



TEXAS

**Department of Family
and Protective Services**

Child Protective Services

**Education for Children
Resource Guide**

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ROLE OF THE CASEWORKER

See [15100](#) The Role of DFPS in Ensuring Education Stability and Success.

In addition to the tasks described there, the caseworker should also encourage regular school attendance and work with the child, caregiver and school staff to ensure that the child's caregiver submits documentation for excused absences.

Texas Education Code [§25.087\(b\)\(1\)\(F\); \(b\)\(2\); \(g\)\(g1\)](#)

THE MCKINNEY-VENTO HOMELESS EDUCATIONS ACT

Section [15111](#) When a Child is in Parental Child Safety Placement (PCSP) or an Emergency Shelter refers to the McKinney-Vento Homeless Education Act.

A child may be eligible for services under the McKinney-Vento Homeless Education Act if the child is:

- currently living in, or being moved to, an emergency or transitional shelter, domestic violence center, or other transitional living situation while waiting for a more permanent or appropriate placement; or
- temporarily moved from the home for safety reasons through a Parental Child Safety Plan (PCSP).

This federal law allows a child to remain in the child's "school of origin" while the child is homeless, and requires a school to enroll a child who is homeless immediately, even without documentation that the school usually requires.

The federal law directs each school district to name a McKinney-Vento Homeless Education Liaison who:

- facilitates immediate school enrollment;
- arranges for school transportation with the emergency or transitional shelter;
- obtains school records from the school the student last attended;
- assists in obtaining immunizations or medical records; and
- enrolls the student in the National School Lunch Program, a federally assisted meal program.

In addition, state law requires the Texas Education Agency to assist the transition of students who are homeless from one school to another by, among other things:

- ensuring prompt transfer of records;
- developing procedures for awarding credit, including partial credit if appropriate, for course work completed by a student who is homeless while enrolled at another school;
- requiring school districts, campuses, and open-enrollment charter schools to accept a referral for special education services made for a student who is homeless by a school previously attended by the student; and
- developing procedures for allowing a student who is homeless and was previously enrolled in a course required for graduation the opportunity to complete the course, to the extent practicable, at no cost to the student, before the beginning of the next school year.

Per current policy the caseworker must instruct the caregiver to contact the school district McKinney Vento Liaison for available services.

EARLY CHILDHOOD EDUCATION PROGRAMS FOR CHILDREN

REFERRALS TO EARLY CHILDHOOD INTERVENTION (ECI)

Early Childhood Intervention (ECI) is a statewide program that provides services to families with a child with disabilities or developmental delays, from birth to age 3.

See [15211.1](#) Referrals to Early Childhood Intervention (ECI). This section contains rules for referring a child to ECI.

Per current policy, the caseworker completes the [CPS Referral Form 0789 to ECI](#) and sends the completed form to the local ECI provider.

Consent for a Child to Receive ECI Services

The person authorized to make education-related decisions for the child must consent for the child to receive ECI services. This person may be the foster parent, a surrogate parent appointed by ECI or the judge, or, in some cases, the birth parents, if they retain education decision making authority. The caseworker is not authorized to consent for the child to receive ECI services.

Written Authorization to Release Records to CPS

The person authorized to make education-related decisions provides written authorization to release records to CPS. Although ECI services are based on the child's needs, ECI delivers services to the child and caregiver; therefore ECI requires this authorization regardless of the conservatorship status.

Caseworker Copies of ECI Records

The caseworker gets a copy of ECI records. Federal law considers ECI records as education records for purposes of confidentiality. However, CPS will continue to house ECI records under the medical section of the external documentation case file and document in the Medical Log in IMPACT.

PRE-KINDERGARTEN PROGRAMS OFFERED THROUGH THE PUBLIC SCHOOLS

See [15212.1](#) Pre-Kindergarten Programs Offered Through the Public Schools.

Caseworkers may get Letters of Verification for pre-kindergarten enrollment from their regional education specialists.

