*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.*

## 2200 Types of Child Care Permits and Multiple Operations

### 2210 Permits Required for Child Day Care

LPPH ~~December 2011~~ DRAFT 5398-CCL

Policy

The following table describes the permits required for each type of child day care operation regulated by DFPS on or after September 1, 2003. See also DFPS Rules, 40 TAC [§745.37(2)](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=37). For a definition of each type of operation, see [1141](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_1000.jsp#LPPH_1141) Types of Child Day Care Operations.

| Child Day Care Operations | Type of Permit |
| --- | --- |
| Listed family home | Listing  |
| Registered child care home | Registration |
| Licensed child care home | License |
| Child care center | License |
| Small, employer-based child care(A small, employer-based operation employs fewer than 100 full-time employees) | Compliance certificate |
| Temporary shelter child care program | Compliance certificate |
| Before- or after-school program | License |
| School-age program | License |

### *Content in 2350-2354 was presented in a chart previously, but is now formatted differently with the use of titles and subheadings.*

### 2350 Programs of Limited Duration That Are Exempt From Licensure and Certification

LPPH ~~December 2011~~ DRAFT 5398-CCL

Policy

Certain programs of limited duration are exempt from regulation by Licensing, under the following conditions.

#### 2351 Program With Parents on the Premises

LPPH ~~December 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 2350)

Policy

A program with parents on the premises is exempt from regulation by Licensing, if any of the following are true:

a. The program operates in association with a shopping center, business, religious organization, or other elective activity.

b. The program does not advertise as a child care facility or day care center and informs parents that it is not licensed by the state.

c. The parent or person responsible for the child attends or engages in the elective activity. (Part-time employees and contractors who conduct activity may use the program as long as they meet the limits in (d) below. A caregiver for the program may use the program for the caregiver’s own child as long as the child remains with a caregiver.)

d. The child is only in care:

 • for up to four and one-half hours per day and for up to 12 hours a week; or

 • for up to 15 hours per week, if care is provided so that a parent may attend an educational class provided by a nonprofit entity in a county of 800,000 or more and the county is adjacent to an international border.

 However, there are no time limits for the child of a caregiver at the program as long as the child is with the caregiver.

e. The program’s caregivers are able to contact the parent or person responsible for the child at all times.

See Texas Human Resources Code [§42.041](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.041)(b)(3); DFPS Rules, 40 TAC [§745.117](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=117)(1). [§745.101](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=101)(3).

Examples of Programs That Are Exempt

1. Programs that are operated in connection with a religious organization and offer programs for children, such as classes for religious instruction
2. Programs operated so that parents can attend a short-term class that lasts up to three hours for four or fewer days or evenings a week, for a few weeks (such as classes on parenting skills or English as a second language)
3. Programs operated in a gym or health club, so that members can exercise. The caregiver of the program and part-time staff may use the program for their own children

Exceptions

Small Business Offering Child Care

A small business that offers child care services to its employees does not qualify for this exemption. Small businesses that provide care for children whose parents or guardians work in the same building where the child care is offered are subject to regulation as described in Texas Human Resources Code, Subchapter F, [§42.151](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.151). Regulation of Employer-Based Day Care Facilities.

Temporary Shelter

A temporary shelter, such as a family violence or homeless shelter that offers child care services to its residents does not qualify for this exemption. Temporary shelters that provide care for children whose parent or guardian reside in the same building where the child care is offered are subject to regulation as described in Texas Human Resources Code, Subchapter G, [§42.201](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.201). Regulation of Temporary Shelter Day Care Facilities.

#### 2352 Short-Term Program

LPPH ~~December 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 2350)

Policy

A short-term program is exempt from regulation by Licensing, if:

 • the program operates for fewer than three consecutive weeks and fewer than 40 days in 12-month period; and

 • the program is not part of an operation subject to Licensing regulation.

DFPS Rules, 40 TAC [§745.117(2)](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=117).

**Rationale:** Short-term programs end before the licensing process can be completed

#### 2353 Religious Program

LPPH ~~December 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 2350)

Policy

A religious program is exempt from regulation by Licensing, if:

 • the program offers religious instruction, such as Sunday school or weekly catechism; or

 • the program lasts for two weeks or fewer.

Texas Human Resources Code [§42.041(b)(4)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.041)

DFPS Rules, 40 TAC [§745.117(3)](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=117)

**Example:** Vacation Bible school

#### 2354 Foreign Exchange or Sponsorship Program

LPPH ~~December 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 2350)

Policy

A foreign exchange or sponsorship program is exempt from regulation by Licensing, if:

a. an unrelated child or sibling group lives in the provider’s home;

b. each child is in the United States on a time-limited visa; and

c. each child is being sponsored by an organization or by the provider with whom they are living. See DFPS Rules, 40 TAC [§745.117(4)](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=117).

### 3130 The Application Process

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

The application process includes all of the following:

a. The pre-application interview or orientation class (not required for certificates, compliance certificates, or listings)

b. The submission of the application materials

c. The posting of public notice and compliance with hearing requirements for residential child care operations (if applicable)

d. Review of the application for completeness

e. Acceptance of the application as complete, or return of the application if it is incomplete

f. A determination by Licensing of the applicant’s compliance with rules, including minimum standards and statutes

g. The decision to issue or deny a permit

DFPS Rules, 40 TAC [§745.211](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=211)

## 3200 Processing the Application for a License, Certificate, Compliance Certificate, Registration, or Listing

LPPH DRAFT 5398-CCL (title of introductory heading is revised)

### 3210 Time Limit for Issuance of a Permit

#### 3211 Time Frame for Issuance or Denial

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

Licensing accepts an application when Licensing has reviewed it and determined it to be complete. Licensing staff must determine whether rules and licensing statute are met within 30 days after the acceptance date of an application for a compliance certificate, or within two months (see [definition](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_Definitions_of_Terms.jsp) of date-to-date) after the acceptance date of an application for a license, certificate, registration, or listing, and either:

 • sign and mail the license, certificate, compliance certificate,registration, or listing permit; or

 • mail a letter notifying the applicant of the intent to deny the permit.

Texas Human Resources Code [§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

DFPS Rules, 40 TAC [§745.321](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=321)

### 3220 Contents of a Complete Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

For information about what a complete application consists of, see the following sections and subitems:

[3310](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3310) License Application

3410 Compliance Certificate Application

[3510](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3510) Registration Permit Application

[3610](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3610) Listing Application

### 3230 Steps for Issuance or Denial

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

The effective (issuance) date is the date that the Licensing supervisor or inspector signs the license, certificate, compliance certificate, registration, or listing permit.

If recommending denial of an application for a license, certificate, registration, or listing, the inspector submits documentation to the Licensing supervisor before the end of the two-month time limit set by statute so that the intent to deny letter can be signed within the two-month period. If recommending denial of an application for a compliance certificate, the inspector must submit documentation to the Licensing supervisor before the end of the 30-day time limit.

If the time limit will be exceeded because of any of the circumstances listed in this item under 3212 Good Cause to Exceed the Time Frame, a supervisor must approve an application extension in CLASS system. To do this, the supervisor clicks on the Extension Approval button in CLASS. The supervisor documents the reason for the extension in CLASS at that time.

The inspector must document all actions related to application and issuance in CLASS.

See also:

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

[3322.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3322_3) Denial of an Application or Amendment for Failure to Comply With Public Notice and Hearing Rules

CLASS Online Help: Receive an Application and Issue a Full Listing, Registration, License, or Certificate

### 3240 Reviewing and Accepting the Application for a Permit

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

The inspector must:

1. determine whether the applicant is eligible to apply;
2. review and process the application in a timely manner; and
3. notify the applicant in writing of acceptance of the application and, if necessary, the reason for any delays.

Procedure

Within 21 days of receiving the application for a license, certificate, registration, or listing and within 10 days of receiving the application for a compliance certificate, the inspector notifies the applicant in writing that:

  •  the application is complete and accepted by mailing CLASS Letter 2875 App Received and Accepted; or

  •  the application is incomplete by mailing CLASS letter 2870 App Return (First or Second).

If the application is incomplete, the notification letter must explain what information is needed to complete it and a time frame by which to resubmit the corrected application materials.

For information about what a complete application consists of, see:

[3310](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3310) License Application

3410 Compliance Certificate Application

[3510](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3510) Registration Permit Application

[3610](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3610) Listing Application

Once a subsequent application is received, the inspector has 21 days from the second receipt date of an application for a license, certificate, registration, or listing and 10 days from the second receipt date of an application for a compliance certificate to:

1. review the revised application materials;
2. send written notice acknowledging the application is complete and accepted or that the application is incomplete with an explanation of what information is needed and a timeframe to complete it; and
3. verify that the fees have been paid if verification was not done previously.

