



Education of Children & Youth Placed in Residential Treatment

Round Table Report
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I. Introduction

When a child is removed from a parent due to an allegation of abuse or neglect, the child can be placed in a variety of living arrangements, from a kinship home or a foster home to a Residential Treatment Center (RTC). All school-aged children and youth (referred to herein as students), including students in foster care, must attend school, regardless of where they live.¹

There are about 1,700 students in foster care who are placed in RTCs in Texas at any point in time.² Most are enrolled either in a public school district (referred to herein as local school) or an open-enrollment charter school. Overall, about a quarter of Texas students in foster care receive special education services.³ According to the National Working Group on Foster Care and Education, research suggests that children in foster care who receive special education services tend to change schools more frequently, be placed in more restrictive educational settings, and have poorer quality education plans than their non-foster care peers who also receive special education services.⁴

In late 2017, the Children's Commission's Foster Care and Education Committee, Special Education Workgroup designated as a top priority the educational needs of students placed in RTCs while under the conservatorship of the Texas Department of Family and Protective Services (DFPS). On April 18, 2018, the Children's Commission convened a round table meeting to focus on this issue. Stakeholders representing RTCs, Child Placing Agencies, Court Appointed Special Advocates (CASA), Child Protective Services (CPS)-a division of DFPS, Texas Education Agency (TEA), school districts, charter schools, as well as the legal and judicial community each provided a unique perspective on the current state of education for students placed in RTCs, with a particular focus on special education.

The primary goal of the round table discussion centered on how the child welfare and education systems can improve coordination and communication regardless of where or how the student attends school. This includes developing a plan to address education, the provision of special education in the least restrictive environment, education decision-making, and planning for transitions.

¹ See Tex. Educ. Code § 25.085.

² Texas Open Data Portal. Available online at <https://data.texas.gov/>.

³ Texas Blueprint Implementation Data Workgroup. (November 2015). Texas commits to transform education outcomes of students in foster care: Findings from the Texas Blueprint Implementation Data Workgroup (Data Infographic). Available online at <http://texaschildrenscommission.gov/media/1168/texas-blueprint-data-workgroup-infographic.pdf>.

⁴ National Working Group on Foster Care and Education. (April 2018). National Factsheet on the Educational Outcomes of Children in Foster Care. Available online at http://www.fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntityId=2100&Command=Core_Download.

II. Relevant Law and Policy

The law and related policies about both education and residential treatment are complex and nuanced. However, the following overview provides some context for the issues addressed at the round table.

School Stability: Pursuant to federal and state law, students in foster care may remain in the same school which they were attending at the time of removal from the home or a placement change (referred to herein as school of origin) until the highest grade offered, regardless of how many times their living placement changes while in foster care. The student may remain in the school of origin without payment of tuition, even if the student leaves DFPS conservatorship during the school year.⁵ A student in foster care may always remain in the school of origin unless it is not in his or her best interest to continue attending that school.⁶ If the student cannot remain in the school of origin, the student must be enrolled in a new school (referred to herein as the receiving school) within two days.⁷

Records Transfer: If a student in foster care must change schools, records must be transferred to the receiving school within 10 working days.⁸ In addition, DFPS must provide an Education Portfolio for every student in foster care, the contents of which are maintained by the student's caregiver.⁹

Sharing Information: The Uninterrupted Scholars Act of 2013 amended the Family Educational Rights and Privacy Act (FERPA) to permit caseworkers to access personally identifiable student information without parental consent and also allows for disclosure of student records pursuant to a judicial order related to a child welfare proceeding without further notice to the parent.¹⁰

Special Education: A student qualifies for special education services if he or she has an identified disability and needs special education and related services because of that disability.¹¹ Under the federal Individuals with Disabilities Education Act (IDEA), all children

⁵ Tex. Educ. Code § 25.001(g)-(g-1).

⁶ 42 U.S.C. § 675(1)(G)(ii)(I); 20 U.S.C. § 6311(g)(1)(E)(i).

⁷ 42 U.S.C. § 675(1)(G)(ii)(II); 20 U.S.C. § 6311(g)(1)(E); Tex. Fam. Code § 264.115(a); CPS Policy Handbook Section 15310 Time Frame for Completing the Child's Enrollment. Available online at http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x15000.asp#CPS_15310.

⁸ Tex. Educ. Code § 25.007(b)(1).

