



SUPREME COURT OF TEXAS PERMANENT JUDICIAL  
COMMISSION FOR CHILDREN, YOUTH AND FAMILIES

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**INTERIM REPORT  
OF THE EDUCATION COMMITTEE**

**TO**

**THE PERMANENT JUDICIAL COMMISSION  
FOR CHILDREN, YOUTH AND FAMILIES**

**AUGUST 31, 2011**

**SUBMITTED BY:**

**Education Committee**

**The Honorable Patricia Macias, Chair**

**The Honorable Cheryl Shannon, Co-Chair**

**Joy Baskin, Chair of the State Bar of Texas School Law Section**

**Claudia Canales, Attorney at Law**

**Jim Crow, Executive Director of the Texas Association of School Boards**

**Lori Duke, Clinical Professor of the Children's Rights Clinic at the University of Texas School of Law**

**Joe Gagen, Chief Executive Officer of Texas CASA**

**Anne Heiligenstein, Commissioner of the Texas Department of Family and Protective Services**

**The Honorable Rob Hofmann, Child Protection Court of the Hill Country**

**Carolyne Rodriguez, Director of Texas Strategic Consulting, Casey Family Programs**

**Estella Sanchez**

**Robert Scott, Commissioner of the Texas Education Agency**

**Dr. Johnny Veselka, Executive Director of the Texas Association of School Administrators**

**Education Committee Sub-Committee Co-Chairs<sup>1</sup>**

**SCHOOL READINESS**

<b>Judge Bonnie Hellums</b>	<b>Houston</b>
<b>Judge Ron Pope</b>	<b>Fort Bend</b>
<b>Jenny Hinson</b>	<b>DFPS/Austin</b>

**SCHOOL STABILITY AND TRANSITIONS**

<b>Judge Karin Bonicoro</b>	<b>New Braunfels</b>
<b>Judge Phil Vanderpool</b>	<b>Pampa</b>
<b>Colleen McCall</b>	<b>DFPS/Austin</b>
<b>Joy Baskin*</b>	<b>TASB/Austin</b>
<b>Montgomery Meitler</b>	<b>TEA/Austin</b>

**SCHOOL EXPERIENCE, SUPPORTS, AND ADVOCACY**

<b>Judge Angela Ellis</b>	<b>Houston</b>
<b>Judge Rob Hofmann*</b>	<b>Mason</b>
<b>Judge Richard Garcia</b>	<b>San Antonio</b>
<b>Judge Virginia Schnarr</b>	<b>Daingerfield</b>
<b>Denise Brady</b>	<b>DFPS/Austin</b>
<b>Julie Wayman</b>	<b>TEA/Austin</b>

**POST-SECONDARY EDUCATION**

<b>Judge Kim Brown</b>	<b>Fort Worth</b>
<b>Judge Alyce Bondurant</b>	<b>Wichita Falls</b>
<b>Judge Kevin Hart</b>	<b>Lubbock</b>
<b>Lori Duke*</b>	<b>Austin</b>
<b>Shannon Ramsey</b>	<b>DFPS/Austin</b>
<b>Jan Lindsey</b>	<b>TEA/Austin</b>

**\*also member of Education Committee**

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<sup>1</sup> Please see Appendix for complete list of sub-committee members.



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**August 31, 2011**

**Introduction**

According to national studies, youth in foster care often have poor educational outcomes, especially in comparison with the general child population. Although educational challenges are not unique to foster children and youth, they face additional hurdles when trying to succeed academically, including multiple placement and school changes, therapeutic or other needs that must be addressed during school hours, missing school to visit with parents or siblings, and a chaotic educational history prior to entering foster care in the first place. On top of this, foster children and youth who are of school age find themselves lost in and between the child protection and education systems – two systems with some overlap but minimal ongoing and effective communication. Courts and stakeholders informally report that school changes and the subsequent loss of records, credits, services, and support systems greatly hinder the academic success of school-age foster children.

According to data collected by the Texas Education Agency (TEA) and shared with the Texas Department of Family and Protective Services (DFPS), educational outcomes of Texas foster youth reflect what is happening nationally.<sup>2</sup>

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<sup>2</sup> For a compilation of national data and studies, please see: *Fact Sheet – Educational Outcomes of Children and Youth in Foster and Out-of-Home Care* (December 2008), National Working Group on Foster Care and Education at [http://www.abanet.org/child/education/National\\_EdFactSheet\\_2008.pdf](http://www.abanet.org/child/education/National_EdFactSheet_2008.pdf)

Texas foster youth are less likely to graduate and more likely to drop out than the general school age population. They have lower high school achievement and are more likely to be in special education and less likely to be in the gifted and talented program.<sup>3</sup>

## **I. Background**

In 2008, Congress passed the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, the most sweeping child welfare law in a decade. The act includes important provisions regarding the educational stability of foster youth, including a requirement that Child Protective Services (CPS), the child protection arm of DFPS, must consider a child's education when creating the child's service plan or choosing the child's placement. Ideally, once CPS seeks to remove a child from his caretaker, the child should remain in his current school, if at all possible. If the child must change schools, he is entitled to immediate and appropriate enrollment and transfer of school records. The Fostering Connections Act also increases the amount of federal funding that may be used to cover education-related transportation costs for children in foster care and requires CPS to work with local education agencies in efforts to ensure educational stability. Passage of this act highlights the importance of improving educational outcomes of foster children and youth across the nation.

In October 2009, the National Center for State Courts held its third National Judicial Leadership Summit on the Protection of Children in Austin, which was attended by Supreme Court justices, court administrators, and child welfare and education leaders from around the country. During the summit, the Texas team developed and adopted a state action plan that included the goals of improving education outcomes for children and youth in care and keeping these children closer to their homes. The members of the Texas team envisioned that a special committee, comprised of state child protection and education decision-makers, collaboratively would address this important issue.

The Permanent Judicial Commission for Children, Youth and Families (Children's Commission), a multi-disciplinary, high-level organization that leads efforts to improve judicial handling of child welfare cases, was the perfect vehicle for launching this initiative.