Children who turn age 5 after September 1 of the school year, and are not eligible for kindergarten enrollment, are eligible for pre-kindergarten enrollment.

The CPS Regional Education Specialist can provide information on pre-kindergarten programs offered at local public schools and Head Start programs. The CPS Regional Child Care Coordinator can address any questions on child care options.

Most public schools only enroll children in pre-kindergarten programs at the beginning of the school year. Caregivers should contact the local school district for enrollment policies.

Children ages 3, 4 and 5 years old who are enrolled in a pre-kindergarten program at a local public school require an Education Portfolio.

HEAD START

Head Start is a federally-funded early childhood education program available in many communities for children under the age of 5. Children in foster care are categorically eligible for Head Start (ages 3-5) and Early Head Start (ages 0-3), but any child may be put on a waiting list because of enrollment capacity.

Foster parents or caregivers of a child in conservatorship do not have to share personal or family financial information with Head Start in order to be determined eligible.

The process for applying for Head Start may be completed by email.

See [15212.2](#) Head Start Programs.

EXCEPTIONS TO STANDARD SCHOOLING OPTIONS FOR CHILDREN AND YOUTH AGES 5 THROUGH 21

CHOOSING A PUBLIC SCHOOL OR RESIDENTIAL TREATMENT CENTER (RTC) PROGRAM

Residential Treatment Centers (RTCs) must provide education services to students either through the public schools or by offering on-campus schools accredited by the Texas Education Agency. When a child in DFPS conservatorship is placed in an RTC, the caseworker may direct that the child be served by the local public school, even if the RTC operates an open-enrollment charter school program at the center.

See [15231](#) Choosing a Public School or Residential Treatment Center (RTC) Program.

PRIVATE SCHOOL OR BOARDING SCHOOL

Education is a state-mandated service available free of charge through the public school system. If a caregiver elects to pay for private school, the caseworker should ensure that the school is accredited by the Texas Private Schools Accreditation Commission (TEPSAC). The school must meet all the needs of the child or youth, including a student with disabilities eligible to receive special education and related services.

See TEA's link to the TEPSAC website <http://www.tepsac.org> for a list of accredited private schools and see TEA's list of 2015-2016 Nonpublic Schools for Students with Disabilities Approved for Contracting Purposes. <http://tea.texas.gov/WorkArea/DownloadAsset.aspx?id=25769822364>

To request an exception to the requirement for standard schooling, to allow the child to attend private school or a boarding school, follow procedures in [15237](#) Requesting an Exception to Standard Schooling.

See [15232](#) Private School or Boarding School.

TEXAS VIRTUAL SCHOOL NETWORK (TXVSN) AND VIRTUAL SCHOOLS

The Texas Virtual School Network ([TxVSN](#)) is an online education program offering supplemental virtual high school courses statewide, and a full-time online school option. Students participating in the program are not required to be physically present on campus during instruction. TxVSN is accredited by the Texas Education Agency.

Students in DFPS conservatorship may use TxVSN to access online classes not offered in their school community or complete a class that was interrupted by placement change. Students in DFPS conservatorship should not be allowed to participate in TxVSN full time instead of attending a local public school.

Online schools may be an attractive choice for students experiencing a fragmented education, but a child's education must also address the social and emotional needs that contribute to the child's well-being.

To request an exception to the requirement for standard schooling to allow the child to participate full time in TxVSN, follow procedures in [15237](#) Requesting an Exception to Standard Schooling.

EDUCATION SERVICES FOR CHILDREN IN NURSING HOMES OR HOSPITALS, OR WHO ARE HOMEBOUND

School-age children placed in nursing homes or hospitals, or who have severe medical needs, are entitled to attend school and receive educational services.

The child's physician and the Admissions, Review, and Dismissal (ARD) Committee must agree that the child is too fragile to attend school.

Educational services are provided by the local school district in the nursing home or hospital, or through "homebound" instruction. Homebound instruction is not considered home schooling.

