

2011 Texas CASA Conference

EDUCATION AND YOUR CASA CHILD

SPECIAL THANKS TO:

- ✦ Tiffany Roper, Assistant Director
Supreme Court of Texas
Children's Commission
- ✦ Joy Surratt Baskin, Director of Legal Services
Texas Association of School Boards
- ✦ Gene Flango, Executive Director
Program Resource Development
National Center for State Courts

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OUTLINE OF PRESENTATION

- Texas Foster Youth—A Snapshot
- Challenges for Youth in Foster Care
 - Statistics and data
 - Barriers
 - Legal responses
- Supreme Court of Texas Children's Commission
- Court Performance Measures



TEXAS FOSTER YOUTH-2009

- × 252,594 calls to the CPS hotline
- × 165,444 completed CPS investigations
- × 78,360 children in cases opened for services
- × 68,326 confirmed child victims
- × 12,107 children removed from parents
- × 25,185 in DFPS legal custody at end of FY2009
- × Roughly 60% of these children are age 6-17

WHAT HAPPENS TO YOUTH THAT EXIT?

Exit Category	Percentage
Legally Adopted	34%
Returned Home	31%
Permanent Placement With Relative	22%
Aged Out of Care at 18 years	10%
Other exit	4%

LONG-TERM FOSTER CARE

- ✘ In 2009, over 13,500 children were in long-term foster care
- ✘ Foster youth are at least twice as likely to repeat a grade
- ✘ A Midwest study showed foster youth who complete 11th grade read at 7th grade level
- ✘ 54% of young adults discharged from care have completed high school
- ✘ Only 2% of youth aging out of care obtain a bachelor's degree



CHALLENGES FOR YOUTH IN FOSTER CARE

1. Inability to Remain in the Same School
2. Lack of Seamless Transitions Between Schools
3. Young Children Not Ready to Learn When Entering School
4. Lack of Equal Access to the School Experience as Non-Foster Care Peers and Lack of Additional Supports To Ensure Success
5. Higher Rates of School Dropout, Truancy, and Disciplinary Actions than Peers
6. Youth are Not Involved and Empowered In their Education Planning
7. Lack of Clear Education Advocates and Decisionmakers
8. Inability to Enter Into, and Complete, Postsecondary Education

1. REMAINING IN THE SAME SCHOOL

- ❖ Average is two to three school changes per year
- ❖ In the five years between 7th-12th grade- average of nine (9) school changes
- ❖ University of Chicago study found by 6th grade: 4 school changes = loss of one year of educational growth
- ❖ One less school change = twice as likely to graduate

BARRIERS

- ✘ Option of staying in the same school not raised or considered; not the presumption or default.
- ✘ Lack of communication and collaboration between child welfare and education agencies to arrange for school stability for the child.
- ✘ Legal residency requirements may interfere with desire to keep a child in a stable school placement.
- ✘ Lack of transportation options to keep a child in their prior school.
- ✘ Failure to consider whether it is in the child's best interest to move to new school.

FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008

- ✘ Amends Title IV (Parts B and E) of the Social Security Act
- ✘ Broad-reaching amendments to child welfare law; requires court oversight
- ✘ Important provisions promoting education stability and enrollment for youth in care
- ✘ Changes child welfare law, but cannot be fully realized without collaboration from education system

APPROPRIATENESS AND PROXIMITY

The child's case plan must include "assurances that the placement of a child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement."

SCHOOL STABILITY

The agency must coordinate with the appropriate local education agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement, if remaining is in the child's best interest.

TRANSPORTATION

Transportation to a child's school as well as expenses related to transport to extracurricular activities are now allowed under foster care maintenance payments.

MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

- ✦ A child who is awaiting foster care placement meets the Act's definition of homeless.
- ✦ In Texas, this means a child in a shelter.
- ✦ A homeless child has a right to remain in his school or origin (where he attended when last permanently housed) and transportation to the school must be provided by the school district for the duration of the homelessness.