⁹ Tex. Fam. Code § 266.008.

¹⁰ 20 U.S.C. § 1232g(b)(2)(B); See further, DFPS, TEA, and Children's Commission. (April 2017). Information Sharing Between Child Welfare and Schools: Maintaining Privacy and Promoting Educational Success. Available online at <http://texaschildrenscommission.gov/media/83653/confidentiality-guide-fall-2017-final.pdf>.

¹¹ 20 U.S.C. § 1400 et seq.; Tex. Educ. Code § 29.003.

with disabilities ages 3 through 21 are entitled to a free appropriate public education (FAPE).¹² Graduation with a regular high school diploma terminates eligibility.¹³ According to state law, FAPE must be made available from birth to students with visual or auditory impairments.¹⁴ To the maximum extent appropriate, students with disabilities must be educated in the least restrictive environment, learning alongside peers without disabilities.¹⁵ School districts have a "Child Find" duty to identify, locate, and evaluate all children with disabilities residing in the state who are in need of special education and related services.¹⁶

The individualized education program (IEP) is a central tenant of IDEA.¹⁷ Each student receiving special education services has an IEP. Members of the student's IEP team, known in Texas as the Admission, Review, and Dismissal or ARD committee, participate in the formulation and approval of the IEP.¹⁸ The student's parent, or the person acting in the role of a parent (such as the child's relative or foster caregiver), is a member of the ARD committee and an important voice for the student's strengths and needs. If no other parent, as defined by IDEA, is identified or located, then a surrogate parent must be appointed to participate in the ARD meetings and make special education-related decisions on the student's behalf.¹⁹ Although only students who are, or who are suspected of being eligible, for special education services need a person to serve as a "parent" to participate in the ARD process, every student in foster care also has an education decision-maker (EDM) identified by DFPS within five days after a court conducts an Adversary Hearing pursuant to the Texas Family Code.²⁰ When a student transitions between schools, a receiving school must accept a referral for special education services made on behalf of a student in substitute care by a school previously attended by the student.²¹ If there is an existing IEP for the student, the receiving school must provide services comparable to those described in the previous IEP, until it either adopts the previous IEP or develops a new IEP.²²

Notification to Local Schools: A residential facility without an open-enrollment charter school on its campus must notify the local school district within three days when a student ages 3 through 22 is placed in the facility.²³ A sample notification letter to the school district was

¹² 20 U.S.C. § 1412(a)(1)(A). See also 19 Tex. Admin. Code § 89.1035(a).

¹³ 19 Tex. Admin. Code § 89.1035(a).

¹⁴ 19 Tex. Admin. Code § 89.1035(b).

¹⁵ 20 U.S.C. § 1412(a)(5)(A).

¹⁶ 20 U.S.C. § 1412(a)(3)(A).

¹⁷ See 20 U.S.C. § 1414(d).

¹⁸ Tex. Educ. Code § 29.005.

¹⁹ 20 U.S.C. § 1415(b)(2); Tex. Educ. Code § 29.0151; Tex. Fam. Code § 263.0025.

²⁰ Tex. Fam. Code § 263.004.

²¹ Tex. Educ. Code § 25.007(b)(9).

²² 20 U.S.C. § 1414(d)(2)(C)(i)(I); Tex. Educ. Code § 25.007(b)(9).

²³ Tex. Educ. Code § 29.012(a).

shared at the round table and is available on the DFPS website.²⁴ By TEA rule, there is a Memorandum of Understanding (MOU) between several state agencies related to the coordination of special education services to students with disabilities in residential facilities.²⁵ The MOU addresses several key points such as establishing the respective responsibilities of school districts and residential facilities for the provision of FAPE, detailing criteria for determining when a local school will provide educational services, and determining how appropriate educational space will be provided at the residential facility, if needed.²⁶

Transition Planning: All high school and some junior high or middle school students will have a personal graduation plan.²⁷ Within both the special education and foster care systems, transition planning for older students begins no later than age 14.²⁸ While the process and goals are slightly different in the two systems, there is significant overlap so that students leave high school and/or foster care prepared for adulthood.²⁹

III. Core Principles & Common Goals Identified by Round Table Participants

Before considering areas in need of improvement, round table participants were asked the following questions: 1) What are some core principles or common goals for students in RTCs? and 2) What is your vision for the education of students in these settings?