See [4229](#) Nursing Homes.

The student must:

- be age 6 years or older,
- be eligible for special education and related services as determined by an Admission, Review, and Dismissal (ARD) committee;
- be expected to be confined at home or hospital bedside for a minimum of four weeks (the weeks need not be consecutive);
- be confined at home or hospital bedside for medical reasons only; and
- have a medical condition documented by a physician licensed to practice in the United States.

See [15235](#) Education Services for Children in Nursing Homes or Hospitals, or Who Are Homebound.

WITHDRAWING A STUDENT FROM SCHOOL

There is no standard practice across the state for withdrawing a student from school. The caregiver contacts the school registrar for the school policy on withdrawing a student or transferring records.

If the child is in paid foster care or is changing placement and staying in the same school is not possible, the caregiver is responsible for withdrawing the student from school. The caregiver provides verification and school records to the caseworker, including the withdrawal notice. The student will need the school's official withdrawal notice in order to enroll in the next school.

THE EDUCATION DECISION-MAKER

DESIGNATING AN EDUCATION DECISION-MAKER

The education decision-maker should generally be the person responsible for the day-to-day care for the child. For a child in a foster home, the education decision-maker will generally be the foster parent. For a child who is placed in a residential treatment facility (RTC) or General Residential Operation (GRO), DFPS may designate the RTC or GRO's educational liaison to the school. The education decision-maker could be a DFPS caseworker in some cases. A biological parent may, in some cases, retain the rights to make education decisions for the child. The court order will specify what education decisions the birth parents have.

The caseworker designates the education decision-maker on [Form 2085E](#) Designation of Education Decision-Maker. If the court or school has appointed a surrogate parent for the child for special education

decision-making purposes, the caseworker should include the name and contact information in the Form 2085E.

See [15371](#) Designating an Education Decision-Maker.

RIGHTS AND RESPONSIBILITIES OF THE EDUCATION DECISION-MAKER

Unless otherwise indicated on [Form 2085E](#) Designation of Education Decision-Maker the education decision-maker must:

- enroll a child in a school chosen by DFPS, including providing identification and immunization records needed for enrollment;
- determine, with the child's contribution if appropriate, course selection and participation in academic electives and activities;
- determine whether a child should participate in special programs such as compensatory education, bilingual education, Gifted and Talented; after-school tutoring, etc.;
- attend routine school activities, such as "Parent's Night," parent-teacher conferences, PTA meetings, and similar activities that involve parents;
- approve the child's activities in routine or non-routine school activities such as track and field day, museum or field trips, etc.;
- be notified of injury or illness at a school activity on or off school grounds;
- sign agreement with the Student Code of Conduct, and, as applicable, assist the youth in understanding the Code of Conduct;
- sign the annual directive from school prohibiting the use of corporal (physical) punishment for the child in foster care;
- receive report cards, permission slips, and other routine school correspondence, including receiving homework assignments on behalf of the child if necessary;
- have access to education records and the Education Portfolio;
- be notified of and take action regarding disciplinary or attendance matters; and
- determine when a referral for special education evaluation is necessary or makes a referral for an evaluation.

RIGHTS AND RESPONSIBILITIES OF THE SCHOOL

A school is required to provide notice to the child's educational decision-maker and caseworker of events that may significantly impact the education of the child. This includes:

- requests for referrals for an evaluation under [Section 504](#), Rehabilitation Act of 1973 or special education under the Texas Education Code, [§29.003](#);
- Admission, Review, and Dismissal (ARD) committee meetings;
- Manifestation Determination Reviews (held to determine whether a child's actions are a manifestation of his or her disability) required by the Texas Education Code, [§37.004\(b\)](#);
- any disciplinary action under [Chapter 37](#) of the Texas Education Code for which parental notice is required;
- citations issued for Class C misdemeanor offenses on school property or at a school-sponsored activities;
- reports of restraint and seclusion required by the Texas Education Code [§37.0021](#); and
- use of corporal punishment as provided by the Texas Education Code [§37.0011](#).

