*Due to the complexity and volume of this revision, some sections have comments that outline the purpose of the changes in the section. Highlighting still signifies major policy and procedure changes. Changes that do not impact meaning or requirements may not be highlighted.*

*Staff should contact the CCL Policy Team by emailing the LPPH Mailbox if they have questions about this revision.*

## 4100 Inspecting Child-Care Homes and Operations

LPPH ~~November 2009~~ DRAFT 5437-CCL

Policy

Licensing staff inspect child-care operations to assess the risk to children in those operations, in accordance with licensing law, administrative rules, and minimum standard rules.

To determine an operation’s compliance, Licensing staff:

a. observe the operation’s performance;

b. review the records and files maintained by the operation;

c. cite the operation’s deficiencies, based on the minimum standards;

d. document observations to capture scope and severity;

e. consider the risks posed by violations of the minimum standards;

f. use critical thinking to assess the operation’s overall compliance history;

g. help the permit holder identify problems that contribute to deficiencies and provide technical assistance to help the permit holder understand how to comply; and

h. consider all of the relevant information together for a broad perspective.

The operation is responsible for developing and implementing plans to correct problems and prevent risk to children.

Licensing staff are not responsible for managing the operation.

DFPS Rules, 40 TAC [§745.8403; [745.8401](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8401)](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8403)

Procedure

Licensing staff evaluate the risk associated with deficiencies and help the permit holder understand that he or she must comply with licensing law, administrative rules, and minimum standard rules.

Determining Compliance With Licensing Law and Rules

For specific procedures on determining compliance with licensing law, administrative rules, and minimum standard rules, see the *Policy* section above.

Documenting Findings

Once compliance is determined, Licensing staff document the results of:

• their observations, to capture the scope and severity of issues that potentially pose a risk to children in care; and

• their inspections, within the specified time frame.

All monitoring activities, inspections, technical assistance, and administrative reviews must be documented in the CLASS system. Form 2936 Child-Care Facility Inspection is generated from CLASSMate.

See 4160 Documenting the Results of an Inspection.

#### 4122 Attempted Inspections

LPPH ~~December 2011~~ DRAFT 5437-CCL

Procedure

Attempted inspections include inspections conducted without making contact with the operation. See [4155](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4143) When an Inspection Is Attempted.

#### 4123 Follow-Up Inspections

LPPH ~~December 2011~~ DRAFT 5437-CCL

Procedure

Follow-up inspections include evaluating individual minimum standards, conditions, or restrictions, rather than evaluating an entire subchapter of minimum standards or all conditions or restrictions associated with the operation. See [4300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.jsp#LPPH_4300) Conducting a Follow-Up With an Operation.

Examples of reasons follow-up inspections are made include, but are not limited to:

a. ensuring that recent deficiencies or a pattern of repeated deficiencies are addressed;

b. meeting with the designated director at a licensed day care center (see 4133.3 Child Day Care – Annual Meeting with the Designated Director);

c. amending a permit or certificate (see [3810](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3810) Changes Affecting a License, Certificate, or Registration Permit);

d. ensuring that background check matches are completed (see [5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5300) Central Registry and Criminal History Searches);

e. evaluating an operation’s compliance with the conditions established to address the issues identified during a risk evaluation (see 4152 Reviewing Restrictions and Conditions and [5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5300) Central Registry and Criminal History Searches);

f. following up on suspension, revocation, or denial (see [7636](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7636) Follow-Up to Suspension, Revocation, or Denial);

g. monitoring during the appeal process (see [7731](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7731) Regulation During Appeal Process);

h. following up on a waiver-variance condition (see 4152 Reviewing Restrictions and Conditions and [5120](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5120) Setting and Monitoring Conditions for the Waiver or Variance); or

i. monitoring the temporary relocation of an operation (see [7320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.jsp#LPPH_7320) Temporary Relocation).

#### 4125 Investigation Inspections

LPPH ~~December 2011~~ DRAFT 5437-CCL

Procedure

Investigation inspections include the investigation of reports alleging:

a. abuse;

b. neglect;

c. violations of the Licensing statutes;

d. violations of administrative rules;

e. violations of minimum standards; or

f. a combination of these.

If an investigation interview is conducted at an operation other than the one named in the report, the inspection is classified as *Other* in CLASS. All other inspections associated with conducting an investigation are classified as *Investigation* or *Investigation/Monitoring*. See [6000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp#LPPH_6000) Investigations.

### 4130 Frequency of Monitoring Inspections

LPPH ~~December 2011~~ DRAFT 5437-CCL

*This section was renumbered, renamed, and edited. Previously, this section was LPPH 4134 (Recommended Monitoring Frequency).*

Policy

The frequency with which monitoring inspections are conducted is determined by:

• an operation’s permit type; and

• an operation’s deficiencies and the associated weight of the deficiencies. The recommended monitoring frequency can be found on the *Enforcement Recommendation* page in CLASS.

The inspector may choose to expedite a monitoring inspection by selecting an inspection date earlier than the recommended frequency.

See:

4133 Minimum Frequency of Monitoring Inspections for Licensed Operations

4134 Minimum Frequency of Monitoring Inspections for Registered Child-Care Homes

4135 Operations That Are Not Regularly Inspected

[4500](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.jsp#LPPH_4500) Evaluating Risk to Children

[7435](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.jsp#LPPH_7435) Inspecting During Evaluation and Probation

#### 4131 Required Inspections During Night or Weekend Hours

LPPH DRAFT 5437-CCL (new item)

Licensing staff inspect an operation that provides night or weekend care during the night or weekend hours that it operates at least once every two years.

If an inspection cannot be made during night or weekend care, Licensing staff:

a. obtain supervisory approval to conduct the inspection during regular visiting hours;

b. document the justification for conducting the inspection during regular visiting hours in the CLASS system as a *Chronology* with a category of *Monitoring*; and

c. document a plan for how night and weekend care will be evaluated for compliance with minimum standard rules.

#### 4133 Minimum Frequency of Monitoring Inspections for Licensed Operations

LPPH ~~December 2011~~ DRAFT 5437-CCL (currently 4131)

*The section was renumbered and renamed. Previously, this section was LPPH 4131 (Frequency of Monitoring Inspections for Licensed Operations).*

Policy

Operations with a nonexpiring license must be inspected at least once every 12 months (not more than 366 days).

Additional monitoring inspections are based on an assessment of the risk to children and are scheduled in the CLASS system.

The inspector evaluates a licensed operation for compliance with all minimum standards during each two-year period after the issuance of the nonexpiring license.

Texas Human Resources Code [§42.044(b)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044)

For information on conducting a monitoring inspection on an operation that holds an initial license, see [3341](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3341) Conducting Inspections During the Initial License Period.

First 12 Months After Issuance of a Nonexpiring License

Procedure

During the first 12 months following the issuance of a nonexpiring license, the inspector:

• conducts at least one monitoring inspection every six months; and

• evaluates all minimum standards within 12 months from the date the license was issued.

Subsequent Years After Issuance of a Nonexpiring License

Procedure

After the first 12 months following the issuance of a nonexpiring license, the inspector conducts inspections at least annually, based upon an assessment of risk to children. See [4130](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4134) Frequency of Monitoring Inspections. During each two-year period, the inspector must evaluate all minimum standards for compliance.

The inspector measures a two-year period from month-to-month, beginning with the issuance of the nonexpiring license. For example, if a license was issued on September 1, the inspector evaluates the licensed operation for compliance with all minimum standards between September 1, 2009, and September 30, 2011.

##### 4133.1 Residential Child Care – Monitoring Inspections for CPA Branch Offices

LPPH ~~December 2011~~ DRAFT 5437-CCL (currently 4131.1)

This section was renumbered (formerly LPPH 4131.1). The only change to content was that a cross-reference was updated due to the renumbering of another section.

##### 4133.2 Residential Child Care – Team Inspections

LPPH ~~December 2011~~ DRAFT 5437-CCL (currently 4131.2)

Number change only (formerly LPPH 4131.2)

##### 4133.3 Child Day Care – Annual Meeting With the Designated Director

LPPH ~~December 2011~~ DRAFT 5437-CCL (currently 4131.3)

Number change only (formerly LPPH 4131.3)

#### 4134 Minimum Frequency of Monitoring Inspections for Registered Child-Care Homes

This section was renumbered and renamed. Previously, this section was LPPH 4132 (Frequency of Monitoring Inspections for Registered Child-Care Homes).

The only change to content was that a cross-reference was updated due to the renumbering of another section.

LPPH ~~December 2011~~ DRAFT 5437-CCL (currently 4132)

Policy

The inspector monitors a registered child-care home’s compliance with all minimum standards within 12 months following the issuance of the registration.

Thereafter, inspectors conduct an unannounced inspection at least once every two years to evaluate the home’s compliance with all minimum standards.

Additional monitoring inspections are based on an assessment of risk to children and are scheduled in the CLASS system.

DFPS Rules, 40 TAC [§745.8407(2)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8407)

First 12 Months After Issuance of a Nonexpiring License

Procedure

Within the first 12 months following the issuance of a nonexpiring permit, the inspector conducts an unannounced monitoring inspection of a registered child-care home to evaluate all minimum standards.

Subsequent Years After Issuance of a Nonexpiring License

Procedure

After the first 12 months following the issuance of a nonexpiring permit, the inspector conducts inspections of a registered child-care home at least every two years after the issuance of the registration permit, based upon an assessment of risk to children. See [4130](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp?zoom_highlight=4134#LPPH_4134) Frequency of Monitoring Inspections.

The inspector measures a two-year period from month-to-month, beginning with the issuance of the nonexpiring registration permit. For example, if a permit was issued on September 1, the inspector evaluates the operation for compliance with all minimum standards between September 1, 2009, and September 30, 2011.

#### 4135 Operations That Are Not Regularly Inspected

LPPH ~~December 2011~~ DRAFT 5437-CCL (currently 4133)

*This section was renumbered, renamed, and edited to add policies for temporary shelters. Previously, this section was LPPH 4133 (When to Conduct Monitoring Inspections for Listed Family Homes).*

Policy

Listed Family Homes

Licensing staff inspect listed family homes only as part of an investigation.

See [6261](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp#LPPH_6261) Report Assessment Chart.

