

2019 Child Welfare Judges Conference

*Preconference*

*Well-Being for Children in Substitute Care:  
Issues Related to Education & Older Youth*

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Hon. Delia Gonzales, Assoc. Judge, Child Protection & Permanency Court

October 21, 2019



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Education of Children & Youth in  
Substitute Care



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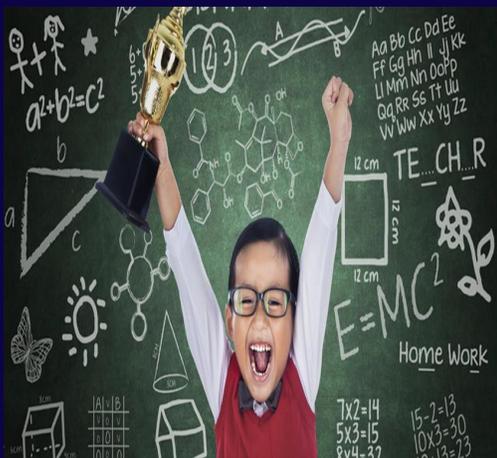


## Session Overview

- A look at the Data
- Impact of Trauma
- Useful Resources & Important Contacts
- Top 5 Things You Need to Know About Education



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Why does  
education matter  
for students in  
care?



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## National Data

Educational Experience or Outcome	Findings
% of youth in foster care who change schools when first entering care	31% - 75% <sup>2</sup>
% of 17- to 18-year-olds who experienced 5 or more school changes	34.2% <sup>1</sup>
Likelihood of being absent from school	About twice that of other students <sup>4</sup>
Likelihood of 17- to 18-year-old youth in foster care having out-of-school suspension	About twice that of other students <sup>5</sup> (In one study the rate was 24% vs. national general population rate of 7%) <sup>6</sup>
Likelihood of 17- to 18-year-old youth in foster care being expelled	About 3 times that of other students <sup>7</sup>
Reading level of 17- to 18-year-olds in foster care	Average level 7 <sup>th</sup> grade 44% at high school level or higher <sup>8</sup>
% of youth in foster care receiving special education services	35.6% <sup>9</sup> - 47.3% <sup>10</sup>
% of 17- to 18-year-old youth in foster care who want to go to college	70% <sup>11</sup> - 84% <sup>12</sup>
% of youth in foster care who complete high school by age 18 (via a diploma or GED)	Colorado: 41.8% <sup>13</sup> Midwest Study (age 19): 63% <sup>14</sup>
% of youth in foster care who complete high school by age 21	65% by age 21 <sup>15</sup> (National data) (Compared with 86% among all youth ages 18-24 <sup>16</sup> )
% of youth in foster care who graduated from high school who enrolled in college at some level	31.8% <sup>17</sup> - 45.3% <sup>18</sup> (Compared with national college enrollment rate of 69.2% in 2015, which is slightly below national record high of 70.2% in 2009) <sup>19</sup>
% of foster care alumni who attain a bachelor's degree	3 - 10.8% <sup>20</sup> (Compared with national college completion rate of a BA or higher of 32.5%) <sup>21</sup>

## Impact of Trauma in Education

- School stability
- Peer and adult connections
- Positive school climate
- School disciplinary interventions
- Residential Treatment or Hospital settings



## What Are We Doing to Collaborate?



## Foster Care & Education Committee

- Focus: Education outcomes for children and youth in foster care
- Charged to look at challenges, identify judicial practices and cross-disciplinary training needs, and make recommendations regarding education
- Seek to improve collaboration, communication & practice through partnerships with child welfare agency, state education agency, and other stakeholders