### **Creation of the Education Committee**

On May 20, 2010, the Supreme Court of Texas signed the *Order Establishing Education Committee of Permanent Judicial Commission for Children, Youth and Families*. In its order creating the committee, the Supreme Court of Texas named the Honorable Patricia Macias, Commissioner and presiding judge of the 388<sup>th</sup> District Court in El Paso, as the chair of the committee. The membership of

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<sup>3</sup> Source: 2008-2009 PEIMS data.

the Education Committee reflects the diverse ethnic, gender, legal, and geographic communities in Texas and includes:

- The Honorable Patricia Macias, Chair, El Paso
- The Honorable Cheryl Shannon, Co-Chair, Dallas
- Joy Baskin, former Chair of the State Bar of Texas School Law Section, Austin
- Claudia Canales, Attorney at Law, Houston
- Jim Crow, Executive Director of the Texas Association of School Boards, Austin
- Lori Duke, Clinical Professor of the Children's Rights Clinic at the University of Texas School of Law, Austin
- Joe Gagen, Chief Executive Officer of Texas CASA, Austin
- Anne Heiligenstein, Commissioner of the Texas Department of Family and Protective Services, Austin
- The Honorable Rob Hofmann, Child Protection Court of the Hill Country, Mason
- Carolyne Rodriguez, Director of Texas Strategic Consulting, Casey Family Programs, Austin
- Estella Sanchez, San Antonio
- Robert Scott, Commissioner of the Texas Education Agency, Austin
- Dr. Johnny Veselka, Executive Director of the Texas Association of School Administrators, Austin

In its order, the Supreme Court charged the committee to:

- Identify and assess challenges to educational success of children and youth in the Texas foster care system;
- Identify and recommend judicial practices to help achieve better educational outcomes for children and youth in foster care;
- Seek to improve collaboration, communication, and court practice through partnerships with the Department of Family and Protective Services, the Texas education system, and stakeholders in the education and child protection community;
- Identify training needs regarding educational outcomes for the judiciary and for attorneys who represent DFPS, children, and parents in child protection cases;
- Seek to develop a collaborative model that will continue systemic improvement of educational outcomes;
- Make recommendations regarding the exchange and sharing of education-related data; and
- Provide the following to the Children's Commission:
  - 1) Preliminary report regarding the first meeting of the committee and the committee's structural organization and goals by no later than December 31, 2010;
  - 2) Interim report by no later than August 31, 2011 regarding the progress of the committee; and,

- 3) Final report by no later than March 31, 2012 regarding the progress of the committee and specific recommendations for further progress.<sup>4</sup>

The creation of this committee is unprecedented in Texas and only a handful of other states have attempted to collaborate, with judicial leadership, at such a high level to improve educational outcomes of foster children and youth.

Since its creation, the Education Committee has held four meetings:

September 30-October 1, 2010	In-person
January 7, 2011	In-person
April 8, 2011	Conference call
June 24, 2011	In-person

## **II. Framework of Education Committee**

### **Guiding Principles**

The work of the Education Committee is based upon Guiding Principles it created at its inaugural meeting. The committee's Guiding Principles are based on the *Blueprint for Change – Education Success for Children in Foster Care*, a guide produced by Casey Family Programs and the American Bar Association Legal Center for Foster Care and Education,<sup>5</sup> which has eight goals with benchmarks for each to indicate progress toward achieving education success:

- School stability
- School transitions
- School readiness for young children
- Access to and participation in school activities and services
- School supports to prevent drop-out and truancy and to provide individualized disciplinary actions
- Foster youth involvement in education planning and decisions
- Adult awareness and involvement in the child's educational experience
- Support to ensure entry and completion of post-secondary education

At the initial meeting, the committee recognized the challenge of improving outcomes in a state as diverse and large as Texas and wanted the committee to leverage current strengths in Texas to develop a blueprint specific to the state.

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<sup>4</sup>To view the order in its entirety, see:

<http://www.supreme.courts.state.tx.us/miscdocket/10/10907900.PDF>)

<sup>5</sup> [Blueprint for Change: Education Success for Children in Foster Care](#)

The committee began to define its vision by reviewing the eight high-level areas of the national blueprint and tweaking them to fit the needs of Texas:

**Guiding Principle # 1: Children and youth in care are entitled to remain in the same school when feasible**

**Guiding Principle # 2: Children and youth in care experience seamless transitions between schools**

**Guiding Principle # 3: Young children in care receive services and interventions to be ready to learn**

**Guiding Principle # 4: Children and youth in care have the opportunity and support to fully participate in all developmentally appropriate activities and all aspects of the education experience**

**Guiding Principle # 5: Children and youth in care have supports to prevent school dropout, truancy, and disciplinary actions and reengage in the education experience**

**Guiding Principle # 6: Children and youth in care are involved and empowered and prepared to self-advocate in all aspects of their education**

**Guiding Principle # 7: Children and youth in care have consistent adult support to advocate for and make education decisions**

**Guiding Principle # 8: Children and youth in care have support to enter into and complete postsecondary education**

The Guiding Principles served to determine the structure of the education sub-committees, as seen below.

### **Sub-Committees**

In order to accomplish the Texas blueprint goals, substantive work of the Education Committee, including development of draft recommendations, will be done by four multi-disciplinary sub-committees comprised of persons with expertise in the issues addressed by the individual sub-committee. Each sub-committee is co-chaired by representatives from the court, education and child protection systems.<sup>6</sup> The sub-committees include:

1. School readiness

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<sup>6</sup> For a complete list of sub-committee members, please see Appendix.