TEXAS EDUCATION CODE §25.001(G)

- ✦ Student enrolled in high school grades 9, 10, 11, or 12 who is placed in temporary foster care by DFPS at a residence outside the attendance area for the school or outside of the school district is entitled to complete high school at the school in which the student was enrolled at time of placement without payment of tuition
- ✦ Foster parent has to arrange for transportation



2. SEAMLESS TRANSITIONS

- ✦ Studies indicate large percentage of children who enter, or move while in care experience long delays in re-enrollment in school.
- ✦ A New York study found 42% of children did not start school immediately upon entering care; half of those did not start due to lost or misplaced records.
- ✦ One study indicated that missing information from prior schools increased the odds of enrollment delay by 6.5 times.

BARRIERS

- Children in care fall behind due to enrollment delays.
- Failure of prior schools to locate records and to transfer all credits.
- Missing enrollment documents or requirements (i.e. immunization records, birth certificates, uniform).
- Unclear who is responsible for enrolling the child and who has the authority to do so.
- Youth in foster care do not have advocates/liaisons within child welfare or education agencies help them make a smooth transition by addressing enrollment, placement and access to school activities.
- Unable to promptly participate in academic and extracurricular programs.

IMMEDIATE ENROLLMENT IN A NEW SCHOOL

- ✦ If remaining in the same school is not in the best interest of the child, the child's case plan must include
 - + "(II) ... assurances by the State agency and the local education agencies to provide immediate and appropriate enrollment in a new school, with all of the education records of the child provided to the school." 42 U.S.C.A. 675(1)(G)(ii).

TEXAS FAMILY CODE § 264.115

- ✘ If DFPS takes possession of child under Chapter 262 during school year, DFPS shall ensure child returns to school not later than the 3rd school day after date order rendered giving possession to DFPS, unless child has physical or mental condition of temporary/remediable nature that makes child's attendance infeasible
- ✘ If this condition exists, DFPS to notify school in writing
- ✘ Upon improvement, immediate return to school

TEXAS FAMILY CODE § 266.008

- ✘ DFPS to maintain education passport as part of its records as long as child in care
- ✘ Passport made available to person authorized to consent for medical care/medical provider if access to education info necessary to provision of medical care
- ✘ DFPS and HHSC shall collaborate with TEA to develop policies/procedures to ensure the needs of foster children met in every school district

TEXAS EDUCATION CODE § 25.002(G)

- ✘ A school district shall accept a child for enrollment in a public school without documentation (birth certificate, previous school records, proof of immunizations) if DFPS has taken possession of the child pursuant to Texas Family Code Chapter 262
- ✘ DFPS shall ensure the documentation is furnished to the school district no later than the 30th day after the child is enrolled in school

TEXAS EDUCATION CODE § 25.007

- ✦ Directs TEA to assist the transition of foster students from one school to another
- ✦ Laundry list includes:
 - + School records transfer by 14th day of enrollment
 - + Developing procedures, practices for awarding credit for courses taken at other school, facilitating access to extracurricular activities and supports
 - + MOU between TEA and DFPS regarding exchange of info to facilitate transition between schools
 - + Support to foster students applying to higher ed
 - + New school must accept referral for special ed from previous school

CONFIDENTIALITY CONCERNS

- ✦ Texas Education Code Section 25.002(a-1) requires education records to be transmitted to a receiving school within ten days of a request.
- ✦ Some schools are hesitant to release records due to concerns with the federal Family Educational Rights and Privacy Act (FERPA).
- ✦ But, FERPA says enrollment in a new school gives authority to the old school to release records, regardless of parental consent.



3. CHILDREN ENTER SCHOOL READY TO LEARN

- ✦ 20% of children initially placed in care are under age of 1 year; additional 26% are ages 1 to 5
- ✦ 2003 data report that only 6% of children under 6 years of age were enrolled in Head Start.
- ✦ A 2005 national study of 2,813 children in care found 40% of toddlers and 50% of preschoolers had significant behavioral and developmental needs.
- ✦ Only 21% of the children identified in the study were receiving services.

