



# Children's Commission.

## Attorney Resource Letter:

### For Attorneys Handling Child Protective Services Cases

August 18, 2017

#### Education Considerations for the 2017-2018 School Year

All children and youth who are enrolled in pre-kindergarten, kindergarten, or are between the ages of 6-19 years old must attend school. Also, under certain circumstances, children receiving special education services are eligible to attend school until their 22<sup>nd</sup> birthday. Children currently or formerly in foster care are eligible for free pre-kindergarten programs provided by their school district. Education is a key well-being measure and there are a few important considerations for attorneys to ensure students stay on track throughout the school year.

#### **Q: Who makes education-related decisions for children and youth in foster care?**

A: Every child in foster care has an Education Decision-maker (EDM). DFPS designates the EDM and notifies the school via Form 2085-E. Form 2085-E must be filed with the court within 5 days of the adversary hearing. Subsequent changes in the EDM are reported in permanency progress reports. Children receiving special education services also have a “parent” to participate in the Admission, Review, and Dismissal committee meetings, an important due process right. Effective September 1, 2017, the foster parent can act as the “parent” who can make special education decisions for children in foster care receiving special education services. If the foster parent is unwilling or unable to serve in that role or the child resides in a non-foster home setting, a “surrogate parent” can be appointed by the court or the school district. Although the EDM and “parent” for special education purposes could be the same person, this is not always the case.

#### **Q: Why is school stability important throughout the school year?**

A: Research shows that children lose approximately 4-6 months of academic progress with every school move. Thus, minimizing the number of times a child in foster care changes schools is critical. Under Texas Education Code Section 25.001, a child in foster care can remain in the same school (referred to as the “school of origin”) without payment of tuition, upon entering foster care, after a placement change, or after exiting foster care, until the child completes the highest grade offered at the school.

Appropriateness of the child’s current educational setting and the proximity to the school must be factors in each placement decision. If it is not in the child’s best interest to remain in the school of origin, the child must be enrolled in the receiving school within three days, with their school records transferred within 10 working days. Consideration should be given to the timing of the move and conflicts with testing and other important school dates.

#### **Q: How can attorneys ensure students are on track for educational success?**

A: Attorneys and guardians ad litem must be knowledgeable about the child’s education needs and progress. Other related considerations:

- Courts must assess at each permanency hearing whether the child's educational needs and goals are being met.
- Beginning with the 2017-2018 school year, a receiving school must provide courses and education programs that are comparable to those offered in the school of origin, if available.
- Receiving school districts must provide special education services under a child's current Individualized Education Program until it is either adopted or replaced by the new district. Caregivers and CPS staff should inform the receiving school about previous participation in special education or other programs.
- All education records should be transferred in a timely manner - gaps in information ultimately impact the child's educational progress and complicate already difficult transitions.
- All youth entering 9<sup>th</sup> grade and beyond are provided a personal graduation plan designed to mark key milestones for graduation.
- Children in foster care frequently experience behavioral challenges in the school setting. Coordination between the child's caregiver and school personnel related to behavior can help keep the focus on academic and social development rather than discipline.
- Extracurricular activities (also known as "normalcy" activities) and special programs like career and technical education can help keep students engaged in the school experience.
- Parties and advocates should monitor credit transfers between moves to help students stay on track.
- Federal law requires collaboration between local child welfare and education agencies to ensure that children in foster care needing transportation receive it in a cost-effective manner.
- Caregivers, even if not acting as EDM or surrogate parent, should participate in school meetings and activities in order to streamline communication and encourage greater school engagement.
- Finally, don't overlook that the state tuition and fee waiver is available to eligible youth and young adults who enroll in a dual credit or college credit-bearing course before their 25<sup>th</sup> birthday.

**Q: Who can I contact locally for more information?**

A: There are designated points of contact at the state and local education and child welfare organizations. CPS Education Specialists organize education consortiums in each region to discuss local concerns.

- CPS 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)
- School District/Charter School Foster Care Liaisons
  - <http://tea.texas.gov/FosterCareStudentSuccess/liaisons/>
- Foster Care Liaisons at Texas Institutions of Higher Education
  - <http://www.collegeforalltexas.com/apps/financialaid/tofa2.cfm?ID=429>
- Foster Care Liaison at Texas Education Agency
  - Kelly Kravitz, [Kelly.Kravitz@tea.texas.gov](mailto:Kelly.Kravitz@tea.texas.gov)
- Foster Care Liaison at Texas Higher Education Coordinating Board
  - Natalie Coffey, [Natalie.Coffey@THECB.state.tx.us](mailto:Natalie.Coffey@THECB.state.tx.us)



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