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**POSTCARD:** Provided by Foster Care Alumni of America - "There will never be an easy button."

# CHAPTER 4

## Child Welfare 101

This chapter provides an overview of the Texas foster care system and describes the people and systems involved in a student's life while in foster care. The chapter describes different living arrangements and addresses common questions and complexities related to the child welfare system. A description of a student's possible journey through foster care and Department of Family and Protective Services (DFPS) "stages of service" is also included. A comprehensive list of terms and acronyms used by the child welfare and court systems is included in the *Appendix A on page 151*. A child in foster care has many rights. A list and description of these rights are described in *Appendix B on page 157*. Other situations that may be mistaken for foster care involvement will also be referenced.

### WHAT IS FOSTER CARE?

Foster care, or out-of-home care, is the system that a child enters when a child cannot live safely at home and a court of law grants legal custody to the State of Texas. A child "in foster care" can be in either the temporary or permanent conservatorship of DFPS.

"Conservatorship" is a term also used in the Texas Education Code and by DFPS to describe the status of a child who is placed in DFPS legal custody by a court order. Although not as commonly referenced, "substitute care" is interchangeable with the terms "conservatorship" and "foster care." While a child is in foster care, DFPS may place the child in several different types of living arrangements. These include:

- Relative/kinship caregiver or 'fictive kin' (a close family friend)
- Foster family homes
- Cottage homes
- Residential treatment centers and emergency shelters
- Facilities overseen by another state agency
- Adoptive family
- Supervised independent living (SIL) arrangement.

A child may also be placed with a non-custodial parent or returned home (in what is known as a "return and monitor") and still be temporarily in DFPS conservatorship.

Foster care is meant to be temporary until a permanent living arrangement is found and DFPS no longer has legal conservatorship of the child. DFPS works closely with families to make it safe for children to return permanently to their parents. When it is not safe for a child to return to their parents, DFPS works to ensure a safe, permanent home for the child with relatives, fictive family, or non-relative adoptive homes. However, for some children, DFPS may maintain permanent conservatorship. Children in foster care may have to change placements while in foster care due to a variety of factors, such as being placed with a relative, court rulings, being placed with siblings, or changes in the foster



home or facility. DFPS consistently works towards increasing placement capacity to better meet the needs of each individual child.



**Note:** Youth who turn 18 while in DFPS conservatorship have the option to enter into Extended Foster Care, a voluntary program that offers young adults turning eighteen in DFPS care the opportunity to continue foster care placement and facilitate the transition to independence with DFPS supervision. These young adults, while not in the conservatorship of DFPS, are referenced as being “in foster care” the same as youth under age 18. They are still involved with DFPS, have a caseworker, and receive supportive services and case management.

**Conservatorship** — There are two terms used to define whether a child is in short or long-term conservatorship:

- **Temporary Managing Conservatorship (TMC):** The child may be in TMC while DFPS works with the family towards reunification or an alternate plan in the child’s best interest.
- **Permanent Managing Conservatorship (PMC):** DFPS may be named the permanent managing conservator for a child until conservatorship is given to another individual (for example, a relative or through adoption) or until the child turns 18.

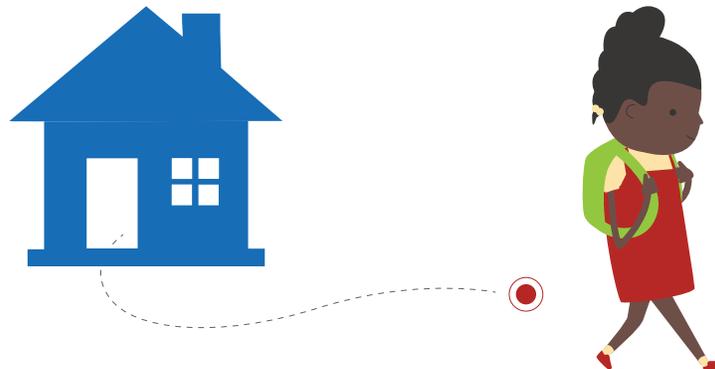


**Reminder:** The term “foster care” is being used throughout this guide to refer to all children and youth in DFPS conservatorship, as well as young adults who voluntarily enter extended foster care past the age of 18.

## HOW CHILDREN AND YOUTH ENTER THE FOSTER CARE SYSTEM

A child or youth enters the foster care system when DFPS and a court determine that the child cannot safely remain with their parent and there are no other options for the child to safely remain in their home. DFPS must petition the court for approval to remove a child from their home because of safety concerns. Before a decision is made to remove a child, DFPS must make reasonable efforts to safely maintain children with their families, including providing necessary supports and services. These services are provided through Alternative Response (AR) or Family-Based Safety Services (FBSS) and are provided by DFPS staff, community agencies, or both.

If, despite reasonable efforts, there is still a danger or imminent risk of harm to the child and the child cannot be kept safe with the child’s family or a close family friend (fictive kin), DFPS can remove a child and take custody of them. DFPS must obtain a court order by proving to a judge that it is necessary to remove the child from the home and place the child in foster care. In most cases, DFPS goes to court and receives a court order before removing a child, but in the most urgent situations, DFPS may remove a child first and then obtain a court order. To ensure that reasonable efforts are made to keep children in their homes, courts must approve all decisions to remove and must offer the parents and their attorneys an opportunity for a contested adversary hearing within 14 days of the child’s removal from the home.<sup>21</sup>