The following themes emerged from the discussion of these questions:

- **Individualization:** There is no cookie-cutter approach to the education of students placed in RTCs. It is essential for each school to meet students where they are and tailor an individualized approach.
- **Basic Needs:** It is critical that a student's basic needs of safety, food, and clothing are met so that his or her focus during the school day is on education.

²⁴ Tex. Educ. Code § 29.012(d). See also, https://www.dfps.state.tx.us/Doing_Business/Purchased_Client_Services/Residential_Child_Care_Contracts/documents/CPA_notice_to_ISD_sample_letter.doc.

²⁵ As written, the agencies listed in the MOU are: TEA, Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Department of Health, Texas Department of Protective and Regulatory Services, Texas Interagency Council on Early Childhood Intervention, Texas Commission on Alcohol and Drug Abuse, Texas Juvenile Probation Commission, and Texas Youth Commission.

²⁶ Tex. Educ. Code § 29.012(d); see 19 Tex. Admin. Code § 89.1115.

²⁷ Tex. Educ. Code §§ 28.0212, 28.02121.

²⁸ Tex. Educ. Code § 29.0111; See CPS Policy Handbook, Section 6252. Available online at https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_6200.asp#CPS_6252.

²⁹ See *further*, TEA, DFPS, and Children's Commission. (July 2018, updated). Transition Planning Guide for Students in Foster Care Receiving Special Education Services. Available online at <http://texaschildrenscommission.gov/media/83877/transition-guide-july-2018-final.pdf>.

- Timely Records: In order to provide appropriate education services, school records and strategies that have been successful with the student in the past must accompany the student without delay.
- Assessment: When a student is placed in an RTC, the school district or charter school should evaluate the student early to assess current knowledge, skills, and needs. Ongoing review of the student's progress helps keep the student on track to achieve his or her educational goals.
- Planning: Transitions to, between, or out of RTCs require the collaboration and coordination of supportive adults to be seamless and successful. Planning for transitions should begin as early as possible.
- Highly Trained Teachers: Educators should be well-equipped to meet the academic and behavior needs of students in RTCs. Education routines give students the tools they need to learn and progress in school.
- Youth Voice: Youth must have a voice in the decisions about their education. Building self-esteem, developing interests, and soliciting students' dreams and wishes will bolster students when they leave the RTC, foster care, and/or high school.
- Normalcy: Students in foster care should have opportunities to access age-appropriate activities and not feel marginalized or stigmatized, regardless of where the student attends school. This includes a recognition that special education is a service, not a place.
- Cross-system Partnerships: Regular communication between the residential staff and school personnel is key. For students receiving special education services, communication between residential and school personnel should not be limited to the ARD meeting.
- School Climate: Schools should be familiar with the principles of trauma-informed care to understand what students experience and bring to school every day. All school employees who have contact with students, including bus drivers, teachers, and front office staff, must have this understanding.
- Education Advocacy: Every student in an RTC deserves a consistent and engaged advocate with longitudinal knowledge of the student. Their role could range from an attorney ad litem, surrogate parent, or CASA, but it should be someone who follows the student between placements.
- Efficiency: School and RTC resources should be used efficiently, avoiding duplication of efforts.
- Teamwork: To support the education of a student in an RTC, various individuals and professionals must work together as a team. This includes, but is not limited to, the following stakeholders: RTC staff, school district or charter school staff, judges,

attorneys and advocates, biological family, education decision-makers, surrogate parents, and students.

IV. Developing a Plan to Address Education

Some RTCs have relationships with nearby public schools including local and off-site charter schools while others have on-campus open-enrollment charter schools. According to round table participants, there are many reasons why an RTC might establish an on-campus charter school. Some participants noted that RTCs have on-campus charter schools because they want to develop a consistent therapeutic or treatment approach between the education and residential settings. Others noted that RTCs in Texas report that their local school is ill-equipped to handle challenging behavioral needs and that an on-campus charter is developed out of necessity. Participants also shared a concern that students placed in RTCs may not be treated well by peers in the local school. Another apprehension was that the school district may fear being held accountable for the poor academic performance of students in foster care. That said, round table participants acknowledged there are many healthy and robust partnerships in Texas between RTCs and local school districts.

Information Sharing

The first step in developing a plan for a student's education is to assess the student's current level of academic performance, typically accomplished by reviewing school records. Regardless of whether the student is educated in an on-campus charter or at a local school, record and information sharing is a recurrent problem that can impede a student's educational progress and stability.

