

CHAPTER

6



IDENTIFYING STUDENTS & MAINTAINING CONFIDENTIALITY: KEY CONSIDERATIONS

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CHAPTER 6

Identifying Students & Maintaining Confidentiality: Key Considerations

WHY DO SCHOOLS NEED TO IDENTIFY STUDENTS IN FOSTER CARE?

Identifying which students are in foster care may be challenging in the school setting but is important to improving educational outcomes for this student population.

Identification is necessary:

- For proof of legal authority of the caregiver during enrollment
- To implement many supportive educational provisions regarding students in foster care
- To identify students who are eligible for supplemental instructional services, such as state compensatory education and funding (*see page 82*)
- To facilitate successful transitions for students (*see page 84*)
- To facilitate high school completion and overall student success in school (*see page 92*)
- To facilitate planning and transitioning into post-secondary education (*see page 104*)



TIP: Identifying students in a way that maintains confidentiality and provides the utmost sensitivity is highly important!

WHAT ARE ACCEPTABLE DOCUMENTS FOR IDENTIFICATION OF STUDENTS?

There are two primary documents that a school can request from a caregiver to confirm that the child or youth is in foster care and that the caregiver has the education decision-making authority for the child: 1.) The DFPS *Placement Authorization Form 2085* and 2.) a court order (*see below for details*). Regardless of which of these documents is provided to the school, **documents containing information regarding the student’s status as a youth in foster care are confidential**. They should be kept in a secure area, such as a locked file cabinet, and only shared with other school personnel on a “need-to-know” basis (*see page 53*).

1. Placement Authorization Form: DFPS uses *Placement Authorization Form 2085* to delegate its court-ordered authority to make day-to-day decisions regarding a child to an individual, usually a caregiver such as a foster parent or residential facility staff. The Form 2085 is proof of the agency’s legal authority and is preferred by DFPS as evidence of DFPS conservatorship because it is more likely an individual foster parent or facility staff member will have a copy of the form rather than the court order.

Depending on where a student lives, the placement type identified on the form will be different. The subtitle on the second line might say “Foster Care/Residential Care,” “Kinship or Other Non-Foster Caregiver,” “Home and Community Based Services” or “Legal Risk”, depending on the type of living placement. *All forms in the 2085 series designate the student is in DFPS conservatorship (see Appendix F for a sample of the 2085).*

When a caregiver reports to a school official that a student is in the care and custody of DFPS, the school official may ask for a copy of the *Placement Authorization Form 2085* to confirm that the person presenting the form has the authority to make education decisions regarding the child (*see Chapter 9 for more information on education decision making*).

2. Court Order: A school official may request a copy of the *court order* naming DFPS as the Temporary Managing Conservator (TMC) or Permanent Managing Conservator (PMC) of the child to confirm that DFPS or its appointed caregiver has the authority to make education decisions for the child.

Note: If the school has questions or concerns about a child’s identity, the school official may request the Placement Authorization Form 2085 or the court order, or may call the DFPS caseworker listed on the paperwork for clarification.

**Can the *Placement Authorization Form 2085* be used as evidence of legal responsibility when enrolling a student in school?**

Yes, schools may allow a person to show evidence of legal responsibility for the child other than a court order, such as the DFPS *Placement Authorization Form 2085*, to enroll a child in school. Schools are encouraged to accept this proof of DFPS conservatorship in order to prevent any delays in enrollment or education decision making as caregivers may not have court orders in their possession.

CPS Court Orders and Confidentiality:

CPS court orders have private and confidential information related to a student's family and the reasons for his or her placement in foster care. Sometimes schools request court orders or other documents related to the CPS case unaware these may contain very personal details related to a student's abuse or neglect history. Information may be redacted from the court order before a copy is given to the school, if it is not related to identifying DFPS as the managing conservator or not needed to meet a child's educational needs or for the safety of other students.

Compensatory Education and Funding:

A student who is in the custody or care of DFPS is a student considered at-risk of dropping out of school for the purposes of Texas Education Code § 29.081. Because of this status, there is a code in TEA's education management database (PEIMS) which should be entered to indicate that the student is eligible to receive compensatory instructional services to assist with high school completion. This is PEIMS at-risk indicator code #11. Therefore, each student enrolled with the *Placement Authorization Form 2085* or a court order should be coded with **at-risk indicator code #11** in PEIMS and be eligible for state compensatory education services.