Education  
Committee Created  
**2010**

Texas Blueprint  
Report Released  
**2012**

Implementation  
Task Force  
**2012-2014**

FC & Education  
Committee Created  
**2015**



## Additional Resources

- Children's Commission Website, Resources & Reports, Foster Care & Education
  - <http://texaschildrenscommission.gov/reports-and-resources/>
- Texas Child Protection Law Bench Book, Education Chapter
  - <http://benchbook.texaschildrenscommission.gov/>
- Texas Department of Family & Protective Services, Education
  - [https://www.dfps.state.tx.us/Child\\_Protection/State\\_Care/education.asp](https://www.dfps.state.tx.us/Child_Protection/State_Care/education.asp)
- Texas Education Agency (TEA)
  - [https://tea.texas.gov/Academics/Special\\_Student\\_Populations/Foster\\_Care\\_and\\_Student\\_Success/Foster\\_Care\\_\\_\\_Student\\_Success](https://tea.texas.gov/Academics/Special_Student_Populations/Foster_Care_and_Student_Success/Foster_Care___Student_Success)
- Education Reach for Texans
  - <http://www.educationreachfortexans.org/>



## Points of Contact

### Regional 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 FC Liaison

- <http://tea.texas.gov/FosterCareStudentSuccess/liaisons/>

### TEA FC Liaison

- Letitia Thomas - [Letitia.Thomas@tea.texas.gov](mailto:Letitia.Thomas@tea.texas.gov)

### Higher Education FC Liaisons

- <http://www.collegeforalltexas.com/apps/financialaid/tofa2.cfm?ID=429>

### THECB Liaison

- Natalie Coffey - [natalie.coffey@thecb.state.tx.us](mailto:natalie.coffey@thecb.state.tx.us)





What are the  
Top 5 Things  
You Need to  
Know?



**#1**

Encourage School Stability



## Texas Law - School Stability

- Upon entering care, and once in care, unless it is contrary to the students' best interest, the student may remain:
  - In the same public school he or she was attending at the time of each CPS placement,
  - Even if CPS placement is located outside the public school's attendance area.

Tex. Educ. Code § 25.001(g)-(g-1)



## Texas Law - School Stability, Cont.

- Upon entering care, and once in care, unless it is contrary to the students' best interest, the student may remain:
  - Until completing highest grade at school,
  - Without payment of tuition,
  - Even if child leaves conservatorship.

Tex. Educ. Code § 25.001(g)-(g-1)



## Enrollment & Records

- If student removed from school, must return or be transferred to new school within three school days of coming into care.

Tex. Fam. Code § 264.115(a)

- Records required to be transferred to child's new school not later than the 10th working day after child enrolled.

Tex. Educ. Code § 25.007(b)(1)



**#2**

Identify Decision-Makers



## Education Decision-Maker

- For all students in DFPS conservatorship.
- Will make day-to-day education decisions. For example:
  - Enrolls child,
  - Arranges extracurricular activities,
  - Attends teacher conferences,
  - Approves field trips, and
  - Determines course selection.
- Accesses school records and accesses/maintains education portfolio.
- Can be CPS staff, but most likely caregiver.
- Notice to court and school within 5 days of Adversary Hearing; updates in permanency progress report.

Tex. Fam. Code § 263.004



## Who is Considered a “Parent” Under IDEA?

- Biological or adoptive parent,
- Foster parent unless prohibited by state law,
- Guardian generally authorized to act as the child’s parent or to make educational decisions for the child,
- Person acting in place of a parent and who the child lives with (can be non-relative),
- Person legally responsible for the child, or
- Surrogate parent.

34 C.F.R. § 300.30(a)



## Why CASA?

- Under Texas law, a CASA volunteer may serve as surrogate parent if:
  - The child is under the conservatorship of the Department,
  - CASA volunteer is the child's guardian ad litem, and
  - The foster parent is not acting as the child's parent under Section 29.015 of the Texas Education Code.

Tex. Fam. Code § 107.031



# #3

## Support Students with Disabilities



## ABCs of Special Education

- IDEA – Individuals with Disabilities Education Act
- Child Find
- FAPE – Free Appropriate Public Education
- ARD – Admission, Review, and Dismissal Committee
- IEP – Individualized Education Program
- LRE – Least Restrictive Environment



## Individuals with Disabilities Education Act (IDEA)

- Eligibility = disability + need special education and related services.