See also:

3243 Checking the Application for Errors and Omissions

CLASS Online Help: Record an Application Decision; Payments for an Operation.

Texas Human Resources Code [§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

DFPS Rules, 40 TAC [§745.301](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=301)

#### *Some procedures were deleted from 3241 because they no longer apply.*

#### 3241 How to Determine Whether the Applicant Is Eligible to Apply

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

To determine whether an applicant is qualified to apply for a license, certificate, registration, or listing permit, see the circumstances and actions described in the following table:

|  |  |
| --- | --- |
| If … | Then … |
| the intent to revoke or deny the child day care permit was sent before September 1, 2009 … | the applicant is not eligible to reapply for two years from the date the denial or revocation became final.   |
| the intent to revoke or deny the child day care permit was sent on or after September 1, 2009 … | the applicant is not eligible to reapply for five years from the date the denial or revocation becomes final.  |
| a residential child care permit was denied or revoked by Licensing … | the applicant is not eligible to reapply for five years from the date the denial or revocation became final.   |
| the application was returned for the third time as incomplete within the past year … | the applicant may not reapply for one year from the date the third application was returned as incomplete. |

DFPS Rules, 40 TAC §§[745.303](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=303); [745.403](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=745&rl=403)

#### 3242 How to Evaluate the Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

Licensing uses the following procedures:

 • The inspector reviews the information supplied on the application form. This may be one of the following, as appropriate:

1. Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application
2. Form [2910](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2910.doc), Child Daycare Licensing Application
3. Form [2919](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2919e.doc), Request for a Registration Permit
4. Form [2960](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2960.doc), Application for a License to Operate a Residential Child Care Facility or Child-Placing Agency
5. Form [2986](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2986.doc), Listing Request

 • The inspector reviews DFPS files using CLASS or other available records maintained in Licensing offices to verify information submitted in the application packet. The review of DFPS files must go back five years from the effective date of the application. Staff must use available information, such as a Certificate of Formation and DFPS files, to cross-check the names of an entity given on the application.

 If the review of DFPS files reflects that the applicant is not prohibited from obtaining a license, certificate, registration, or listing permit, the inspector documents this in the operation’s record.

*Texas Human Resources Code* [*§42.072*](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

For residential child care licensing, if an application for a foster home is received, and the foster home only receives children through the Interstate Compact on the Placement of Children (ICPC), the inspector forwards the application to Child Protective Services for verification.

See also:

3243 Checking the Application for Errors and Omissions

3250 Withdrawal of an Application for a Permit

3313 When Not to Accept an Application

3322.3 Denial of an Application or Amendment for Failure to Comply With Public Notice and Hearing Rules

3413 When Not to Accept an Application

3512 When to Accept an Application

3514 When Not to Accept an Application

3613 When Not to Accept an Application

5270 Verification of Fee Payment

CLASS Online Help: Determining Whether the Application Should Be Entered

#### 3243 Checking the Application for Errors and Omissions

##### *3243.1-3243.3 were edited for clarity.*

##### 3243.1 If the Application Is Incomplete or Contains Errors

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

The inspector does not accept applications that contain errors or are incomplete. Depending on the extent of the errors or missing information, the inspector either:

  •  makes the necessary changes after speaking to the applicant; or

  •  returns the application and requests that the applicant make the changes and resubmit the application.

Providing Technical Assistance

The inspector provides technical assistance to the applicant each time the application must be returned. Technical assistance includes setting a time limit for when the application must be resubmitted. See [5250](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5250) Fee Refund Guidelines.

DFPS Rules, 40 TAC [§745.301](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=301)

Texas Human Resources Code [§42.047](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.047)

##### 3243.2 Resolving Errors and Omissions

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

In reviewing the application for acceptance, the inspector attempts to contact the applicant regarding minor errors or omissions. The applicant may authorize the inspector by telephone to change or make additions to an incomplete application. The inspector:

  •  dates and initials any changes; and

  •  sends a copy of the corrected application with CLASS Letter 2875 App Received and Accepted to the applicant stating that the application is complete and accepted.

If the inspector is unable to reach the applicant by phone or if the omissions require extensive work by the applicant, the inspector returns the application by sending CLASS Letter 2870 App Return (First or Second). The inspector includes in the letter:

  •  a written description of what is lacking or incorrect; and

  •  a suggested time frame for return of the resubmitted application.

For an operating applicant, the inspector follows up to ensure that:

  •  the application is resubmitted; or

  •  care for children is discontinued.

##### 3243.3 Handling Applications Returned for the Third Time in a Year

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

If three applications are returned within a period of one year because they are incomplete or contain errors, an applicant may not reapply until one year from the date the last application was returned as incomplete. This applies to applications for a license, certificate, registration, and listing permits.

DFPS Rules, 40 TAC [§745.303](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=303)

Procedure

When an application is returned for the third time as incomplete, the inspector:

  •  sends CLASS Letter 2887 App Return (Final) to the applicant stating that DFPS rules prohibit applying for a license, certificate, registration, or listing permit for one year from the date a third application was returned as incomplete; and

  •  includes in the notification:

  •  the date by which the individual may reapply for a license, certificate, registration, or listing permit, and

  •  a statement that acceptance of the application after this date does not indicate approval.

See also:

[3250](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3250) Withdrawal of an Application for a Permit

CLASS Online Help: Recording an Application Decision

#### 3253 Failure to Withdraw an Application for an Operation That Is Providing Care

##### *3253.1-3253.2 were edited for clarity.*

##### 3253.1 Noncompliance and Required Actions

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

If, at the end of the time frame for acting on an application, the applicant is unable to comply with statutes, administrative rules, or minimum standards:

  •  the applicant must withdraw the application and cease operating; or

  •  the inspector must deny the permit.

See 3211 Time Frame for Issuance or Denial.

##### 3253.2 Circumstances That Require Denial of the Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

The inspector denies an application from an operation that is providing care when the applicant:

  •  has failed to make a required correction related to a fire or sanitation inspection; or

  •  cannot get a required fire or sanitation inspection because of failure to comply with other local ordinances or regulations.

If the applicant fails or refuses to withdraw, the application must be denied in order to meet the time frame required by statute. See 3211 Time Frame for Issuance or Denial.

If the application is denied, the inspector notifies the applicant that he or she must stop operating and may appeal the decision. See [7730](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7730) Appeals.

See also:

[3720](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3720) Application Received When Denial Is Effective Before September 1, 2005

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

CLASS Online Help: Record an Application Decision and Close an Operation

## 3300 Process for Issuance of an Initial License, Non-Expiring License, or Certificate

### *3310 was edited for clarity.*

### 3310 License Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

Before Licensing can evaluate whether to issue a license, the inspector must review the completed application materials and accept the application.

See also, in CLASS Online Help:

 • Receive an Application

 • Record an Application Decision

 • Process an Issuance

#### 3311 Application for a Licensed Child Day Care Operation

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

A complete application for a license includes the following:

a.  A completed [Form 2910](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2910.doc), Child Day Care Licensing Application

b.  A floor plan of the building and surrounding space to be used, including the dimensions of the indoor and outdoor space, exits, number of toilets, and sinks

c.  A completed [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2911.doc), Governing Body/Director Designation

 • Form 2911p is not required if the governing body is a sole proprietorship and the proprietor is also the director.

d.  A completed [Form 2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2760.doc), Controlling Person

[DFPS Rules, 40 TAC §745.903(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=903)

e.  A completed [Form 2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Request for Criminal History and Central Registry Check

Texas Human Resources Code [§42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056)

DFPS Rules, 40 TAC [§745.243(3)](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=243)

f.  Submitted fingerprint checks on all applicable persons, for a permit to operate a child care center

Texas Human Resources Code [§42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056)

g.  A completed [Form 2982](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2982.doc), Personal History Statement, required for:

  •  each applicant (sole proprietor or partners); and

  •  each person designated as director and co-director, unless they are also applicants

h.  Proof that the for-profit corporation or the limited liability company is not delinquent in paying the franchise tax

 A limited liability company is not a limited liability partnership.

