten days if a student changes schools.
- Notify the DFPS caseworker and/or the Education Decision-Maker of significant school events as required by law or this Form.

SECTION 7: PRIVACY STATEMENT

DFPS values your privacy. For more information, read our privacy policy.

NOTE: THIS DOCUMENT CONTAINS SENSITIVE DATA.
## SECTION 8: ACKNOWLEDGMENT, AGREEMENT, AND SIGNATURES

As the Education Decision-Maker, I acknowledge and agree that:
- I have no professional interests that conflict with the interest of the child I represent.
- I will comply with the Education Decision-Maker Rights and Responsibilities as described in SECTION 3.
- I understand that failure to cooperate with DFPS may be the basis for revoking this designation.

<table>
<thead>
<tr>
<th>Education Decision-Maker signature:</th>
<th>Date Signed:</th>
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<th>Alternate Phone Number:</th>
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<td>Email Address:</td>
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<th>DFPS Supervisor (print name):</th>
<th>Phone Number:</th>
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<td>Email Address:</td>
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<tr>
<th>Child’s daily caregiver or facility staff (if different from Education Decision-Maker) (print name):</th>
<th>Phone Number:</th>
<th>Alternate Phone Number:</th>
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Acknowledgements

**Kim Ayres**  
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Texas Education Agency

**Andrea Vicencio**  
Administrative Assistant  
Children’s Commission

**Julie Wayman**  
Director of Dropout Prevention and At-Risk Programs  
Texas Education Agency
Endnotes

1 20 U.S.C. § 6301 et seq.
3 Tex. Educ. Code § 25.007
5 Texas Fam. Code § 261.101
7 Texas Fam. Code § 261.104
8 20 U.S.C. § 1232g.
9 34 C.F.R. § 99.3.
11 34 C.F.R. § 99.31(a)(9).
12 34 C.F.R. § 99.31(a)(2).
15 45 CFR § 1355.30, 45 CFR § 205.50.
19 Tex. Fam. Code § 263.004.
20 34 C.F.R. § 300.30(a).
22 34 C.F.R. §§ 300.300(a)(2), 300.322.
24 Tex. Educ. Code § 25.007(b)(g). Note, this notice requirement is different than the notice required under the Individuals with Disabilities in Education Act (IDEA) and 19 Texas. Admin. Code § 89.1050.
Texas commits to transform education outcomes of students in foster care
Findings from the Texas Blueprint Implementation Data Workgroup

**Priority**
Cross-system data sharing
Sharing essential data across child welfare, education, and court systems is critical to the educational success of students in foster care. In 2012, the Texas Blueprint Implementation Data Workgroup was established to assess the educational outcomes of students in care in Texas. This brief uses baseline data to highlight the complexities and challenges that impact students in foster care while providing opportunities for agencies to promote cross-system practices and strategies that improve stability and achievement.

**Collaboration**
Diverse, multi-disciplinary membership
The Texas Blueprint Implementation Data Workgroup includes:

- Former Foster Youth
- Children’s Commission
- Child Protective Services (CPS)*
- Texas Education Agency (TEA)
- The University of Texas at Austin
- Stakeholders/Advocates

*CPS is a division of the Texas Department of Family and Protective Services (DFPS)

**Accomplishments**
Mobilizing data driven change
Participated in national information sharing programs
Amended Memorandum of Understanding (MOU) between DFPS and TEA in 2014
Developed shared definitions across systems
Mapped data collection timeline
Identified priority data indicators
Established 2012-2013 baseline data to measure the educational outcomes of students in foster care

Outcomes from the 2012-2013 school year

- **23,326** students in foster care attended Texas public schools during the school year
- **47%** of students in care attended 2+ schools in one school year (47%) was 6.5 times that of students not in care (7%).

**School Mobility**

- The percentage of students in foster care who attended 2+ schools in one school year (47%) was 6.5 times that of students not in care (7%).

**Special Education**

- **24%** of students in care who received special education services
- The percentage of students in foster care receiving special education services (24%) was 2.7 times that of students not in care (9%). Students in care were more often eligible under Emotional Disturbance:
  - Emotional disturbance as primary disability: 6%
  - 34%

**Disciplinary Actions**

- **3.4x** the percentage of students in foster care and not in care who received suspensions:
  - In-school suspensions (ISS): 21%
  - Out-of-school suspensions (OSS): 16%

**Dropout & Graduation Leavers**

- **32%** of students in foster care graduated
- **39%** of students not in care graduated

**Graduation Program**

- **44%** of students in foster care graduated
- **8%** of students not in care graduated

**Prepared by:**
The University of Texas at Austin
Child & Family Research Institute
School of Social Work
**Recommendations**

Collect, share, and analyze local data across systems to inform decision-making and improve practices.

Organize a group of child welfare, education, and judicial stakeholders in your community.

Consider local strengths and challenges, create shared definitions, and brainstorm solutions to meet the needs of your community.

---

### Questions to consider

#### Schools

- Do you know your district’s foster care liaison and the student’s designated education decision-maker? How can foster care liaisons work with school staff to improve transition services within required time frames?

- Who is responsible for making a student's special education decisions? If required, is a surrogate parent appointed and trained?

- Do you include trauma-informed training for staff? What prevention and alternative strategies to suspension and expulsion are available to students? Does your school use Response to Intervention and Positive Behavior Support strategies effectively?

- What evidence-based dropout prevention strategies are in your school plan? When do you review students' course credit accruals? How do you address student needs for tutoring, content mastery, credit recovery, and extra-curricular activities?

- Have you talked with the student about their post-secondary goals, aspirations, and options? Is this information reflected in the student’s personal graduation plan, current course selection, and graduation program?

#### Courts

- Where is the student enrolled in school? If the student changes placements, what can be done to ensure school stability? Can the student remain in the current school? If not, is there a transition plan in place to ensure prompt record transfers?

- Do the caregivers, attorneys, surrogate parent, CASA, or other advocates have current information about the student’s Individualized Education Program?

- What behaviors does the student present in school that lead to a disciplinary action? What services are needed to prevent and address these behaviors?

#### CPS

- Do you coordinate with schools and caregivers to develop either creative transportation solutions that allow a student to remain in the same school or a transition plan if the student changes schools?

- What issues are addressed in the student’s Admission, Review, and Dismissal (ARD) committee meetings?

- Do you remind caregivers annually and during the enrollment process to provide a written signed statement of “opting-out” from corporal punishment for each student in foster care?

- Does a student have a personal graduation plan, and if so, when was it last reviewed? How can you collaborate with schools to facilitate student participation in extra-curricular activities, online courses, credit recovery services, and tutoring?

- What are the student’s educational goals and aspirations? Are additional services available to help the student realize these goals?

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This brief highlights data collected at the state level as the result of collaboration between child welfare, education, and court systems in Texas. For more information, please see:

- **Child Protective Services Education Policy**: [https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x15000.asp](https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x15000.asp)
- **Texas Education Agency Foster Care & Student Success**: [http://tea.texas.gov/FosterCareStudentSuccess/](http://tea.texas.gov/FosterCareStudentSuccess/)
- **Children's Commission education site**: [http://education.texaschildrenscommission.gov/](http://education.texaschildrenscommission.gov/)

**Suggested Citation:** *Texas Blueprint Implementation Data Workgroup*. (2015, November). Texas commits to transform education outcomes of students in foster care: Findings from the *Texas Blueprint* Implementation Data Workgroup. Austin, TX: Children’s Commission & Child and Family Research Institute, The University of Texas at Austin.