Texas Human Resources Code [§§42.044(b), 42.044(c-1)(1)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044)

DFPS Rules, 40 TAC [§745.8407(1)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8407)

Small Employer-Based Child Care and Temporary Shelter Programs

Licensing staff do not conduct regular monitoring inspections on small employer-based child care. However, Licensing staff may need to conduct any of the other types of inspections listed below:

a. Application Inspections

b. Follow-up Inspections

c. Investigation Inspections

d. Other

See:

[4121](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4121) Application Inspections

[4123](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4123) Follow-Up Inspections

[4125](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4125) Investigation Inspections

[4127](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4127) Other Types of Inspections

Texas Human Resources Code §§[42.153](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.153), [42.162](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.162), [42.203](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.203), [42.209](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.209)

DFPS Rules, 40 TAC §§[745.8407(5)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8407), [745.8407(6)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8407)

#### 4140 Preparing for Inspections

LPPH DRAFT 5437-CCL (new introductory heading)

#### 4141 Preparing for All Inspections Except Investigation Inspections

LPPH ~~June 2012~~ DRAFT 5437-CCL (currently 4130)

*The section was renumbered, renamed, and edited. Previously, this section was LPPH 4130 (Preparing for the Inspection).*

Policy

Licensing staff prepare for each inspection (except investigations inspections) by reviewing the:

a. operation’s record;

b. last enforcement action recommended for the operation;

c. frequency of inspections made of the operation;

d. operation’s compliance history, as documented in the CLASS system;

e. operation’s fee payment history;

f. operation’s background check records, as documented in the CLASS system;

g. recommendations from enforcement team conferences, for inspections of child-placing agencies (CPAs) and general residential operations licensed to provide residential treatment services (RTCs);

h. results of random-sampling inspections of CPA foster homes, for inspections of CPAs.

Licensing staff use the information obtained during this review to determine which minimum standards to evaluate during the planned inspection.

If deficiencies with standards that pose a risk to the health and safety of children were cited during a previous inspection, Licensing staff must reevaluate the same and related standards at the inspection.

Draft Form 2936 Child-Care Facility Inspection

Staff must create and save the initial draft of Form 2936 Child-Care Facility Inspection in CLASS before conducting the inspection. See 4161 Completing CLASS Form 2936 Child-Care Facility Inspection.

For information on preparing for investigation inspections, see 4142 Preparing for Investigation Inspections.

Procedure

Reviewing Background Materials

To prepare for an inspection, Licensing staff review all of the following:

a. The most recent information in CLASS on enforcement recommendations for the operation, including the recommendation, the enforcement actions taken by other Licensing staff, and the operation’s recommended monitoring frequency

b. The capacity of the operation, the ages of the children served, the hours of operation (including days and months), and the services provided

c. The operation’s address and the directions to the operation

d. The name of the designated director, operator, or licensed administrator

e. The qualifications of the designated director or operator

f. The last renewal date of the license of a designated director or licensed administrator, if applicable

g. A history of the operation, including all of the following:

• Prior investigations, including investigation and inspection findings and technical assistance provided

• Prior inspections, including findings and technical assistance provided

• Minimum standard rules that may need to be reevaluated for compliance

• Conditions and expiration dates of any waivers, variances, and risk evaluations

• Results of random-sampling inspections for CPA foster homes, for inspections of child-placing agencies (see 4431 Using Random-Sampling Inspections to Regulate a Child-Placing Agency)

h. The operation’s fee payment history to determine whether the operation is current on all applicable fees, unless the operation is exempt from paying all fees (see [5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment)

i. The operation’s background check records in the CLASS system to verify that the operation has complied with all background check requirements (see 5300 Central Registry and Criminal History Searches)

j. Recommendations from enforcement team conferences, for inspections of CPAs and RTCs (see 4421 Enforcement Team Conferences for Child-Placing Agencies and 4441 Enforcement Team Conferences for General Residential Operations Licensed to Provide Residential Treatment Services)

k. Optional checklists, forms, reading guides, and applicable technical assistance materials

Create a Draft Inspection Form in CLASS

After reviewing the background materials related to an operation but before conducting the inspection, Licensing staff:

• complete a draft inspection Form 2936 Child-Care Facility Inspection, in CLASS; and

• download the draft Form 2936 to CLASSMate.

See 4161 Completing CLASS Form 2936 Child-Care Facility Inspection.

##### 4141.1 Monitoring Inspections During an Investigation

LPPH DRAFT 5437-CCL (new item)

*Previously, the information in this new section was in the now renumbered 4130 (Preparing for the Inspection). The policy requirements have not changed.*

Policy

If an operation is under investigation, inspectors consult with the Licensing supervisor while preparing for the inspection to determine whether an inspection will interfere with the investigation. Licensing staff do not conduct an inspection if it would interfere with an ongoing investigation.

#### 4142 Preparing for Investigation Inspections

LPPH DRAFT 5437-CCL (new item)

*This is new, as we wanted to clarify that the requirements for preparing for investigation inspections has some differences from preparing for other types of inspections. Previously, we only had one policy for preparing for all inspections. Some of the information is the same, but staff should review the entire section to become familiar with the requirements specific to investigation inspections.*

Policy

Licensing staff prepare for an investigation inspection by reviewing:

a. the intake report;

b. the operation’s record;

c. the last enforcement action recommended for the operation;

d. the frequency of inspections made of the operation;

e. the operation’s compliance history, as documented in the CLASS system; and

f. the operation’s background check records, as documented in the CLASS system.

Draft Form 2936 Child-Care Facility Inspection

After reviewing the information listed above, but before conducting the inspection, Licensing staff create and save the initial draft of Form 2936 Child-Care Facility Inspection in CLASS. See 4161 Completing CLASS Form 2936 Child-Care Facility Inspection.

For information on preparing for other types of inspections, see 4141 Preparing for All Inspections Except Investigation Inspections.

Procedure

Reviewing Background Materials

To prepare for an inspection, Licensing staff review all of the following:

a. The most recent information in CLASS on enforcement recommendations for the operation, including the recommendation, and the enforcement actions taken by other Licensing staff;

b. The capacity of the operation, the ages of the children served, the hours of operation (including days and months), and the services provided;

c. The operation’s address and the directions to the operation;

d. The name of the designated director, operator, or the name of the licensed administrator;

f. A history of the operation, including all of the following:

• Prior investigations

• Previous deficiencies

• Conditions and expiration dates of any waivers or variances and risk evaluations, if included as part of the allegations

g. The operation’s background check records in the CLASS system to verify that the operation has complied with all background check requirements (see 5300 Central Registry and Criminal History Searches)

h. Optional checklists, forms, reading guides, and applicable technical assistance materials

Create a Draft Inspection Form in CLASS

After reviewing the background materials related to an operation but before conducting the inspection, Licensing staff:

• complete a draft inspection Form 2936 Child-Care Facility Inspection, in CLASS; and

• download the draft Form 2936 to CLASSMate.

See 4161 Completing CLASS Form 2936 Child-Care Facility Inspection.

### 4150 Conducting Inspections

LPPH ~~November 2009~~ DRAFT 5437-CCL (currently 4140)

*The section was renumbered, renamed, and edited. Previously, this section was LPPH 4140 (Conducting the Inspection).*

Policy

When conducting any type of inspection, Licensing staff must:

a. identify themselves as DFPS Licensing staff and state the specific purpose of the inspection upon arrival at the site;

b. assess the risk to children;

c. terminate the inspection if the safety of Licensing staff is threatened;

d. document the inspection results in the CLASS system (see [4160](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4150) Documenting the Results of an Inspection);

e. conduct an exit interview at the end of the inspection; and

f. offer technical assistance to help the permit holder identify problems that contribute to deficiencies with the minimum standard rules and understand how to comply the rules.

DFPS Rules, 40 TAC §[745.8401](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8401)

General Procedures

Procedure

Licensing staff must observe the following requirements when conducting any type of inspection on an operation:

a. Carry a valid DFPS identification card and present it to the person in charge.

b. Explain to the person in charge, upon arrival:

• the purpose of the inspection;

• the law, administrative rules, or minimum standard rules by which compliance will be evaluated; and

• that compliance with additional minimum standard rules may be evaluated as the situation demands.

c. Obtain written consent before interviewing biological or adopted children, including when conducted at an operation where a biological or adopted child of the owner or operator may be present, either as a child in care or not in care. Children in care may be interviewed, provided the child’s parent has not previously refused to allow Licensing to interview their children. See [6000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp#LPPH_6000) Investigations.

d. Terminate the inspection at any time when Licensing staff feel unsafe. Staff must not be placed at risk. Report termination of an inspection to the supervisor. If the danger arises from the caregiver’s resistance to the inspection, follow the procedures in [4159](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4142) Handling Resistance or Refusal to Allow Inspection.

e. Follow the procedures in [7200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.jsp#LPPH_7200) Handling Immediate Danger to Children, if children are at risk.

f. Follow the procedures in 4155 When An Inspection is Attempted, if there is no one at the operation or no children are in care.

g. Follow the procedures in [6210](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp#LPPH_6210) Receipt of Intake Reports From Statewide Intake, if abuse or neglect is reported or is observed during the inspection.

h. Ensure that the operation has complied with all background check requirements, as specified in [5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5300) Central Registry and Criminal History Searches.

##### 4150.1 Additional Requirements for All Inspections on Licensed Child-Care Centers

LPPH ~~November 2009~~ DRAFT 5437-CCL (new item; currently a subheading of 4140, which is now 4150)

*Previously, the information in this new section was in the now renumbered LPPH 4140 (Conducting the Inspection). The policy requirements have not changed.*

Licensing staff must document on CLASS Form 2936 Child-Care Facility Inspection whether the designated director is present during the inspection.

At least once per year, inspectors must meet with the designated director during an unannounced monitoring inspection. See 4133.3 Child Day Care – Annual Meeting With the Designated Director.

