



REPORT CARD ON THE EDUCATION OF FOSTER CHILDREN

The public educates children because of our common interest in ensuring that children become responsible and productive adults and to provide an opportunity to every child to achieve their potential. Unfortunately, several national studies show that we aren't doing a good job educating foster children. Foster children have lower test scores, lower graduation rates, and less post-secondary education. This policy page examines the problem and makes recommendations.

The Problem

We Are Failing to Educate Foster Children

Recognizing that we are failing to educate foster children, twelve notable national organizations¹ joined together to create the National Working Group on Foster Care and Education (NWGFCE).² According to the working group, nationally, approximately 71 percent of children in foster care are school-age (5 to 18). Of those children who grow up in foster care, more than 30 percent don't finish high school, and only about 3 percent obtain a bachelor's degree. According to one study cited by the working group, children in foster care score 16 to 20 percentile points below others in statewide standardized tests.³

Another national report found that children in foster care often have their educational needs misidentified or are given inappropriate special education services. This report noted that foster children have a higher rate of discipline, including suspensions and expulsions; are not as involved in extracurricular activities; have higher dropout rates; and less frequently enter and complete post-secondary education.⁴

Educating Foster Children is Challenging

The Texas Department of Family and Protective Services (DFPS), through Child Protective Services (CPS), brings children into foster care because they have been abused or neglected. Before being brought into foster care, these children lived in chaotic and unsafe environments,

disrupting their education and leaving them with educational, emotional, and behavioral deficits.

After bringing children into foster care, our system compounds their problems by frequently moving them from placement to placement. Nationally, as the NWGFCE reports, children in foster care experience an average of one or two placement changes per year. In Texas, in 2006, children who left foster care before turning 18 had an average of three placements, while children who were in foster care until 18 had an even higher average.⁵ Placement changes usually mean disruptive school changes—new teachers, new curricula, and the loss of friends and mentors.

Field reports in Texas suggest additional problems: When children are moved, re-enrollment is sometimes delayed. Educational records do not always follow children, requiring retesting. Foster children often have difficulty transferring credits, forcing them to repeat a year or a class. For children receiving support services such as special education, setting up these services in the new school may take a significant amount of time.

Therapy and family visits are too often scheduled at a time convenient for adults without regard to a child's school schedule. Depending on where children are placed and the frequency of appointments, children may miss almost a full day of school each week. The legal process can also cause a child to miss school. All of this makes educating foster children challenging.

Texas Faces Increased Federal Scrutiny

Periodically, the federal government reviews how states are meeting the needs of foster children through the Child and Family Service Review (CFSR). If a state's performance is inadequate, the federal government requires a corrective action plan and may impose financial penalties.⁶ The federal government reviewed Texas in 2002 and will review the state again in 2008. How well the state is educating our foster children will be an important factor in how Texas scores. CFSR Well-Being Outcome 2 asks whether foster children receive appropriate services to meet their educational needs. Texas was not in substantial conformity during the last review.

Solutions

The State's Response

DFPS has taken some steps to improve the educational outcomes of foster children.⁷ Beginning in 2003, DFPS began hiring education specialists for its central office and its eleven regions. Half of the specialists have a background in education.

Each regional education specialist works with and provides training to caseworkers, school districts, foster care providers, and foster homes on education issues. For example, these specialists collaborate with Casey Family Programs to use *Endless Dreams*, a video and curriculum to educate teachers about foster care and the specific issues and challenges faced by children in out-of-home care.⁸

Additionally, as a requirement of Senate Bill 6 passed in 2005, DFPS created an education portfolio designed to contain all the educational records of each foster child. The portfolio, which became operational in August 2006, goes with the child, so each new placement can enroll the child in school and each new school can quickly obtain information about the child's previous schooling.