In general, school records are transferred via the Texas Records Exchange (TREx). TREx is an electronic tunnel that sends information from one school to another; no information is stored in the system. Participants noted that only information in the student's cumulative file at the school is sent. This means that the receiving school may only receive withdrawal grades through TREx from the most recent school attended by the student (referred to herein as the sending school). Many participants noted that grades do not indicate the student's current level of academic performance (ex: reading level). This issue is exaggerated by the fact that the RTC is designed as a short-term intervention, and there may be a delay in receiving information from the previous schools.

The student's education portfolio is maintained by the child's caregiver and accompanies the child from living placement to living placement. Per CPS policy, the education portfolio, often referred to as the green binder, should contain the following: Placement Authorization Form 2085, Designation of Education Decision-Maker Form 2085E, birth certificate, immunization records, school documents such as report cards, Personal Graduation Plans, standardized education assessments, school pictures and school work, certificates, awards, letters of

achievement, and withdrawal notices from previous schools.³⁰ Although the green binder can be a helpful tool during transitions, participants reported that it is not always up to date and is used inconsistently.

Response to Intervention (RTI) is an approach that schools use designed to support all students, including students who are struggling in school.³¹ Through RTI, all students are assessed, and interventions are implemented to close gaps in learning. One participant noted that there is no current process for sharing RTI data between schools, but this information could provide useful insights about the student's academic progress to a receiving school. Although participants suggested that samples of the student's schoolwork would be another valuable data point for the receiving school, there is no current effective or consistent way that this information is shared.

A few participants mentioned that there are technology solutions that allow for the sharing of special education data between schools. For example, Frontline and eSped have this capability. Also, certain technology has the capability to convey Section 504 accommodations and other non-special education information between districts. However, participants noted that access to technology will vary depending on the school.

Cross-system Collaboration

Developing and executing a service plan is an integral part of a CPS case. The DFPS Child's Plan of Service outlines the following: the child's identified needs, plans to address the identified needs, permanency goals and plans to achieve those goals, and expectations for the child's safety, supervision, education, medical, dental, emotional, cultural, and social needs to be met.³² In special education, the IEP documents the student's educational needs and goals as determined by the student's ARD committee.

Although these documents serve different purposes, both the child's service plan and IEP contain critical information about the student's needs, challenges, goals, and progress with achieving their goals. Yet there is often little coordination between education and child welfare staff to ensure that the relevant information is shared in both systems' plans. Communication about education-related information in both plans, while maintaining confidentiality and protecting privacy, could not only inform both systems, but could potentially avoid contradictory or duplicative efforts between systems.

³⁰ CPS Handbook Section 15410 Education-Related Documents Required for the Education Portfolio. Available online at https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x15000.asp#CPS_15400.

³¹ For more information about RTI, see <https://www.meadowscenter.org/projects/detail/building-capacity-for-response-to-intervention-rti-implementation-project> and https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/Response_to_Intervention/.

³² CPS Policy Handbook Section 6241.1 Basic Description of the Child's Service Plan. Available online at https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_6200.asp#CPS_6241.

While it is important to assess a student upon arrival at a receiving school, there are many existing tools, forms, and assessments in use and completed by the child welfare and education systems that can be utilized to evaluate a student. Participants discussed the need to leverage existing tools.

In addition to student-specific meetings, participants agreed that regular staffings, hosted by either the RTC or the school, benefit all students in the RTC and strengthen the cross-system partnership. RTC representatives expressed concern about the negative association and stigma around RTCs, noting the need to explain to local communities the purpose of the RTC and why children are placed there. Building local trust and rapport can benefit the professionals involved in a student's education as well as the students. To be most successful, some participants suggested designated points of contact to facilitate conversation and high-level support if a conflict cannot be resolved. One participant explained her approach to interacting with the school staff.

One of the schools does yoga once a week with our kiddos. They've embraced that, and they've also come to our RTC. The RTC had open houses with the teachers. About ten teachers from each school come, and they'll have an ice cream social, or bring donuts, or do an activity so that teachers and the faculty understand where our kids come from.

-Megan McPherson, Clinical Director, The Children's Shelter

A general example offered as a topic that might be covered at a regular staffing dealt with how information about what happens outside school is communicated to the school, such as if a student has a visit with a parent that could prompt an emotional reaction at school.

