



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

**PRELIMINARY REPORT
OF THE EDUCATION COMMITTEE**

TO

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

DECEMBER 31, 2010

SUBMITTED BY:

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

Judge 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

Special thanks to Kathleen McNaught, Assistant Staff Director of Child Welfare and Project Director of the Legal Center for Foster Care and Education at the American Bar Association Center on Children and the Law



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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 and/or siblings, and in all likelihood, 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 two systems – child protection and education – two systems with some overlap but little 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's happening nationally.¹

¹ 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

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.²

In 2008, the federal *Fostering Connections to Success and Increasing Adoptions Act of 2008*, the most sweeping child welfare law in a decade, was passed. The Act includes important provisions regarding the educational stability of foster youth, including a requirement that Child Protective Services (CPS) 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, if at all possible, the child should remain in his current school. If the child must change schools, he is entitled to immediate and appropriate enrollment and transfer of school records. *Fostering Connections* 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. Passage of this act highlights the importance of improving educational outcomes of foster children and youth across the country.

Creation of the Education Committee

In October 2009, the National Center for State Courts held its third National Judicial Summit in Austin, which was attended by Supreme Court Justices 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 kids in care and keeping foster 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, would collaboratively address this important issue.

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 388th District Court in El Paso, as the chair of the committee. The membership of 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, 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

² Source: 2008-2009 PEIMS data.

- 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
- Judge 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.³

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

³To view the order in its entirety, see:

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

Inaugural Meeting

On September 30-October 1, 2010, the Education Committee held its inaugural meeting in Bastrop.⁴ The meeting was historic in that it brought together leaders from the education and child protection systems and it was attended by: the Honorable Patricia Macias, the Honorable Cheryl Shannon, Judge Rob Hofmann, Audrey Deckinga, Assistant Commissioner for CPS on behalf of Commissioner Heiligenstein, Commissioner Robert Scott, Dr. Johnny L. Veselka, Joy Baskin, Claudia Canales, Lori Duke, Estella Sanchez, Carolyne Rodriguez, Mari Kay Bickett on behalf of Joe Gagen, and Carl Reynolds, Administrative Director of the Texas Office of Court Administration. Kathleen McNaught, Assistant Staff Director of Child Welfare and Project Director of the Legal Center for Foster Care and Education at the American Bar Association Center on Children and the Law, facilitated the meeting.

The meeting opened with remarks by Justice Harriet O'Neill (ret.), Chair Emeritus of the Permanent Judicial Commission for Children, Youth and Families (Children's Commission). Justice O'Neill provided background information regarding the history of the Children's Commission and acknowledged the accomplishments of the commission's standing committees. She emphasized that the success of the Children's Commission rests on having the right people at the table and that is why the participation of the Texas Education Agency, the Texas Association of School Boards, and the Texas Association of School Administrators is critical to the success of the Education Committee. Texas is unique to have the support of the state Supreme Court, the legislature, and the highest levels of the education systems to address the issue of education of foster youth. The development of a comprehensive solution to address the educational outcomes of foster youth in Texas will likely serve as a model program for the rest of the nation and strategies and solutions developed by this committee will be replicable beyond the foster care population.

Committee members, guests, and staff introduced themselves and articulated their goals for the committee. After the introductions, the committee reviewed the charge given to them by the Supreme Court in its Order Establishing Education Committee of Permanent Judicial Commission for Children, Youth and Families.

Meeting participants then engaged in a short exercise to illustrate the impact of foster children's placement moves on their education. Each attendee was asked to answer a set of math word problems. Shortly after the "testing" began, a couple of committee members were approached and told to remove personal items from their pockets and place them in a plastic bag. Then, the selected members were told to move to another area of the room, where they had to start

⁴ The work of this committee will be supported by Court Improvement Program Basic Grant funds administered by the Children's Commission.

the test again. Throughout the course of the exercise, at least two people were told to move repeatedly. The moves were disruptive and caused the members who relocated to lose the ability to concentrate.

Ms. McNaught then gave a “Child Welfare 101” presentation, which included information regarding how quickly CPS legal cases move through the court system and the possible long-term placement options for children, such as reunification with a parent, placement with a relative, adoption, or foster care until the age of 18. Ms. McNaught highlighted several national studies which show that foster children struggle academically – low graduation rates, high drop out rates, below grade level reading abilities, greater likelihood of repeating a grade, and low rate of graduation from a post-secondary institution with a bachelor’s degree.

In conjunction with Casey Family Programs, the American Bar Association Legal Center for Foster Care and Education created the *Blueprint for Change – Education Success for Children in Foster Care*, 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

Day one of the meeting concluded with the recognition that the judiciary, CPS, educators, parents, children and youth, and the community need to work collaboratively to address these issues.

The committee reconvened on October 1 and commenced the day with a viewing of *Endless Dreams: Building Educational Support for Youth in Foster Care*. After viewing the video, the participants discussed their reactions to it, including the need for staff development for teachers, and access to information by the school and the protection of children’s privacy rights.

Judge Macias recognized the challenge of improving outcomes in a state as diverse and large as Texas. She wanted the committee to leverage current strengths in Texas to develop a blueprint specific to the state. The committee began to define its vision by reviewing the eight high-level areas of the national blueprint. The *Blueprint* served as the basis for the guiding principles developed by the committee:

1: Children and Youth in Care are Entitled to Remain in the Same School When Feasible

2: Children and Youth in Care Are Guaranteed Seamless Transitions between Schools

3: Young Children in Care Receive Services and Interventions to Be Ready to Learn (0-5)

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

5: Children and Youth in Care Have Supports to Prevent School Dropout, Truancy, and Disciplinary Actions and Reengage in the Education Experience

6: Children and Youth in Care Are Involved, and Empowered in all aspects of their education

- **Youth in care are prepared to self advocate in All Aspects of their Education**

7: Children and Youth in Care have Consistent Adult Support to advocate for and make education decisions.

8: Children and Youth in Care Have Support to Enter into and Complete Postsecondary Education

After drafting language for the Texas blueprint, the participants identified resources and strengths within the state, from programs to processes to laws.

In order to accomplish the Texas blueprint goals, work will be done by sub-committees. Participants were asked to identify people within their organizations or scope of work who might serve on one of the sub-committees. Sub-committees will be multi-disciplinary.

The committee determined the parameters for the next committee meeting and committed to completing several tasks prior to that time.

Next Steps

Structure and Work

The Education Committee will receive 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.

The Education Committee will have four sub-committees based on the goals determined at the inaugural meeting:

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

The sub-committees will begin meeting in early 2011.

Next Meeting

The Education Committee will next meet on January 7, 2011. During this meeting, several committee members and their respective organizations will provide presentations on topics identified by the committee on October 1. Additionally, the committee will finalize how its sub-committees will be structured, the membership of the sub-committees, and the purpose of each sub-committee.