20 U.S.C. § 1401(3)

- These disabilities include:

- |  |                                  |
|--|----------------------------------|
| – Intellectual disability,                 | – Emotional disturbance,         |
| – Hearing impairments, including deafness, | – Orthopedic impairments,        |
| – Speech or language impairments,          | – Autism,                        |
| – Visual impairments, including blindness, | – Traumatic brain injury,        |
|  | – Other health impairments, or   |
|  | – Specific learning disabilities |



## Individualized Education Program (IEP)

- The IEP is the written statement developed by the ARD committee of the student's education program.
- Components include:
  - Statement of goals,
  - Method of measuring progress,
  - Special education and related services,
  - Participation in general education class and activities,
  - Time, place, and duration of services, and
  - Transition services.

20 U.S.C. § 1414(d)(1)(A);  
Tex. Educ. Code § 29.005



# #4

## Enforce Statutory Duties



## Judicial Inquiries

- At Permanency Hearings Before and After Final Order, court must determine whether:
  - Education Decision-Maker has been identified
  - Education needs/goals have been identified/ addressed
  - Major changes in school performance
  - Serious disciplinary events at school

TFC §§ 263.306(a-1)(4)(F); 263.5031(3)(I)



## AAL/GAL Duties

- Child's AAL and GAL shall:
  - Before each scheduled hearing under Chapter 263, determine whether the child's educational needs and goals have been identified and addressed

TFC § 107.004(d-2) (AAL); TFC § 107.002(i) (GAL)



# #5

## Prepare for Transitions



## What are Transition Services?

### Child Welfare

- Program,
- Assists youth in DFPS conservatorship,
- Includes PAL supports, (e.g. life skills class, workforce readiness),
- To transition from foster care to independent living.

### Special Education

- Coordinated set of activities,
- Based on the individual needs of a student with a disability,
- Focus on improving the academic and functional achievement,
- To facilitate movement from school to post-school activities.



## Postsecondary Opportunities

- Tuition Fee Waiver
  - Qualifying students formerly in foster care exempt from payment of tuition and fees, including for dual credit courses, at Texas public institutions of higher education.
- Education Training Voucher
  - Under federal law, eligible youth entitled to up to \$5,000/year to cover education-related expenses.

Tex. Educ. Code §§ 54.366, 54.367

42 U.S.C. § 677



Questions???



## Issue Related to Older Youth and Young Adults



## Dallas County Child Protection and Permanency Court

- Dockets began March 2019
- Exclusive to children and youth in Permanent Managing Care of DFPS in Dallas area
- 144 children currently; we have assisted 40 children with achieving permanency
  - We have children of all ages, ethnicity, orientations
- Goal: to assist in achieving positive permanency for each child



## Issues Affecting Older Youth in Care

- Primary areas of concern:
  - Youth Transitioning Out of Care
    - Extended Jurisdiction
    - Foster Youth Benefits
  - Youth Voice in Court
  - Human Trafficking
  - Special Issues



## Youth Transitioning Out of Care

- Important ages to remember:
  - 14 | Life Skills evaluation
  - 16 | Circle of Support, PAL services, ILS Assessment
  - 18 | Two paths:
    - Trial independence, or
    - Extended jurisdiction
  - 21 | Jurisdiction of the court concludes



## Youth Transitioning Out of Care, cont.

- Youth transitioning out of care
  - To stay or not to stay – the dilemma of extended foster care
  - Aftercare case management
  - Name issues and identification documents
  - Sibling access
  - Healthcare and education
  - Special issues for non-citizen youth
  - Special issues for youth with disabilities



## Bench Card Checklist for Permanency Hearing Before Final Order: Best Practices

- Medication reviews
- Normalcy activities
- Preparation for Adult Living (PAL)
- Education decisions – is the child in their appropriate grade/change in placement/is the school following the IEP?
- If the child will turn 18 while in foster care:
  - Discuss extended foster care and trial independence
  - Ensure referrals to Texas Workforce Commission
  - Ask the youth about their future plans
  - Address placement concerns
  - Address Long-term Disability of the child