V. Education Decision-Making

Although there are multiple decision-making roles defined in federal and state law, as well as administrative law and policy, there is still confusion about who assumes which role and what is required of each role. Some general information and discussion about these roles is included below for reference.

Role of CPS Caseworker

DFPS, as managing conservator for the student, determines who will serve as the EDM. Other stakeholders can also be part of the discussion and collaborate to address the student's education. DFPS also makes the decision about the student's educational placement, in

consultation with attorneys, CASA, and judges. Per CPS policy, “[students] living in an RTC may attend the school on the RTC campus if the school meets the [student’s] needs and is the least restrictive educational setting. [Students] living in an RTC may also enroll in local public schools if it is in the [student’s] best interest and meets the [student’s] needs.”³³

DFPS does not designate the surrogate parent. That role is assigned by the school district or judge overseeing the student’s case if a foster parent cannot serve in this role or if a child is placed in an RTC.

Education Decision-Maker

The EDM is appointed by DFPS for each child in conservatorship and makes day-to-day education decisions. For example, the EDM is notified about class trips, makes decisions about extracurricular activities, and signs permissions. Some round table participants expressed a preference for the EDM to focus on major school-related decisions, such as whether the child should attend summer school or be promoted to the next grade, leaving daily issues to the RTC caregiver. The EDM does not, however, make decisions related to any special education services provided to the child in an RTC. More information about the role of the EDM is set forth below and in DFPS Form 2085-E Designation of Education Decision-Maker.³⁴

Similar to other aspects of the student’s school experience, round table participants agreed that the decision about who serves as EDM should be individualized for each student. Participants discussed that the choice should be made in conjunction with other considerations for the whole child, including medical decision-making. Participants noted that, most often, the EDM is the caseworker or local permanency worker. The EDM can also be the child’s caregiver. While a professional involved in the case will more often serve as the EDM for a student who resides in an RTC, each determination should be made on a case-by-case basis.

Surrogate Parent for Special Education Decisions

A central element of IDEA is participation of a parent in development of the IEP. Unless the court has ordered the biological parents to retain those rights, the “parent” for special education decision-making for a child residing in a foster home will generally be the foster parent. For a student placed at an RTC, if no one able to act as the child’s parent can be located then a surrogate parent will need to be appointed. Serving as a surrogate parent gives an individual the ability to advocate on the student’s behalf, which is critical for students in

³³ CPS Policy Handbook Section 15231 Choosing a Public School or Residential Treatment Center (RTC) Program. Available online at http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_x15000.asp#CPS_15231.

³⁴ DFPS Form 2085-E. Available online at <https://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=K-908-2085-E.pdf>.

RTCs and there are specific requirements related to appointing a surrogate parent.³⁵ Additionally, surrogate parents and foster parents who serve as the parent of a child with a disability are required to receive specific training related to the role.³⁶ An employee of a school district, child welfare, or other agency involved in the education or care of the student cannot serve as a surrogate parent.³⁷

CASA may also serve as a surrogate parent.³⁸ Several participants expressed a preference that if a student is placed in an RTC, the CASA volunteer should be appointed by the court as the surrogate parent because the CASA may be more familiar with the student's history and needs than others involved in the case. One challenge is that CASAs are appointed locally and often cannot travel out of the region to attend ARD meetings in person. However, a video conferencing system available through the Office of Court Administration, or other types of video technology, could perhaps enable participation from outside the CASA's region.

Another issue discussed at the round table was the question of who makes special education decisions when the student leaves the RTC and moves to a foster home. CASA participants took the position that once the foster parent is ready to assume the role of parent for special education purposes, CASA should request that the court release the CASA from their order to serve as surrogate parent for the student. CASA participants noted that this coordination would likely support student success and a smooth transition to a home-like setting.

Attorney participants underscored that ad litem should be trained on special education processes, so they will be knowledgeable about requesting that the court appoint a surrogate parent for the student or to request a different surrogate parent for their client, if necessary. Another issue is that attorneys ad litem often experience challenges when advocating for their clients in schools. The attorneys at the round table expressed frustration about being excluded from important school meetings. Without being part of the conversations with school personnel, it is difficult for attorneys to know the scope of any issues which an individual student might be having, which often shows up in court reports or could be taken out of context at a court hearing.

Student Voice

Regardless of who makes the education-related decisions on a student's behalf, it is essential that the student's wishes and expressed goals be given thoughtful consideration and attention. No major decision should be made without input from the student. Not only will this make the plan more realistic, but it will give the student the opportunity to feel heard, empowered, and part of the decision-making process.