2. School stability and transitions
3. School experience, supports, and advocacy
4. Post-secondary education

### **Charge to Sub-Committees**

1. Review federal and state statutes related to the education of foster children specifically directed to the sub-committee focus.
2. Utilize the Supreme Court's charge to the Education Committee as the sub-committee's framework.
3. Use the guiding principles established by the Education Committee to create and prioritize recommendations.
4. Assess challenges related to meeting the guiding principle(s) applicable to the sub-committee.
5. Remain cognizant of the correlation and inter-relationships between the other sub-committees' work.
6. Identify existing resources which support the sub-committee's guiding principles.
7. Prioritize issues identified by each sub-committee during assessment of challenges and resources.
8. Create short and long-term goals for each sub-committee plan of action based on the guiding principle(s) applicable to the sub-committee.
9. Develop written and oral reports regarding work plan and actions taken pursuant to the work plan for sub-committee co-chairs to communicate to other sub-committee co-chairs and to committee.
10. Develop recommendations to be provided to committee for further progress at conclusion of work period.

### **Sub-Committee Meetings**

The sub-committees began meeting on February 4, 2011 with a joint meeting to discuss the creation of the Children's Commission, its purpose, the charge to the sub-committees, and the timeline for sub-committee work. After this initial meeting, all sub-committees began meeting monthly, with meetings occurring on the following dates:

School Readiness: March 1, April 5, May 3, June 7, July 5, and August 1, 2011

School Stability: February 24, March 31, April 28, June 8 (joint meeting with School Experience Sub-Committee), June 30, July 28, and August 25, 2011

School Experience: March 9, April 13, May 11, June 8 (joint meeting with School Stability Sub-Committee), July 13, and August 17, 2011

### School Experience Workgroup Meetings:<sup>7</sup>

- School Discipline: May 24, June 21, and July 19
- Education Decision-Making and Advocacy: June 13 and August 23
- School Services and Supports: May 27, June 10, July 22, and August 19

Post-Secondary Education: February 25, March 25, April 29, May 27, June 23, July 29, and August 26, 2011

The sub-committees devoted the first series of meetings to fact-finding about the issues identified in the Education Committee's charge: challenges, resources, law, policy and practice, data and information sharing, multi-disciplinary training, judicial practices, and a future collaborative model. Each sub-committee also developed an action plan based on the charge given to them by the Education Committee.

### **Benchmark dates for all sub-committees:**

1 <sup>st</sup> Meeting (held via webinar)	no later than February 11, 2011
Sub-committees meet telephonically, electronically, and via email to establish action plans	February-March, 2011
Sub-committee co-chairs report to committee about action plan	April 2011
Sub-committees work on action plans	April-June 2011
Sub-committee co-chairs report to committee	June 2011
Interim report drafted by commission staff and distributed for review	July 2011
Interim report submitted to Commission	August 31, 2011
Sub-committees work on action plans	June-September 2011
Sub-committee co-chairs report to committee	September 2011

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<sup>7</sup> In order to adequately address the many issues related to school experience, advocacy, and services, the School Experience, Services, and Advocacy Sub-Committee elected to create workgroups to develop recommendations regarding specific issues: school discipline, school services and supports, and education decision-making and advocacy.

Sub-committees work on action plans	September-December 2011
Sub-committee co-chairs report to committee	December 2011
Sub-committees finalize work on action plans	December 2011-January 2012
Sub-committee co-chairs report to committee about further recommendations	February 2012
Final report drafted by commission staff and distributed to committee for review	February 2012
Final report with recommendations for further progress submitted to Commission	March 31, 2012

### **Technical Assistance**

The Education Committee is receiving invaluable technical assistance from Kathleen McNaught and Debbie Staub. Ms. McNaught, J.D., is the Assistant Director for Child Welfare at the American Bar Association Center on Children and the Law as well as the Project Director for the Legal Center for Foster Care and Education, a national technical assistance resource and information clearinghouse on legal and policy matters affecting the education of children in the foster care system. Dr. Staub, Ph.D., is an Education Advisor for Casey Family Programs, a national operating foundation located in Seattle, Washington, that serves children, youth, and families in the child welfare system. In this role she works collaboratively with others on systems improvement efforts to address the educational needs of children and youth in foster care nationally, statewide and locally. A former special education teacher, Dr. Staub has been an advocate for educational success for all youth for the past 25 years.

### **III. Progress of Education Committee and Sub-Committees**

Because of the multi-disciplinary composition of the Education Committee and Sub-Committees, discussions regarding educational outcomes of foster children and youth reflect the perspective of the judiciary, education, and child welfare. The meetings allow for exchange of information and the creation of greater awareness of the challenges each system faces in meeting the educational needs of children and youth in foster care.

So far, the Education Sub-Committees have engaged in fact finding about: 1) challenges to educational success of foster children; 2) existing resources that may be used to face those challenges; 3) current federal and state law, policy, and

practice; 4) data and information sharing; 5) multi-disciplinary training; and 5) judicial practices.<sup>8</sup>

#### A. Applicable Federal and State Law, Policy, and Practice

Currently, no extensive written materials are available regarding the intersection between federal and Texas school and child protection law. The sub-committees discussed law applicable to their respective charges during a monthly call dedicated to the topic and continue to do so during other ongoing meetings. It is anticipated that more extensive written materials regarding the overlap between these areas of law will be made available by the time the Education Committee issues its Final Report. The following are highlights of law and policy addressed by the sub-committees.

#### **School Readiness**

- The Adoption and Safe Families Act (AFSA) highlighted the importance of the health and safety of children in foster children and it strengthened the court's role and oversight.
- The Affordable Care Act authorized creation of home visitation programs. Among priority populations -- "eligible families that have a history of child abuse or neglect or have had interactions with child welfare services."
- The Texas Family Code requires DFPS, upon removal of a child, to use services to assess the child.
- The Texas Health Step Assessment, which is the Texas implementation of the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) provisions of Medicaid, must be done within 30 days of the removal of a child from the child's home. For a child under 36 months, as with any age youth, subsequent exams are done according to the Texas Health Steps Periodicity Schedule.
- The Texas Family Code requires that DFPS shall place a child under the age of two with a person who will provide a safe and emotionally stable environment for the child and to give priority to a person who will be able to provide care for the child without disruption.
- In Texas, the Department of Assistive and Rehabilitative Services (DARS) administers the early intervention program (in Texas, called Early Child Intervention or ECI) as required by Part C of the Individuals with Disabilities Education Act (IDEA).
- DFPS and DARS have a current Memorandum of Understanding (MOU) that addresses the referral of children involved with CPS to ECI.
- Head Start and Early Head Start are administered by the federal Administration for Children and Families (ACF). Foster children are categorically eligible, regardless of biological or foster family income.