## Bench Card Checklist for Permanency Hearing After Final Order: At Hearing

- For child with APPLA goal...Review:
  - whether DFPS has conducted an Independent Living Skills (ILS) assessment for all youth 16 and older in TMC or PMC
  - whether DFPS has conducted an ILS for all youth 14 and older in PMC
  - whether DFPS has addressed the goals identified in the youth's permanency plan
- For youth 16 years of age or older, whether DFPS has provided documents required by Tex. Fam. Code § 264.121(e)
- For youth 18 years or older, or has had disabilities of minority removed, whether DFPS has provided youth with documents and information listed in Tex. Fam. Code § 264.121(e-1)
- If 14 or older, services to assist in transitioning from care to independent living in community



## Bench Card Checklist for Permanency Hearing After Final Order: At Hearing, Best Practices

- For youth who will turn 18 while in care:
  - Discuss extended foster care and trial independence
  - Ensure referrals to Texas Workforce Commission
  - Ensure delivery of documents before leave care and that names are spelled correctly
- Youth advised of eligibility for Family Group Decision-Making or Circles of Support to discuss future plans
- Youth enrolled in PAL or provided transitional services after 14th birthday and they know the name and number of the PAL worker.



## Services and Programs for Older Youth

- Transitional Living Services: services that DFPS provides for a youth transitioning into adult living. This should include the extension of Medicaid benefits, priority for Texas Workforce Commission, transitional services as the child turns 18. Also provides for the services with the regional transition resource center.
- Preparation for Adult Living (PAL): class regarding life skills, financial literacy skills, health and wellness, job skills, housing, transportation and interpersonal skills. PAL also provides for the independent life skills assessment.
- Education and Training Voucher Program: allows for exemption from payment and fees for in-state colleges along with additional Chaffee dollars to assist for incidentals for the youth.



## The Basics

- Beginning at 14 years old, the Court shall determine whether the services that are needed to assist the child in transition from substitute care to independent living are available in the child's community (Tex. Fam. Code § 263.5031).
  - Life Skills Assessment | DFPS shall require a foster care provider to provide or assist youth who are age 14 or older in obtaining experiential life skills training (Tex. Fam. Code § 264.131(3)(a-1). The training must be tailored for that specific child and their abilities.
- Who provides these assessments?
  - TDFPS normally contracts with a provider that performs the assessments. The child answers questions about what they can do and their caretaker answers questions about what they can do. Then there is a recommendation of what skills the youth needs assistance with obtaining. It is DFPS' responsibility to ensure that the skills that are necessary are carried out for the youth.



## The Basics, cont.

- DFPS shall conduct an independent living skills assessment to determine what skills the youth is needing. DFPS shall update the assessment for the youth annually with the youth's plan of service. The youth, caseworker, PAL worker and caregiver are all required to participate in the plan of service.



## Extended Jurisdiction

- Court retains jurisdiction while youth remains in extended foster care\*
  - Hearings must be held at least every 6 months (Tex. Fam. Code § 263.602)
- Court retains jurisdiction during trial independence, 6-12 months after youth leaves care (Tex. Fam. Code § 263.6015)
- Court may retain jurisdiction until age 21 if youth receives transitional services (Tex. Fam. Code § 263.6021)
- Hearings not required when not in extended care, but can be scheduled to ensure youth is able to access transitional benefits (Tex. Fam. Code § 261.6021)



## Extended Jurisdiction, cont.

- Please see Tex. Fam. Code § 263.601 - 263.608.
- How Extended Court Jurisdiction Works:
  - When a young adult turns 18, DFPS conservatorship is dismissed. The young adult can choose to either remain in Extended Foster Care (EFC) or can exit DFPS' care to live independently, also known as Trial Independence (TI).