Proof can include any of the following:

1.  The governing body’s most recent [Certificate of Account Status](http://www.window.state.tx.us/taxinfo/coasintr.html), also known as the Franchise Tax Certificate of Good Standing

2.  The [Certificate of Formation](http://www.sos.state.tx.us/corp/forms_boc.shtml#fbenc), if the corporation or company has not existed long enough to owe the franchise tax at the time of the application

3.  Documented proof that Texas Tax Code [Chapter 171](http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.171.htm) exempts the corporation or company from paying the franchise tax

DFPS Rules, 40 TAC [§745.245](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=245)

i.  One of the following forms of documentation regarding liability coverage, required for all applicants, except those applying to operate a licensed child care home:

  •  Certificate of insurance as proof of liability coverage

  •  Documentation that the applicant is unable to obtain liability insurance for the reasons stated in [3323](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp?zoom_highlight=%22controlling+person%22#LPPH_3323#LPPH_3323) Liability Insurance, and a copy of the written notice that will serve to communicate to parents that there is no coverage

     If the operation is not providing care, the applicant must provide proof of insurance before the license is issued.

Texas Human Resources Code [§42.049](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.049)

DFPS Rules, 40 TAC §§[745.249](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=249); [745.251](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=251); [745.253](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=253); [746.201(6)](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=201)

j.  A completed [Form 2948](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2948.doc), Plan of Operation for Licensed Child Care Operations, which indicates that the operation plans to operate in compliance with applicable minimum standard rules

k.  Application license fees

l.  The initial license fee

See also:

[5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment

[5411](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.jsp#LPPH_5411) Obtaining Identifying Information About Controlling Persons

CLASS Online Help: Receive a Day Care Application

Texas Human Resources Code §§[42.046;](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046) [42.049](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.049); [42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

DFPS Rules, 40 TAC §[§745.243(3)](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=243); [745.903](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=903);

[Texas Business Corporation Act](http://law.justia.com/texas/codes/ba.html) Ann. Art. 2.45 (Vernon Supp. 1999)

#### *3312 was edited for clarity and to delete maternity home references.*

#### 3312 Application for a License to Operate a Residential Child Care Operation

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

A complete application for a license to operate a residential child care operation includes the following:

a.  A completed [Form 2960p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2960.doc), Application for a License to Operate a Residential Child Care Facility or Child-Placing Agency

b.  A floor plan of the building and surrounding space to be used, showing the dimensions and the purpose of all rooms and specifying where children and, if applicable, caregivers will sleep

c.  A completed [Form 2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Request for Criminal History and Central Registry Check, for each applicable person

d.  Completed fingerprint checks on all applicable persons, for a permit to operate an independent foster home

e.  A completed [Form 2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2760.doc), Controlling Person

f.  A completed [Form 2982p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2982.doc), Personal History Statement, for each applicant who is a sole proprietor or partner, unless the applicant is also the licensed administrator

g.  Proof that the for-profit corporation or the limited liability company is not delinquent in paying the franchise tax, which can include one of the following:

1.  The governing body’s most recent [Certificate of Account Status](http://www.window.state.tx.us/taxinfo/coasintr.html), also known as the Franchise Tax Certificate of Good Standing

2.  The [Certificate of Formation](http://www.sos.state.tx.us/corp/forms_boc.shtml#fbenc), if the corporation or company has not existed long enough to owe the tax at the time of the application

3.  Documented proof that Texas Tax Code [Chapter 171](http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.171.htm) exempts the corporation or company from paying the tax

DFPS Rules, 40 TAC [§745.245](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=245)

h.  Proof of liability insurance or documentation that the applicant is unable to obtain liability insurance for reasons stated in [3323](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp?zoom_highlight=%22controlling+person%22#LPPH_3323#LPPH_3323) Liability Insurance and a copy of the written notice informing the parents that there is no insurance coverage

    The requirement for liability insurance does not apply to agency homes or certified facilities.

    If the operation is not providing care, the applicant must provide documentation of insurance before the license is issued.

Texas Human Resources Code [§42.049](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.049)

DFPS Rules, 40 TAC §§[745.249](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=249); [745.251](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=251); [745.253](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=253)

i.  The policies, procedures, and documentation required by minimum standards, as listed on the following forms (one form for each chapter of the minimum standards, Texas Administrative Code (TAC) Chapters [748](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=748), [749](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=749), and [750](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=4&ti=40&pt=19&ch=750)):

[Form 2784](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2784.doc), General Residential Operation and Residential Treatment Center

[Form 2785](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2785.doc), Child-Placing Agency

[Form 2786](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2786.doc), Independent Foster Home

    The inspector reviews the policies, procedures, and documentation before the application is accepted only to the extent necessary to determine that all required materials have been received. The information is not evaluated for compliance with relevant statutes, rules, and minimum standards until after the application is accepted.

    This requirement is an exception to the time frames described in 40 Texas Administrative Code [§745.301](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=301).

j.  The application fee

k.  The initial license fee, if applicable

See also:

[5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment

[5411](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.jsp#LPPH_5411) Obtaining Identifying Information About Controlling Persons

CLASS Online Help: Receive a Residential Care Application

Texas Human Resources Code §§[42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046); [42.049](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.049); [42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.049)

DFPS Rules, 40 TAC §§[745.243](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=243)(4) and (6); [745.903](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=903); [748.3351](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=748&rl=3351)

[Texas Business Corporation Act](http://law.justia.com/texas/codes/ba.html) Ann. Art. 2.02, A.1 (Vernon Supp)

#### *3313 was retitled to better reflect the content. The content was also broken up into sub-items (3313.1-3313.7) for organizational purposes and was edited for clarity.*

#### 3313 When Not to Accept an Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

##### 3313.1 Application Materials Are Incomplete

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3313)

Procedure

The materials listed in [3311](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp?zoom_highlight=%22controlling+person%22#LPPH_3311#LPPH_3311) Application for a Licensed Child Day Care Operation or [3312](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp?zoom_highlight=%22controlling+person%22#LPPH_3312#LPPH_3312) Application for a License to Operate a Residential Child Care Operation have not been submitted in their entirety or are not filled out completely.

DFPS Rules, 40 TAC [§745.243](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=243)

##### 3313.2 Fees Not Paid

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3313)

Procedure

The inspector cannot verify that the license fees have been paid. See [5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment.

Texas Human Resources Code [§42.054](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.054)

##### 3313.3 Plan of Operation Not in Compliance With Minimum Standards

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3313)

Procedure

For child day care operations, if the Plan of Operation for Licensed Operations indicates that the operation will not operate in compliance with minimum standards.

##### 3313.4 Applicant Under Investigation

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3313)

Procedure

An investigation involving the applicant is being conducted as a result of a report alleging violations of statutes, administrative rules, minimum standards or abuse or neglect.

DFPS Rules, 40 TAC [§745.327](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=327)

##### 3313.5 Applicant Prohibited From Obtaining a Permit

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3313)

Procedure

A review of the DFPS files reflects that the applicant is prohibited from obtaining a permit.

Texas Human Resources Code [§42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

DFPS Rules, 40 TAC §§[745.401](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=401); [745.407](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=407)

In these situations, the inspector sends written notification to the applicant stating that the statute prohibits Licensing from issuing the person a permit according to the time frames detailed in the chart in [3241](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3240) How to Determine Whether the Applicant is Eligible to Apply.

The notification should include the date that the individual may legally apply for a permit and a statement that acceptance of the application after this date does not indicate approval.

See [3700](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3700) Denial of an Application for a Permit and Reapplying After Denial or Revocation.

If the time frame has expired for a revocation, the applicant must show evidence that DFPS was reimbursed for the cost of publication of the revocation.

DFPS Rules, 40 TAC §§[745.8659](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=8659); [745.8661](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=8661)

Texas Human Resources Code §§[42.072(c)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072); [42.077(b)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.077)

##### 3313.6 Applicant Previously Denied a Permit

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3313)

Procedure

The applicant has a permit previously denied because of a Central Registry or criminal history check match. Licensing considers whether a risk evaluation is appropriate. See [5350](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5350) Opportunity to Request Risk Evaluation of Past Criminal History or Past Findings of Child Abuse or Neglect.

##### 3313.7 Permit Revoked in Another State

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3313)

Procedure

For a residential child care applicant only, a review of Form [2960p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2960.doc), Application for a License to Operate a Residential Child Care Facility or Child-Placing Agency or Form [2982p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2982.doc), Personal History Statement, question #3 shows that:

 • the applicant has had a residential child care operation permit revoked in another state; or

 • the applicant is barred from operating a residential child care operation in another state; and

 • licensing’s review of the information is pending.

If the information provided by the applicant shows that the revocation or bar from operating in another state took place for reasons similar to those that Licensing would take adverse action, the inspector researches the out-of-state history.