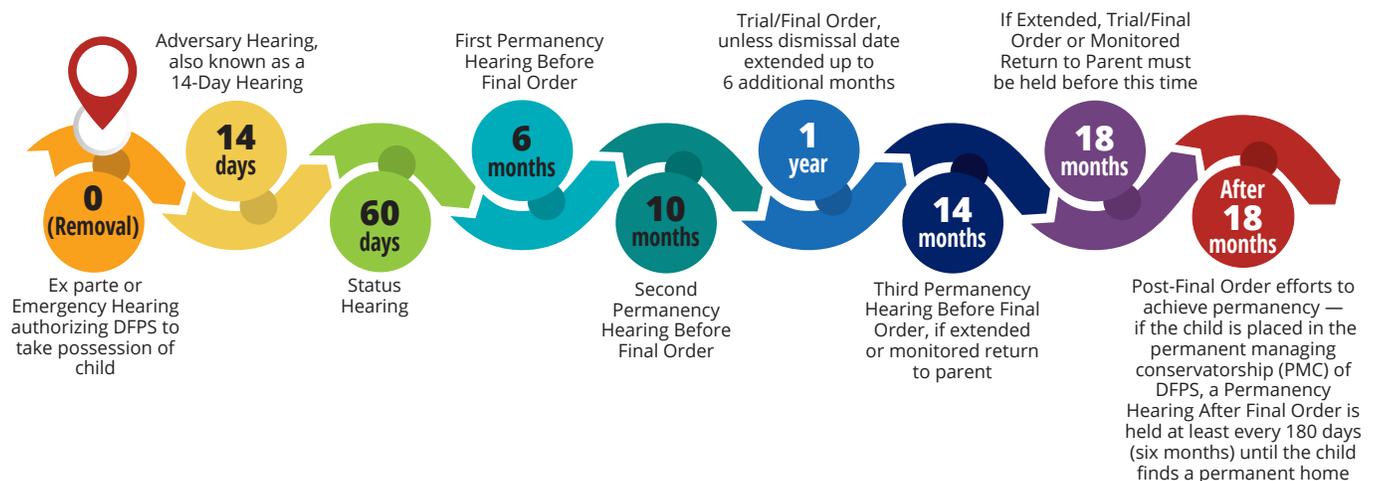


### SCENARIOS WHERE DFPS MAY BE INVOLVED, BUT THE STUDENT IS NOT IN DFPS MANAGING CONSERVATORSHIP

- In some cases, DFPS may be investigating or providing services to a family but does not have managing conservatorship of the child. The family may be receiving what are referred to as Alternative Response or Family-Based Safety Services while the child remains in their home, in which case the parents have all the same rights as any parent in making education decisions. The school may not be aware when families are receiving these services, as the child is not considered to be in foster care.

In other cases, parents may choose to temporarily place their child with a relative or other adult caregiver while DFPS or a community agency is working with the family. If DFPS approves this arrangement, the placement is considered a Parental Child Safety Placement (PCSP) and is governed by law. Parents using a PCSP for temporary care of their child often execute an "Authorization Agreement for Nonparent Adult Caregiver," which authorizes that adult caregiver to take certain actions such as enrolling the child in school or making other education decisions. Executing an Authorization Agreement does not limit the rights of the parent. The Authorization Agreement is established by law.

## TIMELINE OF REQUIRED HEARINGS IN DFPS LEGAL CASES INVOLVING AN IMMEDIATE REMOVAL OF A CHILD



## TYPES OF ABUSE AND NEGLECT INVESTIGATED BY THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

- Abuse:
  - Emotional Abuse
  - Forced or Coerced Marriage Abuse
  - Physical Abuse
  - Sex and Labor Trafficking
  - Sexual Abuse
- Neglect:
  - Abandonment
  - Neglectful Supervision
  - Medical Neglect
  - Physical Neglect
  - Refusal to Assume Parental Responsibility (RAPR)



Definitions of abuse and neglect as defined by [Texas Family Code §261.001](#) and [Texas Penal Code \(Chapter 21, 22, 43\)](#), which may result in investigation and placement in foster care are provided below:

FORM OF ABUSE/NEGLECT:	DEFINITION:
EMOTIONAL ABUSE	<ul style="list-style-type: none"> <li>• Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning.</li> <li>• Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning.</li> <li>• The current use by a person of a controlled substance as defined by the Texas Health and Safety Code, Chapter 481, in a manner or to the extent that the use results in mental or emotional injury to a child.</li> </ul>
FORCED OR COERCED MARRIAGE ABUSE	Forcing or coercing a child to enter into a marriage.
PHYSICAL ABUSE	<ul style="list-style-type: none"> <li>• Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm.</li> <li>• Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child.</li> <li>• The current use by a person of a controlled substance as defined by the Texas Health and Safety Code, Chapter 481, in a manner or to the extent that the use results in physical injury to a child.</li> <li>• Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by the Texas Health and Safety Code, Chapter 481.</li> </ul>
SEX AND LABOR TRAFFICKING	<ul style="list-style-type: none"> <li>• Compelling or encouraging a child to engage in sexual conduct as defined by Section 43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, solicitation of prostitution under Section 43.021, Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code.</li> <li>• Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a) (5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections.</li> </ul>
SEXUAL ABUSE	<ul style="list-style-type: none"> <li>• Sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or disabled individual under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code.</li> <li>• Failure to make a reasonable effort to prevent sexual conduct harmful to a child.</li> <li>• Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic.</li> <li>• Causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by 43.25, Penal Code.</li> </ul>
ABANDONMENT	<ul style="list-style-type: none"> <li>• The leaving of a child in a situation where the child would be exposed to an immediate danger of physical or mental harm, without arranging for necessary care for the child, and a demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child.</li> </ul>

FORM OF ABUSE/NEGLECT:	DEFINITION:
NEGLECTFUL SUPERVISION	<ul style="list-style-type: none"> <li>Placing the child in or failing to remove the child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or an immediate danger of harm to the child.</li> <li>Placing a child in or failing to remove the child from a situation in which the child would be exposed to an immediate danger of sexual conduct harmful to the child.</li> <li>Placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse committed against another child.</li> </ul>
MEDICAL NEGLECT	<ul style="list-style-type: none"> <li>Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting an immediate danger of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child.</li> </ul>
PHYSICAL NEGLECT	<ul style="list-style-type: none"> <li>The failure to provide the child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused.</li> </ul>
REFUSAL TO ASSUME PARENTAL RESPONSIBILITY (RAPR)	<ul style="list-style-type: none"> <li>The failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.</li> </ul>