##### 4150.2 Additional Requirements for All Inspections on Registered Child-Care Homes

LPPH ~~November 2009~~ DRAFT 5437-CCL (new item; currently a subheading of 4140, which is now 4150)

*Previously, the information in this new section was in the now renumbered LPPH 4140 (Conducting the Inspection). The policy requirements have not changed.*

Procedure

If Licensing staff find the following conditions when inspecting a registered child-care home that participates in the Child and Adult Care Food Program ([CACFP](http://netx.squaremeals.org/snp/cacfp/index.html)) of the Texas Department of Agriculture, staff send a letter to the contract manager for the CACFP, using Form [2874](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2874.doc) Report of Provider Contact:

a. The operator is not caring for children.

b. No children are in care when meals are served.

c. The operator has a full-time job outside of the home.

d. Meals are served, but child care is not provided.

e. Only the operator’s own children are in care.

f. The home has exceeded its capacity (serves more children than it is approved to serve).

g. The children in care are older or younger than the home is approved to serve.

##### 4150.3 Additional Requirements for Monitoring Inspections on Residential Child-Care Facilities

LPPH DRAFT 5437-CCL (new item)

*Previously, the information in this new section was in the now renumbered LPPH 4140 (Conducting the Inspection). The policy requirements have not changed.*

Procedure

Licensing staff inspecting residential child care operations also perform the following tasks during each inspection:

• Read a sampling of serious incident reports.

• Conduct a subsequent inspection the following business day, if one is necessary to complete the monitoring inspection.

See:

[4420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.jsp#LPPH_4420) Monitoring Child-Placing Agencies

[4430](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.jsp#LPPH_4422) Random-Sampling Inspections of CPA Foster Homes

##### 4150.4 Additional Requirements for Investigation Inspections

LPPH DRAFT 5437-CCL (new item)

Policy

The investigator conducts an unannounced investigation inspection at an operation that is the subject of the investigation according to the time frames in 6000 Investigations.

The first investigation inspection to the operation may be announced if the investigator has:

a. attempted one or more unannounced inspections;

b. obtained supervisory approval to conduct an announced inspection; and

c. documented the following in the *Observations Made During Inspection* narrative box on the *Investigation Conclusion* page in the CLASS system:

• the reason for an unannounced inspection could not be conducted; and

• the dates supervisory approval was requested and obtained.

Subsequent investigation inspections may be announced or unannounced.

Inspection Not Required

An investigation inspection is not required when the investigation was assigned:

• to a child-placing agency as an internal investigation; or

• a priority of 3 (P3) to process a sex offender proximity report.

See 6000 Investigations.

DFPS Rules, 40 TAC §[745.8407](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8407)

#### 4151 Operation Walk-Throughs

LPPH ~~November 2009~~ DRAFT 5437-CCL (new item; currently a subheading of 4140, which is now 4150)

*During this revision, the requirements throughout LPPH 4151 were:*

* *Moved from the new renumbered LPPH 4140 (Conducting the Inspection);*
* *Clarified; and*
* *Split out between investigation inspections and all other types of inspections.*

Policy

Anytime Licensing staff visit an operation other than a child-placing agency, staff perform an operation walk-through and cite any deficiencies observed during the walk-through.

##### 4151.1 For All Inspections Except Investigation Inspections

LPPH DRAFT 5437-CCL (new item)

Policy

For all inspections except investigation inspections and inspections of child-placing agencies, inspectors walk through all of the following areas in the operation:

a. Indoor and outdoor activity areas

b. Areas where meals are prepared and served

c. Restrooms accessible to children

d. Sleeping areas

Procedure

During all inspections except investigation inspections and inspections of child-placing agencies, the inspector walks through the operation and assesses the risk to children related to obvious violations of the Licensing statutes, administrative rules, or minimum standards related to:

a. supervision of children;

b. child/caregiver ratio;

c. swimming pools and transportation safety, if applicable;

d. fire, safety, and sanitation requirements;

e. responsibilities of the director, administrator, staff, or caregivers;

f. restrictions or conditions on a permit, such as the facility’s capacity and the types of child care allowed (evaluated at each monitoring inspection; evaluated during an investigation inspection only if the restrictions are relevant to the investigation). See 4152 Reviewing Restrictions and Conditions;

g. conditions of waivers or variances that may be in effect (evaluated at each monitoring inspection; evaluated during an investigation inspection only if the waivers or variances are relevant to the investigation). See 4152 Reviewing Restrictions and Conditions and 5120 Setting and Monitoring Conditions for the Waiver or Variance;

h. conditions of any risk evaluation that may be in effect (evaluated at each monitoring inspection; evaluated during an investigation inspection only if the conditions of risk are relevant to the investigation). See 4152 Reviewing Restrictions and Conditions.

##### 4151.2 For Investigation Inspections

LPPH DRAFT 5437-CCL (new item)

Policy

For investigation inspections, inspectors walk through all of the following areas in an operation other than a child-placing agency:

a. Indoor and outdoor activity areas

b. Areas where meals are prepared and served

c. Restrooms accessible to children

d. Sleeping areas

Exception to Conducting a Full Walk-Through During an Investigation Inspection

If an investigator has conducted previous investigations at the operation and a supervisor determines that the investigator is sufficiently familiar with the operation’s compliance and investigation history, the supervisor may grant an exception that allows the investigator to conduct condensed operation walk-through.

However, at minimum, the investigator must walk-through:

a. the sleeping area of the alleged victim;

b. the restrooms accessible to the alleged victim; and

c. the specific area where the incident being investigated is alleged to have occurred.

When granting approval, the supervisor explains to the inspector which areas of the operation that the inspector is required to conduct a walk-through.

The inspector documents exceptions approved by the supervisor in the CLASS system.

Procedure

During investigation inspections, the investigator is responsible for:

a. obtaining approval from the supervisor before conducting a condensed operation walk-through;

b. checking for and citing any obvious plain-view violations observed during the operation walk-through; and

c. inspecting the area in which the incident being investigated occurred and citing any necessary deficiencies related to the allegations and in plain-view.

The investigator documents the exception to conducting a full walk-through in the *Observations Made During the Inspection* section of the *Investigation Conclusion* page in CLASS. Documentation must include:

• the areas included in the walk-through; and

• the date the supervisor approved the exception.

#### 4152 Reviewing Restrictions and Conditions

LPPH DRAFT 5437-CCL (new item)

*The section was renumbered, renamed, and edited. Previously, this section was LPPH 4151 (Documenting a Review of the Conditions).*

At each inspection, Licensing staff review:

a. any restrictions on a permit;

b. any conditions on a permit;

c. any conditions related to a waiver or variance;

d. any conditions related to a risk evaluation; and

e. any conditions related to a corrective action.

After reviewing the restrictions and conditions, Licensing staff document an operation’s deficiencies and instances of compliance, as appropriate, in the CLASS system.

Procedure

For each inspection, Licensing staff:

a. evaluate all restrictions and conditions, if any, during each inspection;

b. list all of the restrictions and conditions being evaluated, if any, in the *Narrative* box on CLASS Form 2936; and

c. document the operation’s level of compliance with each restriction and condition on CLASS Form 2936 Child-Care Facility Inspection, as described below.

See:

4161 Completing CLASS Form 2936 Child-Care Facility Inspection

[7435](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7435) Inspecting During Evaluation and Probation

Documenting Compliance

Licensing staff document compliance with a restriction or condition being evaluated at an operation in the *Narrative* box on CLASS Form 2936 by entering:

a. a description of the restriction or condition evaluated to be in compliance. If multiple restrictions or conditions were originally referenced using numbers or letters, it is permissible to use numbers or letters to reference each restriction or condition when it is being evaluated.

b. a narrative statement explaining that the operation is in compliance with the restriction or condition listed.

c. a description of how compliance was determined, such as whether staff reviewed paperwork, interviewed the operation’s staff or the children, or took photographs..

Documenting Deficiencies

Licensing staff document a deficiency related to a restriction or condition being evaluated at an operation on CLASS Form 2936 by:

a. citing the Licensing statute, administrative rule, or minimum standard that has been violated;

b. describing the restriction or condition that was violated. If multiple restrictions or conditions were originally referenced using numbers or letters, it is permissible to use numbers or letters to reference each restriction or condition when it is being evaluated;

c. describing the deficiency observed;

d. describing how compliance was determined, such as whether staff reviewed paperwork, interviewed the operation’s staff or the children, or took photographs;

e. documenting the following, depending on whether the deficiency was corrected during the inspection:

• If the deficiency was corrected during the inspection, Licensing staff explain how the deficiency was corrected during the inspection.

• If the deficiency was not corrected during the inspection, Licensing staff:

• explain what correction is needed to either meet the conditions or to comply with the Licensing statute, rule, or minimum standard, and

• provide a correction deadline date.

##### 4152.1 When an Operation Repeatedly Fails to Meet Restrictions or Conditions

LPPH DRAFT 5437-CCL (new item)

*The information in this new section was edited and moved from the now renumbered LPPH 4140 (Conducting the Inspection).*

If the operation repeatedly fails to meet the restrictions or conditions, Licensing staff consult with the supervisor on what action to take.

See:

[3800](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3800) Handling Changes in an Operation

[5140](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5140) Rescinding or Amending a Waiver or Variance

[5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5300) Central Registry and Criminal History Searches

[7000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7000) Actions and Remedies

#### 4153 Reviewing Records at an Operation

LPPH ~~November 2009~~ DRAFT 5437-CCL (currently 4141)

*The section was renumbered, renamed, and edited (including moving some requirements to other sections). Previously, this section was LPPH 4141 (Reviewing the Records of an Operation).*

*In the reorganization, content was split apart to add subsections (LPPH 4153.1, 4153.2, and 4153.3) to make the information in each subsection easier to find.*

*Only major changes/clarifications are highlighted below.*

Policy

Licensing staff review the records of licensed, registered, and certified operations at least once every two years to evaluate compliance with Licensing statutes, administrative rules, and minimum standards. Staff select a random sample of records when reviewing records other than background checks, but may review all records if the operation is small or if the selected sample reflects significant deficiencies.

The records are reviewed at the operation or at a central administrative location. Licensing staff may make copies of documents, as needed; but they do not remove original records from the operation.

DFPS Rules, 40 TAC §§[745.8415](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8415); [745.8417](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8417)

After evaluating records, Licensing staff document the type and number of records evaluated on CLASS Form 2936 Child-Care Facility Inspection. See 4161 Completing CLASS Form 2936 Child-Care Facility Inspection.