The inspector documents the review in CLASS by selecting the checkbox for the Out-of-State RC Revocation or Bar indicator on the Application/Closure page in CLASS, and additional information in the CLASS chronology.

In these situations, the inspector or supervisor takes one or more of the following actions:

1. If more information is needed, the inspector discusses the reasons for the action with the applicant.

2. The inspector contacts the authority in the state where the action took place to obtain additional information.

3. If adverse action is recommended, the inspector consults with the supervisor.

4. The supervisor consults with a Licensing attorney. The Licensing attorney may need to review the appropriate state’s regulatory structure to validate a negative compliance history.

5. If denial of the residential license is recommended, the inspector denies the person a permit according to procedures in [7600](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7600) Adverse Actions. The inspector documents the reason for denial in the Corrective and Adverse Action History page in CLASS as a Denial Due to Out-of-State History.

6. If review of the out-of-state history exceeds the time frame required under [3240](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3240) Reviewing and Accepting the Application for a Permit, the inspector obtains approval from the supervisor and documents it in the CLASS chronology.

Texas Human Resources Code [§42.046(e)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

DFPS Rules, 40 TAC [§745.8605](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=8605)

#### *The content of 3314 was broken up into sub-items (3314.1-3314.5) for organizational purposes and was edited for clarity. Maternity home references were also deleted.*

#### 3314 Explaining Governing Body Responsibilities — License or Certificate

LPPH ~~November 2011~~ DRAFT 5398-CCL

Policy

Each governing body planning to open an operation subject to licensure or certification must:

 • complete and send an application to Licensing; and

 • attend a pre-application interview or meeting to learn about licensing requirements and procedures before a new permit can be issued. See [2110](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_2000.jsp#LPPH_2110) Conducting the Pre-Application Interview for a Child Care Permit.

Texas Human Resources Code [§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

DFPS Rules, 40 TAC [§745.241](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=241)

##### 3314.1 Governing Body and Licensing Responsibilities

LPPH ~~November 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 3314)

Procedure

At the pre-application interview or meeting the inspector explains the following to the applicant, permit holder, or governing body designee:

a.  The governing body is responsible for maintaining compliance with statutes, administrative rules, and minimum standards.

b.  The governing body must complete and submit a separate application for each operation subject to regulation that it plans to operate.

c.  Licensing informs the governing body of any remedial action taken against the operation.

##### 3314.2 Child Day Care Governing Body Responsibilities

LPPH ~~November 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 3314)

Procedure

At the pre-application interview or meeting for a child day care operation, the inspector explains the following to the applicant, permit holder, or governing body designee:

a.  a personal history statement must be submitted each time a new director is named.

b.  the applicant, permit holder, or governing body designee must submit [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2911.doc) Governing Body / Director Designation with the application and each time a new designee or director is designated according to the time frames established in the applicable minimum standards.

DFPS Rules, 40 TAC §§[746.1039](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=1039); [746.303](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=303)

c.   the applicant must indicate on [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2911.doc) whether all routine correspondence should be sent to the head of the governing body (when the governing body is an entity). See [Appendix 3000-2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_3000_2.jsp#LPPH_apx3000_2): Notifying the Operation, for others that must receive routine correspondence.

##### 3314.3 Controlling Person Responsibilities

LPPH ~~November 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 3314)

Procedure

At the pre-application interview or meeting the inspector explains that the applicant, permit holder, or governing body designee must submit Form 2760 Controlling Person with the application and within two days each time a person becomes a controlling person at the operation.

DFPS Rules, 40 TAC §§[745.901](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=901); [745.903](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=903); [745.907](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=907)

##### 3314.4 Residential Child Care Governing Body Responsibilities

LPPH ~~November 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 3314)

Procedure

At the pre-application interview or meeting for a residential operation, the inspector explains the following to the applicant, permit holder, or governing body designee:

a.   A general residential operation and child-placing agency must have a full-time licensed administrator. The operation must report any change in the administrator in writing within seven days after the action is taken.

DFPS Rules, 40 TAC §§[748.103](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=748&rl=103); [748.307(3)](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=748&rl=307); [749.103](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=749&rl=103); [749.507(3)](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=749&rl=507); [749.633](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=749&rl=633)

b.   The permit holder must report any significant change in the policies to Licensing before implementing the change and according to the time frames established in the applicable minimum standards. See [4700](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.jsp#LPPH_4700) Reviewing Operation Policies. If the change requires amending the permit, the amendment must be approved by Licensing before implementing the change.

DFPS Rules, 40 TAC §§[748.63](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=748&rl=63); [748.231(f)](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=748&rl=231); [748.1203](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=748&rl=1203); [749.63](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=749&rl=63); [749.331(f)](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=749&rl=331); [750.61](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=750&rl=61); [750.151](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=750&rl=151); [727.109](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=727&rl=109); [727.101](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=727&rl=101)

c.    The inspector discusses required professional staffing.

##### 3314.5 CLASS Documentation Requirements

LPPH ~~November 2011~~ DRAFT 5398-CCL (recommended new item, currently part of 3314)

Procedure

The inspector documents in the CLASS chronology that the applicant, permit holder, or governing body designee attended a pre-application interview or meeting.

#### *3316 and its sub-items were edited for clarity. Maternity home references were also deleted.*

#### 3316 License Requirements

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

An operation is issued a license when:

  •  the inspector determines that the operation has met statutes, administrative rules, and all appropriate minimum standards; and

  •  has paid all required fees.

DFPS Rules, 40 TAC [§§745.321](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=341); [745.345](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=345)

##### 3316.1 Initial License

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

The inspector issues an initial license when the operation is in compliance with statutes, administrative rules, and minimum standards, and one of the following situations exists:

a. The operation is not currently providing care, but meets the appropriate minimum standard rules except those with which compliance cannot be determined in the absence of children.

b. The operation has relocated and has made changes in the type of child care services it provides. A child-placing agency that changes location is not required to submit an application for a new permit.

c. The operation has changed ownership, which has resulted in changes to policy and procedure or in the staff who have direct contact with children.

d. The operation is providing care and is not currently licensed.

e. The licensed operation has a permit and applies for an additional permit to offer a new type of child care. An initial permit is issued for the new type of child care.

Texas Human Resources Code [§42.051](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.051)

DFPS Rules, 40 TAC [§745.345](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=345)

##### 3316.2 Non-Expiring License

###### 3316.21 When to Issue a License

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

The inspector issues a non-expiring license when the operation:

 • has satisfied initial licensing requirements by maintaining compliance with minimum standards on a continuing basis; and

 • is currently in compliance with minimum standards.

###### 3316.22 How Operations Qualify for a Non-Expiring License

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

An operation qualifies for a non-expiring license, if it:

a. is a licensed operation that changes ownership, but:

 • does not change policy and procedure, and

 • does not change the staff who have direct contact with the children; or

b. is an operation that changes location, but does not change the type of child care services offered. A child-placing agency that changes location is not required to submit an application for a new permit.

Texas Human Resources Code [§42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048)

DFPS Rules, 40 TAC [§745.321](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=341); [745.345](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=345)

See also:

[3240](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3240) Reviewing and Accepting the Application for a Permit

[3314](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3314) Explaining Governing Body Responsibilities - License or Certificate

[3320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3320) Activities Before Issuing a License or Certificate

[3321](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3321) Evaluating Before Issuing an Initial or Non-Expiring License or Certificate

[3340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3340) Evaluating During the Initial License Period

[3910](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3910) Changes in Type of Permit

CLASS Online Help: Process an Issuance

### 3320 Activities Before Issuance of a License or Certificate

#### *Policy (re: certified operations) that is highlighted in 3321 was moved from 3400. Much of the content of 3321 was broken up into sub-items for organizational purposes and edited for clarity.*

#### 3321 Evaluating Before Issuing an Initial or Non-Expiring License or Certificate

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

After accepting an application, the inspector determines:

 • compliance with the statutes, administrative rules, and minimum standards applicable to issuance; and

 • the risk to children.

Texas Human Resources Code [§42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048)

Certified Operations

Policy

State agencies that run nonexempt operations must obtain a certificate from Licensing. Certification is a process like licensure, with the following differences:

1. Fees are not required for the certificate.
2. An initial certificate is not issued. A non-expiring certificate is issued.
3. Liability insurance is not required.

Texas Human Resources Code [§42.052](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.052)

DFPS Rules, 40 TAC [§§745.39](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=39); [745.243(5),(6)](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=243); [745.249](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=249)

##### 3321.1 Tasks Performed by the Inspector

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

Before issuing a permit, the inspector performs all of the following tasks unless the tasks have already been completed for that operation.