Texas Education Code [§25.007\(b\)\(9\)\(A-G\)](#)

The school is required to:

- keep [Form 2085E](#) Designation of Education Decision-Maker with the student's other privacy-protected education records;
- ensure records are transferred within ten days when a student changes school; and
- notify the DFPS caseworker and/or the education decision-maker of significant school events as required by law and stated on Form 2085E Designation of Education Decision-Maker.

SURROGATE PARENTS FOR CHILDREN WITH DISABILITIES

The surrogate parent has specific responsibilities to represent the student's best interest in the education setting. The surrogate parent will:

- give permission for assessments;
- participate in Admission, Review, and Dismissal (ARD) committee meetings;
- participate in the development of the Individual Education Program (IEP); and
- receive all correspondence related to the student and his or her special education needs.

The surrogate parent must complete training within 90 days of being appointed by the school or the court.

Employees of a State, local or any other public agency that is involved in the education or care of the child in conservatorship may not serve as a surrogate parent for a child in conservatorship. However, a surrogate parent must confer with the DFPS caseworker and other individuals involved with the child in making decisions related to special education services.

For more information, see [15372](#) Surrogate Parents for Children With Disabilities.

REQUIRED NOTIFICATION OF SCHOOL-RELATED INFORMATION

A child welfare worker or other representative of a state or local child welfare agency or tribal organization has the right to access any of the educational records that a parent could access for a child in DFPS conservatorship. The student's education records remain confidential and cannot be disclosed to an individual or organization not involved in addressing the student's educational needs. A court order is not required for child welfare workers and representatives to access a student's educational records.

A caseworker may contact the regional education specialist or the school district foster care liaison for assistance.

*Uninterrupted Scholars Act (USA), Sec 2 Family Education Rights and Privacy Section
444(b) [20 U.S.C. 1232g\(b\)](#)*

The caseworker has the right to:

- access the child's education records;
- select the appropriate school for the child and enroll the child;
- receive notification regarding:
 - disciplinary hearings,
 - Manifestation Determination Review (held to determine whether a child's actions are a manifestation of his or her disability),
 - use of physical restraints and/or seclusion,
 - truancy,
 - suspension,
 - Class C misdemeanor tickets, or
 - removal to a Disciplinary Alternative Education Program (DAEP) or Juvenile Justice Alternative Education Program (JJAEP); and

- receive notification of all education-related activities which involve Section 504 of the Rehabilitation Act, and special education Admission, Review, and Dismissal (ARD) committee meetings.

Per existing policy, the caseworker must also inform certain individuals about notifications of education-related events. See [15373](#) Required Notification of School-Related Information.

MAINTAINING CONFIDENTIALITY FOR CHILDREN AND YOUTH WHILE ENROLLED IN SCHOOL

School staff may ask a DFPS caseworker for certain information about a child's relationship or involvement with DFPS. The information that can be shared depends on a number of factors:

- the type of information requested;
- the person needing the information;
- the purpose for which school staff need the information;
- what stage the case is in.

Releasing Information on a Child Not in DFPS Conservatorship

The parent or legal conservator of the child generally must give consent to any release of information for a child whose case is in the *Investigation* or *Family Preservation* stage but is not in DFPS conservatorship.

This applies to verbal or written information about the child or any family member.

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

Releasing Information on a Child in DFPS Conservatorship

For a child in DFPS conservatorship, whose case is in the *Conservatorship* or *Adoption* stages, the caseworker and the caregiver decide how much information a school needs to know about the child's situation to best meet the child's needs.

Per existing policy, the caseworker must **never** disclose the names of the perpetrators or the roles of the family members in the abuse and neglect history.