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<sup>8</sup> Several sub-committees will not address judicial practices until after the drafting of this interim report. Thus, further information regarding these discussions will be included in the Education Committee Final Report.

However, local Head Start programs establish priorities for enrollment, so children in CPS conservatorship are not guaranteed slots in all Head Start programs.

- Kids who are at least age three and are or have been in the legal custody of DFPS are eligible for public pre-K in Texas.
- The Texas Family Code requires DFPS to maintain an education passport (portfolio) as long as a child remains in foster care.

### **School Stability and Transitions**

- Children “awaiting placement” fall within the definition of homeless youth pursuant to the federal McKinney-Vento Act; this is typically construed to include children in shelters awaiting foster care placement. The McKinney-Vento Act requires that: 1) each school district have a liaison for homeless children; 2) homeless children should be immediately enrolled in school; 3) when homeless children change schools, their records should follow in a timely manner; and 4) transportation is to be provided to homeless children who remain enrolled in their school of origin.
- The federal Fostering Connections Act includes educational provisions: 1) a school stability plan, which requires consideration of proximity to current school and appropriateness of that school plus collaboration to ensure the child remains in the same school; and 2) immediate enrollment if a child transfers schools.
- Under the Texas Education Code, if a student is placed in foster care while enrolled in high school and is moved to a residence outside the school district, the child is entitled to complete his coursework at the high school where he was at the time of placement in foster care.
- The Texas Family Code requires DFPS to return a child to school within three days of obtaining custody of that child. Also, residential child care providers, in their contracts, are required to enroll the child in an accredited public school within three days of placement and to provide verification of school enrollment within five days to the child’s caseworker. Failure to do so is a contract violation.
- There is a “laundry list” in the Texas Education Code of situations that determine in which school or district a child can enroll.
- Enrollment requirements include the child’s birth certificate, records from the previous school, and immunization records. The Texas Education Code gives an exception to foster children to allow immediate enrollment, even when the required records are not available, as long as these records are provided by CPS within 30 days of enrollment. But, per a Texas Attorney General opinion from April 2004, even though the Texas Education Code allows this exception, the Texas Department of State Health Services (DSHS, formerly known as the Texas Department of Health, TDH), not the Texas Education Agency (TEA), is the entity that determines which categories of children are exempt from the requirement of having immunization records at the time of enrollment. DSHS does not appear to exempt foster children. The extent to which the DSHS

- immunization requirement has adversely impacted the enrollment of students who are in foster care is unknown.
- CPS is required under the Texas Family Code to have an education passport (also known as the education portfolio) that travels with the child. The passport is currently in paper form.

### **School Experience, Supports, and Advocacy**

- The Texas Education Code contains provisions addressing award of credits earned, student eligibility for extracurricular programs, and special education services, among others.
- Often, court orders appointing DFPS as Temporary Managing Conservator (TMC) generally list rights and duties of the managing conservator pursuant to Texas Family Code §153.371, but don't specifically refer to education decision-making rights.
- The federal Individuals with Disabilities Education Act (IDEA) governs the provision of special education services, including those services for foster children.
- Texas has law establishing the rights and duties of surrogate parents appointed for children who receive special education services.
- In 2004, a provision giving the court authority to appoint surrogate parent was added during the federal reauthorization of IDEA.
- A CASA volunteer can serve as surrogate when: 1) the child is in the TMC of DFPS; 2) the CASA volunteer is the child's guardian ad litem; and 3) the foster parent is not acting as the child's parent pursuant to the Texas Education Code.
- TEA states no durational residence requirement for participation in extra-curricular activities/UIIL activities. There is a 1979 Attorney General opinion on the right of foster children to participate in extracurricular activities upon enrollment in a new school.

### **Post-Secondary Education**

- The Federal Foster Care Independence Act of 1999 increased federal allocation for independent living programs, created the John H. Chafee Foster Care Independence Program, and authorized states to extend Medicaid to former foster youth up to age 21.
- The Promoting Safe and Stable Families Amendments of 2001 created educational and training vouchers for youth aging out of foster care and authorized a voucher program under the Chafee Foster Care Independence Program to provide for education and training, including postsecondary training and education for aged-out foster youth. The federal Education and Training Voucher (ETV) Program provides up to \$5,000 per year to eligible youth for education related expenses and can include rent, utilities, childcare, computers, books, transportation and personal expenses if the youth is enrolled in college or specialized post-secondary

- vocational program; ETV also covers tuition and fees for educational endeavors (e.g., lab fees).
- Revision of the Code of Federal Regulations, effective July 1, 2011, regarding Qualification for Federal Student Aid requires that the student maintain satisfactory academic progress. If the student fails to do so, the post-secondary education institution can place student on academic probation or implement an appeals process and the student is at risk of losing federal financial aid.
  - Under state law, former foster youth have Medicaid eligibility until age 23 if enrolled in an institution of higher education and the youth meets other qualifications.
  - The Fostering Connections Act requires a 90-day transition from foster care plan, which includes education planning.
  - The Texas Family Code requires DFPS to provide necessary documentation to foster youth at age 16 and additional documentation 30 days before the youth ages out of foster care.
  - The Texas Family Code requires the Texas Workforce Commission, DFPS and local workforce development boards to enter cooperative agreements, ensure services are targeted and prioritized to meet the needs of current and former foster care youth, and when feasible, make referrals for short-term stays for youth needing housing.
  - Texas Education Code §54.211 authorizes tuition and fee waivers for qualifying former foster students.
  - Texas Education Code §51.976 authorizes housing assistance for qualifying former foster students who attend post-secondary institutions.