###### 3321.11 Checking the Sex Offender Registry

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector checks the sex offender registry on the Department of Public Safety website that lists the addresses of sex offenders, compares it with the address of the operation, and then documents the findings in CLASS *Chronology*.

See [6550](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.jsp#LPPH_6490) Investigating Sex Offender Database Matches for procedures on processing a match. The inspector denies the application if a match requires it.

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

###### 3321.12 Completing Public Notice and Hearing Requirements

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector ensures public notice and hearing requirements are completed, when applicable for residential licensing.

###### 3321.13 Verifying Insurance Coverage

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector verifies that the operation has insurance or identifies the exception that exempts the operation from obtaining insurance. See [3323](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp?zoom_highlight=%22controlling+person%22#LPPH_3323#LPPH_3323) Liability Insurance.

DFPS Rules, 40 TAC §§[745.251](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=251); [745.253](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=253)

###### 3321.14 Inspecting the Operation

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector:

a. inspects the operation within 21 days of accepting the application to evaluate compliance with minimum standards;

b. cites any statutes, administrative rules, and minimum standards the operation has not complied with and establishes dates by which the operation must be in compliance;

c. follows up by inspection, phone, or mail to ensure that corrections of deficiencies have been made; and

d. ensures any investigation alleging violations of statutes, administrative rules or minimum standards is complete.

###### 3321.15 Performing Background Checks

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector ensures all background checks have been processed as follows:

1. Background checks have been completed before issuing a permit to operate a licensed child care home or center, an independent foster family home, an independent foster group home, or an operation that has a sole proprietor as a governing body.
2. A permit is issued without waiting for the results of the background searches, if all other criteria for issuance are met.

See:

[5320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5320) Acting on Abuse and Neglect Findings in a DFPS Central Registry Report

[5340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5340) Acting on Report Indicating a Criminal Record

1. The permit is denied if a background check match requires it.

See:

[5320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5320) Acting on Abuse and Neglect Findings in a DFPS Central Registry Report

[5340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5340) Acting on Report Indicating a Criminal Record

1. A permit is not issued if a background check has been received and a Central Registry match for an applicant or another individual for whom a Reason to Believe finding would result in adverse action being taken against the operation is still being investigated. In this case, Licensing has good cause to exceed the two-month time period for issuing a permit.
2. If information about the Central Registry finding cannot be released to the applicant because the perpetrator is someone other than the applicant, the inspector can, without releasing any identifying information about the match, explain to the applicant that there is a problem with a background check and a permit cannot be issued until the background check is cleared.

DFPS Rules, 40 TAC [§745.631](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=631)

###### 3321.16 Processing Controlling Person Checks

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector ensures all controlling person checks have been processed as follows:

Searching the AARS System and CLASS

A search for each controlling person listed on the application and Form 2760 has been conducted in the HHSC Adverse Action Record Sharing (AARS) system and CLASS. See [5420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.jsp#LPPH_5420) Determining the Eligibility of a Controlling Person.

Applicants Listed in the AARS System or Applicants Who Are Designated or Sustained Controlling Persons

The inspector denies the permit under the following conditions:

a. The applicant is listed in the AARS system and a licensing attorney determines that the reason the person is listed in the AARS system qualifies as a substantive reason to deny the person a permit.

DFPS Rules, 40 TAC §[745.8605(15)](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=8605)

b. The applicant is a sustained or designated controlling person.

See:

[5400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.jsp#LPPH_5400) Controlling Person and Certain Employment Prohibited

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

*DFPS Rules, 40 TAC §*[*745.907*](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=907)

Non-applicants Listed in the AARS System or Non-applicants Who Are Sustained Controlling Persons

If a person other than the applicant is listed on Form 2760 and is listed in the AARS system or is a sustained controlling person, the following applies:

a. A licensing attorney reviews the AARS listing to determine if the applicant must remove the person from a controlling person role before issuing the initial permit.

b. If the person is a sustained controlling person, the applicant must remove the person from a controlling person role before the initial permit can be issued.

c. The inspector denies the permit if the applicant refuses to remove the ineligible person from a controlling person role.

DFPS Rules, 40 TAC §§[745.911](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=911); [745.8605(15)](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=8605)

Notifications

If any controlling person submitted by the operation has history that prohibits the person from being a controlling person, the inspector mails:

 • Form Letter 2761, Identify a Controlling Person, to each eligible controlling person; or

 • Form Letter 2765, Match of an Ineligible Controlling Person, to the operation.

###### 3321.17 Ensuring That the Applicant Has Attended a Pre-Application Interview

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector ensures the applicant or designee has participated in a pre-application interview.

Based on the available resources to Licensing and the needs of the applicant, a pre-application interview may take the place of attendance at an orientation class.

For licensed child day care homes, the pre-application interview or orientation class must be completed no more than one year before the application date. See [2110](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_2000.jsp#LPPH_2110) Conducting the Pre-application Interview.

###### 3321.18 Applying Conditions or Restrictions

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector documents the computation of space to set capacities on the permit.

The inspector documents on the permit other conditions or restrictions, or both.

###### 3321.19 Obtaining Approval and Documenting

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3321.1)

Procedure

The inspector obtains supervisory approval if the decision is made to issue a permit despite any negative information or questionable history.

The inspector prepares the record, including information to support the decision to issue a permit.

Texas Human Resources Code §§[42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046); [42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048); [42.0461](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.0461)

DFPS Rules, 40 TAC §§[747.1107](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=747&rl=1107); [745.215](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=215); [745.321](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=321)

#### *3323 and its sub-items were edited for clarity.*

#### 3323 Liability Insurance

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

The inspector must establish whether or not an operation must obtain liability insurance.

##### 3323.1 Coverage Required of Permit Holders

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

The licensing statute requires that a license permit holder maintain liability insurance coverage in the amount of $300,000 for each occurrence of negligence.

An insurance policy or contract must cover injury to a child that occurs while the child is:

 • on the premises of the license permit holder; or

 • in the care of the license permit holder.

###### 3323.11 Basis for Suspension or Revocation

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

Failure by a license permit holder to renew the policy or contract or to maintain the policy or contract in the required amount is a basis for suspension or revocation of the holder’s permit.

###### 3323.12 Exceptions to Insurance Requirements

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

The requirement for liability insurance does not apply to agency homes, state-operated facilities, or licensed child-care homes.

Texas Human Resources Code [§42.049](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.049)

DFPS Rules, 40 TAC [§§745.249](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=249); [746.201(8);](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=201) [747.209](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=747&rl=209)

#### *A maternity home reference was deleted from 3324.41.*

#### 3324 Conducting Inspections During the Application Phase for a License or Certificate

###### 3324.41 Forms and Checklists

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

In addition to the plan for evaluating compliance in the table below, the DFPS standard-by-standard forms and checklists for each type of operation show certain standards marked with a bullet () symbol. The symbol designates those standards that must be evaluated before issuing an initial license to a non-operating operation.

DCL may use the following forms when evaluating compliance:

[Form 2936CCH](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2936CCH.doc), Child Care Home

[Form 2936LCCC](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2936LCCC.doc), Child Care Licensed Center

[Form 2936p2a](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2936-P2A.doc), Child Care Facility Inspection

[Form 2936p2b](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2936-P2B.doc), Child Care Operation Inspection

RCCL may also use the following forms for this purpose:

[Form 2785](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2785.doc), Child-Placing Agency

[Form 2784](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2784.doc), General Residential Operation and Residential Treatment Center

[Form 2786](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2786.doc), Independent Foster Home

### 3330 Issuance of a License or Certificate

#### 3331 Preparing the Initial License

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

The inspector issues the initial license with restrictions.

The effective date of the permit is the date it is prepared and signed by CCL. The initial permit is valid for six months.

Texas Human Resources Code [§42.048(b)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048)

Procedure

If the operation will be licensed with an initial license, the inspector informs the applicant by including the following statement in the written notices:

 If all requirements are met, you will be issued an initial license permit. The initial license permit is valid for six months and may be renewed for an additional six months only.

Texas Human Resources Code §§[42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046); [42.051](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.051); [42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048)

DFPS Rules, 40 TAC [§745.241](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=241)

##### *3331.1, 3331.2, and 3331.21 were reorganized and edited for clarity.*

##### 3331.1 Child Day Care

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

Statute provides for the issuance of a permit to care for children under age 14. If an operation subject to regulation also provides care for children ages 14 through 17, the inspector records this information on the application. On the permit and in CLASS, ages 5 through 17 are included as school age.