DFPS also actively works with colleges to create support services for former foster children entering post-secondary education. Education and vocational training vouchers (ETVs) are available to qualifying current and former foster children who wish to seek post-secondary education or training.⁹

Finally, DFPS plans to revise its education policy soon, and will incorporate its new policy into its basic skills training for caseworkers.¹⁰

Casey Family Programs Recommendations

In one of its signature Breakthrough Series Collaboratives (BSC), Casey Family Programs studied innovative ways to improve educational outcomes of foster children. The collaborative proposed a road map for learning:¹¹

School Transfer Issues

- Provide school placement stability.
- Secure and maintain accurate and accessible school records.

Collaboration and Training Issues

- Facilitate collaboration and training among all involved systems.
- Train caregivers to be education advocates at school and at home.

Supports and Services Issues

- Provide education advocates and education specialists/advocates.
- Give children access to supplemental education supports and services.
- Address special education needs as appropriate to children.
- Decrease disparate outcomes for children of color.

Preparation Issues

- Ensure that children are literate, acquire basic skills, and have extracurricular activities.
- Prepare children to achieve their postsecondary education, training, and career goals.

Public Policy Issues

- Promote public policies that support education during and after foster care.

These are the critical components for any system to successfully improve the educational outcomes of foster children. These themes are reflected in our own policy recommendations.

CPPP's Policy Recommendations

1. Increase Collaboration between the Foster Care System and the Education System

To improve educational outcomes for foster children, the foster care system and the education system must work together. Collaboration, however, is no easy task. In Texas, there are 1,031 school districts and 191 charter schools,¹² ranging from the small and rural to the large and urban. Each school district is self-governing with only general oversight by the Texas Commissioner of Education, the State Board of Education, and the Texas Education Agency (TEA).¹³

In some areas of the state, collaboration is happening at the local level. Stakeholders (education specialists, school districts, foster care providers, and caseworkers) are meeting periodically to discuss foster children and education. To do more, we need collaboration at the state level.

The Commissioner of Education and the Commissioner of the Department of Family and Protective Services should convene an education summit of stakeholders in 2008 to address the needs of children in foster care.

A dynamic beginning would be for the commissioner of education and the commissioner of DFPS to call a foster care education summit for all stakeholders to discuss education goals for foster children and how to obtain those goals. Then, TEA and DFPS should enter into a memorandum of understanding (MOU) for addressing educational issues of foster children. Long range, Texas might also look to the example of Arizona, which has a Children's Cabinet that coordinates the agencies that provide services to children in foster care.

2. Improve Data Collection by DFPS

Until very recently, the only data collected relating to education was the number of foster children of school age and the number of foster children receiving education training vouchers for post-secondary education. DFPS is working on modifying IMPACT, its computer system, to track education outcomes. In December 2007, a few new

data elements were added, including tracking foster children receiving gifted-and-talented services or transportation through the schools, and whether education portfolios exist for each child. We need to know much more, however, to assess how Texas foster children perform educationally.

3. Improve Data Collection by TEA

TEA collects data from all school districts in Texas using the Public Education Information Management System (PEIMS). PEIMS encompasses all data requested and received by TEA about public education, including student demographic and academic performance, and personnel, financial, and organizational information.¹⁴ PEIMS collects information from Texas school districts using a list of data elements coded for unique attributes of students. There is no code for foster children.

If TEA added a code for foster children to PEIMS, the agency could provide aggregate data, including how many foster children are in special education or other services, the number of foster children within a school district, or the number of foster children subject to disciplinary action. TEA already codes children who fall within the definition of homeless or at-risk and are part of an educational program to ensure that they have academic success. Although TEA only takes a "snapshot" of Texas students during each year, which fails to fully track the transitory foster-children population, PEIMS data is currently the best source of educational information for foster children.¹⁵

Even without modifying PEIMS, TEA currently has the ability to do special runs to provide information on foster children if given four fields of information for each child: first name, last name, Social Security number, and date of birth. With these four fields, PEIMS can provide data about that student's grade level, school, high school course completion, and other information such as disciplinary events, and whether the child is bilingual, at-risk, or in need of special education.¹⁶ With this information, the state could better assess the needs of its foster children.