##### 4153.1 Selecting a Sample of Records For a Monitoring Inspection

LPPH ~~November 2009~~ DRAFT 5437-CCL (new item; was part of 4141, now 4153)

Procedure

Determining the Number of Cases in a Sample

When reviewing the records of licensed, registered, and certified operations, Licensing staff use as a sample 10 percent of the total number of each type of record being evaluated (except background check records).

For example, Licensing staff use 10 percent of the number of:

a. children enrolled;

b. child-care staff employed;

c. foster homes operated by a child-placing agency (CPA); and

d. serious incident reports.

The minimum sample size is four records. The maximum sample size is 24 records. Licensing staff may read more records to evaluate compliance, as needed.

Licensing staff do not sample background check records. For policies on reviewing background check records, see: 4153.2 Reviewing Background Check Records.

Selecting Which Records to Read

When selecting records to read as part of a sample, Licensing staff:

• select the records to be reviewed at random; and

• do not select records of children who are no longer clients of the operation or staff who are no longer employed by the operation, unless Licensing is evaluating standards related to discharge requirements or the availability of records.

Counting CPA Foster Home Records Reviewed for a Random-Sampling Inspection

Licensing staff count foster home records reviewed for a random-sampling inspection toward the total number of records reviewed if the record is reviewed:

• at the child-placing agency’s office; and

• as part of a monitoring inspection.

See 4433.1 Requesting CPA Foster Home Records in Preparation for a Random-Sampling Inspection.

###### 4153.11 Sampling Additional Records During a Follow-Up Inspection

LPPH DRAFT 5437-CCL (new item)

During a follow-up inspection conducted to confirm that the operation is now in compliance, Licensing staff may (but are not required to) sample additional records to ensure compliance. See 4300 Conducting a Follow-Up With an Operation.

##### 4153.2 Reviewing Background Check Records During All Inspections

LPPH DRAFT 5437-CCL (new item)

During each inspection, including investigation inspections, Licensing staff review background check records on all persons required to have a background check to:

• confirm the information reviewed while preparing for the inspection. See 4140 Preparing for Inspections; and

• determine whether the operation is in compliance with all background check requirements. See [5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5300) Central Registry and Criminal History Searches.

##### 4153.3 Reviewing Records at a Central Administrative Location

LPPH DRAFT 5437-CCL (new item)

When reviewing records at a central administrative location that does not have an operation number, Licensing staff:

• document deficiencies as an assessment in CLASS for the applicable operation; and

• follow-up on deficiencies with the operation that was cited or with the person who maintains records at the central administrative location.

#### 4154 Technical Assistance

LPPH ~~July 2012~~ DRAFT 5437-CCL (currently 4146)

Number change only (formerly LPPH 4146)

##### 4154.1 Providing Technical Assistance

LPPH ~~July 2012~~ DRAFT 5437-CCL (currently 4146)

Number change only (formerly LPPH 4146.1)

##### 4154.2 Documenting Technical Assistance

LPPH ~~July 2012~~ DRAFT 5437-CCL (currently 4146)

Number change only (formerly LPPH 4146.2)

#### 4155 When an Inspection Is Attempted

LPPH ~~November 2009~~ DRAFT 5437-CCL (currently 4143)

*This section was renumbered, renamed, and edited. Previously, this section was LPPH 4143 (Documenting an Attempt to Inspect).*

Policy

For all inspections, except follow-up inspections on operations with a suspended, revoked, or denied permit, when there is no contact person at the operation when Licensing staff arrives to conduct the inspection, Licensing staff:

• document in CLASSMate and in the CLASS system that the inspection was not carried out for lack of a contact at the operation; and

• establish contact with the operation to determine whether the operation is providing child care services, unless contacting the operation would impede an ongoing investigation. Licensing staff document all contacts or attempted contacts in CLASS as a *Chronology* with a category of *Monitoring* or *Investigation*, as appropriate.

For instructions on attempted inspections related to a follow-up inspection on an operation with a suspended, revoked, or denied permit, see 7636 Follow-Up to Suspension, Revocation, or Denial.

Procedure

Licensed, Certified, Registered, or Listed Operations

Licensing staff document an attempt to inspect a licensed, certified, registered, or listed operation as follows:

a. Complete CLASS Form 2936 Child-Care Facility Inspection, documenting the attempted inspection and cite any observed deficiencies of Licensing statutes, administrative rules, or minimum standards, if appropriate.

b. If mailing the form would not impede an ongoing investigation, Licensing staff:

include in the form:

• a request that the operation contact Licensing staff within 10 days of receiving the form or letter, and

• a warning that failure to respond may be interpreted by Licensing as an indication that the operation has voluntarily closed.

c. Mail a copy of the form to the operator, applicant, or designee by regular mail;

d. If mailing the form would impede an ongoing investigation, Licensing staff consult with the supervisor on when to mail the form to the operator, applicant, or designee.

If Licensing staff mail Form 2936 after the attempted inspection, Licensing staff follow the procedures in the chart below, based upon the operation’s response to receiving Form 2936:

| If … | then … |
| --- | --- |
| the operation does not respond on or before the first workday after 13 calendar days from the date Form 2936 was mailed (10 days after the date that the operation is presumed to receive the notification by regular mail) … | re-inspect to ensure the operation has closed.  If there is no staff at the operation during the second attempt to inspect:  • enter the inspection in CLASS as *Attempted* (see [7340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.jsp#LPPH_7340) Voluntary Closure); and  • close the operation in CLASS. |
| the operation notifies Licensing that it is still in business but has no children in care … | notify the operation that it must be open to inspection and maintain compliance with licensing statute, administrative rules, or minimum standards, unless the person in charge chooses to close temporarily. See [7330](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.jsp#LPPH_7330) Voluntary Suspension. |
| the operation responds and notifies Licensing that it is still in business and children are in care … | conduct an inspection, and continue to conduct inspections, thereafter, as appropriate. See 4140 Preparing for Inspections. |

CPA Foster Homes – Attempted Investigation Inspections

To document an attempt to conduct an investigation inspection of a foster home verified by a child-placing agency (CPA), Licensing staff do as follows:

a Complete CLASS Form 2936 Child-Care Facility Inspection, documenting the attempted inspection and cite any observed deficiencies of Licensing statutes, administrative rules, or minimum standards, if appropriate.

b. If mailing the form would not impede an ongoing investigation, Licensing staff:

include in the form:

• a request that the CPA contact Licensing staff within 10 days of receiving the form or letter, and

• a warning that failure to respond may be interpreted by Licensing as an indication that the foster home is no longer verified by the CPA.

c. Mail a copy of the form to the CPA by regular mail.

d. If mailing the form would impede an ongoing investigation, Licensing staff consult with the supervisor on when to mail the form to the CPA.

After completing Form 2936, Licensing staff:

• consult with the supervisor on how to proceed with the investigation; and

• document the supervisor’s guidance in the CLASS system as a *Chronology* with the type of *Investigation*.

CPA Foster Homes – Attempted Random-Sampling Inspections

If the inspector attempts a random-sampling inspection of a foster home that is verified by a child-placing agency (CPA), the inspector follows procedures in 4435.3 Attempted Random-Sampling Inspections.

#### 4156 Visiting an Operation to Conduct an Investigation Interview When the Operation Is Not the Subject of the Investigation

LPPH DRAFT 5437-CCL (new item)

Policy

When Licensing staff visit an operation as part of an investigation to interview a child or a person of interest and the operation is not involved in the allegations, Licensing staff:

a. Document the inspection on Form 2936 Child-Care Facility Inspection as *Other.* See 4161 Completing Form 2936 Child-Care Facility Inspection.

b. Do not conduct a walk-through inspection, but do cite any obvious, plain-view deficiency seen or heard.

c. Do not evaluate background check requirements.

d. Do not evaluate the operation’s compliance with minimum standards.

#### 4157 Avoiding Duplication of Child Day-Care Inspections by State Agencies

LPPH ~~November 2009~~ DRAFT 5437-CCL (currently 4144)

Number change only (formerly LPPH 4144)

#### 4158 When Political Subdivisions Inspect Child Day Care Operations

LPPH ~~November 2009~~ DRAFT 5412-CCL (currently 4145)

Number change only (formerly LPPH 4145)

#### 4159 Handling Resistance or Refusal to Allow Inspection

LPPH ~~November 2009~~ DRAFT 5412-CCL (currently 4142)

*This section was renumbered and edited. Previously, this section was LPPH 4142.*

Policy

An operation’s employees must admit Licensing staff and not delay or obstruct Licensing staff from making inspections during hours of operation.

Texas Human Resources Code §§[42.044(a)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044) and [42.04412](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.04412)

DFPS Rules, 40 TAC §§[745.8413](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8413), [745.8415](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8415), [745.8419](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8419)

Procedure

If the employees of an operation delay or obstruct Licensing from making an inspection during the operation’s business hours, Licensing staff follow the procedures outlined below.

| If … | then … |
| --- | --- |
| the operation’s employees:  • refuse to admit Licensing staff to the operation;  • attempt to delay or obstruct Licensing staff from inspecting the operation during business hours;  • refuse to allow Licensing staff to inspect an area of the operation that affects or could affect the children’s health, safety, or well-being; or  • delay or obstruct an attempt to inspect or investigate, so that Licensing staff cannot carry out their responsibilities … | Licensing staff:  a. advise the person in charge of the operation that:  • the inspection or investigation is authorized by Texas Human Resources Code [§§42.044(a)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044) and 42.04412, and  • DFPS may take remedial action against the operation’s permit if the resistance continues.  b. obtain the name of the person in charge at the operation, if possible;  c. cite obstruction of the inspection or investigation and violation of DFPS rules using Form 2936 Child-Care Facility Inspection in the CLASS system. Include documentation on the form that, if Licensing inspections are further denied, obstructed, or delayed, DFPS may take remedial action against the operation’s permit under Texas Human Resources Code §§ 42.071 and [42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072);  d. consult with the Licensing supervisor about the necessary follow-up actions;  e. see [7200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.jsp#LPPH_7200) Handling Immediate Danger to Children, if children are in immediate danger;  f. take one or more of the following actions, depending on the circumstances:  • Schedule an appointment with the permit holder or applicant  • Make an unannounced inspection of the operation  • Recommend that the permit be revoked or the application denied |

See also [7600](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7600) Adverse Actions.