## REPORTING CHILD ABUSE AND NEGLECT

Educators are mandated reporters of suspected child abuse and neglect, including human trafficking. Schools are required to have policies and training for personnel regarding the reporting of suspected child abuse and neglect, in accordance with relevant Texas statutes and the commissioner's rules (see list below).<sup>22</sup> Child abuse and neglect reports are made by phone or online. Most reports come from teachers, doctors, and law enforcement.<sup>23</sup>

### LEA CHILD ABUSE, NEGLECT, AND MANDATORY REPORTING REQUIREMENTS (INCLUDING HUMAN TRAFFICKING)

- ✓ All new school employees must complete training on child abuse and neglect, sexual abuse, and human trafficking, as a part of new employee orientation (trainings are currently available separately to meet these requirements).
- ✓ School Board Members and superintendents must complete training on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children.
- ✓ Every school campus must post the DFPS Child Abuse Report Hotline telephone number on an 11x17 inch poster in English and Spanish in a highly visible area, at student eye-level.
- ✓ School district policy must be included in any informational handbook provided to students and parents addressing sexual abuse, trafficking, and other forms of maltreatment, including
  - » Methods for increasing staff, student, and parent awareness. Prevention techniques and knowledge of likely warning signs indicating that a child may be a victim.
  - » Actions a student who is a victim should take to obtain assistance and intervention
  - » Available counseling options.
- ✓ LEAs must provide research-based, age appropriate, child abuse anti-victimization programs in elementary and secondary schools.

- ✓ LEAs must develop and clearly articulate district policies, protocol, and procedures for reporting child abuse, neglect, and human trafficking and assisting victims with accessing supports and services.
  - » Local district policies must include child abuse anti-victimization programs in elementary and secondary schools consisting of age-appropriate, research-based prevention designed to promote self-protection and prevent sexual abuse and trafficking.

## REPORTING CHILD ABUSE AND NEGLECT

If you suspect child abuse or neglect, make a report by calling **1-800-252-5400** or visiting the Texas Abuse Hotline Website at [www.txabusehotline.org](http://www.txabusehotline.org).

Call **911** if it is an emergency.

(An emergency is a situation where a child faces an immediate risk of abuse or neglect that could result in death or serious harm.)

**\*\*If human trafficking is suspected, also contact local law enforcement or the Texas Department of Public Safety (DPS).**



### RESOURCES: Reporting Child Abuse, Neglect, and Human Trafficking

TEA, [Child Abuse Prevention Overview](#) website.

TEA, [Child Abuse Reporting Hotline Poster](#) (English and Spanish). Found under the 'Student Reporting Posters' section of the Child Abuse Prevention Overview page.

TEA, [Human Trafficking Prevention and Awareness Training for Educators](#).

If you suspect human trafficking of a child or youth, call the [National Human Trafficking Hotline](#) at 1-888-373-7888 or visit the National Human Trafficking Hotline webpage.

DFPS, [Online Training for Professionals](#). A training course on how to report suspected abuse or neglect, including a video tutorial on mandatory reporting in the school setting.

DFPS, [Report Abuse, Neglect, or Exploitation](#).

DFPS, [Prevention and Intervention Resources](#). Programs Available in Your County.

For more information on in-person or virtual trainings that can be provided by DFPS, email [dfpscpcommunications@dfps.texas.gov](mailto:dfpscpcommunications@dfps.texas.gov)

[School Board Trustee Human Trafficking Training Information](#)

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## LIVING ARRANGEMENTS OF CHILDREN AND YOUTH IN FOSTER CARE

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There are a variety of different placement types for children in foster care. Each placement is selected based on the child's needs and the ability of the caregiver to best meet those needs. The goal of each placement is to provide the child with a safe, stable, and nurturing environment.



**TIP:** Placement settings may influence a student's time during and after school differently.

It is helpful when educators remain sensitive of the setting in which any student may live and consider the impact of the environment on the student. Trauma-informed educators have the tools to promote a student's educational success and help the student build positive relationships with teachers and others. DFPS provides a [trauma-informed care training](#) to assist families, caregivers, and other social service providers in fostering a greater understanding of trauma-informed care and child traumatic stress. This free training resource is also available to professionals, advocates, stakeholders, and members of the public who are interested in learning about the impact of trauma.

PLACEMENT TYPES:	DESCRIPTION:
RELATIVE OR KINSHIP CAREGIVER	A relative or kinship caregiver provides care for a child who is in DFPS conservatorship. A relative is a member of the child's biological family. A kinship caregiver is a person who has a longstanding and significant relationship with the child or with the child's family (such as a close family friend). While DFPS maintains conservatorship of the child, the child in this type of placement is still considered to be "in foster care." Note that relatives and kinship caregivers can also become licensed foster parents, although this is not a requirement.
FOSTER FAMILY HOME	A state-licensed home (usually temporary) for children in foster care. Caregivers, known as foster parents, receive a reimbursement for providing room, board, and transportation for children living in their home.
COTTAGE HOME / GENERAL RESIDENTIAL OPERATION (GRO)	A licensed facility where multiple children live. Staff oversee the facility and students live there 24/7. These facilities may have "cottage home parents" who have roles very similar to caregivers in a foster family home.
EMERGENCY SHELTER	A shelter facility that houses children for up to 90 days while awaiting a longer-term foster placement.
RESIDENTIAL TREATMENT CENTERS (RTC)	Residential Treatment Centers are regulated by the Health and Human Services Commission (HHSC) and are meant to serve as a temporary placement focused on treatment for children who require specialized services that cannot be met in a traditional home setting. Once a child achieves their treatment goals, the child transitions out of the RTC and back into the most family-like setting possible, consistent with the child's needs.
ADOPTIVE FAMILY	Children who are legally eligible for adoption (this happens only when all parental rights have been terminated) may be placed with an adoptive family. DFPS maintains legal conservatorship until the adoption is finalized. Adoptive families are licensed to adopt in a similar way that foster families are licensed to foster.
PARENT	In some situations, a child may be placed with the child's parent(s) while the child is in DFPS conservatorship. While a child is placed with the parent(s), DFPS will still be the managing conservator and a caseworker will continue to be involved until custody is returned to the parent(s).
SUPERVISED INDEPENDENT LIVING (SIL)	Supervised Independent Living (SIL) is a type of voluntary Extended Foster Care placement where young adults can live on their own while still receiving case management and support services to help them become independent and self-sufficient. The DFPS SIL program allows young adults to live independently under a supervised living arrangement provided by a DFPS contracted provider. A young adult in SIL is not supervised 24 hours a day by an adult and has increased responsibilities. These young adults will be their own education decision-makers and will still have a caseworker.