Form 2830 Child Day-Care Permit

The inspector prepares the permit using CLASS Form 2830 Child Day Care Permit, and issues the permit with the following restrictions:

 • Total capacity

 • Age categories of children (Infants, Toddlers, Pre-Kindergarten, and School).

Form [2910](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2910.doc) Child Day Care Licensing Application

The inspector records the following restrictions on Form [2910](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2910.doc) Child Day Care Licensing Application:

a. For licensed child care centers, the capacity for infants through age 17 months and capacity for children age 18 months and older

b. For licensed child care homes, the total capacity

c. Exact hours, days and months of operation

d. Children’s ages

e. Any conditions

When the permit is issued the inspector signs and dates Form [2910](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2910.doc), Child Day Care Licensing Application, and records applicable information in CLASS.

See [3332](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp?zoom_highlight=%22controlling+person%22#LPPH_3332#LPPH_3332) Setting Special Conditions on the License or Certificate.

Form 2803 Child Care Issuance Letter

The inspector mails the permit to the permit holder with Form 2803 the Child Care Issuance Letter in CLASS, showing the specific conditions noted on Form [2910](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2910.doc).

Texas Human Resources Code [§42.048(b)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048)

DFPS Rules, 40 TAC [§745.345](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=345)

See CLASS Online Help: Process an Issuance.

##### 3331.2 Residential Child Care

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

The inspector prepares the permit using Form 2907, Residential Child Care Permit, in the CLASS system, and issues the permit with the following restrictions:

a. Capacity (except for a CPA)

b. Gender and ages of children

c. Types of services offered by the operation as shown below

Texas Human Resources Code [§42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048)

*DFPS Rules, 40 TAC §§*[*748.63*](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=748&rl=63)*,* [*749.63*](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=749&rl=63)*;* [*749.1101*](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=749&rl=1101)*;* [*750.61*](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=750&rl=61)

The inspector mails the permit to the permit holder with Form 2803, the Child Care Issuance Letter in CLASS, showing the specific conditions noted on Form 2960, then records applicable information in CLASS.

DFPS Rules, 40 TAC [§745.345](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=345)

The child-placing agency’s license must include a statement on the first page of the license that indicates the number of branch offices. The name and address of each branch office is noted on page two of the permit.

DFPS Rules, 40 TAC [§749.303](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=749&rl=303)

See CLASS Online Help: Process an Issuance.

###### 3331.21 Types of Services Included as Restrictions

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

If the type of service offered by an operation is not listed below as a restriction and is a service included in the applicable minimum standards, the inspector adds it as a condition to the permit. See [3332](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp?zoom_highlight=%22controlling+person%22#LPPH_3332#LPPH_3332) Setting Special Conditions on the License or Certificate.

Human Resources Code (HRC) [Chapter 42](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm) provides for the issuance of a permit to care for children up to the age of 18 years old. If the operation provides care for young adults or adults, the inspector adds that information as a condition to the permit.

DFPS Rules, 40 TAC §§[748.1931](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=748&rl=1931); [749.1103](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=749&rl=1103); [749.1105](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=749&rl=1105); [749.2651](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=749&rl=2651); [750.501](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=750&rl=501)

General Residential Operation (GRO)

Care Type – child care services only, emergency services only, residential treatment center, or multiple services.

Programmatic Services – child care (not optional), emergency care, respite child care, transitional living program, assessment, and therapeutic camp.

 • Only GROs that offer emergency care services may provide respite child care services.

DFPS Rules, 40 TAC §§[748.75](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=748&rl=75); [748.4261(b)](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=748&rl=4261)

 • If more than one type of programmatic service is offered in addition to therapeutic camp services, add it as a condition to the permit to reflect the appropriate age range for that program. See [3332](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp?zoom_highlight=%22controlling+person%22#LPPH_3332#LPPH_3332) Setting Special Conditions on the License or Certificate.

DFPS Rules, 40 TAC [§748.4403](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=748&rl=4403)

Treatment Services – emotional disorders, mental retardation, pervasive development disorders, and primary medical needs.

Child-Placing Agency (CPA)

Child-Placing Services – foster care and adoption

Programmatic Services – child care (not optional), transitional living program, assessment, and respite child care

Treatment Services – emotional disorders, mental retardation, pervasive development disorders, and primary medical needs

Independent Foster Family or Group Home:

Programmatic Services – child care (not optional), transitional living program, assessment, and respite child care

Treatment Services – emotional disorders, mental retardation, pervasive development disorders, and primary medical needs

#### *A maternity home reference was deleted in 3342.1.*

##### 3342.1 Renewing the Initial License

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

The inspector renews an initial license when an operation:

 • does not provide care for unrelated children during the initial period or begins operation so late in this period that continuing compliance cannot be determined; and

 • fails to establish continuing compliance with minimum standards and additional time is needed to establish a pattern of compliance.

## *3400 previously related to state-operated operations that are certified (that is, issued a certificate). 3400 now only relates to operations that are issued a compliance certificate.*

## 3400 Process for Issuance of a Compliance Certificate

LPPH DRAFT 5398-CCL (title of introductory heading is revised)

### 3410 Compliance Certificate Application

LPPH ~~April 2010~~ DRAFT 5398-CCL (title is revised)

Policy

Before Licensing can evaluate whether to issue a compliance certificate, the inspector must review the completed application materials and accept or return the application within 10 days of receiving the application.

See [3200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3200) Processing the Application for a License, Certificate, Compliance Certificate, Registration, or Listing.

Texas Human Resources Code [§§](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.052)[42.153](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.153), [42.160](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.160), [42.203](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.203), [42.207](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.207)

*DFPS Rules, 40 TAC §*[*745.243(5),(6)*](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=243)

#### 3411 Application for a Compliance Certificate to Operate a Small Employer-Based Child Care Operation

LPPH DRAFT 5398-CCL (new item)

Procedure

A complete application for a compliance certificate to operate a small employer-based child care operation includes the following:

a. A completed [Form 2841](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2841.doc), Small Employer Based Child Care or Temporary Shelter Child Care Facility Application

b. A floor plan of the building and surrounding space to be used, including the dimensions of the indoor and outdoor space

c. A completed [Form 2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Request for Criminal History and Central Registry Check

Texas Human Resources Code [§42.159](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.159)

d. Proof that the for-profit corporation or the limited liability company is not delinquent in paying the franchise tax. A limited-liability company is not a limited-liability partnership. Proof can include any of the following:

 • The governing body’s most recent [Certificate of Account Status](http://www.window.state.tx.us/taxinfo/coasintr.html), also known as the Franchise Tax Certificate of Good Standing

 • The [Certificate of Formation](http://www.sos.state.tx.us/corp/forms_boc.shtml#fbenc), if the corporation or company has not existed long enough to owe the franchise tax at the time of the application

 • Documented proof that Texas Tax Code [Chapter 171](http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.171.htm) exempts the corporation or company from paying the franchise tax

DFPS Rules, 40 TAC [§745.245](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=245)

e.  Application fees

See [5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment

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

DFPS Rules, 40 TAC [§745.243(5)](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=243)

[Texas Business Corporation Act](http://law.justia.com/texas/codes/ba.html) Ann. Art. 2.45 (Vernon Supp. 1999)

#### 3412 Application for a Compliance Certificate to Operate a Temporary Shelter Child Care Operation

LPPH DRAFT 5398-CCL (new item)

Procedure

A complete application for a compliance certificate to operate a temporary shelter child care operation includes the following:

a. A completed [Form 2841](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2841.doc), Small Employer Based Child Care or Temporary Shelter Child Care Facility Application

 If the law requires that the applicant keep the shelter care location confidential, a valid correspondence address and telephone number must be included on the application form. The application must include a method to contact the operation immediately so that Licensing staff may obtain the location address within 30 minutes.

DFPS Rules, 40 TAC [§745.243(4)](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=243)

b. A completed [Form 2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Request for Criminal History and Central Registry Check

Texas Human Resources Code [§42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

c. Submitted fingerprint checks on all applicable persons

Texas Human Resources Code [§42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

d. Proof that the for-profit corporation or the limited liability company is not delinquent in paying the franchise tax

 A limited-liability company is not a limited-liability partnership.