It is generally appropriate for CPS to share the following types of information with relevant school personnel:

- current DFPS [Form 2085E](#) and [Form 2085](#);
- the fact that the child is in foster care or in a relative or kinship placement;
- the child's current address;
- the caseworker's contact information;
- the child's birth certificate or other identification;
- previous schools the child attended;
- transcripts and report cards;
- special education or 504 documents, including any ARD/IEP reports or Behavior Intervention Plans;
- immunizations;
- vision or hearing evaluations; and
- Medicaid eligibility or number, if necessary for services.

Information That May Be Shared

Based on a case-by-case determination by the DFPS caseworker or caregiver, it **may be** appropriate to share:

- relevant court orders;

- contact information for the biological family;
- the child's relevant medical, disability or health history;
- mental or behavioral health issues;
- medications, including psychotropic medications;
- alcohol or substance abuse history and/or treatment (requires consent of all parties, including youth);
- social history; and
- history with law enforcement or juvenile justice.

Information That May Never Be Shared

Per existing policy, it is **NEVER** appropriate to share:

- abuse or neglect history, unless directly related to the child's education needs;
- the fact that the child was adopted;
- the name of the person who reported the abuse or neglect,
- CPS investigation details; and
- biological or foster family income.

See [15373.1](#) Confidentiality.

THE EDUCATION PORTFOLIO

Importance of the Education Portfolio

The Education Portfolio serves several important purposes for a child in conservatorship. Primarily it serves as a way to have in one place all the education-related documents needed to ensure that the child receives the most appropriate educational placement and services, and to facilitate the child's transfer between schools. The Education Portfolio is reviewed and used by:

- the child;
- the child's caregiver;
- the child's parent;
- the child's education decision-maker (if someone other than the caregiver);
- the child's surrogate parent, if applicable;
- the CASA representative; and
- the child's caseworker and other DFPS staff.

The Education Portfolio is a compilation of a child's school records and is intended to follow the child to his or her foster home placement, including staying with the child if and when the child changes foster home or school placements. It serves as a valuable resource for tracking appropriate educational and ancillary services, assessments, report cards, and transcripts.

When a school-age child (Pre-kindergarten to Grade 12) is removed from his or her home of origin and DFPS is granted conservatorship, the caseworker must create a record (usually a green binder) containing all the key education documents regarding the child. The caseworker must maintain these documents while the child is in conservatorship. Many of the documents in the child's education record in the case file will go into the Education Portfolio, but some will not. For example, full psychological assessments, or counselling treatment notes must not be included in the child's Education Portfolio. However, all documents in the Education Portfolio must also be included in the case file.

See [15400](#) The Education Portfolio and its subitems.

The Role of the Caregiver in Maintaining the Education Portfolio

While the caseworker creates the Education Portfolio, the caregiver has certain responsibilities regarding the Education Portfolio. The caregiver must:

- Make the Education Portfolio readily available to DFPS caseworkers, CASA representatives, the child's attorney ad litem, guardian ad litem, the court, the education decision-maker, the surrogate parent, on all visits with the child.
- Maintain and update the Education Portfolio for each child in care.
- Provide the child's Education Portfolio to the DFPS caseworker when a child is discharged from the caregiver's home, and ensure that it contains the current education-related documents and records, including paperwork on the child's most recent withdrawal from school.

See [Maintaining Confidentiality for Children and Youth While Enrolled in School](#) in this Guide.

DISCIPLINE OF CHILDREN IN DFPS CONSERVATORSHIP IN THE SCHOOLS

DISCIPLINE STRATEGIES AND RESTRICTIONS FOR CHILDREN WITH DISABILITIES WHO ARE, OR MAY BE, ELIGIBLE FOR SPECIAL EDUCATION SERVICES

Manifestation Determination Review

Manifestation Determination Reviews are assessments of whether a child's behavior is related to his or her disability.

Any use of restraints requires documentation in a child's Individual Education Plan (IEP), Behavior Improvement Plan (BIP), or both. Restraints, specifically, may be used on a child only in an emergency by staff trained to use restraints. Written notice must be given to the child's caregiver. If the caregiver is notified of an incident involving restraints used on a child, the child's caseworker must be contacted immediately.