DFPS, [Supervised Independent Living \(SIL\)](#).

DFPS, [Extended Foster Care](#).



**TIP:** Schools can help with targeted foster parent recruiting.

In partnership with DFPS, schools can play an active role in recruiting foster parents. Schools can specifically help increase the number of foster homes within school zones, especially in districts and school zones where there are a large number of children entering foster care.

Maintaining children in their home school or district supports educational stability. School personnel who are interested in becoming foster parents or know someone who might be should visit the [DFPS Adoption and Foster Care webpage](#), or contact the regional DFPS office for more information.

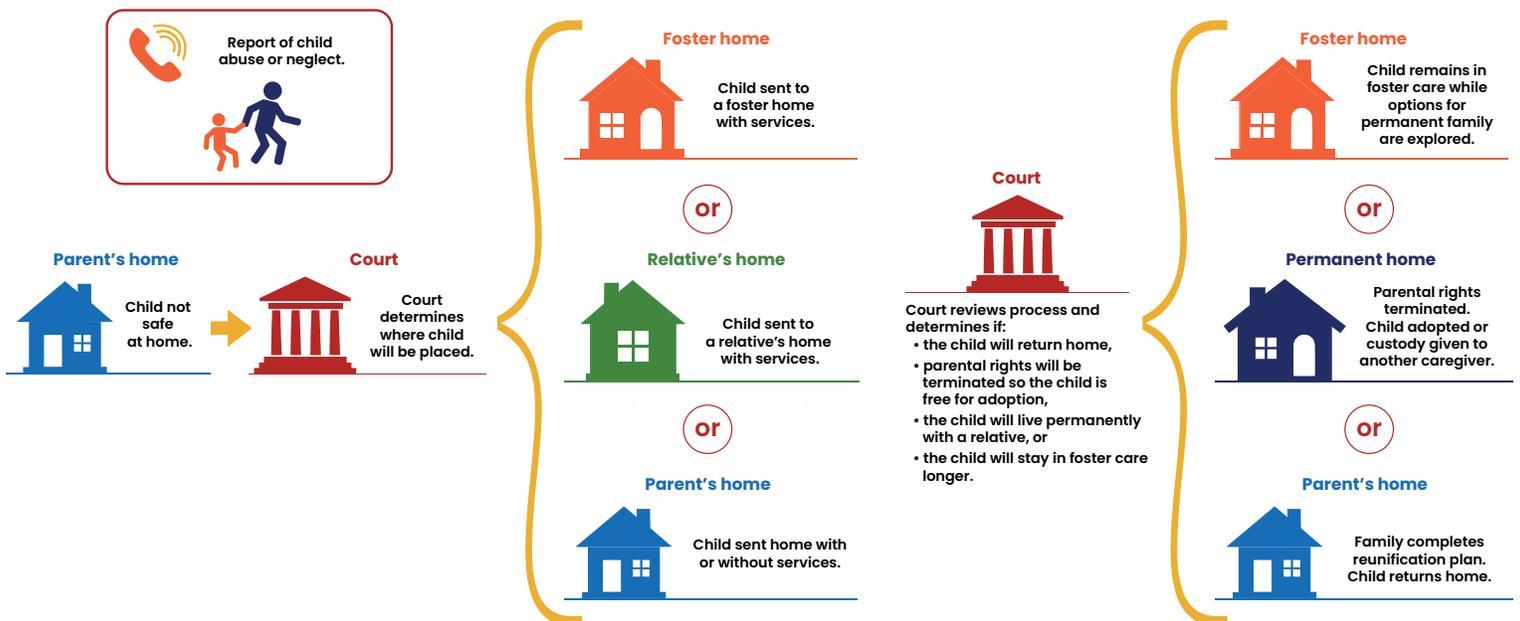
## A STUDENT'S JOURNEY THROUGH FOSTER CARE

A student's journey through foster care is more clearly understood through the DFPS stages of service described below.