### 4160 Documenting the Results of an Inspection

LPPH ~~May 2012~~ DRAFT 5437-CCL (currently 4150)

*This section was renumbered and edited. Previously, this section was LPPH 4150.*

Policy

When documenting the results of an inspection, Licensing staff:

a. documents deficiencies clearly and concisely;

b. cites the specific Licensing statutes, administrative rules, or minimum standards for which compliance was evaluated and describes the deficiencies observed;

c. documents the technical assistance given for each Licensing statute, administrative rule, or minimum standard, if applicable;

d. states the dates by which corrections must be made. Compliance dates must be reasonable and based on the risk to children. See [4500](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4510) Evaluating Risk to Children; and

e. provides the inspection results to the operation at the conclusion of the inspection, on the same day that the inspection took place.

Inspection results are documented on CLASS Form 2936 Child-Care Facility Inspection on the same day as the inspection. If inspection results are left pending or if corrections need to be made to the original Form 2936, Licensing staff create a supplemental Form 2936.

See:

4161 Completing CLASS Form 2936 Child-Care Facility Inspection

4162 Finalizing Form 2936 and Sychronizing CLASSMate with CLASS

4163 Final Determination of Findings Left Pending During an Inspection

4164 Completing a Supplemental Inspection Form

Citing Deficiencies Unrelated to an Inspection

If deficiencies unrelated to an inspection must be cited, Licensing staff use CLASS Form 2939 Child Care Facility Assessment. See [4200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4200) Citing Deficiencies With an Assessment.

#### 4161 Completing CLASS Form 2936 Child-Care Facility Inspection

LPPH ~~November 2009~~ DRAFT 5438-CCL (currently 4152)

*This section was renumbered, renamed, and edited. Previously, this section was LPPH 4152 (Documenting Inspection Results on CLASS Form 2936 Child-Care Facility Inspection). Subsections were added to make requirements easier to find (LPPH 4161.1, 4161.2, 4162.3, and 4161.4). Some information in this section was moved from other policy sections that were reorganized and renumbered.*

Policy

After reviewing the background materials related to the operation (see 4140 Preparing for Inspections), Licensing staff create a draft of CLASS Form 2936 in the CLASS system.

On the same day as the inspection, after the inspection is completed, Licensing staff complete CLASS Form 2936 Child-Care Facility Inspection in the CLASS system to document inspection results.

Documenting a Possible Deficiency as Pending on Form 2936

If staff need to conduct further investigation or consult with the supervisor before determining compliance with a specific Licensing statute, administrative rule, or minimum standard, each item requiring further action is documented as *Pending* on CLASS Form 2936. Licensing staff use the *Pending* status only if staff cannot determine an operation’s compliance with a statute, rule, or standard before leaving the operation.

Licensing staff must determine whether issues related to an inspection that were documented as pending are deficient or compliant within 10 days after an inspection is completed. See 4162 Final Determination of Findings Left Pending During an Inspection.

Signing and Providing a Copy of Form 2936

Licensing staff provide a copy of Form 2936 to the person in charge after Licensing staff conduct the exit conference. See 4172 Signing and Providing a Copy of Form 2936 Child-Care Facility Inspection

##### 4161.1 Creating a Draft CLASS Form 2936

LPPH DRAFT 5438-CCL (new item)

*This was moved from the previous LPPH 4130 (Preparing for the Inspection). No changes to actual procedure.*

Procedure

Licensing staff follow the procedures below to create a draft version of CLASS Form 2936 Child-Care Facility Inspection.

Enter the Details

To enter the inspection details in CLASS, on Form 2936 Child-Care Facility Inspection, Licensing staff take the following steps:

1. On the *Operation* main page, select the *Monitoring* tab.

2. On the *Inspection/Assessment List* page, select *Add New Inspection*.

3. On the *Inspection Details* page in the *General* section, select the appropriate *Inspection Type* (see [4120](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4120) Types of Inspections).

4. Choose the investigation numbers, if the inspection type is *Investigation* or *Monitoring and Investigation*.

5. Choose the appropriate *Follow Up to Inspections IDs* (select up to three IDs), if the inspection type is *Follow Up*.

6. Enter the *Inspection Start Date* (The *Inspection Start Date* may be updated after the inspection, if necessary).

7. Complete other applicable fields and select *Save*.

Add Standards

Add any individual statutes, administrative rule, or minimum standard that must be evaluated, if applicable:

1. On the *Inspection Summary* page, select *Add New*.

2. On the *Standard Details* page, in the *Standard Information* section, click the *Search* button found next to the terms *Standard/Rule/Law* to conduct a search of the minimum standard rules applicable to the inspection.

3. On the *Standards Search* page, enter a keyword or select the appropriate option from the *Section* drop-down list and select *Go*. (The standard number can be used as a keyword to perform the search function.)

4. Select the appropriate statute, administrative rule, or minimum standard.

5. Select *Choose* from the *Finding* drop-down menu, and select *Save*.

Save and Download

1. Save the draft form.

2. Download the saved draft to CLASSMate before conducting the inspection.

##### 4161.2 Document Inspection Results on CLASS Form 2936

LPPH DRAFT 5438-CCL (new item)

Procedure

Licensing staff document the following on CLASS Form 2936 Child-Care Facility Inspection:

1. The finding (non-compliant, compliant, or pending) for each Licensing statute, administrative rule, or minimum standard, that was evaluated during the inspection

a. If documenting a deficiency, Licensing staff document the following in the *Narrative* field in CLASSMate or CLASS:

• Explain how the operation is deficient. (Describe observations in detail. Do not merely repeat the requirement in the statute, rule, or minimum standard.)

• Describe how the deficiency was corrected during the inspection, if applicable.

b. If further investigation or consultation with the supervisor is needed before determining whether the operation is in compliance with a statute, rule, or minimum standard, Licensing staff document the finding as *Pending*. If Form 2936 is completed in CLASS, rather than in CLASSMate, Licensing staff must type the following statement on the form for all pending deficiencies (the statement automatically prefills in CLASSMate):

*This possible standard violation is under further review. Final notification will be sent at a later time.*

c. If documenting an inspection being conducted as part of an investigation, investigators also:

• code any citations for plain-view violations observed during the walk-through as *Monitoring (MN)*; and

• add appropriate minimum standards with a code of Investigation (IV), if the investigator obtains information regarding a violation related to the allegation being investigated that was not previously identified.

2. Technical assistance provided, if any (see 4154.2 Documenting Technical Assistance)

3. The review of restrictions and conditions, for all inspections except investigation inspections (see 4152 Reviewing Restrictions and Conditions)

4. A list of any hazards that must be corrected immediately, if this may be the operation’s final inspection before its permit is revoked or its application is denied

5. Whether Licensing staff assessed risk to children as required during the operation walk-through by checking the *Items Regarding Risk to Children c*heckbox

Licensing staff do not check the box if they are visiting an operation:

• during an investigation inspection; or

• as part of an investigation to interview a child or an adult to gain information for the investigation and the operation is not involved in the allegations.

See:

4151 Operation Walk-Throughs

4156 Visiting an Operation to Conduct an Investigation Interview When the Operation Is Not Involved in the Investigation Allegations

6. If conducting a follow-up inspection, Licensing staff document:

• a list of all of the deficiencies or conditions being followed-up on and a finding of *NC* (deficient) or *CO* (compliant); and

• a narrative explaining how the operation is compliant or the efforts the operation has made toward compliance.

7. If conducting an inspection at a licensed child-care center, Licensing staff document whether the designated director is present during the inspection. See [4133](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4131) Minimum Frequency of Monitoring Inspections for Licensed Operations.

Limits to Documenting Names of Children

When documenting inspection results, Licensing staff:

• do not include the names of children when entering information that could be published on the DFPS public website. See [8230](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_8000.jsp#LPPH_8230) Confidential Information Not to Be Released to the Public; and

• use only a child’s first name and last initial on hard copy forms (such as inspection guides) and in sections of CLASS that are not published on the DFPS public website, such as the *Chronology* and *Contact* fields.

Limits to Documenting Names of Operation Employees

When documenting inspection results, Licensing staff:

• do not include the names of operation employees in documentation that is published on the DFPS public website. See [8230](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_8000.asp#LPPH_8230) Confidential Information Not to Be Released to the Public; and

• may use staff names on paper copies of forms, such as inspection guides, and in sections of CLASS that are not published on the DFPS public website, such as the *Chronology* and *Contact* fields.

##### 4161.3 Leaving an Operation Temporarily to Document Inspection Results

LPPH DRAFT 5438-CCL (new item)

Procedure

If Licensing staff leave the operation to record the results of the inspection on Form 2936 Child-Care Facility Inspection in CLASSMate, staff document in the *Narrative* field:

• the time leaving the operation; and

• the time returning to the operation to conduct the exit conference.

For example:

*Left operation at (insert time) and returned at (insert time).*

CLASSMate captures the time the inspection ended when Licensing staff click the *Lock* button on the form.

##### 4161.4 Documenting an Inspection Continued on the Following Day

LPPH DRAFT 5438-CCL (new item)

Procedure

If an inspection must be continued on the following day, staff complete a new CLASS Form 2936 Child-Care Facility Inspection.

#### 4162 Finalizing Form 2936 and Synchronizing CLASSMate With CLASS

LPPH DRAFT 5438-CCL (new item)

*This is a new section. Some of the information in this section was in other sections, but some is new content, to clarify expectations.*

Finalizing Form 2936

Procedure

Before finalizing the form, Licensing staff:

a. conduct the exit interview to discuss the results of the inspection with the person in charge at the operation;

b. sign Form 2936;

c. have the person in charge at the operation sign Form 2936.

See:

4170 Conducting the Exit Conference

4171 Discussing the Results of the Inspection

4172 Signing and Providing a Copy of Form 2936 Child Care Facility Inspection

After conducting the exit interview and signing the form, Licensing staff finalize Form 2936 Child-Care Facility Inspection in CLASSMate by clicking:

*• Save Final*; and

*• Lock.*

After finalizing the form, Licensing staff provide a copy of Form 2936 to the person in charge. See 4172 Signing and Providing a Copy of Form 2936 Child Care Facility Inspection

Synchronizing CLASSMate With CLASS

Policy

On the same day Form 2936 is completed, when possible, Licensing staff synchronize with CLASS in order to upload the inspection into the CLASS system.