Proof can include any of the following:

 • The governing body’s most recent [Certificate of Account Status](http://www.window.state.tx.us/taxinfo/coasintr.html), also known as the Franchise Tax Certificate of Good Standing

 • The [Certificate of Formation](http://www.sos.state.tx.us/corp/forms_boc.shtml#fbenc), if the corporation or company has not existed long enough to owe the franchise tax at the time of the application

 • Documented proof that Texas Tax Code [Chapter 171](http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.171.htm) exempts the corporation or company from paying the franchise tax

DFPS Rules, 40 TAC [§745.245](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=245)

e.  Application fees

See [5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment

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

DFPS Rules, 40 TAC [§745.243(4)](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=243)

[Texas Business Corporation Act](http://law.justia.com/texas/codes/ba.html) Ann. Art. 2.45 (Vernon Supp. 1999)

#### 3413 When Not to Accept an Application

LPPH DRAFT 5398-CCL (new item)

Procedure

The inspector does not accept an application in the following situations:

1. The materials listed in 3411 Application for a Compliance Certificate to Operate a Small Employer-Based Child Care Operation or 3412 Application for a Compliance Certificate to Operate a Temporary Shelter Child Care Operation have not been submitted in their entirety or are not filled out completely.

DFPS Rules, 40 TAC [§745.243](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=243)

b. The inspector cannot verify that the application fees have been paid. See [5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment.

Texas Human Resources Code §§42.153, 42.203

c. An investigation involving the applicant is being conducted as a result of a report alleging violations of statutes, administrative rules, minimum standards, or abuse or neglect.

DFPS Rules, 40 TAC [§745.327](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=327)

d. The applicant has a permit previously denied because of a Central Registry or criminal history check match. Licensing considers whether a risk evaluation is appropriate. See [5350](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5350) Opportunity to Request Risk Evaluation of Past Criminal History or Past Findings of Child Abuse or Neglect.

### 3420 Activities Before Issuance of a Compliance Certificate

LPPH DRAFT 5398-CCL (new item)

Policy

Before issuing the compliance certificate, the inspector:

1. accepts the application by sending Form 2842, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, located in the DFPS automated forms system, to the operation to serve as notification of the application’s acceptance and the date of the upcoming application inspection if all requirements are met;
2. determines compliance with Licensing statutes, administrative rules, and minimum standards, if applicable; and
3. evaluates the risk to children.

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

#### 3421 Tasks Performed by the Inspector

LPPH DRAFT 5398-CCL (new item)

##### 3421.1 Checking the Sex Offender Registry

LPPH DRAFT 5398-CCL (recommended new item)

Procedure

The inspector checks the sex offender registry on the Department of Public Safety website that lists the addresses of sex offenders, compares it with the address of the operation, and then documents the findings in CLASS *Chronology*.

See [6550](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.jsp#LPPH_6490) Investigating Sex Offender Database Matches for procedures on processing a match. The inspector denies the application if a match requires it.

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

##### 3421.2 Confirming Fire and Health Inspections

LPPH DRAFT 5398-CCL (recommended new item)

Procedure

The inspector ensures the operation has obtained approved fire and health inspections in the political subdivision where the operation is located, if required.

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

##### 3421.3 Inspecting the Operation

LPPH DRAFT 5398-CCL (recommended new item)

Procedure

The inspector:

a. cites any statute, administrative rule, or minimum standard the operation has not complied with and establishes dates by which the operation must be in compliance;

b. follows up by inspection, phone, or mail to ensure that corrections of deficiencies have been made; and

c. ensures that any investigation alleging violations of statute, administrative rules or minimum standards is complete.

##### 3421.4 Conducting Background Checks

LPPH DRAFT 5398-CCL (recommended new item)

Procedure

The inspector ensures that all background checks have been processed as follows:

a. Background checks have been completed before issuing a permit to operate an operation that has a sole proprietor as a governing body.

b. The permit is denied if a background check match requires it.

 See:

[5320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5320) Acting on Abuse and Neglect Findings in a DFPS Central Registry Report

[5340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5340) Acting on Report Indicating a Criminal Record

c. A permit is issued without waiting for the results of the background searches, if all other criteria for issuance are met.

 See:

[5320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5320) Acting on Abuse and Neglect Findings in a DFPS Central Registry Report

[5340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5340) Acting on Report Indicating a Criminal Record

d. A compliance certificate is not issued if a background check has been received and a Central Registry match for an applicant or another individual for whom a Reason to Believe finding would result in adverse action being taken against the operation is still being investigated. In this case, Licensing has good cause to exceed the 30-day time period for issuing a compliance certificate.

DFPS Rules, 40 TAC [§745.631](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=631)

##### 3421.5 Obtaining Approval and Documenting

LPPH DRAFT 5398-CCL (recommended new item)

Procedure

The inspector:

a. obtains supervisory approval if the decision is made to issue a compliance certificate despite any negative information or questionable history;

b. documents on the permit other conditions or restrictions, or both; and

c. prepares the record, including information to support the decision to issue a permit.

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

DFPS Rules, 40 TAC [§745.321](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=321)

#### 3422 Conducting Inspections During the Application Phase for a Compliance Certificate

##### 3422.1 Time Frame

LPPH DRAFT 5398-CCL (new item)

Policy

After accepting the application, the inspector must conduct a *Standard x Standard* inspection to determine whether the operation is in compliance with applicable statutes, administrative rules, and minimum standards. The inspection is documented in CLASS and must occur within 10 days of accepting the application.

##### 3422.2 When to Announce an Inspection

LPPH DRAFT 5398-CCL (new item)

Policy

If the operation is not providing care, the inspection must be announced.

If the operation is providing care, the inspection may be announced or unannounced. The inspector may arrange an announced inspection when it is necessary for the applicant or caregiver to make alternate plans for the children during the evaluation.

DFPS Rules, 40 TAC [§745.301(b)](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=301)

##### 3422.3 Abbreviated Inspection

LPPH DRAFT 5398-CCL (new item)

Policy

An abbreviated inspection may be conducted before issuance if the operation:

 • is changing ownership with no change in policy or procedures or in the operation’s staff who have contact with children; and

 • is not on corrective or adverse action.

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

DFPS Rules, 40 TAC [§745.321](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=321)

### 3430 Issuance of a Compliance Certificate

#### 3431 Preparing the Compliance Certificate

LPPH DRAFT 5398-CCL (new item)

Policy

Within 30 days of accepting the application, the inspector issues the compliance certificate when:

a. the operation has demonstrated compliance with applicable statutes, administrative rules, and minimum standards;

b. payment of the fees have been verified; and

c. the Licensing record is updated to reflect the basis for issuance.

The effective date of the permit is the date it is prepared and signed by CCL.

See 3230 Steps for Issuance or Denial.

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

DFPS Rules, 40 TAC [§745.321](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=321)

#### 3432 Small Employer-Based Child Care Operation

LPPH DRAFT 5398-CCL (new item)

Procedure

Form 2845 SEBCC Certificate

The inspector prepares the permit using Form 2845, SEBCC Certificate, in CLASS and issues the permit with the following restrictions:

 • a total capacity of 12; and

 • all age categories of children (Infants, Toddlers, Pre-Kindergarten, and School).

Form 2841 SEBCC Application

The inspector:

 • records the exact hours, days, and months of operation on Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, and in CLASS; and

 • documents any conditions on Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, and in CLASS (see 3434 Setting Special Conditions on the Compliance Certificate).

Form 2843 SEBCC Issuance Letter

The inspector:

 • mails the permit to the permit holder with Form 2843, SEBCC Issuance (the issuance letter located in the DFPS automated forms system), showing the specific conditions noted on Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, and in CLASS; and

 • signs and dates Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, when the permit is issued, and records applicable information in CLASS.

Texas Human Resources Code [§42.151](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.151)

#### 3433 Temporary Shelter Child Care Operation

LPPH DRAFT 5398-CCL (new item)

Procedure

Form 2846 TSP Certificate

The inspector prepares the permit using Form 2846 TSP Certificate in CLASS and issues the permit with the following restrictions:

 • the total capacity (must be at least seven) designated by the applicant; and

 • all age categories of children (Infants, Toddlers, Pre-Kindergarten, and School).

Form 2841 TSP Application

The inspector:

 • records the exact hours, days, and months of operation on Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, and in CLASS; and

 • documents any conditions on Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, and in CLASS (see 3434 Setting Special Conditions on the Compliance Certificate).

Form 2843a TSP Issuance Letter

The inspector:

 • mails the permit to the permit holder with Form 2843a, TSP Issuance (the issuance letter located in the DFPS automated forms system), showing the specific conditions noted on Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, and in CLASS; and

 • signs and dates Form 2841, Small Employer Based Child Care or Temporary Shelter Child Care Facility Application, when the permit is issued, and records applicable information in CLASS.