³⁵ 19 Tex. Admin. Code § 89.1047.

³⁶ *Id.*

³⁷ 20 U.S.C. § 1415(b)(2).

³⁸ Tex. Fam. Code § 107.031(c).

VI. The Provision of Special Education

For students receiving special education services, recent and accurate information about a student's school performance informs whether additional supports, services, or accommodations are needed to help the student succeed in school. The goal should always be to provide education to the student in the least restrictive environment. These determinations must be made on a case-by-case basis to comply with IDEA.

Identification and Evaluation

A parent, TEA, other state agency, or local educational agency (school district or charter school) may initiate a request for an initial evaluation to determine if the student is eligible for special education services.³⁹ A full individual and initial special education evaluation must be completed within 45 school days following the date when the district receives consent from the student's parent to evaluate the student.⁴⁰ In general, for a child who is a ward of the state as defined by IDEA, including students placed in RTCs, reasonable efforts must be made to obtain the consent of the person making special education-related decisions on the student's behalf.⁴¹

Once an initial evaluation is in progress, if a student transfers to another school district or charter school, the new district or charter is not required to complete the initial evaluation within the state-established timelines so long as it is making sufficient progress to ensure a prompt completion of the evaluation and so long as the parent and the new district or charter have agreed to a specific time when the evaluation will be completed.⁴² However, in the absence of these criteria being met, the new district or charter must complete the initial evaluation within state-established timelines based on when the previous district or charter school received parental consent to evaluate the student.

Since the RTC is supposed to be a short-term placement, participants indicated that there should be an expedited process to evaluate students in these settings.

³⁹ 20 U.S.C. § 1414(1)(B).

⁴⁰ Tex. Educ. Code § 29.004.

⁴¹ 20 U.S.C. § 1414(a)(1)(D)(iii).

⁴² 20 U.S.C. § 1414(a)(1)(C).

Sometimes it's really hard, when a kid has moved, and moved, and moved, and moved....They've done an intake, and they've done psychological, and they've gone to the doctor....[A] lot of LSSPs will say, "[T]his kid has been tested a lot. And do you want me to go through the whole battery of testing again? And they're still kind of in a really traumatic place." So, it really helps if we have an RTC that is willing, and a caseworker that's willing to let us use some of the psychological...so we don't have to re-test them. If we have them long enough, and they have that gap and that educational need, then yes, we can get them in and qualified as long as we have them.

-Nicole Whetstone

Deputy Superintendent, UT Charter School System

Some RTCs reported having a diagnostician on campus, often a Licensed Specialist in School Psychology (LSSP), which can be helpful when time is of the essence. With care taken to protect confidentiality, other assessments already completed and on file with CPS can potentially inform and expedite the evaluation process.

Subsequent School Placements

A well-constructed IEP will detail what services the student will receive and the setting where the student will receive those services. One important detail is the student-teacher ratio and classroom setting. Another factor is the environment in which the student receives services ranging from a regular classroom with additional services to a self-contained classroom. The greater the specificity in the IEP, the more likely future schools will be able to implement the plan when the student leaves the RTC. However, a student's needs can change over time, and the IEP must be reviewed at least annually.

School districts that do not have RTCs within their boundaries may be unfamiliar with what an RTC is and the type of education which a student receives while placed at the RTC. Stakeholders may also not realize that on-campus open-enrollment charter schools are public schools. One participant relayed the practice of multiple school districts seeing previous IEPs from RTC charter schools and interpreting the placement in an RTC as requiring placement in a segregated special education campus.

Addressing Behavior

There are often questions about the differences between charter schools and local schools. Charter schools are public schools and are governed in large part by Texas Education Code Chapter 12 and may be subject to different state laws than traditional local schools.⁴³ It is important to note that IDEA, which is a federal law, applies to all public schools, including open-enrollment charter schools. This includes mechanisms to protect students with disabilities from improper disciplinary action under IDEA.⁴⁴ Texas Education Code Chapter 37, which is the chapter related to school discipline, generally does not apply to students enrolled in a charter school.