#### 4163 Final Determination of Findings Left Pending During an Inspection

LPPH DRAFT 5438-CCL (new item)

*This is a new section that was moved out of the previous 4150 (Documenting the Results of the Inspection) to make it easier to find.*

*The content was edited for clarification.*

Policy

Within 10 days after completing an inspection, Licensing staff must:

• determine whether the operation is deficient or compliant regarding any pending inspection findings coded as *Monitoring*; and

• document the final determinations on a supplemental Form 2936 Child-Care Facility Inspection. See 4164 Creating a Supplemental Inspection Form.

DFPS Rules, 40 TAC §§[745.8447(1)](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8447); [745.8445](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8445)

#### 4164 Completing a Supplemental Inspection Form

LPPH ~~November 2009~~ DRAFT 5438-CCL (currently 4153)

*This section was renumbered and edited. Previously, this section was LPPH 4153.*

Policy

Staff create a supplemental Form 2936 Child Care Facility Inspection in the CLASS system only to:

• document the final determination about an operation’s compliance with Licensing statutes, administrative rules, or minimum standards that were left pending during an inspection; or

• correct errors in spelling, grammar, or content on the original CLASS Form 2936 Child Care Facility Inspection.

If deficiencies unrelated to an inspection must be cited, Licensing staff use CLASS Form 2939 Child-Care Facility Assessment. See [4200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4200) Citing Deficiencies With an Assessment.

Procedure

To complete a supplemental Form 2936 Child Care Facility Inspection, Licensing staff follow these steps:

1. Select the appropriate inspection in CLASS.

2. Update pending findings to *NC* (deficient) or *CO* (compliant).

3. Enter the all of the following information in the *Narrative* field on the supplemental Form 2936:

a. Description of the change that is being made

b. Reason for the supplemental Form 2936

c. Statement that that the supplemental Form 2936 replaces the original Form 2936 Child-Care Facility Inspection that was left at the operation on the date of the inspection

d. The date of the previous inspection

e. The posting requirements, if any apply

See 4173 Posting the Day Care Inspection Form or Assessment Form.

4. Change the date of notification in the CLASS system to the date the supplemental Form 2936 is created.

5. Save and finalize the second version of CLASS Form 2936 by selecting *Save Final* and *Lock.*

6. Document both of the following in CLASS, as a *Chronology* with the category of *Monitoring* or *Investigation*, as appropriate:

• The date the supplemental Form 2936 was created

• The reason for creating the supplemental Form 2936

##### 4164.1 Contacting the Permit Holder

LPPH DRAFT 5438-CCL (new item)

Before mailing the supplemental Form 2936, Licensing staff contact the permit holder to:

a. discuss the determination made on findings left pending during the inspection, if any;

b. discuss other changes to the inspection findings, if any; and

c. inform the permit holder of his or her right to an administrative review. See [7710](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7710) Administrative Reviews.

### 4170 Conducting the Exit Conference

LPPH ~~January 2012~~ 5438-CCL (currently 4160)

Number change only (formerly LPPH 4160)

#### 4171 Discussing the Results of an Inspection

LPPH ~~January 2012~~ 5438-CCL (currently 4160)

*This section was renumbered and edited. Previously, this section was LPPH 4161.*

Procedure

During the exit conference, Licensing staff:

• allow the person in charge the opportunity to discuss the findings; and

• inform the person in charge about the following, if applicable:

a. Information about how high-risk deficiencies or a pattern of deficiencies may affect the frequency of inspections

b. Any technical assistance that may assist the operation in addressing issues that were identified and documented during this inspection (see 4154 Technical Assistance)

c. Failure to comply within specified deadlines or repeated deficiencies may result in remedial action without further opportunity to correct the deficiencies

d. Comments regarding the inspection may be made by responding to the [CCL Inspection Feedback Survey](http://www.dfps.state.tx.us/Child_Care/Information_for_Providers/default.asp) that is provided at the inspection and is available on the DFPS website

e. The operation may request an administrative review in writing within 15 days of receiving the results of the inspection and what information the request must include in order to be considered complete (see [7713](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7713) Receiving a Request for an Administrative Review)

Addressing an Operation’s Concerns About Inspection Findings

Licensing staff work with the person in charge to address any concerns relating to:

• minor changes to a deficiency narrative, if the change does not impact the meaning of the citation and does not minimize the scope or severity of the violation; and

• compliance dates, if the person in charge has a valid reason for not being able to come into compliance sooner than the proposed date, as long as the change does not compromise the health or safety of children in care.

Immediately after changing any documentation on CLASS Form 2936 Child Care Facility Inspection as a result of feedback from the person in charge, Licensing staff enter a *Chronology* in the CLASS system that includes:

a. the CLASS inspection number;

b. a description of the changes requested by the person in charge; and

c. a description of what changes were made.

Discussing Pending Results

Except for inspection findings coded as *Investigation*, if a determination cannot be made on any aspect of an inspection, Licensing staff explain to the person in charge that Licensing:

• will mail a final determination, in the form of a supplemental inspection form, within 10 days; and

• may include additional information on the supplemental inspection form that was not included on the original CLASS Form 2936 Child Care Facility Inspection.

See:

4161 Completing CLASS Form 2936 Child Care Facility Inspection

4164 Completing a Supplemental Inspection Form

Additional Requirements for Initial and Monitoring Inspections

During the exit conference for an initial or monitoring inspection, Licensing staff also:

a. verify the accuracy of mailing, email, and other operation information on the *Operation Main* page in CLASS;

b. verify the accuracy of information on the operation’s controlling person form (for residential child care operations only); and

c. review the operation’s compliance history since the previous monitoring inspection, including a discussion of any concerns or patterns of deficiencies with the person in charge.

#### 4172 Signing and Providing a Copy of Form 2936 Child Care Facility Inspection

LPPH ~~January 2012~~ DRAFT 5437-CCL (currently 4162)

*This section was renumbered and edited. Previously, this section was LPPH 4162.*

Procedure

At the end of the exit conference, Licensing staff ask the person in charge to sign CLASS Form 2936 Child Care Facility Inspection, even if the findings are left pending.

Licensing staff explain that:

a. signing the Form 2936 does not indicate that the person signing agrees with the inspection results. It is only an acknowledgment that Licensing conducted an inspection at the operation and does not waive the operation’s right to an administrative review;

b. both the Licensing staff and the person in charge at the operation sign Form 2936; and

c. if the person in charge refuses to sign Form 2936, Licensing staff note on the inspection form the person’s name and his or her decision not to sign.

After Form 2936 is signed by Licensing staff and the person in charge, Licensing staff provide the person in charge with a printed copy of the completed form before leaving the operation. Licensing staff may, but are not required to, email a copy of Form 2936 to the person in charge.

If the operation is required to post Form 2936 in a prominent place where it may be viewed by staff, parents, and others, Licensing staff must explain this to the person in charge.

See:

4160 Documenting the Results of an Inspection

4161 Completing CLASS Form 2936 Child Care Facility Inspection

4173 Posting the Day Care Inspection Form or Assessment Form

#### 4173 Posting the Day Care Inspection Form or Assessment Form

LPPH ~~January 2012~~ DRAFT 5437-CCL (currently 4163)

*This section was renumbered and edited. Previously, this section was LPPH 4163.*

Policy

A licensed child care center, a school-age program, a before or after-school program, a licensed child care home, and a registered child care home must display the most recent CLASS Form 2936 Child Care Facility Inspection or CLASS Form 2939 Child Care Facility Assessment in a prominent place where it may be viewed by staff, parents, and others; however, confidential information may not be posted.

DFPS Rules, 40 TAC §§[744.403](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=403); [746.403](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=403); [747.401](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=401)

If the operation disagrees with a Licensing decision or action and requests an administrative review, the operation may delay posting Form 2936 or Form 2939 until the administrative review is complete.

DFPS Rules, 40 TAC [§745.8801](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8801)

See:

[4200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4200) Citing Deficiencies With an Assessment

[7710](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7710) Administrative Reviews

Procedure

Licensing staff explain to the person in charge of the operation that CLASS Form 2936 Child Care Facility Inspection or CLASS Form 2939 Child Care Facility Assessment, and any supplemental inspection forms, must be posted in a prominent place where it may be viewed by staff, parents, and other persons.

If Licensing staff document part of the inspection on Form 2936 and document the rest of the inspection on a supplemental inspection form, Licensing staff attach the original CLASS Form 2936 to the supplemental form so that both will be posted.

The person in charge of the operation may note the date a correction was made on the posted form.

The operation is not required to publicly post findings of abuse or neglect.

The names of children and staff:

• must not appear on any forms or letters that require posting in a prominent place for viewing by staff, parents, and others (see [8240](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_8000.asp#LPPH_8230) Confidential Information Not to Be Released and 4160 Documenting the Results of an Inspection); and

• must not be documented in the areas of the CLASS system that appear on the DFPS public website.

Children and staff names may be documented in the hard copy record or in the areas of CLASS that are not published on the DFPS public website.

See [6631](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6600.asp#LPPH_6631) Notifying the Operation of Investigation Results.

## 4300 Conducting a Follow-Up With an Operation

LPPH ~~January 2012~~ DRAFT 5437-CCL

Policy

Licensing staff conduct a follow-up with an operation to:

a. ensure that the operation is in compliance with any standards or other laws that were cited because of deficiencies during an inspection, investigation, or assessment;

b. determine whether an operation is complying with the conditions of a waiver or variance;

c. determine whether an operation is complying with the conditions of a risk evaluation;

d. conduct the annual review of qualifications of the designated director of a licensed child care center;

e. ensure that all background check matches have been completed;

f. ensure that an operation that is closed due to suspension, revocation, or denial of a permit is no longer operating;

g. monitor the operation during the appeal process; or

h. monitor the operation during a temporary relocation.