4. Revise the Application of Confidentiality Rules by TEA

The Federal Educational Rights and Privacy Act of 1974 (FERPA),¹⁷ prohibits, with exceptions, the disclosure of education records without written parental consent.¹⁸ FERPA defines a “parent” as a “natural parent, *a guardian*, or an individual acting as a parent in the absence of a parent or guardian.”¹⁹ Whether a child has a guardian and, if so, who, is determined by state law. Texas law uses the term “managing conservator” rather than “guardian,” but in this context, the two terms are interchangeable. When a court appoints DFPS the “managing conservator” of a child, DFPS becomes the child’s guardian and has the right to make all the educational decisions a parent would otherwise make.²⁰ Thus, under FERPA, DFPS is entitled to any information held by TEA or a school district about a child for whom DFPS is the managing conservator.

The parent might also continue to have access as a court-appointed “joint conservator” or “possessory conservator.” But sometimes a court will revoke a parent’s right to access, for example, to keep the child safe. The U.S. Department of Education’s (DOE) regulations expressly recognize that a biological parent has no rights under FERPA if a state court has specifically revoked their rights.²¹ (In cases where a court does not name DFPS managing conservator, but wants DFPS to monitor the child’s educational progress, the court can order the biological parent to sign a consent form, allowing DFPS access to the records.²²)

An order naming DFPS as managing conservator makes DFPS a guardian, giving DFPS access as a right, not as an exception. FERPA does have an exception allowing release of records without prior parental consent when needed to comply with a judicial order, such as a discovery order. Under the exception, however, DOE regulations require a reasonable effort to notify the parent before release of records to give the parent an opportunity to contest the order.²³ When a court order makes DFPS the managing conservator, however, the biological parents have already had notice and opportunity to be heard. No notification or further hearing is necessary or appropriate.

5. Revise the Application of Confidentiality Rules by DFPS

The need for information flows both ways, as schools need information about foster children. The Child Abuse Prevention and Treatment Act (CAPTA) and other federal and state laws, however, limit DFPS disclosure of information regarding children and families.²⁴ Like FERPA, though, properly applied these laws are no barrier to DFPS sharing needed information with a child’s school. For example, CAPTA allows states to share confidential child abuse and neglect reports and records with others for a legitimate state purpose²⁵ and mandates sharing with any federal, state, or local government entity needing the information to protect children from abuse and neglect.²⁶ Likewise, the Texas Family Code allows for sharing confidential information for purposes consistent with the code or under rules adopted by DFPS. In their MOU, TEA and DFPS should develop provisions about how and what information DFPS shares with schools.

6. Make the Education Portfolio Web-Based

Earlier we discussed the new education portfolio, which became operational in August 2006. Because the portfolio is not electronic, however, the child’s placement is responsible for keeping it up to date manually. In 2007, DFPS began reviewing the completeness of education portfolios during inspections of child placements. But relying upon foster placements to keep the portfolio up to date manually is to invite errors and omissions. Likewise, a manual portfolio is easily lost between moves. And, if a child moves home with a parent or relative and then back into care, the portfolio will be out of date at best and probably lost. As they grapple with information sharing, TEA and DFPS should design a web-based portfolio that can be readily accessed.

7. Keep More Children in Their Home School

When DFPS removes a child from their home, it usually removes them from their school and enrolls them in whatever school serves the emergency shelter or foster home in which they are placed. Sometimes changing schools is important for the child’s safety, but too often DFPS changes the child’s school because transportation

back to their home school is too impractical, too troublesome, or too costly. Few things would improve the educational performance of foster children more than increasing the number of children who continue in their home school until a change is desirable and an orderly transition can be accomplished.

Texas Education Code § 25.001(g) requires that school districts allow foster students in grades 9 through 12 to continue attending their school of origin, even if the child leaves the area of attendance or the school district altogether, though the school district does not have to provide transportation. The right to attend a school without the transportation to get to the school has practical limits. Nonetheless, providing the right to all foster children to attend their school of origin would help some children.

Other states do allow foster children to remain in their school of origin for the duration of a school year if it is in the child's best interest or other various conditions are met. To substantially increase the number of children staying in their school of origin, however, the state would have to provide funds to either DFPS or school districts for transportation.