BARRIERS

- ✦ Young children not receiving appropriate health interventions, referrals and screening when entering care.
- ✦ No encouragement or prioritization for children in foster care to access early childhood education programs and services.
- ✦ Young children not receiving developmentally appropriate supports.
- ✦ Despite law to the contrary, young children with disabilities or developmental delays (or high risk of delays) are not referred, evaluated and receiving early intervention and special education services as appropriate.

JUSTICE DELAYED IS JUSTICE DENIED

This idea comes from the Magna Carta (1297)

Martin Luther King, Jr.

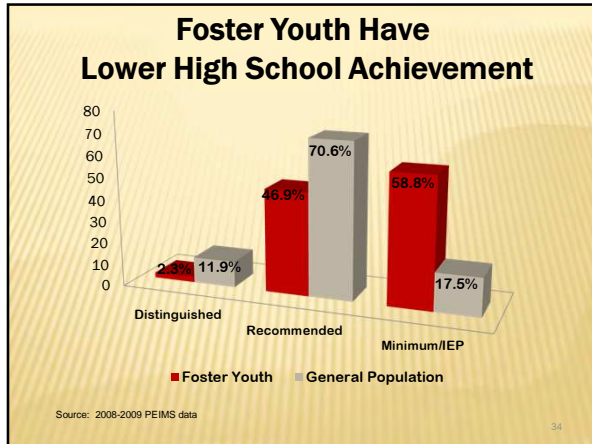
Letter from Birmingham Jail (1963)

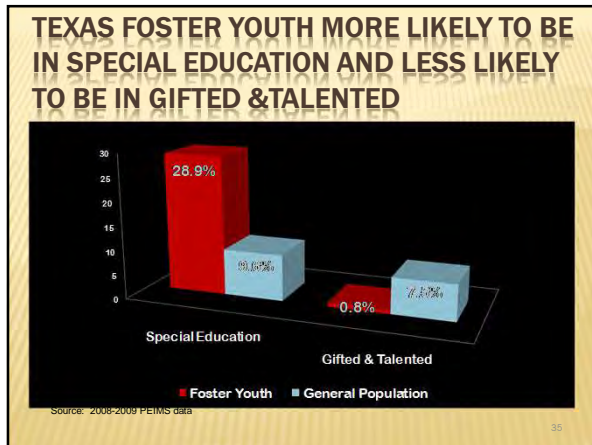
“justice too long delayed is justice denied”

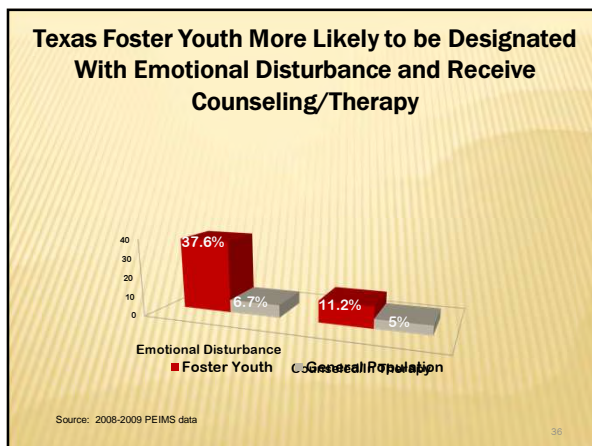


4. YOUTH HAVE THE SUPPORT TO FULLY PARTICIPATE IN ALL ASPECTS OF THE SCHOOL EXPERIENCE









BARRIERS

EQUAL TREATMENT

- ✦ Foster children are often placed in the “wrong” class or denied access to appropriate classes.
- ✦ Foster children face significant barriers to participating in non-academic school activities.

ADDITIONAL SUPPORTS

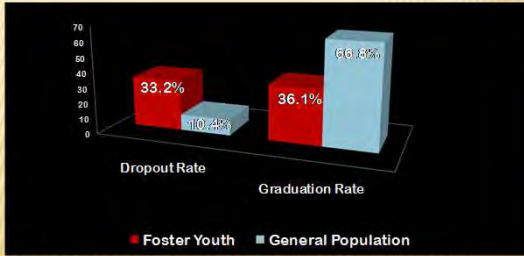
- ✦ Foster children often need supplemental support due to lost time in school and history of abuse and neglect.
- ✦ Children in care are both overrepresented and underrepresented in the special education system.
- ✦ Children in care with disabilities who warrant special education needs are not receiving adequate services to meet their needs.