## B. Challenges to Educational Success of Foster Children

### ***The Fostering Connections Act Offers Roadmap to Educational Improvement but Implementation of Education Provisions Problematic Without Close Education Agency Involvement***

The federal Fostering Connections Act contains important provisions regarding the educational stability of foster youth, including a requirement that CPS must consider a child's education when creating the child's service plan or choosing the child's placement. If the child must change schools, he is entitled to immediate and appropriate enrollment and transfer of school records. The act also allows federal dollars to be used to reimburse states for some of the costs of education-related transportation costs for children in foster care and requires CPS to work with local education agencies to ensure school stability.

DFPS has made strides in implementation of the act's education provisions, particularly in addressing educational needs in children's service plans and placement decisions. Additionally, as courts play a significant role in monitoring the implementation of the Act, efforts have been made to educate the court system about it. The Fostering Connections Act, however, lacks any specific

directives or requirements of education agencies other than cooperating with the child welfare agency. Without more prompting, education systems, lacking in resources and occupied in meeting the needs of a much larger general student population, often lack the incentive, means or capacity to work cooperatively with the child welfare agency to implement these provisions.

***Texas Has Large School Age Child Population and Large and Diverse Geographic Area with Numerous School Districts***

There are 4,824,778 million school age children enrolled in public education in Texas. There are 1,030 independent school districts and 207 charter school districts in the state's 254 counties. Within those districts, Texas children are enrolled in 9,366 public K-12 schools.

***Significant Budget Cuts to Education on State and Local Levels***

Public education in Texas sustained a 4 billion dollar state budget reduction for the 2012-2013 biennium. As a result, public school districts planned corresponding reductions in human resources that will inevitably impact local education infrastructure. In 2011, TEA completed a reduction in force and is now operating with one-third fewer employees to execute critical support for the state's public schools, highlighting the need for the education system to craft innovative strategies and develop new resources for cross-system collaboration to accomplish its mission of increasing graduation rates and preparing youth for post secondary success.

***No Standard Protocols for Provision of Educational Services for Children and Foster Youth on Local Level***

Local school districts across Texas need guidance and resources to assist in meeting the needs of students in foster care and to collaborate with state and local youth-serving agencies. Often school districts do not have effective systems or policies to identify, serve, and track students in foster care who are enrolled in public schools. CPS staff responsible for children and youth is at times notably cautious in maintaining the child and youth's confidentiality, especially as many children and youth do not want to be identified or labeled as foster children, especially in the school environment. Streamlined procedures and technical assistance is needed to assist schools in supporting students in foster care.

***Texas Foster Children Change Placements Frequently and Unexpectedly***

Texas foster children move frequently during their foster care stays. In FY 2010, based on the way a child exited foster care, children who were reunified with a parent or who left state care to live permanently with a relative had 2.1 placements; children who were adopted had 3.5 placements; and youth who

emancipated moved on average nine times.<sup>9</sup> Because of insufficient foster care capacity in some regions that need it, foster children often are placed out of the county of the court's jurisdiction and the child's school of origin, which usually results in a change of school.

### **Sub-Committees Identify Additional Challenges Specific to Their Charge**

#### **School Readiness**

- Lack of MOU between the state and local Head Start programs and DFPS.
- Lack of protocols among local Head Start programs regarding enrollment eligibility.
- Confusion about categorical eligibility of foster children for Head Start and Pre-Kindergarten (Pre-K) programs, including the use of foster or biological parent income as criteria.
- The importance of school readiness and exposing children to literacy and books is sometimes not adequately relayed to caretakers.
- Confusion about the provision of comprehensive assessments for infants and the role of ECI, CPS and others in the assessment of young children, including the point at which children should be referred to ECI.
- Lack of funding is an overriding factor and magnifies the need for developing cross-system collaboration.
- Attorneys, CASAs, and caretakers, including foster parents, need on-going training regarding school readiness issues and available resources.
- CPS recently added policy requiring that children ages 3, 4, and 5 years who are in foster care be enrolled in a Pre-K program offered through the local public school or an early child education program offered through Head Start, if appropriate, in the best interest of the child, and available in the local community. Children in foster care are categorically eligible for Head Start and Early Head Start. Caregivers do not have to submit proof of family income for the child in foster care to qualify for enrollment in Head Start. However, any child may be put on a waiting list because of enrollment capacity. This policy needs to be disseminated to Head Start, Early Head Start, and Pre-K providers.

#### **School Stability and Transitions**

- Removal from the home often results in a change in education setting.
- Children often do not stay in their schools of origin upon entry into foster care.
- Transportation to schools of origin is problematic, especially with out of school district placements.

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<sup>9</sup> Source: DFPS Data Book 2010, pp. 60-61: [DFPS Data Book 2010](#)

- Children and youth in foster care often experience incomplete or delayed transfer of school records.
- There are gaps in the Education Passport/Portfolio.
- A lack of emphasis on education is seen among child protection stakeholders such as attorneys and guardians ad litem, foster parents, and caretakers.
- There is a constant struggle for child protection stakeholders to meet the child's educational needs and still maintain court appointments and therapy sessions. School disruptions for court hearings, court-ordered visits, and attendance at therapeutic and other appointments pose a significant challenge in maintaining school continuity.
- Students in foster care face loss of coursework credit, especially for electives, following transfer to a new school.
- There is no list of available foster homes broken down by school district for CPS to consult when making placement decisions.

### **School Experience, Supports, and Advocacy**

- Children and youth in foster care find it difficult to “fit-in” and participate in extracurricular activities, particularly in high school.
- Students from foster care sometimes find themselves unable to participate in extracurricular activities upon transfer to new school. Anecdotally, some school districts refuse to allow foster youth to participate in extracurricular activities and interscholastic league activities due to student residency requirements. Texas Education Code §21.031 addresses residency requirements and eligibility of children in foster care to participate in activities. Texas Attorney General Opinion MW-43 supports foster children's eligibility to participate in interscholastic league activities.
- There is a lack of education advocacy in charter schools affiliated with residential treatment centers (RTC).
- A lack of designation of special education status or continuity of education services immediately upon enrollment in new school occurs because of incomplete academic records.
- Confusion exists about education decision-making rights and duties.
- Because of numerous education placements occurring prior to and after entering care, a number of children and youth in foster care have significant education gaps.
- School-based personnel need professional development about issues related to foster children, including how to deal with behaviors exhibited by these children.
- Minority foster youth are overrepresented in special education and disciplinary actions.
- Foster care providers and caseworkers have difficulty maintaining and utilizing the Education Passport/Portfolio. For example, some foster caregivers report that the Education Portfolios fail to arrive at the new placement with the student or contain inadequate to no education records

or enrollment documentation. Foster caregivers and caseworkers experience difficulty in obtaining important school documents to keep the Education Portfolio up to date.