8. Apply McKinney-Vento to All Foster Children

The McKinney-Vento Homeless Education Assistance Improvement Act (McKinney-Vento)²⁷ gives protections and educational rights to children who are homeless, including transportation to the school of origin. The school of origin is defined as the school the child attended when the child became homeless or the last school the child attended. The act requires that every school district designate a local liaison whose responsibilities include identifying and enrolling homeless children and providing opportunities for academic success. Each school district must also set aside funds as are "reasonable and necessary" to serve homeless children.²⁸ In addition, under McKinney-Vento, the federal government provides some funding.²⁹

McKinney-Vento's definition of children who are homeless includes those children who are "awaiting foster

care placement." The DOE explains that this covers only children waiting for a foster care placement and excludes children who are in a foster care placement.³⁰ DFPS therefore interprets McKinney-Vento as applying only to those children for whom DFPS has legal custody but has placed in an emergency shelter until DFPS moves them to a foster home. The rights and protections of McKinney-Vento end when a child goes to a foster placement.

Congress could extend McKinney-Vento to all foster children, or Texas could apply McKinney-Vento protections to all foster children. Extending the act without increased funding, however, is of limited help. Under McKinney-Vento, the federal government allocates funding to the states based upon a proxy number, not the actual number of identified homeless children. Consequently, expanding the definition of homeless would not increase federal funding for Texas. The federal government gives Texas less than \$6 million a year. About 190,000 homeless Texas children now receive services.³¹ That works out to \$30 a year each. If all foster children were included, the number receiving services would increase by about 17,000 children,³² but Texas would receive no additional funding.

9. Provide Extra Funding to School Districts with Large Foster Care Populations

Because of the data shortcomings previously discussed, no one can say how many foster children attend school in each school district. Certainly some school districts have a larger number or a higher percentage than others. For example, some districts are home to residential treatment facilities or have a large concentration of foster homes.³³

The Texas Education Code requires schools to enroll foster children based upon their foster placement.³⁴ But the state does not provide schools additional funding for foster children. A concentration of foster children, particularly for a small district, can strain resources. The state should consider adding a funding weight to its school finance formula for foster children. Ideally, funding could cover the higher costs of educating foster children and help reduce the resentment that some districts reportedly have

towards enrolling foster children. With additional funding, districts could better meet the needs of foster children.

CPPP's Practice Recommendations

So far, we have outlined policy recommendations. Here we list different ways that those responsible for foster children could improve educational outcomes through better practice.

DFPS

- Develop a manual about education issues for parents, teachers, caseworkers, advocates, judges, and child welfare professionals.³⁵ While a manual about special education services in Texas already exists, Texas needs a comprehensive manual regarding the spectrum of educational issues of foster children, designed for anyone who works with foster children.³⁶
- Provide additional training beyond basic skills development for caseworkers regarding educational issues.
- Encourage caseworkers to review how foster parents approach homework, extracurricular activities, and school functions.
- Place more emphasis on keeping children in their school of origin by recruiting more foster parents in the communities of origin.
- Ensure that all counties use the court report template developed by DFPS, which includes a section on education for each child.

TEA and School Districts

- Require teachers and school administrators to attend training regarding the best methods of educating foster children.
- Support collaboration with DFPS regional education specialists.
- When enrolling foster children, have a meeting between DFPS, a child's foster placement, the

child (if developmentally appropriate), and school administrators or counselors.

- Develop ways to fairly and effectively deal with behavioral and other problems exhibited by foster children.
- Create supports for foster children, including tutoring, mentoring, credit recovery programs, enrichment and after school programs, and avoid unnecessary re-testing.³⁷

Foster Care Providers

- Emphasize the importance of education, not just children's adjustment to the foster home or behavioral issues, with foster parents and children.
- Highlight education during foster parent training. The Child Welfare League of America (CWLA) recently created a module for foster parent training on being an education advocate and improving educational outcomes for children in care.³⁸
- Develop a Texas educational manual for foster parents similar to the one by the National Foster Parent Association.³⁹

Judges

- Include education issues in judicial training.
- Require a section on education in all court reports⁴⁰ and address educational issues during review hearings.
- Promote collaboration with local school districts on education issues.
- Use the judicial checklist developed by the National Council of Juvenile and Family Court Judges (NCJFCJ), Casey Family Programs, and TEAMCHILD, which includes questions to ask about education at review hearings.⁴¹

Court Appointed Special Advocates

- During initial and continuing training, emphasize material from the National CASA pre-service

curriculum on advocacy for a child's educational needs.