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5. PREVENT DROPOUT, TRUANCY, DISCIPLINE



ONE BIT OF GOOD NEWS

✘ In a study with a relatively low response rate, caregivers with children in the Minnesota Permanency Demonstration Project reported that children who had attained permanency through adoption or legal guardianship were less likely to have been suspended from school than children who has not attained any form of permanency.



6. YOUTH ARE ENGAGED IN THEIR EDUCATION



“Nothing about us without us.”

HB 826, 82ND SESSION. (TEX. 2011)

- ✦ In 2011 a bill was passed to require local school districts to identify a liaison for students in foster care.
- ✦ Liaisons should alleviate educational barriers for foster children.
- ✦ Liaisons could clear paths for foster care students to access credit recovery, etc.



7. YOUTH HAVE AN ADULT WHO IS INVESTED IN THEIR EDUCATION

- ✦ Multiple studies indicate that children in care lack a knowledgeable, consistent educational advocate and that foster parents, social workers, and judges too often lack the training and awareness to provide the educational advocacy needed.
- ✦ 2006 Oregon study showed that children in care were less likely to have an advocate present at their special education meetings (42% vs. 69%).
- ✦ Study of emancipated youth attending 4-year university found that social support was an important factor in their education success; 87% had friend or family member to ask for help, 80% had contact with birth family, 60% still had relationship with foster or kin parents.

BARRIERS

- ✦ Youth in care often do not have one significant adult in their lives who remains involved in their lives after they exit care, much less an education advocate.
- ✦ Youth may have multiple individuals involved with them while in care, but none take the lead in education advocacy.
- ✦ Lack of clarity about who holds education decision-making rights when a child is in foster care

SPECIAL NEEDS—AN IDEA

- ✦ The federal Individuals with Disabilities Education Act (IDEA) requires school districts to serve children who are eligible for special ed.
- ✦ No parental consent is required if parental rights have been abrogated by court order.
- ✦ State law requires new schools to accept special education referrals from previous schools
- ✦ New school must follow Individual Education Plan (IEP) of old school until a new ARD meeting.

TEXAS EDUCATION CODE § 29.015(B)

- ✘ Foster parent may act as parent of child with a disability if:
 - + DFPS is TMC or PMC of child
 - + Child with foster parent at least 60 days
 - + Foster parent agrees to:
 - ✘ Participate in educational decisions for child
 - ✘ Complete training program for surrogate parents
 - + Foster parent has no conflict of interest

SPECIAL EDUCATION AND IDEA

With the reauthorization of IDEA, Judges can appoint surrogate decision makers for foster children in special education.

Agencies should make reasonable efforts to see that a surrogate is appointed within 30 days of the determination that there is a need for one.

CASA AS EDUCATION DECISION MAKER

- ✘ DFPS has the authority to make educational decisions for foster children.
- ✘ Foster parents typically make the decisions
- ✘ Attorneys and Guardians ad litem can act as advocates
- ✘ The court can appoint surrogate parents for the purpose of making education decisions; often times this is the CASA volunteer.



8. YOUTH HAVE SUPPORT TO ENTER AND COMPLETE POST SECONDARY EDUCATION

- ✦ Half of all youth in foster care are “ineligible” or “unable” to attend college because they did not complete high school.
- ✦ Only 20% of college-qualified foster youth enroll in postsecondary school, compared to 60% of the college-qualified population.
- ✦ In a Chapin Hall study, youth who stayed in foster care after age 18 and had a diploma or GED were more than 3 times as likely as those no longer in care to be enrolled in college.
- ✦ Less than 3% of foster care youth obtain a bachelor’s degree or higher, compared to 27.5% of the general population.

90-DAY TRANSITION PLAN

- ✦ Requires that transition plan be developed for youth 90 days prior to youth’s exit from care. 42 U.S.C. 675(H).
 - + Must include plan for education.
 - + Must be reviewed by court.