One issue discussed at the round table was the use of Disciplinary Alternative Education Placements (DAEP) which provide an educational setting outside the student's classroom when the student is removed for disciplinary reasons. A participant noted that charter schools typically don't have their own DAEP and that charter schools also do not ordinarily have contracts with local school districts that allow access to the local district's DAEP. Thus, there may be limited options if there is a disciplinary action in an on-campus charter at an RTC. Several disciplinary options were then discussed. One option is not to discipline a student in response to a behavior-related incident. Another is to provide the student with services apart from his or her peers, creating a separate discipline placement for the student. It is important to keep in mind that, if a student receiving special education services is being recommended for a disciplinary change of placement, the student's ARD committee must conduct a manifestation determination.⁴⁵

There is significant research about using alternative strategies to create a positive school climate that helps to prevent disciplinary issues.⁴⁶ Some well-supported strategies in Texas include Positive Behavior Interventions and Supports (PBIS), restorative practices, and Social and Emotional Learning. There is also an increased emphasis on creating trauma-responsive schools.⁴⁷

⁴³ For more information, see TEA Charter Schools web site, available online at https://tea.texas.gov/Texas_Schools/Charter_Schools/.

⁴⁴ See 20 U.S.C. § 1415(k)(1)(E).

⁴⁵ 20 U.S.C. § 1415.

⁴⁶ For more information, see Texas Behavior Support Network website. Available online at <http://www.txbehaviorsupport.org/>.

⁴⁷ For more information, see National Child Traumatic Stress Network website. Available online at <https://www.nctsn.org/trauma-informed-care/creating-trauma-informed-systems/schools>.

I literally walk across the street, and say, Hey I have x kid. This is the struggle we're having at school. I talk to the therapist. Now, they don't divulge the confidentiality, but then they'll say these are some behavioral things we're on target to try. This is what is working. Then I'll think about how do we implement it at school.

-Shelly Williams, Principal, New Horizons School

While behavior for students in RTCs may be challenging, coordination among adults, along with a commitment to creating an environment where all students can thrive and develop positive relationships with adults and peers, will open up space and energy for learning and academic progress as well.

VII. Transition Planning

With each move, there is potential for a student to lose four to six months of academic progress.⁴⁸ The percentage of students in foster care who attended two or more schools in one school year is 6.5 times that of students not in care.⁴⁹ Although federal and state law mandate that a student can remain in his or her school origin, if it is not in the student's best interest to do so, then the promise of school stability is even more dependent on accomplishing a streamlined transition. The time between school transfers presents an opportunity to mitigate the loss of academic, social, and emotional progress.

Several round table participants noted that going to a new school is a daunting experience for students, including not knowing where to sit in the cafeteria or feeling different because of their foster care experiences. A few scenarios were discussed at the round table. Some students may start the school year at an on-campus charter then gradually transition to a local school. Others may remain enrolled in the charter school until leaving the RTC, but part of the focus should be on developing skills at the RTC that will help transition the student to a different school setting.

⁴⁸ Casey Family Programs. (June 2002). Education Issue Brief: Improving Special Education for Children with Disabilities in Foster Care. Available online at www.gascore.com/documents/ImprovingSpecialEducationforChildren.pdf.

⁴⁹ Data Infographic, *supra* note 3.

A few supportive strategies discussed by the participants included:

- For a student attending a local school, as soon as the placement is secured at the RTC, RTC and school staff can coordinate to gather paperwork and prepare for the student's arrival at the local school.
- Ensure that everyone involved is mindful about planning transitions from one school to another at natural breaks (i.e. Spring Break, after testing periods, etc.).
- After a student leaves the RTC and transitions to a local school, schedule a tour for the student to visit his or her new school. It may be appropriate to coordinate with the CASA, school counselor, caseworker, caregiver, and other supportive adults.
- A student in foster care could be paired with another student as a buddy. This peer support could help keep the student on track.
- Positive support should be school wide. Students in foster care do not want to be singled out or treated differently from other students.
- When possible, school staff should leverage existing systems of care and wrap-around support.
- It is important to include the student's voice and tap into their interests. If the student is interested in extracurricular activities or particular coursework, this can empower and engage the student in the school experience and provide opportunities to meet peers with similar interests.

One point raised during the round table is that education should not be viewed in isolation. Professionals working with students should consider the whole child. For example, a decision to move a child out of an RTC to a family placement may cause a disruption in schooling in the middle of a semester but may help the child achieve permanency sooner. Ultimately, all decisions should be well-informed, made with the best interests of the student in mind, and communicated across all settings.