- Develop a Texas education advocacy manual similar to the one created by National CASA for CASA volunteers and staff.⁴²
- Encourage all local CASA chapters to put a section on children's education in all court reports, modeled after National CASA pre-service training curriculum and Texas CASA recommended court report formats, and to refer judges to the judicial checklist for use at review hearings.
- Promote use by local CASA chapters of National CASA E-Curriculum on educational advocacy, based on Casey's *Endless Dreams*.

Children's Lawyers

- Obtain training on education issues in addition to the three hours of continuing legal education already required.
- Use and refer judges to the judicial checklist.
- Advocate for the children's educational needs.

The Legal Center for Foster Children and Education at the American Bar Association provides guidance.

www.abanet.org/child/education

Conclusion

We must improve educational outcomes for Texas foster children. We hope that the recommendations in this policy page are helpful.



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1 Partners include the American Bar Association Center on Children and the Law, American Public Human Services Association, Casey Family Programs, Children's Defense Fund, Child Welfare League of America, Education Law Center (Pennsylvania), Juvenile Law Center, National CASA Association, National Child Welfare Resource Center on Legal and Judicial Issues, National Council of Juvenile and Family Court Judges, National Foster Care Coalition, and National Foster Parent Association.

2 For more information about the NWGFCE, see <http://www.casey.org/FriendsAndFamilies/Partners/NWGFCE/>.

3 For more information about the data used by the NWGFCE, see Educational Outcomes for Children and Youth in Foster and Out-of-Home Care at http://www.casey.org/NR/rdonlyres/A8991CAB-AFC1-4CF0-8121-7E4C31A2553F/1241/National_EdFactSheet_2008.pdf.

4 McNaught, Kathleen, *Mythbusting: Breaking down Confidentiality and Decision-Making Barriers to Meet the Education Needs of Children in Foster Care*, a publication of the American Bar Association and Casey Family Programs (2005), at <http://www.abanet.org/child/education/mythbusting2.pdf>.

5 DFPS 2006 Data Book, p. 84.

6 For information about the 2008 CFSR, see www.dfps.state.tx.us/About/State_Plan/2008_State_Plan/default.asp.

7 For more information about the DFPS Education Initiative, see <http://www.dfps.state.tx.us/About/Renewal/CPS/education.asp>.

8 For more information about Endless Dreams, see <http://www.casey.org/Resources/Publications/EndlessDreams.htm>.

9 For more information about the ETV, see http://www.dfps.state.tx.us/Child_Protection/Preparation_For_Adult_Living/etv.asp.

10 Section 4000 of the CPS Handbook is reserved for the pending education policy. The placeholder is located at http://www.dfps.state.tx.us/Handbooks/CPS/Files/CPS_pg_4000.asp.

11 A Roadmap for Learning: Improving Educational Outcomes in Foster Care – A Framework for Education Practice from Casey Family Programs, Casey Family Programs, 2004, <http://www.casey.org/NR/rdonlyres/FD072CA4-864B-4AE3-8134-D59841FC4508/279/RoadmapForLearning1.pdf>.

12 Texas Education Agency, 2006-07 Pocket Edition.

13 The mission of TEA is to provide leadership, guidance, and resources to help schools meet the educational needs of all students by fulfilling two primary goals: 1) providing education system leadership; and 2) creating a system of operational excellence. See http://www.tea.state.tx.us/stplan/0711_stratplan.doc.