See:

4133.3 Child Day Care – Annual meeting With the Designated Director

4152 Reviewing Restrictions and Conditions

[5120](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5120) Setting and Monitoring Conditions for the Waiver or Variance

[5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5300) Central Registry and Criminal History Searches

[5374](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5374) When a Risk Evaluation Is Required

[7320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7320) Temporary Relocation

[7636](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7636) Follow-Up to Suspension, Revocation, or Denial

[7731](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7731) Regulation During Appeal Process

DFPS Rules, 40 TAC [§745.8449](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8449)

Procedure

When determining the type of follow-up action to take, Licensing staff consider:

a. the risk to children;

b. the scope and severity of the deficiency;

c. the time and expense needed to correct the deficiency; and

d. the provider’s previous compliance history.

### 4310 How to Conduct a Follow-Up With an Operation

LPPH ~~May 2012~~ DRAFT 5437-CCL

Policy

When following-up with an operation, Licensing staff:

• ask if all records are now in compliance, including those that were cited; and

• ask the person in charge of the operation to identify records that have not been corrected.

Corrections of deficiencies that do not endanger the health or safety of children may be documented by mail, fax, or e-mail within 15 days after the latest compliance date has passed.

The documentation submitted by the operation must include proof of the correction, such as an invoice, photograph, or work order. Staff document the results of the follow-up in the CLASS system. See: 4311.1 Documenting Follow-Up Inspections and 4312.1 Documenting Follow-Ups When an Inspection Is Not Required.

#### 4311 When a Follow-Up Inspection Is Required

LPPH ~~May 2012~~ DRAFT 5437-CCL

Procedure

Licensing staff conduct a follow-up inspection within 15 days after the earliest compliance date when the deficiency cited relates to:

a. the child/caregiver ratio;

b. the capacity;

c. supervision;

d. discipline and guidance;

e. fire safety;

f. transportation;

g. pools;

h. the physical plant, both indoors and outdoors, taking into consideration the scope and severity as well as the weight of the deficiency; or

i. any other requirement, when compliance cannot be substantially determined by other means (such as a photograph, invoice, or work order).

Licensing also conducts follow-up inspections within 15 days after the earliest compliance date to:

• determine whether an operation is complying with the requirements of an amended inspection; or

• follow-up on the conditions of a waiver, a variance, or an approved risk evaluation.

Exceptions to the 15-day time frame require supervisory approval (see [4320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4320) Exceptions to Time Frames for Completing a Follow-Up With an Operation).

If Licensing staff determine that an operation is not in compliance, staff follow the procedures explained in [4313](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp?zoom_highlight=4310#LPPH_4313) When an Operation Continues to Be Deficient.

See:

4152 Reviewing Restrictions and Conditions

[4313](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp?zoom_highlight=4310#LPPH_4313) When an Operation Continues to Be Deficient

[4322](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4322) Granting an Operation Additional Time to Comply With a Requirement Cited as a Deficiency

[4510](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4510) The CLASS Risk Review and Enforcement Recommendations

[5120](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5120) Setting and Monitoring Conditions for the Waiver or Variance

[5370](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5370) Risk Evaluation of Criminal History or Findings of Abuse or Neglect

##### 4311.1 Documenting Follow-Up Inspections

LPPH ~~May 2012~~ DRAFT 5437-CCL (new item; currently a subheading of 4311)

*This section used to be part of the main LPPH 4311 section. A subsection was added to make the information easier to find.*

*The content was also edited significantly for clarification.*

For all follow-up inspections, Licensing staff:

• create a new CLASS Form 2936 Child-Care Facility Inspection to document the results of the inspection (see 4161 Completing CLASS Form 2936 Child-Care Facility Inspection); and

• update the previous inspection forms to document the outcomes, as described below.

Documenting Corrected Deficiencies on the Previous CLASS Form 2936

If Licensing staff are conducting the follow-up inspection as a result of a deficiency cited during a previous inspection, Licensing staff also update Form 2936 for the previous inspection or inspections that required the follow-up inspection by documenting:

• in the *Follow-Up Information* section on CLASS Form 2936:

a. the date that the follow-up information was received from the operation,

b. the follow-up method (for example, whether the information was sent by mail, fax, or email),

c. the results (whether the deficiency has been corrected); and

• in the *Additional Documentation* box on CLASS Form 2936:

a. how the deficiency was corrected,

b. the type of documentation the operation submitted as proof (for example, a photograph, receipt, or work order), and

c. the name of the person submitting the information for the operation.

Documenting Deficiencies That Continue to Be Deficient on the Previous CLASS Form 2936

If Licensing staff are conducting the follow-up as a result of a deficiency cited during a previous inspection, Licensing staff also update Form 2936 for the previous inspection or inspections that required the follow-up inspection by documenting:

• in the *Follow-Up Information* section on CLASS Form 2936:

a. the date that the follow-up information was received from the operation,

b. the follow-up method (for example, whether the information was sent by mail, fax, or email),

c. the results (whether the deficiency has been corrected); and

• in the *Additional Documentation* box on CLASS Form 2936, how the operation continues to be deficient.

#### 4312 When a Follow-Up Inspection Is Not Required

LPPH ~~January 2012~~ DRAFT 5437-CCL

Procedure

If during an inspection, investigation, or assessment an operation is cited for a minimum standard deficiency that does not endanger the health or safety of children, the operation:

• may notify Licensing by mail, fax, or email about its efforts to correct the deficiency; and

• must submit the information within 15 days after the latest compliance date.

Licensing staff then review the information received to determine whether the operation has corrected the deficiency.

If Licensing staff determine that an operation is not in compliance, staff follow the procedures explained in [4313](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4313) When an Operation Continues to Be Deficient.

##### 4312.1 Documenting Follow-Ups When an Inspection Is Not Required

LPPH DRAFT 5437-CCL (new item)

Documenting Corrected Deficiencies on the Previous CLASS Form 2936

If Licensing staff determine that the operation is in compliance, staff update Form 2936 for the previous inspection or inspections by documenting:

• in the *Follow-Up Information* section on CLASS Form 2936:

a. the date that the follow-up information was received from the operation,

b. the follow-up method (for example, whether the information was sent by mail, fax, or email),

c. the results (whether the deficiency has been corrected); and

• in the *Additional Documentation* box on CLASS Form 2936:

a. how the deficiency was corrected,

b. the type of documentation the operation submitted as proof (for example, a photograph, receipt, or work order), and

c. the name of the person submitting the information for the operation.

Documenting Deficiencies That Continue to Be Deficient on the CLASS Form 2936 From the Previous Inspection

If Licensing staff are conducting the follow-up as a result of a deficiency cited during a previous inspection, Licensing staff also update Form 2936 for the previous inspection or inspections that required the follow-up inspection by documenting:

• in the *Follow-Up Information* section on CLASS Form 2936:

a. the date that the follow-up information was received from the operation,

b. the follow-up method (for example, whether the information was sent by mail, fax, or email),

c. the results (whether the deficiency has been corrected); and

• in the *Additional Documentation* box on CLASS Form 2936, how the operation continues to be deficient.

## 4400 Additional Regulatory Activities for Certain Types of Operations

*This section was renamed from "Monitoring Special Types of Operations."*

### 4430 Random-Sampling Inspections of CPA Foster Homes

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4422)

Number change only (formerly LPPH 4422)

#### 4431 Using Random-Sampling Inspections to Regulate a Child-Placing Agency

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4423)

*This section was renumbered and edited to correct a term and update a cross-reference that changed as part of the reorganization. Previously, this section was LPPH 4423.*

Policy

Inspectors must evaluate a child-placing agency’s (CPA’s) compliance history and sampling information on an ongoing basis to determine the CPA’s compliance with law, administrative rules, and minimum standard rules.

Inspectors assigned to the CPA cite the CPA for a deficiency if the CPA fails to maintain substantial compliance with law or rule or if the random-sampling inspections show a pattern of non-compliances within the CPA.

Procedure

The inspector assigned to the CPA must evaluate the CPA’s compliance with law, administrative rules, and minimum standard rules. This information is used to prepare for the CPA monitoring inspection, continuing appraisal of the CPA, and the CPA’s annual enforcement team conference. To evaluate the CPA, the inspector reviews the following information:

a. Each Form 2979 Foster Home Checklist received from the Licensing staff who conduct the random-sampling inspections of foster homes verified by the CPA

b. Any investigation results

c. Compliance history report for random-sampling in the CLASS system

d. Other compliance information

Inspectors must be alert to indicators such as:

a. patterns or repetition found in the concerns noted during sampling inspections;

b. falsification of CPA records;

c. non-compliance with background check rules;

d. immediate hazards observed during an inspection;

e. conflict-of-care issues (disagreements between the family and the CPA about the method or quality of care expected); and

f. the CPA’s failure to correct concerns found during a random-sampling inspection.

See:

4140 Preparing for Inspections

4500 Evaluating Risk to Children

##### 4431.1 Citing Deficiencies Based on Random-Sampling Inspection Results

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4423.1)

Number change only (formerly LPPH 4423.1)

#### 4432 Selecting CPA Foster Homes for Random-Sampling Inspections

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4424)

Number change only (formerly LPPH 4424)

##### 4432.1 Pre-Screening CPA Foster Homes Selected for Random-Sampling Inspections

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4424.1)

Number change only (formerly LPPH 4424.1)

##### 4432.2 When a Foster Home Is Screened Out

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4424.2)

Number change only (formerly LPPH 4424.2)

#### 4433 Preparing for a Random-Sampling Inspection

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4425)

*This section was renumbered and edited to update the cross-references because they changed as part of the reorganization. Previously, this section was LPPH 4425.*

Policy

Before conducting a random-sampling inspection at an agency foster home, the inspector:

a. requests records about the foster home from the child-placing agency (CPA);

b. reviews the records to gain insight into the foster home; and

c. contacts the foster home to schedule an inspection, if the inspection is going to be announced.

See:

4433.1 Requesting CPA Foster Home Records in Preparation for a Random-Sampling Inspection

4433.2 Reviewing CPA Foster Home Records in Preparation for a Random-Sampling Inspection

4433.3 Scheduling Random-Sampling Inspections

##### 4433.1 Requesting CPA Foster Home Records in Preparation for a Random-Sampling Inspection

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4425.1)

*This section was renumbered and edited to correct a term and cross-reference that changed as part of the reorganization. Previously, this section was LPPH 4425.1.*

Procedure

The inspector contacts the child-placing agency (CPA) to request photocopies or electronic files from the CPA foster home’s record. For homes verified by CPS, foster home records available electronically must be reviewed in the IMPACT system in lieu of requesting them from the CPS foster/adoptive home development worker.