- Foster parents, caretakers, and attorneys and guardians ad litem need training about education advocacy, including what supports are available within the schools.
- Often assessments and home studies do not address the abilities of family members to meet or support the educational needs of children and youth placed in their care.
- It is unclear as to the extent and why foster children and youth are subject of more disciplinary actions than children in general student population.<sup>10</sup>
- No official process exists to inform a school that foster child is enrolled.
- Some children who live in RTCs are required to attend the charter school affiliated with the RTC rather than a local public school; these children lack choice in education placement.
- Confusion exists between general education decision-making rights and those school-related decisions for children with disabilities.
- Additional training in student advocacy and expectations is needed for surrogate parents representing children and youth in foster care. Schools often appoint former staff members or potential staff employees to act as surrogate parent for multiple children in foster care. Surrogate parents are not afforded the opportunity to know the child/youth and his/her school needs.
- Sometimes schools fail to invite caseworkers to school meetings or send notices to Admission, Review, and Dismissal (ARD) meetings.

### **Post-Secondary Education**

- Confusion continues about education training vouchers and tuition fee waivers.
- There is a lack of education advocacy and encouragement to youth about attending post-secondary education.
- Post-secondary education benefits are time restricted but not all youth formerly in care are ready to attend post-secondary education soon after transitioning from care.
- Youth often are not academically or psychologically prepared to attend institutions of post-secondary education, particularly youth who age out of care while living at residential treatment centers or facilities.
- Not all youth want or need to achieve a 2- or 4-year degree, but may not have the resources or information to pursue technical school options.

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<sup>10</sup> For more on school discipline generally, please see study recently completed by the Justice Center at the Council on State Governments at: <http://justicecenter.csg.org/resources/juveniles>

- Educators, school counselors, caretakers, and court stakeholders lack knowledge about resources available to former foster youth to attend post-secondary education institutions.
- Former foster youth lack academic and other supports when attending post-secondary education institutions.
- Many attorneys ad litem are not trained on issues facing foster youth aging out of care, including available resources.
- Children and youth in care do not receive the message early and often that post-secondary education is an option.
- Foster parents sometimes lack knowledge of college readiness process.
- Middle and high school counselors often lack knowledge of post-secondary benefits available for qualifying former foster youth.

C. Despite Challenges, Texas Has Great Resources to Address Many of the Issues

***Foster Care Redesign***

In 2011, the Texas Legislature passed Senate Bill 218, which authorizes DFPS to overhaul the way it contracts and pays for foster care placements.<sup>11</sup> Called *Foster Care Redesign*, the goal is to create appropriate foster care resources in areas with the most need so foster children and youth may stay closer to home and, if possible, attend their schools of origin. This also means that, when in the best interest of the child, biological parents or caretakers may remain more involved in education decision-making and may contribute to children achieving permanency more quickly. Finally, when implemented, the redesign will result in children staying in their home communities and maintaining sibling and other family ties. *Foster Care Redesign* will begin its rollout via a Request for Proposals (RFP) in at least two geographic catchment areas (one metro and one non-metro area) and, if successful, will be expanded incrementally to statewide coverage.

***Education and Child Welfare Systems Support Exchange of Important Data***

Supported by state legislation, the Texas education and child welfare systems have been sharing aggregate statewide data regularly since 2010. Pursuant to an MOU signed by DFPS and TEA, data regarding student academic achievement, such as student assessment scores and participation in Gifted and Talented programs, graduation rates, dropout rates, school attendance, disciplinary actions, receipt of special education services, and other measures identified by the two agencies has been exchanged at least annually. With this unprecedented sharing of data between the Texas Statewide Automated Child Welfare Information System (SACWIS), known as IMPACT, and data from the TEA Public Education Information Management System (PEIMS) system, comes the

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<sup>11</sup> Texas Senate Bill 218: [Senate Bill 218](#)

opportunity for DFPS and TEA to collaboratively meet, analyze the data together, and identify areas where improvements are needed.

### ***Education Specialists Created due to Legislatively Supported CPS Reform Effort are Great Asset***

As a result of state legislation passed in 2005, the Texas child welfare system began reform efforts to strengthen educational outcomes for youth. Thus, DFPS established Regional Education Specialists in each of its 11 regions and a CPS Education Specialist within its state office.

Each Regional Education Specialist serves as the "go to" person for caseworkers challenged in the navigation of the school systems as they advocate for specialized needs of children and youth in DFPS care. Among other things, each education specialist:

- 1) Provides information and referral services regarding developmental disability or education-related resources;
- 2) Identifies educational services or resources in the region;
- 3) Helps identify resources for caregivers in order to meet the child's educational needs;
- 4) Assists with case planning to identify specific educational needs and services through individual case staffings and attending permanency planning meetings, as needed;
- 5) Attends Admission, Review, and Dismissal (ARD) meetings, when possible, and the caseworker is unable to attend;
- 6) Develops training curriculum and training for CPS staff and foster parents;
- 7) Works with regional DFPS staff to ensure that children in the conservatorship of DFPS receive appropriate educational services and that each child's case record includes a copy of the necessary education records; and,
- 8) Helps Preparation for Adult Living (PAL) coordinators develop transition plans for youth who are aging out of DFPS conservatorship.<sup>12</sup>

A state CPS Education Specialist serves as a leader for this team and functions as a liaison with TEA, the independent school districts, and other program specialists with the DFPS state office. The CPS Education Specialist is responsible for the development of CPS education policy and statewide efforts to improve education outcomes. The state level Education Specialist, as well as regional Education Specialists, help caseworkers resolve education issues with schools and school districts and facilitate communication between the child welfare and education systems.