14 See TEA at <http://www.tea.state.tx.us/peims/>.

15 For more information about PEIMS, go to <http://www.tea.state.tx.us/peims/training/orientation.html>.

16 See TEA at <http://www.tea.state.tx.us/peims/standards/0809/ds3.doc>.

17 FERPA, 20 U.S.C. § 1232g(b)(2) can be found at <http://www4.law.cornell.edu/uscode/20/1232g.html>.

18 FERPA applies to all schools that receive funds under an applicable program of the U.S. Department of Education, 20 U.S.C. Section 1232g; 34 CFR Part 99.

19 FERPA, 34 CFR 99.3.

20 Texas Family Code § 153.371(3) & (10).

21 34 Code of Federal Regulations § 99.4.

22 A sample of this form is located in Appendix A of Mythbusting, cited in endnote 4.

23 34 CFR § 99.31(a)(9)(i)&(ii).

24 Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. 5101 et seq; 42 U.S.C. 5116 et seq., 45 CFR 1340, Adoption Assistance and Child Welfare Act (AACWA), 42 U.S.C. §§ 671(a)(8), 675(1), 675(5)(D), 45 CFR 1355.21(a), 1356.20(a), 1355.30, 205.10, and Texas Family Code Section 261.201(a).

25 CAPTA, Section 106(b)(2)(A)(viii).

26 CAPTA, Section 106(b)(2)(A)(ix).

27 The McKinney-Vento Homeless Education Assistance Improvement Act (McKinney-Vento) reauthorized and amended as part of No Child Left Behind (NCLB) Act of 2001, 42 U.S.C. 11432, 11434a.

28 NCLB, Section 1113(c)(3)(A).

29 For more information about how Texas addresses the educational needs of children who are homeless, visit the Texas Homeless Education Office at <http://www.utdanacenter.org/theo/>.

30 Education for Homeless Children and Youth Program, McKinney-Vento, Non-Regulatory Guidance, U.S. Department of Education (July 2004) at http://www.serve.org/nche/downloads/guidance_jul2004.pdf.

31 Source: Texas Homeless Education Office.

32 Source: DFPS. This figure was calculated based on the number of existing education portfolios for children in substitute care. It does not capture all children in substitute care enrolled in school.

33 Reportedly, Lometa, Killeen, and Corsicana have been particularly affected. All three areas either have high concentrations of foster homes or residential treatment centers within their school district borders.

34 Texas Education Code §§ 25.001(b)(7), 29.012(c), and 25.001(f).

35 For more information, see Make a Difference in a Child's Life at www.teamchild.org/resources.html, Addressing the Educational Needs of Children in Foster Care: A Guide for Judges, Advocates, and Child Welfare Professionals at New York State Permanent Judicial Commission on Justice for Children, <http://www.nycourts.gov/ip/justiceforchildren/PDF/EducationalNeeds.pdf>, and What Arizona Schools Need to Know about Children in Care: A Guide for Teachers, Administrators, Foster Parents, and Case Managers at <http://www.azed.gov/schooleffectiveness/specialpops/homeless/fostercarebooklet.pdf>.

36 It's a New IDEA! The Manual for Parents and Students about Special Education Services in Texas, at <http://www.advocacyinc.org/handoutEducation.cfm>.

37 For more discussion of educational and other challenges faced by children aging out of care, please see All Grown Up and Nowhere to Go: Teens in Foster Care Transition (CPPP 2002), p. 12, at <http://www.cPPP.org/files/4/allpercent20grownpercent20up.pdf>.

38 The module, PRIDE Advanced and Specialized Training: Working Together to Improve the Educational Outcomes for Children in Care, is available for purchase through CWLA, at <http://www.cwla.org/pubs>.

39 See Educational Advocacy Curriculum for Foster Parents by the National Foster Parent Association at <http://www.nfpainc.org>.

40 In Travis County, the local judges mandated that a section on education be included in all CPS court reports submitted in that jurisdiction.

41 For more information about the checklist, please see <http://www.abanet.org/child/education/NCJFCJChcklist.pdf>.

42 For more information about Education and Children in Out-of-Home Care, an E-Learning Module by the National CASA Association, contact your local CASA office or the National CASA Association at staff@nationalcasa.org.