Texas Administrative Code, Title 19, Education, [§89.1053\(c\)](#)

EDUCATION RESOURCES

SCHOOL DISTRICT FOSTER CARE LIAISONS

Each school district in Texas names a foster care liaison to facilitate the school enrollment process for children and youth in foster care. The School District Foster Care Liaison is also responsible for assisting the caseworker and caregiver in securing necessary school transcripts from the school the student previously attended no later than the 10th working day after the date the student begins enrollment.

Texas Education Code [§33.904](#), [§25.007\(b\)\(1\)](#)

See the [Texas Education Agency website](#) for information about school district foster care liaisons.

The foster care liaison must:

- work with the school registrar and staff to provide seamless enrollment for children and youth in foster care;
- ensure children and youth in foster care are immediately enrolled in the U.S.D.A. child nutrition programs without further application. This includes the National School Lunch Program/School Breakfast Program (NSLP/SBP) Special Milk Program (SMP), Fresh Fruit and Vegetable Program (FFVP), Summer Food Service Program (SFSP), and the Child and Adult Care Food Program (CACFP). DFPS Placement Authorization [Form 2085](#) confirms eligibility for these programs;

- ensure children and youth in foster care are placed in the appropriate grade level and receive books for their courses;
- secure special education services or accommodations under Section 504 for children and youth entering the school district;
- coordinate the withdrawal process from the child's previous school if necessary, record transfers within 10 days, and direct students to credit recovery programs, if appropriate;
- work with DFPS to maintain school placement and education stability;
- encourage student participation in extracurricular activities;
- direct students to appropriate staff in preparing transition plans and Personal Graduation Plans; and
- ensure information is available to high school students on preparing for transition to post-secondary opportunities.

See the TEA [Foster Care and Student Success Resource Guide](#).

PERSONAL GRADUATION PLANS (PGP)

All students entering 9th grade will have a Personal Graduation Plan (PGP) developed by a school counselor or school administrator in collaboration with the student and the student's parent. Before the end of the 9th grade school year, the student and his or her parents must confirm and sign a Personal Graduation Plan, which must identify a course of study that:

- promotes college and workforce readiness;
- promotes career placement and advancement; and
- facilitates the student's transition from secondary to postsecondary education.

Students may change their personal graduation plans, but if they do, their school must send written notice to their parents.

Texas Education Code [§28.02121](#)

The caseworker must keep the Personal Graduation Plan (PGP) in the student's Education Portfolio and the case file. See [15410](#) Education-Related Documents Required for the Education Portfolio.

CREDIT RECOVERY PROGRAMS

Local public schools offer credit recovery programs to assist students who have not earned credit for classes required for high school graduation. Caseworkers may consult the Regional Education Specialist for assistance in working with the schools for student resources and services. Caseworkers will contact the School District Foster Care Liaison or school counselor for referral for services.

SCHOOL SERVICES FOR CHILDREN WITH DISABILITIES

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

Federal law requires that states maintain policies and procedures to provide a free and appropriate public education to every child with a disability who is between the ages of 3 and 21.

Individuals With Disabilities Education Act (IDEA) [20 USC §1400](#)

The Texas Education Agency (TEA) is responsible for the implementation of this law in Texas. TEA establishes policies and administrative procedures that local independent school districts (ISDs) must follow.

