

September 10, 2014

Action Required

TO THE ADMINISTRATOR ADDRESSED:

Subject: Foster Care & Student Success – Committed to Improving the Education of Students in Foster Care

The purpose of this letter is to provide important updates and resources to support Texas districts and charter schools with implementing statutory provisions adopted to improve the education outcomes for students in the managing conservatorship of the Texas Department of Family and Protective Services (DFPS). This letter should be shared with the School District Foster Care Liaison(s), appointed in accordance with Texas Education Code (TEC) §33.904, school administrators, counselors, and other personnel who work with students in foster care.

Federal Law - New Guidance and Information

In May 2014, the United States Department of Education (USDE) released the following reminders and clarifications regarding two federal laws addressing the education of students in foster care, the Fostering Connections to Success and Increasing Adoptions Act, 2008 (Fostering Connections) and the Uninterrupted Scholars Act, 2013 (USA 2013).

- 1) Local Education Agencies (LEAs) are reminded that without their assistance, state child welfare agencies are unable to meet their obligations under Fostering Connections, each playing a role in helping to ensure educational stability for children in foster care. Fostering Connections requires state child welfare agencies to ensure educational stability as part of each child's case plan, including assurances that the state child welfare agency has coordinated with the LEA to ensure that a student is provided the opportunity to remain in the school in which the student was enrolled at the time of each placement in foster care. If remaining in that school is not in the best interest of the child, the state child welfare agency, in coordination with the LEA, must enroll the child immediately in a new school, with all of the child's educational records provided to the new school.
- 2) USDE clarifies the USA 2013 amendment to the Family Educational Rights and Privacy Act (FERPA) permitting LEAs to disclose a student's educational records to a caseworker or other representative of a state or local child welfare agency or tribal organization when such agency or organization is legally responsible for the care and protection of that student.

Additionally, the USA 2013 allows educational agencies and institutions to disclose a student's education records pursuant to a judicial order without requiring additional notice to the parent by the LEA in certain judicial proceedings in which the parent is involved.

This information may be accessed using the following links:

USDE and Health and Human Services (HHS) Letter to Chief State School Officers and Child Welfare Directors on Implementing the Fostering Connections Act, May 30, 2014 - <http://www2.ed.gov/about/inits/ed/foster-care/fostering-connections-letter.doc>

Letter to Chief State School Officers on Guidance on the Amendments to FERPA by the USA 2013, May 27, 2014 - <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/uninterrupted-scholars-act-guidance.pdf>

USDE **New** Foster Care and Education website - <http://www2.ed.gov/about/inits/ed/foster-care/index.html>

National Resource Center for Permanency and Family Connections website - <http://www.nrcpfc.org/is/education-and-child-welfare.html>

USDE Education Blog - "Foster Care Alum: Educators Make a Difference for Foster Youth" - <http://www.ed.gov/blog/2014/06/foster-care-alum-educators-make-a-difference-for-foster-youth/>

State law:

There are also numerous state laws addressing the education of students in foster care. To view a comprehensive list of these statutes, visit the Texas Education Agency (TEA) website at: <http://www.tea.state.tx.us/FosterCareStudentSuccess/laws/>. Additionally, current laws and related guidance are referenced in the Foster Care & Student Success Resource Guide - <http://www.tea.state.tx.us/FosterCareStudentSuccess/resource-guide.pdf>.

Texas Legislative Implementation – LEA Action Required:

- 1) TEC, §7.029(b-1) requires TEA to collect data through the Public Education Information Management System (PEIMS) regarding the "Foster Care" status of students. To accomplish this, LEAs need to ensure that effective identification and enrollment practices are in place. Local data systems and communication protocols should ensure that Foster Care Liaisons and other personnel have access to information necessary to fulfill school districts' statutory responsibilities and to fully support students in foster care to succeed in school. Based on LEA feedback, TEA has identified a list of specific documents, any one of which if submitted to a district provides sufficient evidence that the student should be reported in PEIMS as a foster youth for the 2014-15 school year. Information may be found in the 2014-15 Addendum Release of PEIMS Data Standards, [Section 2: Data Submission Requirements](#), 102 record, <http://www.tea.state.tx.us/peims/>. Supplemental guidance for the 2014-15 school year was developed to assist LEAs with understanding appropriate documentation for the purpose of PEIMS reporting. To view and download visit: <http://www.tea.state.tx.us/FosterCareStudentSuccess/Resources/>.

- 2) TEC, §25.007(9) requires LEAs to notify a student's DFPS caseworker and education decision-maker of events that may significantly impact the education of the student, including, but not limited to:
- (A) requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under TEC, §29.003;
 - (B) admission, review, and dismissal committee meetings;
 - (C) manifestation determination reviews required by TEC, §37.004(b);
 - (D) disciplinary actions under TEC, Chapter 37 for which parental notice is required;
 - (E) citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
 - (F) reports of restraint required by TEC, §37.0021; and
 - (G) use of corporal punishment as provided by TEC, §37.0011, (note: corporal punishment is not permitted under DFPS policy for students in DFPS managing conservatorship).

DFPS is required to inform the school of the student's education decision-maker within 5 days of an adversary hearing in accordance with Family Code, § 263.004. A caregiver or other representative will provide an Education Decision-Maker 2085 (E-2085) form at enrollment for each student in DFPS managing conservatorship. The form includes the contact information for the education decision-maker and caseworker. This form is acceptable for the purpose of PEIMS reporting. If it is not provided at enrollment, please request it from DFPS or the caregiver. Maintain it with other privacy-protected records. A sample of the form is available from DFPS:

http://www.dfps.state.tx.us/site_map/forms.asp. Additional information can be found in Chapter 9 of the Foster Care & Student Success Resource Guide:
<http://www.tea.state.tx.us/FosterCareStudentSuccess/resource-guide.pdf>

- 3) TEC, § 33.904 requires each LEA to designate at least one Foster Care Liaison and notify TEA of its liaison's appointment. Currently, only 50% of LEAs have reported their liaisons in compliance with the statute. The liaison list is published in accordance with statutory requirements at <http://www.tea.state.tx.us/FosterCareStudentSuccess/liaisons/>. Please review the list and ensure that contact information is provided and is accurate. Beginning with the 2014-15 school year, foster care liaisons will be maintained in AskTED. Updates to liaison information should now be submitted to TEA through each district's AskTED administrator. If your liaison has changed or is not listed, notify your district AskTED administrator immediately. Include your liaison's name, email address, and phone and fax numbers. If you are a charter school, please contact the Charter School Division at (512) 463-9575 or CharterSchools@tea.state.tx.us. Additional guidance on the liaison role and responsibilities is in Chapter 5 of Foster Care & Student Success Resource Guide. If you have additional questions related to the foster care liaison please email fostercareliaison@tea.state.tx.us.

If you have questions or need further assistance please visit TEA's Foster Care & Student Success webpage at <http://www.tea.state.tx.us/FosterCareStudentSuccess/>, email fostercareliaison@tea.state.tx.us, contact your local education service center, or contact Kelly Kravitz in the Division of Federal & State Education Policy at (512) 936-6060.

Thank you for your on-going commitment to the education of students in foster care.

Sincerely,

Monica Martinez
Associate Commissioner, Standards and Programs