Photocopies of foster home records received from the CPA become a part of Licensing’s hard copy record for the CPA. Inspectors do not keep the records of the homes that they do not inspect. See 4437 Retaining Records of Random-Sampling Inspections.

If a monitoring inspection is planned at the CPA before the random-sampling inspection of the CPA’s foster home, the inspector:

• obtains copies during the monitoring inspection; or

• reviews the foster home’s record as part of the monitoring inspection.

###### 4433.11 If Requested Records Are Not Received Within Five Days

LPPH ~~January 2012~~ DRAFT 5437-CCL (currently 4425.11)

Number change only (formerly LPPH 4425.11)

##### 4433.2 Reviewing CPA Foster Home Records in Preparation for a Random-Sampling Inspection

LPPH ~~January 2012~~ DRAFT 5437-CCL (currently 4425.2)

*This section was renumbered and edited. Previously, this section was LPPH 4425.2.*

Procedure

Inspectors prepare for the random monitoring inspection of an agency foster home by reviewing the following information:

a. The child-placing agency’s (CPA) foster home screening

b. Background checks for the foster home

c. Any developmental or corrective action plans currently in place for the foster home

d. Any investigation history for the last 12 months or since the last Enforcement Team Conference, whichever is more recent

e. Inspection reports, the floor plan, serious incident reports, and other documentation in the CPA’s foster home record, if:

• there are concerns upon review of the home screening, or

• the records are being reviewed as a part of a monitoring inspection at the CPA.

If CPS foster children are placed in the home, the inspector reviews the children’s records in the IMPACT system for additional information on the children.

After reviewing the information, the inspector takes note of any concerns that may need to be addressed with:

• the foster parent during the sampling inspection; or

• the CPA’s staff before the sampling inspection.

If it is determined that the information in CLASS regarding the CPA’s foster home is outdated or incorrect, the inspector:

• contacts the CPA and instructs them to update the foster home’s information; and

• considers citing a deficiency using an assessment, if outdated and incorrect information is a pattern for the CPA. See 4431.1 Citing Deficiencies Based on Random-Sampling Inspection Results.

#### 4434 Scheduling Random-Sampling Inspections

LPPH ~~January 2012~~ DRAFT 5437-CCL (currently 4425.3)

Number change only (formerly LPPH 4425.3)

##### 4434.1 Scheduling Announced Inspections

LPPH ~~January 2012~~ DRAFT 5437-CCL (currently a subhead of 4425.3)

Number change only (formerly part of LPPH 4425.3)

##### 4434.2 Scheduling Unannounced Inspections

LPPH ~~January 2012~~ DRAFT 5437-CCL (currently a subhead of 4425.3)

*This section was renumbered and edited. Previously, this section was part of LPPH 4425.3.*

Procedure

Before scheduling an unannounced random-sampling inspection, the inspector determines whether less than 10 percent of random-sampling inspections in the manager’s area have been unannounced. If 10 percent have been unannounced, the inspector must conduct an announced inspection.

When scheduling an unannounced inspection, the inspector chooses a time that:

• is likely to cause as little disruption to the family routine as possible; and

• is a time when the children in care will likely be at the home during the inspection.

If the inspector makes an unannounced random-sampling inspection and no contact is made, the inspector follows procedures in 4435.3 Attempted Random-Sampling Inspections.

#### 4435 Conducting Random-Sampling Inspections at CPA Foster Homes

LPPH ~~January 2012~~ DRAFT 5437-CCL (currently 4426)

*This section was renumbered from LPPH 4426. The content was edited only to update a cross-reference that changed as part of the reorganization.*

Policy

To conduct a random-sampling inspection of an agency foster home, inspectors take the following actions:

a. Inspect the home using Form 2978 Foster Home Sampling Guide.

b. Interview at least one foster parent.

c. Interview all foster children who are present during the inspection who are able and willing to talk.

d. Point out immediate safety and health hazards to the foster parent or adult who is in charge during the inspection.

See 4435.1 Immediate Hazards.

An adult other than the foster parent may be the primary contact person present during the random-sampling inspection; however, at least one foster parent must be present at some time during the inspection in order to be interviewed.

Procedure

To conduct a random-sampling inspection, inspectors take the following actions:

a. Present, on arrival, a valid DFPS identification card to the person in charge and explain the purpose of the visit.

b. Use Form 2978 Foster Home Sampling Guide to conduct the random-sampling inspection.

The sample interview questions on Form 2978 are suggestions only. They are designed to help the inspector gather information. The inspector reviews the interview questions and tailors them to the circumstances of the inspection in order to ensure that they are appropriate for the child’s age, developmental level, and situation.

c. Determine whether background checks have been completed on all persons at the foster home that are required to have background checks completed. The background checks may be conducted in CLASSMate during the inspection. See [5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5300) Central Registry and Criminal History Searches.

d. Interview at least one foster parent in person during the inspection. If another foster parent cannot be present during the inspection and an interview is necessary, the inspector interviews that foster parent by phone.

e. Interview all foster children who are present during the inspection and are able and willing to talk. When a foster child has not been interviewed, the inspector notes the reason on Form 2978 Foster Home Sampling Guide.

f. Interview other household members or the staff of the child-placing agency (CPA), as needed, to determine how well the CPA is regulating its foster homes. Obtain written consent before interviewing the foster parent’s biological or adopted children. See [6000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.asp#LPPH_6000) Investigations.

If there are any meaningful discrepancies between the results of the home screening and observations made at the foster home during the random-sampling inspection, note them on Form 2978 Foster Home Sampling Guide.

If photographs are taken during the inspection, see the procedures in [1400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_1400.asp#LPPH_1400) Digital Cameras and Photographs.

The sampling inspection is considered complete when both of the following have been addressed through observations and interviews:

• All of the concerns noted during the review of the foster home’s record

• All topics on Form 2978 Foster Home Sampling Guide

##### 4435.1 Immediate Hazards

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4426.1)

Number change only (formerly LPPH 4426.1)

##### 4435.2 When Abuse or Neglect Is Reported or Observed

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4426.2)

Number change only (formerly LPPH 4426.2)

##### 4435.3 Attempted Random-Sampling Inspections

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4426.3)

*This section was renumbered and edited significantly to clarify requirements. Subsections were added to make certain content easier to find. Some content was moved from other sections, but other content is new to the handbook. Previously, this section was LPPH 4426.3.*

If a random-sampling inspection of a foster home is attempted but no contact is made, the inspector:

• documents the attempted random-sampling inspections in CLASS; and

• conducts another random-sampling inspection.

See:

4435.31 Attempted Announced Inspections

4435.32 Attempted Unannounced Inspections

###### 4435.31 Attempted Announced Inspections

LPPH DRAFT 5437-CCL (new item)

If the family is not home when the inspector makes an announced random-sampling inspection, the inspector:

• documents the attempted inspection as a *Chronology* in the foster home’s record in the CLASS system;

• contacts the family to reschedule the announced inspection; and

• creates and sends Form 2990 Agency Foster Home No Contact Letter to the child-placing agency and foster home.

See 4434 Scheduling Random-Sampling Inspections.

###### 4435.32 Attempted Unannounced Inspections

LPPH DRAFT 5437-CCL (new item)

First Attempted Unannounced Inspection

If the inspector makes an unannounced random-sampling inspection and no contact is made, the inspector:

• documents the attempted inspection as a *Chronology* in the foster home’s record in the CLASS system; and

• conducts another unannounced inspection within 10 days.

Second Attempted Unannounced Inspection

If the family is not home at the time of the second unannounced random-sampling inspection, the inspector:

a. documents the attempted inspection as a *Chronology* in the foster home’s record in the CLASS system;

b. contacts the family to schedule and complete an announced inspection; and

c. creates and sends Form 2990 Agency Foster Home No Contact Letter to the child-placing agency and foster home.

See 4434 Scheduling Random-Sampling Inspections.

#### 4436 Documenting Random-Sampling Inspections

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4427)

*This section was renumbered and edited. Previously, this section was LPPH 4427.*

Policy

Before leaving the foster home, the inspector:

• completes Form 2979 Foster Home Checklist in CLASSMate to document the concerns observed during the random-sampling inspection; and

• shares any concerns with and provides a copy of the completed Form 2979 to the foster parent or the person who is in charge during an exit interview.

Within 10 days of each inspection or attempted inspection, the inspector:

• resolves any pending concerns and documents the outcomes in the CLASS system; and

• completes Form 2991 Temporary Sampling Results Letter in the CLASS system and provides a copy to the child-placing agency (CPA) to inform the CPA of the inspection results.

Texas Human Resources Code §§[42.044](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044); [42.04411](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.04411)

Procedure

To document the results of an inspection, the inspector:

a. prepares Form 2979 Foster Home Checklist in CLASSMate before leaving the foster home;

b. shares any concerns with and provides a copy of the completed Form 2979 to the foster parent or other adult who is in charge during an exit interview;

c. notifies the CPA and the Licensing staff assigned to the CPA by phone, e-mail, or fax within 24 hours of the inspection about any immediate hazards observed in the foster home. See [4435.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.jsp#LPPH_4426_1) Immediate Hazards.

d. Within 10 days of the inspection:

• resolves any pending concerns and document the outcomes in the CLASS system; or

• completes Form 2991 Temporary Sampling Results Letter in the CLASS system; and send the original version of Form 2991 Temporary Sampling Results Letter to the CPA; or

• both.

For information on documented an attempted random-sampling inspection of a CPA foster home, see 4435.3 Attempted Random-Sampling Inspections.

#### 4437 Retaining Records of Random-Sampling Inspections

LPPH ~~January 2011~~ DRAFT 5437-CCL (currently 4428)

*This section was renumbered and edited. Previously, this section was LPPH 4428.*

Procedure

Inspectors:

• store the sampling guide and any home records obtained from the child-placing agency (CPA) with the case file for one year, or until the enforcement team conference for the CPA has been completed for the year; and

• destroy the sampling guide and home study record after one year, or after the conference has been completed for the year.

Confidential material must be destroyed as outlined in 1330 Records Retention.