Required Public Education Services Under IDEA for Children With Disabilities

The public education system serves children with disabilities by taking the following steps (see [20 USC §1411](#), IDEA, et seq):

- Identify children with disabilities.
- Evaluate or assess such children, using nondiscriminatory, multidisciplinary means.
- Develop an Individual Education Program or Plan (IEP) for each eligible child and update the IEP annually.
- Involve the child's parents (or surrogate parents) in developing the IEP.
- Provide educational, vocational, and related services in the least restrictive environment consistent with the child's academic, social, and physical needs. Examples include special transportation, physical and occupational therapy, rehabilitation counseling, and psychological services.
- Educate a student who has a disability with non-disabled peers, unless an Admissions, Review, and Dismissal (ARD) committee determines that the student's IEP cannot be implemented in the general education environment, even with the provision of supplementary aids and services.
- Place students in a residential facility when they need residential placement to receive appropriate education services, as determined by the ARD Committee.
- Provide transportation to and from school, if needed for the child to receive an appropriate education.
- Provide a hearing and appeal process to address complaints and grievances.
- Annually ensure that the IEP for youth who are 14 years old or older includes a description of the transitional services to be provided to help the youth enter adulthood after leaving school.

For more information, the caseworker consults with the Regional Education Specialist.

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 of the Rehabilitation Act of 1973 protects the rights of individuals with disabilities in schools that receive federal funds. The Rehabilitation Act requires reasonable and appropriate accommodations for children whose disabilities affect their learning, but who may not meet the eligibility of having a disability under the IDEA.

The Section 504 regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of students without disabilities are met.

CONDITIONS THAT MAKE A CHILD ELIGIBLE FOR SPECIAL EDUCATION SERVICES

The IDEA requires schools to provide services for children with the following disabilities:

- Autism
- Deaf-blindness
- Deafness
- Developmental delay
- Emotional disturbance
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment

- Other health impairment (can often include ADHD)
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury
- Visual impairment, including blindness

THE ROLE OF SURROGATE PARENTS IN THE EDUCATION OF CHILDREN WITH DISABILITIES

Federal law mandates that schools involve parents in the education planning process for a child with a disability. If a child is in DFPS conservatorship or may be eligible for special education services, the school (or, more rarely, the court) appoints a “surrogate parent” to represent the child’s rights relating to special education services. The caseworker supports the surrogate’s participation with information, referrals, and resources.

Per existing policy, if a surrogate is appointed, the caseworker must include this information in [Form 2085E](#) Designation of Education Decision-Maker and file the form with the court no later than five days after the Adversary Hearing. See [15372](#) Surrogate Parents for Children with Disabilities.

Under state law, the surrogate parent must:

- complete surrogate parent training within 90 days of appointment;
- meet with the child;
- visit the child’s school;
- consult with the persons involved in the child’s education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caregivers;
- review the child’s educational records;
- participate in the educational planning process by attending meetings of the child’s Admission, Review, and Dismissal (ARD) committee;
- exercise independent judgment in pursuing the child’s interests; and
- exercise the child’s due process rights under state and federal law.

Eligibility to Serve as a Surrogate Parent

State employees (including DFPS caseworkers or TEA employees) or employees of a school district or other agency that is involved in the education or care of a child are prohibited from serving as a surrogate parent for a child. Foster parents are not prohibited from being a child’s surrogate parent; in fact, foster parents are often in the best position to advocate for a child in their care. A school district must give preference to the foster parent when selecting a surrogate parent if DFPS is the managing conservator.

A foster parent may request to be the child’s surrogate, if:

- the child has lived in the foster parent’s home for at least 60 days; and
- the foster parent:
 - does not have a conflict of interest;
 - agrees to participate in the education decisions; and
 - completes the mandatory training.

Texas Education Code [§§29.001\(10\); 29.015](#)

Training Requirement

Training is available from DFPS, individual school districts, education services centers, or any entity funded to offer training on the Individuals with Disabilities Education Improvement Act (IDEA). The caseworker must inform an interested foster parent to notify the school district and sign up for the surrogate parent training, or refer them to the Regional Education Specialist.

The training must be completed within 90 days after a surrogate parent is appointed.

Texas Education Code [§29.001\(10\)](#)

Texas Administrative Code, Title 19, Education, [§89.1047\(b\)\(1\)](#)

DENIAL OF A FOSTER PARENT AS SURROGATE PARENT

If a school district refuses to appoint an eligible foster parent as a surrogate parent under Texas Education Code [§29.015](#), the district must give written notice of the reason.