NOTE: Preexisting IV-E requirement is that case plans include an “independent living plan” “where appropriate for youth ages 16 and older.” 42 U.S.C. 675 (1)(D)

TEXAS EDUCATION CODE § 54.2111

- ✘ Student exempt from payment of tuition and fees for higher ed if adopted and subject of an adoption assistance agreement
- ✘ TEA and THECB outreach programs to ensure adopted students in grades 9-12 formerly in foster care are aware of tuition and fees exemption



WHO NEEDS TO BE AT THE TABLE TO OVERCOME THESE BARRIERS?

- ✘ Judiciary
- ✘ Child Protection Services
- ✘ Educators
- ✘ Parents
- ✘ Children and youth
- ✘ Community
- ✘ CASA!


QUESTIONS REGARDING BEST INTEREST

- * How long is the child's current placement expected to last?
- * What is the child's permanency plan?
- * How many schools has the child attended over the past few years? How many schools has the child attended this year? How have the school transfers affected the child emotionally, academically and physically?
- * How strong is the child academically?
- * To what extent are the programs and activities at the potential new school comparable to or better than those at the current school?
- * Does one school have programs and activities that address the unique needs or interests of the student that the other school does not have?
- * Which school does the student prefer?

MORE QUESTIONS FOR BEST INTEREST

- * How deep are the child's ties to his or her current school?
- * Would the timing of the school transfer coincide with a logical juncture such as after testing, after an event that is significant to the child, or at the end of the school year?
- * How would changing schools affect the student's ability to earn full credits, participate in sports or other extra-curricular activities, proceed to the next grade, or graduate on time?
- * How would the length of the commute to the school of origin impact the child?
- * How anxious is the child about having been removed from the home and/or any upcoming moves?
- * What school do the child's siblings attend?
- * Are there any safety issues to consider?





+ Supreme Court of Texas established the Children's Commission Education Committee in 2010

+ Members include:

- x three state judges
- x leaders from TDFPS, TEA, TASB, TASA
- x Casey Family Programs
- x State Bar of Texas School Law Section
- x Parent and Children's Attorneys
- x Former Foster Youth
- x Texas CASA

+ Main Charge: Improve educational success of Texas foster children

GUIDING PRINCIPLES

1. Children and youth in care remain in the same school when feasible
2. Children and youth in care experience seamless transitions between schools
3. Young children in care receive services and interventions to be ready to learn
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 to re-engage in the education process
6. Children and youth in care are involved and empowered and 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 post-secondary education

FOUR SUBCOMMITTEES

1. School Readiness
2. School Stability
3. School Experience
4. Post-Secondary Education



COURTS AND ASFA OUTCOMES

- Safety: children are protected while under court jurisdiction
- Permanency: children have permanency and stability
- Well-Being: children's needs are met

Children maintain relationships with their families.

EDUCATION PERFORMANCE MEASURES

- Measure 5A:** Average (median) number of school transfers while under court jurisdiction
- Measure 5B:** Percentage of children in each type of school placement (public/alternative/correctional/etc.)
- Measure 5C:** Percentage of children whose GPA declined while under court jurisdiction
- Measure 5D:** Percentage of children whose attendance rate declined under court jurisdiction
- Measure 5E:** Percentage of hearings where the child's education was addressed
- Measure 5F:** Percentage of children under court jurisdiction ages 0-3 that have been referred to early intervention programs
- Measure 5G:** Percentage of children under court jurisdiction ages 0-3 that have been enrolled in early intervention programs

PERFORMANCE MEASURES, CONT.

Measure 5H: Percentage of children under court jurisdiction with an Individualized Education Program (IEP)

Measure 5I: Percentage of children under court jurisdiction that have been referred for special education services

Measure 5J: Percentage of children under court jurisdiction that have received special education services

Measure 5K: Percentage of children under court jurisdiction that have been suspended from school

Measure 5L: Percentage of children under court jurisdiction that have been expelled from school

Measure 5M: Percentage of high school seniors under court jurisdiction that have been accepted into a higher education program

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