DFPS STAGES OF SERVICE:	DESCRIPTION:
INTAKE	DFPS operates a toll-free 24-hour hotline (1-800-252-5400) and online reporting at <a href="http://www.txabusehotline.org">www.txabusehotline.org</a> for reporting suspected abuse and neglect of children, the elderly, or people with disabilities.
INVESTIGATION	DFPS staff interview children, parents, and others to determine if abuse or neglect has occurred and evaluate child safety. Parents maintain legal custody of the child during the investigation unless the child is deemed unsafe and DFPS removes the child from the home under the authority of a court order or as allowed by the law.
ALTERNATIVE RESPONSE (AR)	Alternative Response is similar to a traditional investigation in that Alternative Response investigates abuse and neglect allegations. However, Alternative Response handles less serious allegations of abuse and neglect and has a higher focus on providing services and support to families while still keeping safety the top priority. An Alternative Response case may become a traditional investigation if new information prompts a higher level of safety concerns. Parents maintain legal custody of their children while receiving services during Alternative Response.
FAMILY-BASED SAFETY SERVICES (FBSS)	If an investigation reveals there are concerns and a child can safely remain in their home, families may be referred to Family-Based Safety Services to help stabilize the family and reduce risk of future abuse or neglect. Most children continue to live in their own homes or with relatives or kinship caregivers during this time. Parents maintain legal custody of the children.
CONSERVATORSHIP	When it is determined that it is not safe for a child to remain in their home, DFPS removes the child. The court can issue an order before or after the removal, depending on immediacy of the danger. If a judge upholds the removal, DFPS is granted temporary custody and the child enters foster care. Conservatorship is the term for DFPS legal custody of a child as well as the stage of service during this part of a child's journey. Once it is determined to be safe, the child may be placed with a parent with court oversight (in a "Return and Monitor") while continuing in DFPS conservatorship.

DFPS STAGES OF SERVICE:	DESCRIPTION:
EXTENDED FOSTER CARE	Extended Foster Care is a voluntary program that offers qualifying young adults turning 18 in DFPS care opportunities to continue foster care placement and facilitate the transition to a successful adulthood with DFPS supervision. These young adults are not legally in DFPS conservatorship. They will still have a caseworker, and may have a CASA volunteer, guardian ad litem, or caregiver. The young adult will generally be their own decision-maker, and others may continue to be involved to assist them.
ADOPTION	If all parental rights to a child have been terminated, the child becomes available for adoption and the court may name other individuals as the child's legal parents. (A lifetime college tuition and fee waiver is available for qualifying children who remain in foster care until age 18 and some of those who are adopted from DFPS care) (See <i>Financial Supports for Post-Secondary Education</i> , on page 143.) <sup>24</sup>

## A CHILD'S JOURNEY THROUGH FOSTER CARE



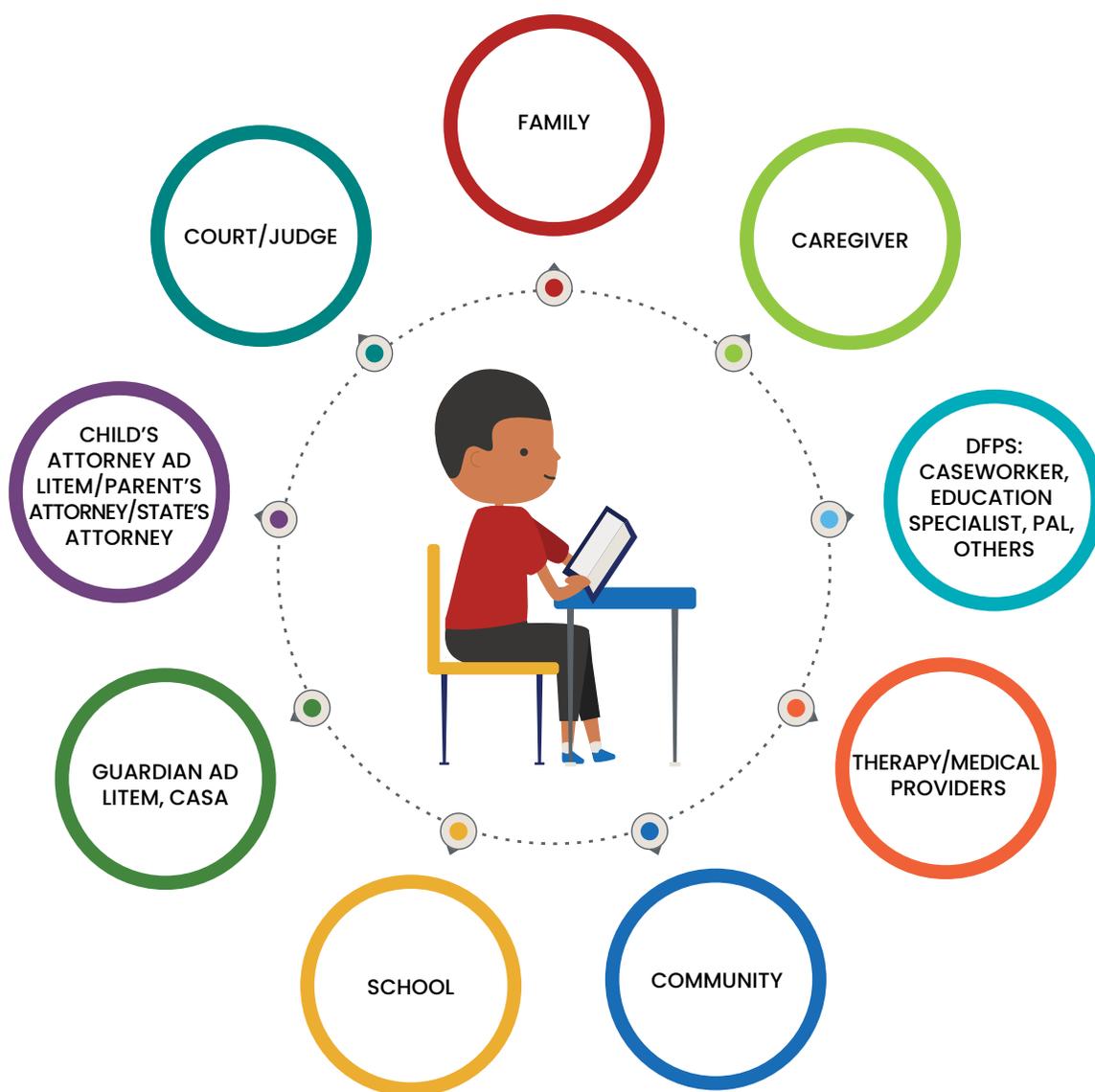
See *Appendix D* on page 162 for a more detailed flow chart describing the DFPS process. Additionally, more information about the foster care system in Texas can be found on the [DFPS Child Protective Services webpage](#).