A foster parent who has been denied appointment as a surrogate parent may file a complaint with the Texas Education Agency.

Texas Education Code [§29.015\(c\)](#)

THE ADMISSIONS, REVIEW, AND DISMISSAL (ARD) COMMITTEE AND THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

The Individuals with Disabilities Education Act (IDEA) requires states to provide a free public education to all children with disabilities between ages 3 and 21.

The act mandates that the public education system develop an Individual Education Plan (IEP) for each eligible child with a disability.

An Admissions, Review, and Dismissal (ARD) committee develops the IEP. The committee includes the child's parents or surrogate parent, selected school personnel, and other interested persons required or allowed by the law.

The ARD committee meets at least annually to discuss the child's educational progress and needs for the academic year.

TRANSITION PLANS FOR YOUTHS AGE 14 WHO ARE RECEIVING SPECIAL EDUCATION SERVICES

For information on the transition plans developed by the Admissions, Review, and Dismissal (ARD) Committee and for required for youth age 14 who are receiving special education services, the caseworker must consult with the Regional Education Specialist or the Regional Developmental Disability Specialist.

See [20 U.S.C. §1414 \(d\)\(1\)\(i\)\(VIII\)](#) Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements.

DENIAL OF SERVICES AND DUE PROCESS RIGHTS OR DENIAL OF EDUCATION-RELATED SERVICES

If a school district denies a request from a foster parent or surrogate parent to meet with the ARD Committee to discuss special education services for a child or if the district changes a child's education program without first consulting with the ARD Committee, the caseworker should take actions listed in [15722](#) Denial of Services and Due Process.

Detailed information about options and sample letters are available in an IDEA Manual, The Arc of Texas and Disability Rights Texas. A copy of the IDEA Manual is available from the Education Program Specialist in the DFPS state office, the Region Education Specialist, the Developmental Disability Specialist, the local school districts, The Arc of Texas or Disability Rights Texas.

Role of the Caseworker

To meet the needs of children with disabilities, a caseworker should:

- stay alert to information from parents, caretakers, daycare, medical, and other professionals that may indicate that a child has a disability or a developmental delay;
- monitor the educational planning process for the child to make sure that a child's educational needs are adequately addressed at every age; and
- support the process by ensuring that pertinent social, legal, and placement information from DFPS is available to the planning team.

To perform these functions, the caseworker should be familiar with:

- what the school is required to do by state and federal law;
- how the school's planning process works; and
- how denial of services or other adverse decisions can be challenged.

For more information, the caseworker should consult with the Regional Education Specialist.

TUITION AND FUNDING FOR POST-SECONDARY EDUCATION**EXEMPTIONS FROM COLLEGE TUITION****Criteria for Exemption from Tuition**

Many youth who are now or were in DFPS conservatorship qualify for an exemption from tuition and most fees for undergraduate studies at state institutions of higher learning in Texas.

See [10312](#) College Tuition and Fee Waiver Exemption for Foster Youth, Adopted Youth, and Youth in Permanent Managing Conservatorship (PMC).

Eligibility for Certain Adoptees

A tuition and fee waiver may be available to students who were adopted and were the subject of an adoption assistance agreement. Under state law, such students are exempted from tuition and most fees at state institutions of higher learning in Texas.

See [10313](#) College Tuition and Fee Exemption for Youth Who Have Been Adopted.

THE EDUCATION AND TRAINING VOUCHER PROGRAM

For information on the Education and Training Voucher (ETV) Program, see [10320](#) Education and Training Voucher (ETV) Program.

Topics include:

- age and academic qualifications for ETV;
- eligibility criteria regarding foster care and adoption;
- ongoing requirements after the initial qualification;
- schools that ETV recipients may attend; and
- allowable voucher expense.