[Graduation and Postsecondary Planning](#)

Approximately 1,200 young adults turn 18 while in Texas foster care every year and about 300-400 of those youth remain in extended foster care. Some students may need additional supports from school to stay on track for graduation and postsecondary opportunities. Supervised Independent Living is a placement option that could offer students the opportunity to finish high school and pursue career or higher education alternatives. One participant noted that graduation does not have to be on a particular date; schools can work with the RTC to accelerate coursework and graduate students early. Also, if an 11th or 12th grade student transfers and would have been eligible to graduate from his or her sending school but not the receiving school, the receiving school must allow the student to graduate.⁵⁰

⁵⁰ Tex. Educ. Code § 28.025(i).

To set students up for success after high school, one participant emphasized the importance of setting realistic goals, including a backup plan. Another key element discussed at the round table is helping students lock in the state's tuition and fee waiver benefit by enrollment in a dual credit or college credit course before turning 25. Once activated, the waiver is a lifetime benefit that enables a student to pursue higher education without payment of tuition and fees at any Texas public institution of higher education, ranging from a certificate to a doctorate degree.⁵¹

Another consideration mentioned at the round table is career development. One of the greatest predictors of long term success is holding a job while in school. Partnerships in the community will give students work opportunities that can build their resumes as well as their skill set and confidence.

⁵¹ See Tex. Educ. Code § 54.366.

VIII. Recommendations

In addition to the best practices and goals set out above, the Children's Commission suggests the following strategies to help ensure that students placed in RTCs receive education services appropriate to their needs and situation:

- The Foster Care and Education Committee's Special Education Workgroup should take the information from the round table and continue to focus in greater detail on the education of students in RTCs. Together with experts on general education, residential treatment, charter schools, youth engagement, and other identified areas, the workgroup should develop a tool, guide, and/or training. The strategy should consider the target audience and the goals for the resource.
- Regardless of the resource developed above, the Children's Commission will identify additional training opportunities to inform judges, attorneys, and child advocates about the roles of education decision-maker and surrogate parent.
- The Texas Administrative Code section related to inter-agency coordination should be revisited and revised to reflect the current agency names, roles, and responsibilities. Once revised, the information should be distributed across the state to RTCs as well as impacted school districts and charter schools. If needed, the sample MOU provided should also be modified to reflect changes in the Administrative Code.

Round Table Participants

Name	Title	Organization
Pam Bell	Program Manager	Meadows Center for Preventing Educational Risk
Kristene Blackstone	Associate Commissioner for Child Protective Services	Dept. of Family & Protective Services
Jesse Booher	Director of Policy and Research	Texas Alliance of Child & Family Services
Denise Brady	Senior CPS Policy Attorney	Dept. of Family & Protective Services
Mae Carter	Attorney	Barnett & Leuty P.C.
Melissa Chavez	Associate VP and Superintendent	UT University Charter School
Sarah Crockett	Public Policy Coordinator	Texas CASA
Rich DuBroc	Managing Partner	Prairie Harbor RTC
Holly Engelman	Program Administrator	UT University Charter School
Hon. Richard Garcia	Associate Judge	Bexar County Children's Court
Tara Garlinghouse	Foster Care Attorney	Disability Rights Texas
Gary Hazy	Operations Director	New Horizons
Jenny Hinson	CPS Director of Placement	Dept. of Family & Protective Services
Hon. Rob Hofmann	Judge	452 nd Judicial District Court
Andy Homer	Director of Public Affairs	Texas CASA
Carol Huntley	Transition Specialist	Round Rock ISD
Christopher Janawicz	Director of Residential Services	Helping Hand Home for Children
Stacy May	Assistant Counsel, Legal Services	Texas Education Agency
Megan McPherson	Clinical Director	The Children's Shelter
Garry McWhorter	Executive Director	North Fork Educational Center
Christine Nishimura	Deputy General Counsel	Texas Charter Schools Association
Katie Olse	Executive Director	Texas Alliance of Child & Family Services
Michael Redden	Chief Executive Officer	New Horizons
Heather Reisman	Assistant Counsel, Legal Services	Texas Education Agency
Melissa Ruffin	Director of Curriculum and Instruction	UT University Charter School
Don Schmidt	Assistant Superintendent for Student, Family & Community Services	Northside ISD
Kaysie Taccetta	CPS State Director of Conservatorship Services	Dept. of Family & Protective Services
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