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<sup>12</sup> From DFPS *CPS Policy Handbook*. Please see: [4120 The Role of the Education Specialist in Educating Children](#)

### ***Education Passport/Portfolio Developed to Assist Transfer of School Records between Placements***

As a result of Senate Bill 6, passed by the 79<sup>th</sup> Session of the Texas Legislature, DFPS specifically identified and initiated multi-faceted programs to strengthen education outcomes for children in foster care, including the introduction of the Education Passport/Portfolio. The Education Portfolio follows a child through changes in placement and contains school-related information such as copies of the child's birth certificate, Social Security card, educational assessments, including academic and psychological assessments, school transcripts, immunization records, and recent report cards, and indication of special services needed for each child, including notes from ARD meetings and the Individualized Education Program (IEP).

The Education Portfolio is reviewed by DFPS Residential Child Care Licensing (RCCL) staff during monitoring visits. Education Specialists receive monthly RCCL monitoring forms to review and direct caseworkers to update information. The Texas Education Agency's Residential Monitoring Team also reviews children's Education Portfolios during their routine and special monitoring reviews to residential facilities. In addition, IMPACT, the DFPS case management system, produces monthly reports on Education Portfolio use by region, unit, and specific caseworker to Regional Education Specialists to review and direct updates. Statewide use of the Education Portfolio, as reported in IMPACT, is at 90 percent. There are reported instances which hint that the Education Portfolio is not totally effective as an education tracking tool for children and youth because caregivers and caseworkers fail to include updated school information or the Education Portfolio itself did not travel with the child or youth to his/her next placement. Currently, regional Education Specialists provide ongoing training through regional unit meetings to caseworkers and presentations to stakeholders on developing and maintaining an Education Portfolio. Additional training of caregivers and caseworkers and further methods of collecting and retaining individual children's education records may be needed.

Texas was recognized during the most recent federal Children and Family Services Review (CFSR) completed in 2008 as having met its well-being outcome regarding education. Substantial conformity was achieved for Well-Being Outcome 2 in 97 percent of the cases reviewed. This outcome is associated specifically with how effective Texas is in addressing the education needs of children involved in CPS conservatorship cases. Federal reviewers noted that the education area reflected steadfastness to the well-being of children in foster care through the development of Education Portfolios.

### ***DFPS and TEA MOU about Records Transfer***

In addition to the MOU entered between DFPS and TEA for the exchange of agency level data, a second MOU was signed by TEA and DFPS in 2011.

Mandated by Senate Bill 2248 in 2009, the MOU requires the exchange of information to facilitate the transition of students in substitute care from one school to another and includes provisions aimed at easing the disruption caused by educational placement moves by children in substitute care.

TEA uses the Texas Record Exchange (TREx), an electronic student records system, to transfer education records from school to school. The MOU sets up protocols for DFPS and TEA to use when issues of school records transfer arise, including an annual report using a data set of children in foster care provided by DFPS in order to match PEIMS data to determine the frequency with which the records of children in substitute care are transferred from one educational setting to another.

### ***Legislatively Mandated Foster Care Liaisons within School Districts***

During the most recent legislative session in 2011, the Texas Legislature passed House Bill (HB) 826, requiring each school district to appoint an employee as a liaison to facilitate the enrollment in schools and transfer of records of children in the legal custody of DFPS when changing schools. The liaisons are to be designated by December 1, 2011.<sup>13</sup> Although school districts have had liaisons for homeless youth for some time as required by the federal *McKinney-Vento Act*, this is a new role and set of responsibilities for school districts. The policies and procedures developed for and by McKinney-Vento liaisons will serve as a model for effective implementation of HB 826.

### ***TEA, with DFPS, Children's Commission and Houston Independent School District Partner to Apply for Federal Collaboration Grant***

On July 26, 2011, TEA applied for a 17-month federal grant opportunity through the Administration of Children and Families. The purpose of this grant is to support collaboration between the education and child protection systems and the courts to improve education outcomes of foster children and youth age 10-17. The grant awards will likely be made in early September 2011 and if TEA receives a grant award, the funding will support the creation of expertise about education issues of foster youth within the agency. In addition, grant funding will facilitate collaboration in Houston that models the structure and purpose of the Education Committee. At the end of the grant period, guidelines for child welfare and education stakeholders will be developed.

### ***Education Committee and Sub-Committee Work Supported by Judicial Resources***

The Education Committee and its sub-committees will build on existing judicial resources available in its efforts to identify judicial best practices that impact educational outcomes of foster youth. Primarily, the Education Committee and

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<sup>13</sup> Texas House Bill 826: [House Bill 826](#)

Sub-Committees are supported by the federal Court Improvement Program Grant, which is administered by the Children's Commission. The National Council of Juvenile and Family Court Judges (NCJFCJ), in conjunction with Casey Family Programs, released a Technical Assistance Bulletin in 2008 entitled *Asking the Right Questions II: Judicial Checklists to Meet the Educational Needs of Children and Youth in Foster Care*.<sup>14</sup> This bulletin offers a primer for judges to impact educational outcomes, particularly asking specific questions from the bench during court hearings. Additionally, the ABA Center on Children and the Law and NCJFCJ have recently release a Judicial Guide on Implementation of the Fostering Connections Act.

### **Sub-Committees Identified Key Resources Specific to their Charge**

#### **School Readiness**

- The MOU between ECI and DFPS offers a model for a MOU between DFPS and Head Start.
- Head Start offers valuable, no-cost online resources which include literacy activities for small children.
- Many school districts provide comprehensive lists of parent resources that may be utilized by parents, caretakers, and foster parents.
- Federal program instructions issued by the Administration of Children and Families emphasize need for collaboration between early childhood education programs and child welfare.
- The Texas Foster Family Association publishes a newsletter and holds an annual conference that can incorporate information on early childhood development and school readiness.