Other forms at enrollment: Schools may be given other forms at the time of enrollment. These forms authorize nonparent caregivers to enroll a child in school and make education-related decisions. A school may see a DFPS form 2298 *Agreement for a Parental Child Safety Placement (PCSP)*, or a State of Texas form entitled *Authorization Agreement for Nonparent Relative or Voluntary Caregiver* but it **is only the *Placement Authorization Form 2085* and/or a court order that confirms a student is in the state's custody and eligible for the foster care related resources discussed in this the guide.**



TIP: Students enrolling with forms other than a *Placement Authorization Form 2085* may be eligible for services under the McKinney-Vento Act. To ensure students receive all eligible supports, please contact your district's homeless liaison.

MCKINNEY-VENTO HOMELESS EDUCATION SERVICES**Consideration when students are involved with CPS but *not* in conservatorship or substitute care:**

In order to promote student achievement, schools are encouraged to provide individual interventions and supports for all students according to their educational needs. There are situations where students are involved with DFPS and may be receiving services from the child welfare system, but are not in substitute care/conservatorship (see "*Stages of Service*," page 37). In some circumstances, such as a child or youth living in an emergency shelter, awaiting a foster care placement, or placed voluntarily with a relative, a child or youth may qualify for assistance under the McKinney-Vento Homeless Education Act. For more information, contact the district McKinney-Vento Homeless Liaison. Additional resources and beneficial information on understanding the relationship between McKinney-Vento and foster care are found on the following page.

RESOURCES: McKinney-Vento and Foster Care

The Texas Homeless Education Office’s “Homeless Assistance Act Foster Care & Substitute Care Brief” — *a helpful tool for educators on this topic. A checklist with a number of CPS scenarios to assist with determining eligibility:* www.utdanacenter.org/theo/downloads/factsheets/RP44_Substitute_and_FosterCare.pdf

Legal Center for Foster Care and Education, “How Fostering Connections and McKinney-Vento Can Support School Success for all Children in Out-of-Home-Care”: www.americanbar.org/content/dam/aba/migrated/child/education/publications/qa_fc_and_mv_overlap_final.authcheckdam.pdf

Legal Center for Foster Care & Education and National Center for Homeless Education, Best Practices in Homeless Education, “When Working Together Works: Academic Success for Students in Out-of-Home Care”: center.serve.org/nche/downloads/briefs/wwtw.pdf

Legal Center for Foster Care & Education and National Center for Homeless Education, Best Practices in Homeless Education, “Clearing the Path to School Success for Students in Out-of-Home Care”: center.serve.org/nche/downloads/briefs/ctp.pdf

Texas Homeless Education Office website:
www.utdanacenter.org/theo/resources/factsheets.php

PRACTICES TO IDENTIFY STUDENTS AND ENSURE CONFIDENTIALITY:

Identifying students in a way that maintains confidentiality and provides the utmost sensitivity is critical and an important first step in implementing provisions identified in the Education Code. Once foster students are properly identified, districts can implement systems and processes to identify, track, and ensure beneficial supports to students.

While each district will develop its own system to identify, enroll, and support students in foster care, always be mindful of the need for confidentiality. Remember, it could be harmful to a student if peers learn of a student’s foster care status. Also, foster care alumni and students in foster care have reported feeling negatively perceived by school staff. It is important for adults to be aware of students’ rights to privacy and understand the potential negative impact of revealing students’ personal information. Thoughtfully file all forms, tracking logs, notebooks, and data safely out of view of other students. Keep records secure from individuals who do not need to know the student is in foster care. All written information with student names should be behind password protection, in locked file cabinets, or in locked bookshelves or drawers in order to avoid confidentiality violations, as well as to avoid potential harm to a student. Likewise, consider that confidentiality and protecting a student’s privacy applies to oral and written communication.

Each of the examples below provides an opportunity to think through how and why one would promote or maintain confidentiality as described above, while still identifying students.

- ⇒ Develop training and increase awareness with school registrars and front office staff on how to effectively identify and enroll students and communicate identified students to the school district foster care liaison. Training should include sensitivity and awareness; confidentiality; safe and secure storing of records; and effective practices that streamline enrollment.
- ⇒ Add a question to the district’s existing Student Residency Questionnaire (SRQ) asking if the student is in foster care. Have the person enrolling the student verify their response by providing a *DFPS Placement Authorization Form 2085*. This leverages an existing form and process already used by many districts. If implemented, processing and handling of this form must be confidential and sensitive, including all written and oral communication about the student.