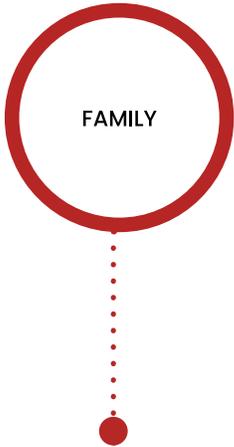
## KEY PEOPLE INVOLVED IN THE LIFE OF A STUDENT IN FOSTER CARE

When a child is placed in foster care, there are many adults and service providers who play a critical role in meeting their physical and emotional needs. It is helpful for education professionals to understand the various people and systems that may work with a student in foster care.



It is important to recognize that a child in foster care—even one who is in the permanent managing conservatorship of DFPS—has family they are connected to and love. Family can still be involved with the child, and, in many cases, even attend school events. Before reaching out to family, contact the child's caseworker to get contact information and verify there are no contact restrictions. A child who maintains connections to the people who will have a long term presence in their life is more likely to experience improved outcomes in adulthood.





## PARENTS AND FAMILY

Foster care alumni report concern and loss associated with being separated from their family, which often influences a student's learning process and school experience. Each case is unique and students may or may not see their parents, siblings, or other family members. Educators should remain sensitive to a student's visitation, court dates, and other circumstances, such as school assignments related to family. In many cases, family can be involved in the student's school life. Examples include attending school-related events, helping with homework, aiding in transportation to extracurricular activities, or providing the teacher with information about the student's past school performance, behaviors, challenges, disabilities, testing, and successes. Educators can talk with the caseworker about the allowable extent of family involvement. Note that in situations where a student is in the process of being reunified with the parents, DFPS still has conservatorship of the student, but the parents regain primary caregiver responsibilities and the school will work directly with the parents in addition to the caseworker.



## CAREGIVER

The caregiver may be a relative, kinship caregiver, foster parent, or a representative of a facility (e.g. case manager, clinical director, etc.). Caregivers have responsibilities related to the student's education.



## DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES (DFPS)

School personnel may interact with DFPS or their contracted provider, and others involved in the life of a student in foster care, such as:

### CASEWORKER

The caseworker is the primary staff member responsible for the oversight of a child's case and has multiple responsibilities. They are the direct link with the child, family, caregiver, the court system, and multiple service providers. They are responsible for ensuring the child's needs are met and that the child receives all necessary and appropriate services while in foster care. The caseworker visits with the child at least once a month and may also supervise visits with siblings (if placed separately) and family members. LEAs must provide notice to the caseworker and education decision-maker regarding events that may significantly impact the education of the student in foster care.<sup>25</sup> (See *Chapter 9: Education Decision-Making*, page 96.)

### PREPARATION FOR ADULT LIVING COORDINATOR (PAL)

Preparation for Adult Living (PAL), in collaboration with public and private organizations, is a DFPS program that assists youth ages 14 and older in developing independent living skills. School personnel can support students by ensuring they are informed about enrolling in PAL services and further coordinating with the PAL provider to help students acquire job skills, academic records, and important life skills in preparation for transitioning to a successful adulthood and accessing college and career opportunities.



**Note:** Community-Based Care organizations may call the PAL program and PAL staff by a different name.

**RESOURCE:**

**DFPS, [Preparation for Adult Living \(PAL\)](#)** - More information on the PAL program and contact information for PAL in each region. *(See Chapter 13: Transitioning from Foster Care & Post-Secondary Education Opportunities, page 138.)*

**INVESTIGATOR**

Although this section covers the key people who are more regularly involved with a student in foster care, sometimes additional allegations of abuse or neglect—or an allegation that a caregiver has violated a foster care standard (for example, using corporal punishment to discipline a student in foster care)—requires an investigator to speak with the student at school. These investigators may be either DFPS investigators or investigators with the Health and Human Services Commission.



**TIP:** Reporting a concern of abuse or neglect of a child to the school's principal does not relieve an employee of the requirement to report the concern to the appropriate state agency. In addition, school employees must cooperate with investigators of child abuse and neglect. Staff are prohibited from interfering with a child abuse investigation by denying an interviewer's request to interview a student at school or requiring the presence of a parent or school administrator contrary to the request of the duly authorized investigator. See TASB, "[Reporting Requirements for Child Abuse Allegations](#)."

**THERAPY/MEDICAL PROVIDERS**


THERAPY/MEDICAL PROVIDERS

Students may receive counseling, therapy, or other medical or mental health services. Schools are encouraged to coordinate with caregivers when possible to help align school and individual therapeutic strategies that support consistency in the student's school and home settings. Further, schools should coordinate with caregivers to ensure the student can maintain regular school attendance.

**COMMUNITY-BASED CARE**


COMMUNITY

Community-Based Care is a new way of providing foster care and case management services. Within a geographic service area, a Single Source Continuum Contractor (SSCC) is responsible for finding foster homes or other living arrangements for children in state care and providing them a full continuum of services. As Community-Based Care continues to be implemented across the state, DFPS will transition caseworker duties to the SSCC.

In Community-Based Care areas, Foster Care Liaisons/school leaders should work together with SSCC's to ensure processes for enrolling students, securing transportation, maintaining students in their school of origin, and other school stability goals are promoted locally and understood by all involved.

Students may be involved with community organizations such as after-school clubs, churches, mentoring organizations, and other supports and services. LEAs can partner with community and local organizations, share information about available resources, and involve these groups in supporting students.