#### **School Stability and Transitions**

- Foster Care Redesign is underway.
- Established body of work done to help mobile population of children of parents in the military, including the Military Child Education Coalition website.
- Mc-Kinney Vento practices already in place in districts may serve as model for this population also.

#### **School Experience, Supports, and Advocacy**

- Many vocational and support programs already in existence, although a comprehensive list is needed.
- Special education resources are available on-line from many stakeholders, including the Texas Education Agency, Education Service Centers, Disability Rights, Texas, and Casey Family Foundation.

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<sup>14</sup> [NCJFCJ Technical Assistance Bulletin \(December 2008\)](#)

## **Post-Secondary Education**

- Texas REACH Conference, an annual conference held to bring together child welfare and higher education decision makers and program developers from across the state to share information and best practices in an effort to increase the number of youth formerly in foster care entering and succeeding in college.
- Dedicated programs to support former foster youth have been established at several community and four-year institutions, including Austin Community College, Sam Houston State University, and the University of Texas at San Antonio.
- ETV program is available year round.
- Extended foster care program will cover housing through supervised independent living.
- DFPS has list of resources for foster youth in transitional living (Texas Youth Connection website).
- College and career readiness programs work with at risk youth, including youth in care.
- Some state and community colleges work with youth formerly in care to help with deadline extensions, such as tuition deposits and textbooks.
- DFPS Preparation for Adult Living (PAL) staff have an extensive knowledgeable of the higher education benefits and resources available to older youth and verify eligibility for both the ETV program and the state tuition and fee waiver.
- The PAL program may provide a transitional living allowance and funds for aftercare room and board for youth that transition from foster care and that are attending higher education.
- HB 452 (passed 82<sup>nd</sup> legislative session) requires institutions of higher education to assist full-time students who were formerly in DFPS foster care locate temporary housing between academic terms (including summer), effective September 1, 2011.

### **D. Data and Information Sharing**

Each sub-committee discussed data and information sharing on two levels: 1) between state agencies to inform policy and performance measurement; and 2) child specific between case-level stakeholders to improve outcomes of children and youth. The following are highlights of issues and information raised during each sub-committee discussion.

### **School Readiness**

- Agreements for data and information sharing regarding educational issues of younger foster children are not as formalized as for school age children.

- Work continues with regard to individual child data sharing between ECI and DFPS.
- Need to identify what, if any, early education records should be part of DFPS education portfolio.
- TEA can identify in PEIMS the number of Pre-K children who are or have ever been in DFPS conservatorship. Categorical eligibility for Pre-K program enrollment is also tracked. TEA does not collect data other than that required by statute or rule/grant application requirements and it is difficult to establish new data elements. Besides the above-mentioned, Pre-K data collection generally is not required, so data collection is not as robust for the lower grades.
- A feasibility study regarding data sharing is being pursued to look at data exchange between agencies about early education.
- Courts benefit from data but run into issues pertaining to data sharing.
- Information that would be beneficial to teachers would be historical information on the child, such as reasons for developmental and emotional delays. Some concern exists about releasing too much child specific information because of confidentiality laws and possible pigeonholing of children due to their foster care status.

### **School Stability and Transitions and School Experience, Supports, and Advocacy<sup>15</sup>**

- Need to focus on two-way transfer of child specific information – CPS to schools and schools to CPS.
- Must balance the privacy interests versus school and CPS need to know information in order to adequately serve child.
- Federal and state law regulates release of data from education and child protection agencies.
- TEA and DFPS SB 939 MOU governs agency level data exchange.
- TEA and DFPS SB 2248 MOU governs child-level information exchange.
- Need to develop guidelines for child protection caseworkers and stakeholders about information that can never be exchanged, can sometimes be exchanged, and can always be exchanged.
- Need to determine whether TEA/DFPS data exchange enables drilling down to school district level.

### **Post-Secondary Education**

- National Youth in Transition Database (NYTD) collects case level data to look at outcomes of transitioning youth.
- Data collection for the ETV Program is reported by the DFPS contractor, Baptist Child and Family Services and submitted to state office for data

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<sup>15</sup> Because these two sub-committees are reviewing issues related to the same age group of children, the sub-committees met jointly to discuss data and information sharing issues.

entry. Data entry tracks how youth received an ETV service, which expenses ETV is paying for and is used for NYTD purposes.

- The College Tuition & Fee letter issued by DFPS verifies tuition waiver eligibility and is tracked by the Texas Higher Education Coordinating Board (THECB). Each state supported college and university reports (per academic year) the number of waivers accepted for both foster and adopted youth. DFPS receives a report from the THCEB to support the required match for the ETV program.
- Data does not show the youth's educational level, how many times that a youth used the waiver per academic year, and whether the users are new youth or existing youth.
- The best way for a community college or university to capture data regarding CPS youth in higher education is by tracking information regarding the tuition fee waiver since youth have to submit that information to financial aid offices. At Sam Houston State University, a list is obtained from the bursar's office of students who turn in waiver. A second way to obtain this information is from the Free Application for Federal Student Aid (FASFA).
- ETV is only known if PAL workers inform the college or if the youth reports it as a source of financial aid. This goes back to privacy issues and whether the youth wants such information disclosed and for what purpose.

#### E. Multi-Disciplinary Training

Aspects of multi-disciplinary training are addressed on an ongoing basis, but each sub-committee dedicated a monthly call to the issue and members were asked the following questions:

- What issues should training address?
- Who needs to be trained?
- Who should be responsible for making sure these individuals are trained?
- What organizations can facilitate training?
- What training opportunities already exist that can add training on these issues?

These discussions will be captured as part of the multi-disciplinary training recommendations given to the Education Committee by each sub-committee.

#### **IV. Continuing the Momentum**

The next Education Committee scheduled for September 16, 2011 represents the close of the fact-finding phase of this initiative. At the September meeting, the Education Committee will give direction to the sub-committees as they move forward with the development of draft recommendations. On December 9, 2011, the Education Committee will review the recommendations of the sub-

committees and work will start on the Final Report, due to the Children's Commission on March 31, 2012.