- ⇒ Add a question to the school enrollment form that discreetly identifies students, similar to using the SRQ as described above, but use language other than “foster care” to maintain student privacy. For example, ask on the form if a student has a Form 2085, but do not ask if the student is in “foster care” as the enrollment form may be seen by others in a school office. Once again, it is important that identifying information on this form be kept confidential and secure (*see Appendix G for a sample enrollment form*).
- ⇒ In addition to the student’s caregiver information, document the caseworker’s name and contact information in the student’s records in case further information or follow-up is needed.
- ⇒ Develop an identification code in the district data base system for tracking and monitoring student progress for each campus and across the district.
- ⇒ Streamline the process with the district food coordinator to ensure students are immediately enrolled in and receive free school meal programs without further application⁴⁹ (*see page 74*).

TEA is collecting examples of how districts are identifying students and promoting confidentiality so they can be shared with other districts. Please email fostercareliaison@tea.state.tx.us to share new practices and supports that are established.

CONFIDENTIALITY & INFORMATION SHARING – COMMUNICATING “NEED-TO-KNOW” INFORMATION WITHIN A SCHOOL DISTRICT:

Federal and state laws and policies require that a child’s status of being in DFPS conservatorship must generally be kept confidential. However, there will be times when information related to a student must be communicated to a teacher or school staff member who works with the student. According to the American Bar Association (ABA) Legal Center for Foster Care and Education report, *“Mythbusting Breaking Down Confidentiality and Decision-Making Barriers to Meet the Education Needs of Children in Foster Care,”* “if important information related to the student is not communicated to the staff working directly with the student, information sharing does not achieve the intended benefit.” The guide also states that, when “sharing information among school staff who have a legitimate interest in working with a student, schools must be careful not to violate the privacy of students by sharing information with others who do not have a need to know.”⁵⁰ Exercising professionalism and sensitivity when addressing confidentiality issues is critical to developing an educational environment that both protects and benefits students in foster care.

Information presented by CPS in *“Connecting Child Welfare and Education Law”* at the 2013 statewide *Foster Care and Education Summit* provides important guidance for educators on sharing information in the school setting.⁵¹ School personnel who might have a need to know related to non-academic information about a student in foster care include:

- Superintendent, Principal, or administrative staff — if necessary for enrollment, administrative or educational purposes;
- Teacher(s) — if necessary for education or other relevant classroom purposes;
- School Counselor, School Nurse — if necessary for educational or health/mental health purposes;
- Special Education personnel — if student is or may be eligible for special education services;
- Coaches — if necessary or relevant to some aspect of the activity;
- Bus Driver — may need to know a child’s address for transportation purposes, but may not need to know the student is in foster care;
- Front office staff and volunteers — may need to know who will pick the student up from school, but may not necessarily need to know the student is in foster care;
- Cafeteria staff — may need to know a student is eligible for school meal programs, but does not need to know on what eligibility grounds; or
- Others.

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



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

- Current address for child;
- Identity of individual with authority to enroll child in school;
- Caseworker contact information;
- Birth certificate or other identification;
- Certain sections of the Education Portfolio or Passport;
- Previous schools attended;
- Transcripts, report cards;
- Special Education or 504 eligibility, including any ARD/IEP reports or Behavior Intervention Plans;
- Immunizations;
- Vision or hearing evaluations; and
- Medicaid eligibility or number, if necessary for services.



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

- Relevant court orders;
- Contact information for the biological family;
- Fact that child is in a relative or kinship placement;
- Child’s relevant medical, disability, or health history;
- Mental or behavioral health issues;
- Medications, including psychotropic medications;
- Alcohol or substance abuse history and/or treatment (generally only with consent of all parties, including the youth);
- Social history; and
- History with law enforcement or juvenile justice.



It is NEVER appropriate to share:

- Abuse/neglect history;
- Fact that child was adopted;
- Name of the person who reported the abuse or neglect, if known;
- CPS investigation details; and
- Biological or foster family income in order to determine services for the child in foster care.

To view the presentation in its entirety, visit: www.yourhonor.com/myprofile/assets/Connection_between_Education_and_CPS_Law.pdf