**TIP:** DFPS staff, Community-Based Care staff, or the caseworker for a student may change without notice.

If you are unable to contact the student's caseworker, it is best to contact the caseworker's supervisor. Contact information for both the caseworker and supervisor are listed on the Placement Authorization Form 2085 (*See Information Necessary for Admission and Enrollment Described, page 66; Appendix E, page 163.*)

## SCHOOL



### EDUCATION DECISION-MAKER

Texas law requires DFPS to designate an individual to make education decisions on behalf of a child in conservatorship and to notify the court and the school of that person's name and contact information. DFPS uses Designation of *Education Decision-Maker Form 2085-E* to notify the school. An individual holding a *Form 2085-E* naming them as an education decision-maker for the student is operating under the authority of DFPS to make education decisions or to take actions to carry out DFPS decisions about the student's education. While the student's daily caregiver is often the designated education decision-maker, there are times when someone other than the caregiver is selected for this role. Note that Community-Based Care organizations will use the *2085-E form*.



### REGIONAL EDUCATION SPECIALIST

Regional education specialists are the subject matter experts in education and school-related matters. They act as liaisons between DFPS and local schools and LEAs within their region. They advocate for educational and supplemental services that best meet the needs of children in the school environment. Regional education specialists also serve as a primary resource for school staff and child welfare staff on education matters involving students in foster care. Education specialists offer presentations to staff and community stakeholders on improving educational outcomes for children and youth in foster care, trauma-informed care, and intervention strategies; they may also facilitate local education consortia in coordination with Education Service Centers (ESCs). Regional education specialists also serve as the point of contact for the Every Student Succeeds Act (ESSA).



**TIP:** The regional education specialist is an excellent contact to begin building partnerships with the community and local child welfare system. The education specialist serves as the child welfare point of contact for schools concerning education best-interest decisions, transportation, dispute resolution, and other cross-system coordination needs and requirements.

The regional education specialist may help provide cross-system trainings and other information on services provided. DFPS maintains a list of [Regional Education Specialists](#) in the state.



### OTHERS

Other staff members may transport or convey student documents and records, such as:

- Human Services Technician (HST)—This individual works closely with a caseworker to assist with the transportation of children.
- Case manager—This individual may work directly for a facility or for one of the many private agencies across the state that licenses foster parents.
- Administrative assistant.


**GUARDIAN AD LITEM; CASA**

**GUARDIAN AD LITEM (GAL)**

The Texas Family Code also requires that a guardian ad litem be appointed to represent a child's best interests when DFPS asks to be made the child's legal parent or seeks to have the parents' custodial rights terminated.<sup>26</sup>

A guardian ad litem may be:

- A volunteer advocate, such as a Court Appointed Special Advocate (CASA);
- A professional, other than an attorney, who holds a relevant professional license and whose training relates to the determination of a child's best interests;
- An adult having the competence, training, and expertise determined by the court to be sufficient to represent the best interests of the child; or
- An attorney, who may also be appointed to serve in the dual role of attorney ad litem and guardian ad litem.<sup>27</sup>

Similar to an attorney ad litem, a guardian ad litem is responsible for interviewing the child and each person who has knowledge of the case. A guardian ad litem takes part in the court proceedings, including providing reports to the court and should, prior to each scheduled hearing after the adversary hearing, determine whether the child's educational needs and goals have been identified and addressed.<sup>28</sup> Like the attorney ad litem, a guardian ad litem is allowed access to the child and information regarding the child, including education information.<sup>29</sup>


**COURT APPOINTED SPECIAL ADVOCATES (CASA)**

CASA volunteers or CASA supervisors can serve as guardian ad litem or volunteer advocate to represent the best interests of a child in foster care. CASA may be appointed by the court, but not every child in foster care will have a CASA volunteer. The CASA volunteer may contact the school in order to gather information, review school records, or interview school personnel in order to advocate for the child in court. As the child's guardian ad litem, a CASA volunteer is entitled to access relevant medical, psychological, educational, and other information regarding the child.<sup>30</sup> In some instances, the student's CASA volunteer may play an active role in enrolling the child and advocating for their educational needs. A CASA volunteer may be appointed to act as the surrogate parent for the child, unless a foster parent of the child is making special education decisions on behalf of the student.<sup>31</sup>

**DID YOU KNOW?**

Current and former educators make excellent CASA volunteers! Local CASA nonprofit organizations recruit, train, and support CASA volunteers in most areas of the state. Consider becoming a [CASA volunteer](#) to advocate for the best interests of a child in court.


**CHILD'S ATTORNEY AD LITEM/PARENT'S ATTORNEY/STATE'S ATTORNEY**

**CHILD'S ATTORNEY AD LITEM**

The Texas Family Code requires that an attorney ad litem (AAL) be appointed to represent the legal interests of a child when DFPS asks to be made the child's legal conservator or seeks to have the parents' rights to the child terminated.<sup>32</sup> The attorney ad litem is responsible for interviewing the child and each person who has knowledge of the case; reviewing all relevant records related to the child,

including school records; and presenting the child's position in court. The attorney ad litem should also determine whether the child's educational needs and goals have been identified and addressed prior to each scheduled hearing after the adversary hearing.<sup>33</sup> Once a final order is entered, the court must continue the appointment of the AAL or the GAL, or the attorney serving in the dual role for the child, as long as the child is in DFPS Conservatorship. The court may continue the appointment of both the AAL and the GAL.



**TIP:** The attorney ad litem may contact the school for information regarding the child's education status and needs.

In an order appointing the attorney to represent the child, there should be language allowing the attorney to have immediate access to the child and any information relating to the child.<sup>34</sup>

The attorney ad litem for the child is also entitled to records related to the child, including school records, without requiring a further order or release.<sup>35</sup>



### ATTORNEY FOR PARENTS AND DFPS

Other court-related representatives involved in a child's case include the attorney for the child's parents and the attorney for DFPS. An attorney will represent DFPS in its legal proceedings. In some counties, DFPS will be represented by the local prosecutor's office—either the county or district attorney—or by a regional attorney who is an employee of DFPS. Parents' attorneys may be hired or appointed by the court, depending on the financial situation of the parents.<sup>36</sup> The attorneys for parents may be lawyers in private practice or part of an office that specializes in representing parents in DFPS cases, or the local public defender's office.



