**Instructions for DFPS Caseworkers in Completing Education Decision-Maker**

**Form 2085-E**

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| Section 1: Authority to make education decisions |
| 1. Complete the child’s information, including Medicaid number, and court information.
2. DFPS is authorized by the Texas Family Code, §153.371 to make education decisions on behalf of the children and youth in the agency’s managing conservatorship. In most circumstances, DFPS delegates this authority to foster parents or caregivers of the child as the primary Education Decision-Maker.
3. The Caseworker indicates on the form the individual who will be delegated education decision-making for the child. The worker also designates a backup. The worker can be named as the Decision-Maker if no other appropriate person is available. In most cases the worker will be named as the backup.
4. The Caseworker can name the Education Decision-Maker at the Show Cause hearing at the same time the Medical Consenter is named.
5. The Caseworker indicates who the court has named as a surrogate decision-maker for children and youth eligible for special education services, if applicable.

 1. Caseworkers must file Education Decision-Maker Form 2085-E at the Adversary Hearing for all children and youth entering DFPS conservatorship on or after September 1, 2013. If, at the Adversary Hearing, the court names a different Education Decision-Maker or surrogate parent, amend the Education Decision-Maker Form 2085-E and file the amended form with the court within five days of the Adversary Hearing.

Note: At any hearing, the court can choose to appoint an Education Decision-Maker instead of granting DFPS the authority to do so. This person may be someone other than a foster parent or caregiver, such as a CASA representative, family relative or friend, or child advocate. Depending on the Child’s Plan of Service, the court may also choose to give all or limited education decision rights to the birth family. 1. Caseworkers must notify all persons entitled to notice under Texas Family Code §263.301, including the attorney ad litem, guardian ad litem, and CASA representative, within five days of the Adversary Hearing. A copy of the Education Decision-Maker Form 2085-E must be maintained in the child’s case file and the child’s Education Portfolio.
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| Section 2: Special Education Rights and Responsibilities, if applicable |
| If the student receives special education services, the school or the court may appoint a “surrogate parent” for purposes of making special education decisions. Federal law prohibits an employee of DFPS, the Texas Education Agency, a school district, or a residential facility from serving as a surrogate parent or making decisions related to a student’s special education eligibility or services. The surrogate must confer with the DFPS caseworker and other individuals involved with the child, however, in making education-related decisions. Indicate who the court or the school has designated as the surrogate parent, if applicable, and if known at the time of the hearing.  |

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| Section 3: Education Decision-Maker Rights and Responsibilities |
| This section identifies the specific rights and responsibilities of the person DFPS has named as the Education Decision-Maker for the child in DFPS conservatorship.  |
| Section 4: Biological Family Rights and Responsibilities, if applicable |
| In some circumstances, the court may authorize the birth parents to retain certain education decision–making rights. Please complete this section as directed by the court or mark it as “Not Applicable”. |
| Section 5: Caseworker Rights and Responsibilities |
| This section identifies the rights and responsibilities of the DFPS caseworker as it relates to ensuring the best educational outcomes for children in DFPS conservatorship. * The DFPS caseworker names the Education Decision-Maker.
* The caseworker must file the Education Decision-Maker Form 2085-E with the court at the Adversary Hearing.
* The caseworker is responsible for notifying all persons entitled to receive notice within five days of the Adversary Hearing.
* If the child changes placement or changes school, there may be a change in the Education Decision-Maker. File all updated changes with the court and notify all persons entitled to receive notification within five days of the change. Caseworkers are to retain an updated copy in the child’s case file and Education Portfolio.
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| Section 6: School Responsibilities |
| * This section serves as a reminder to school staff that all records are to be considered confidential and stored in a privacy-protected area.
* Caseworkers have the authority to access all school records.
* School records must be transferred within 10 days when a student changes school districts.
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| Section 7: Acknowledgements, Agreement and Signatures |
| * This section provides signatory lines for the Education Decision-Maker, with a backup signature for the spouse of the foster parent or other named person.
* There are also signatory lines to be completed by the caseworker, the caseworker’s supervisor, and the child’s daily caregiver if different from the Education Decision-Maker. Although not allowed to make special education decisions, a residential facility staff member may serve as the primary education contact for the school.
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