## Extended Jurisdiction, Path One

### Path 1 – Extended Foster Care

- A young adult who stays in EFC may or may not be receiving Transitional Living Services (TLS). For a young adult in EFC, a review hearing is held every 6 months. A young adult can exit EFC for TI at any time prior to age 21. For those remaining in EFC, the Court's extended jurisdiction ends at age 21.



## Extended Jurisdiction, Path Two

### Path 2 (a) – Trial Independence

- If at age 18, the young adult decides to not stay in EFC, he exits to Trial Independence (TI) which automatically extends up to 6 months. A court order is required to extend the TI up to 12 months. The young adult can choose to return to EFC during the TI period or at any time before age 21. During TI, he may or may not use TLS.



## Extended Jurisdiction, Path Two

### Path 2 (b) – Trial Independence without Transitional Living Services

- If the young adult does not receive TLS, the Court's jurisdiction ends when the young adult's TI period ends or upon the young adult's 21st birthday, whichever is earlier.



## Extended Jurisdiction, Path Two.

### Path 2 (c)– Trial Independence with Transitional Living Services

- If the young adult receives TLS during TI, the young adult can request court service review hearings. When the young adult's TI ends, the young adult can request a voluntary extension of the court's jurisdiction beyond the TI period if the young adult is currently receiving transitional living services. If the court extends jurisdiction, the young adult can also request court service review hearings during this time period as well. The Court's jurisdiction ends when the young adult turns 21, or before, if the young adult withdraws consent to the Court's extended jurisdiction.



## Extended Jurisdiction Chart

- Tool Kit for Attorneys Representing the DFPS  
– <http://texaschildrenscommission.gov/media/83756/toolkit-for-attorneys-representing-the-texas-dfps-in-child-protection-cases-online-version.pdf>



## Foster Youth Benefits

- Healthcare
  - Former Foster Care Children’s Medicaid (FFCC)
  - Medicaid for Transitioning Foster Care Youth (MTFCY)
- Transitional
  - Transitional Living Allowance (TLA), aka “PAL check”
  - Aftercare Room and Board (ARB)
- Education
  - Tuition/Fee Waiver
  - Education and Training Voucher (ETV)
  - Foster Youth Alumni Liaison (at all state-supported colleges in Texas)



## Older Youth Voice in Court

- Youth are required to attend and participate in hearings (Tex. Fam. Code § 263.302)
  - Best practice for judge to confer with child
  - Best practice to ask the youth what they want for their future and how their circumstances are currently
  - Best practice to not just rely on CPS reporting



## Older Youth Voice in Court, cont.

- Texas Child Protection Law Bench Book
  - ABA Bench Card on Engaging Adolescents
  - Round Table Report on Youth Presence in Court

## Older Youth and Human Trafficking

- Human Trafficking Judicial Checklist in Bench Book:
- Has child been victim of sex trafficking?
  - A person who knowingly transported, enticed, recruited, harbored, provided, or otherwise obtained the child by any means:
    - Caused the child to engage in, or become the victim of, an enumerated sex offense;
    - Received a benefit from participating in a venture that involves an enumerated sex offense; OR
    - Engaged in sexual conduct with a trafficked child
    - Child under 18 years of age, regardless of trafficker's knowledge

## Older Youth and special issues regarding older youth....

- DFPS can pay for drug treatment for the youth
- Special Immigrant Juvenile Status
- Dual Status
  - Overrepresentation and disproportionality
  - Jurisdiction
  - The 17-year-old child adult
  - Long-term consequences of juvenile and criminal records
  - Relief available for juvenile and criminal records

## Resources for Older Youth

- Every jurisdiction has people to contact when you have questions:
  - PAL
  - Program Directors
  - Well Being Specialists
  - Youth Specialists
  - Special Needs Population resources

## Resources for Older Youth, cont.

- More people to contact when you have questions:
  - Traffick911
  - After Care Resource Center
  - Mental Health Authority
  - TWC (current and former youth are prioritized)

## Resources, cont.

- Texas Child Protection Law Bench Book and Bench Cards
  - <http://texaschildrenscommission.gov/for-judges/bench-book/>

*Thank You*



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