### COURT/JUDGE

Courts play a critical role in child welfare cases. Once DFPS determines that a child needs to live outside of their home due to abuse or neglect, DFPS must file a lawsuit and ask a court to approve the child's living situation. Judges will continue to monitor the child's circumstances until the child resides in a safe, permanent home (*See Timeline of Required Hearings in DFPS Legal Cases Involving an Immediate Removal of a Child, page 38.*) At court hearings, judges must inquire about the student's educational needs and goals and may issue specific guidance regarding the child's education, medical, therapeutic, or behavioral services.



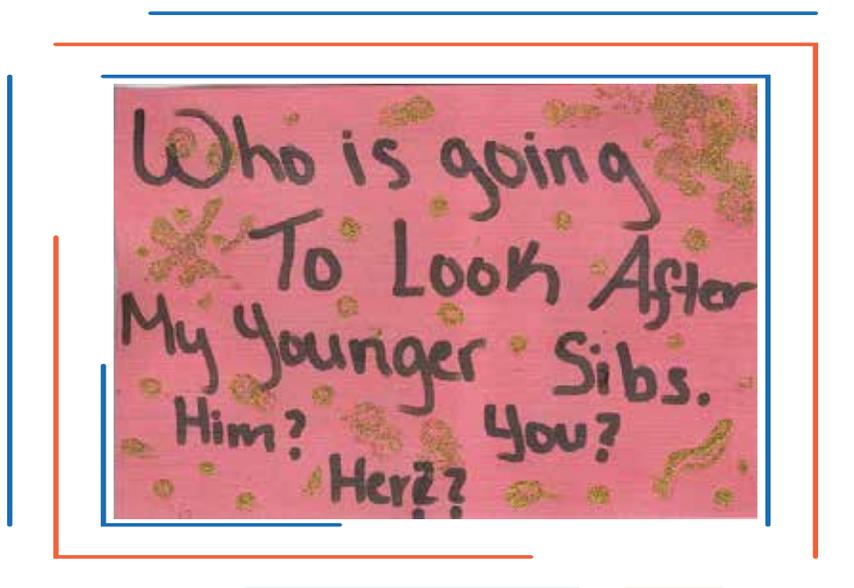
**TIP:** In some situations, students may have the option of participating in a court hearing via phone or video conference, enabling them to not miss the school day. Schools may assist in facilitating this remote option by providing a phone and/or quiet, private space for students to use.

COURT/JUDGE



## WORKING WITH KEY PEOPLE IN A DFPS CASE IN THE SCHOOL SETTING:

- School personnel may be subpoenaed or requested to attend a court hearing regarding the DFPS case.
- Attorneys and guardians ad litem should be able to show a court order appointing them to represent the student in the DFPS case. Most of these orders include language allowing the attorneys and guardians ad litem to have access to the child and to information regarding the student, including school records. These attorneys may attend “ARD” committee meetings (if invited by the person acting as the special education decision-maker) or other school meetings for the student.
- Depending on the most recent court order in the DFPS case, the parents may or may not have access to the student or to educational records. Check with the DFPS or Community-Based Care caseworker to find out who is responsible for education decisions and what access parents may have to the student or the student’s records. Consult with the school’s attorney to determine the LEA’s local policy for identifying who may have access to the student or to educational records (*See Chapter 7: Identifying Students and Maintaining Confidentiality, page 79.*)
- CASA volunteers are sometimes appointed as surrogate parents for children who are receiving special education services.
- To help ensure the safety of people working on the student’s case, please do not make a copy for the student file of the caseworker’s, attorney ad litem’s, or CASA volunteer’s driver’s license, as these documents could be accessed by the student’s parents or other persons. It is acceptable to run information through the ISD Raptor system, but no photocopy should be made. The person working on the student’s case can also provide the school with contact information and an identification badge from the organization they represent.



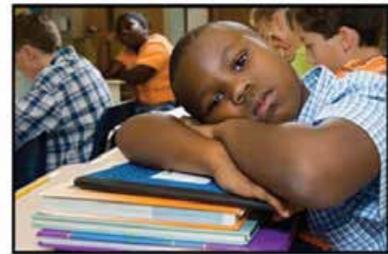
## OTHER SITUATIONS WHERE A CHILD MAY BE LIVING IN OUT-OF-HOME CARE, BUT NOT IN DFPS MANAGING CONSERVATORSHIP

### DFPS PARENTAL CHILD SAFETY PLACEMENT (PCSP)

A Parental Child Safety Placement (PCSP) is not foster care. It is a temporary, short-term out-of-home placement a parent can make when DFPS determines that the child cannot safely stay with a parent and removal of the child can be prevented. (See *How Children and Youth Enter the Foster Care System*, on page 37.)

### OFFICE OF REFUGEE RESETTLEMENT: “FEDERAL FOSTER CARE”

The Administration for Children & Families, Office of Refugee Resettlement, places unaccompanied child refugees in Texas in foster homes administered by the federal government. This is sometimes referred to as “federal foster care.” Students in these circumstances are eligible for USDA nutrition benefits as a child in foster care, as well as the Education and Training Voucher benefit (see *Financial Supports for Post-Secondary Education*, on page 143) and ESSA related school stability provisions. Students in these circumstances, however, are not in Texas DFPS managing conservatorship and they are not coded as foster care for PEIMS purposes. Additionally, students in this program are not eligible for the higher education tuition and fees waiver or other state-specific benefits for students in Texas DFPS managing conservatorship.



It was hard to be a kid and focus at school when life had so many uncertainties.