Texas Human Resources Code [§42.201](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.201)

#### 3434 Setting Special Conditions on the Compliance Certificate

LPPH DRAFT 5398-CCL (new item)

Policy

In addition to restrictions noted in 3432 Small Employer-Based Child Care Operation and 3433 Temporary Shelter Child Care Operation, the inspector may, with supervisory approval, set special conditions on the permit because of:

a. risk to children;

b. a requirement in statutes, administrative rule, or minimum standards; or

c. a deficiency in complying with statutes, administrative rules, or minimum standards.

An example of a condition is: “Condition: Children under six years old are restricted to the first floor.” The inspector adds a more complete explanation to the issuance letter, if needed.

The permit may be denied or revoked if conditions are not met.

##### 3434.1 Types of Conditions

LPPH DRAFT 5398-CCL (new item)

Procedure

The inspector may set special conditions as described in the following subitems.

###### 3434.11 Results of Background Checks

LPPH DRAFT 5398-CCL (new item)

Procedure

Licensing may need to impose conditions because of information obtained through a Central Registry or criminal history check. However, a condition cannot restrict the presence of the permit holder at the operation or of a person who resides at the operation.

If the background check results for either person would prevent the person from being present at an operation while children are in care, then Licensing must take adverse action.

See:

[5321](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5321) Acting on Abuse and Neglect Findings in a DFPS Central Registry Report

[5340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5340) Acting on a Report That Indicates a Criminal Record

##### 3434.2 Amend the Permit When Necessary

LPPH DRAFT 5398-CCL (new item)

Procedure

Adding conditions may require amending a current permit.

#### 3435 Denying an Application or Delaying a Decision

LPPH DRAFT 5398-CCL (new item)

Procedure

The inspector does not issue a permit if the operation does not comply with applicable statutes, administrative rules, or minimum standards.

If the recommendation is to deny issuance of a permit, the inspector sends documentation to the supervisor so that the *Intent to Deny* letter can be signed within the 30-day time frame. If the supervisor and district director concurs with the recommendation, the inspector denies the application. See:

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

[7620](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7620) Adverse Action Decision Criteria

If an investigation is in progress, the inspector delays the decision to issue the permit until the investigation is complete, or recommends denial. The inspector documents the reason for the delay in CLASS.

## *Several titles in the 3500 section were renumbered due to reorganization. The 3500 section was also edited for clarity.*

## 3500 Process for Issuance of a Registration Permit

#### 3512 When to Accept the Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

The inspector accepts the application when:

a. the application is determined to be complete;

b. the orientation or pre-application interview has been completed; and

c. fee payments have been verified.

DFPS Rules, 40 TAC §§[745.243](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=243); [745.301](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=301); [747.1007](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=747&rl=1007); [745.215](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=215)

##### 3512.1 Content of a Completed Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

A complete application consists of the following materials provided by the applicant:

a. A completed Form [2919ep](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2919e.doc), Request for Registration Permit

b. A completed Form [2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Request for Criminal History and Central Registry Check

c. A completed [Form 2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2760.doc), Controlling Person

d. A notarized Form [2985](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2985.doc), Affidavit for Applicants for Employment With a Licensed Operation or Registered Child Care Home, for any employee or potential employee who has or may have direct interaction with or the opportunity to interact with the children in the operation

The registered child care home applicant is not required to complete the affidavit.

Texas Human Resources Code [§42.059](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.059)

DFPS Rules, 40 TAC §[§747.909(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=747&rl=909); [745.243(2)](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=243)

e. Proof of a current certification in infant, child, and adult CPR

f. Proof of a current certificate in first aid that includes rescue breathing and choking

g. Proof of payment of the registration fee

If an applicant for a registration permit has been issued a listing permit within the 30 days before applying for a registration permit, the $20 fee for the listing permit can be applied toward the $35 fee for the registration permit.

h. Verification that orientation or the pre-application interview has been completed within one year before the date of application

i.  Proof of a high school diploma or high school equivalent

##### 3512.2 Required Orientation or Pre-Application Interview

LPPH ~~April 2010~~ DRAFT 5398-CCL (currently 3517; no other changes)

Procedure

If the applicant has not already attended orientation or a pre-application interview, the inspector arranges a date and time for him or her to do so.

Because of the benefits of the class, the inspector should encourage the applicant to attend an orientation class. However, if a hardship situation prevents the applicant from attending, and the district has sufficient resources, the inspector gives the applicant the option of meeting this requirement through a pre-application interview with the inspector.

The inspector notifies the applicant that the application will be accepted as soon as orientation or a pre-application interview has been completed.

The inspector provides other information in accordance with local needs and requirements.

##### 3512.3 Accepting the Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

When the application is complete and correct, the inspector accepts the application by signing and dating Form [2919ep](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2919e.doc), Request for Registration Permit, and completing documentation in CLASS.

The inspector notifies the applicant by mailing the App Received and Accepted Letter, CLASS Form 2875.

See [3240](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3240) Reviewing and Accepting the Application for a Permit

#### 3513 Incomplete Applications

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

If the application is incomplete, the notification letter must explain what is needed to complete it and a timeframe to resubmit the corrected application.

Texas Human Resources Code [§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

DFPS Rules, 40 TAC [§745.243(2)](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=243)

See [3240](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3240) Reviewing and Accepting the Application for a Permit

#### *Some procedures were deleted in 3514 since they no longer apply.*

#### 3514 When Not to Accept an Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

The inspector does not accept the application in the following situations:

a. Required materials are not submitted.

b. Materials are not filled out completely.

c. The inspector cannot verify that fees have been paid. See [5270](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5270) Verification of Fee Payment.

d. The operation is being investigated because of a report or background check match. The inspector does not accept the application until the investigation is complete.

DFPS Rules, 40 TAC [§745.327](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=327)

e. A review of DFPS files reflects that the applicant is prohibited from obtaining a permit.

 In this situation, the inspector performs the tasks as described in the chart below.

| If: | Then the inspector does the following: |
| --- | --- |
| A letter of intent to revoke or deny a child day care permit was dated before September 1, 2009. | Sends written notification to the applicant stating that statute prohibits Licensing from issuing the person a permit for two years from the date the denial or revocation became final. |
| A letter of intent to revoke or deny a child day care permit was dated on or after September 1, 2009. | Sends written notification to the applicant stating that statute prohibits Licensing from issuing the person a permit for five years from the date the denial or revocation became final. |
| A residential child care permit was denied or revoked  | Send written notification to the applicant stating that statute prohibits Licensing from issuing the person a permit for five years from the date the denial or revocation became final. |
| An application was returned for the third time as incomplete within the past year. | Send written notification to the applicant stating that DFPS rules prohibit him or her from reapplying for a license, certificate, registration, or listing permit for one year from the date a third application was returned as incomplete. |

 The notification should include the date that the individual may legally apply for a permit and a statement that acceptance of the application after this date does not indicate approval. See [3730](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp?zoom_highlight=%22controlling+person%22#LPPH_3730#LPPH_3730) Application for a Child Day Care Permit Is Received When Denial or Revocation Is Effective on or after September 1, 2009.

DFPS Rules, 40 TAC [§745.303](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=303)

 If the time frame has expired for a revocation, the applicant must show evidence that DFPS was reimbursed for the cost of publication of the revocation.

Texas Human Resources Code [§§42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

DFPS Rules, 40 TAC §[§745.407](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=407); [745.8659](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=8659); [745.8661](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=8661)

f. The operation has had a license or registration permit previously denied because of a Central Registry or criminal history check match and there is no indication that rehabilitation has occurred or that the person has been removed from contact with the operation.

g.The person has not completed orientation or a pre-application interview.

### *Much of the content of 3530 was broken up into segments (3530-3535) for organizational purposes and edited for clarity.*

### 3530 Evaluating for Issuance of a Registration Permit

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

After acceptance of the application, the inspector must determine compliance with statutes, minimum standards, and administrative rules applicable to issuance and risk to children.

Texas Human Resources Code [§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

Procedure

Before issuing a registration permit, the inspector completes all of the following activities unless they have been previously completed for that operation.

#### 3531 Checking the Sex Offender Registry

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item; currently part of 3530)

Procedure

The inspector checks the sex offender registry on the Department of Public Safety website that lists the addresses of sex offenders, compares it with the address of the operation, and then documents the findings in CLASS *Chronology*.

See [6550](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.jsp#LPPH_6550) Investigating Sex Offender Database Matches, for procedures on processing a match. The inspector denies a permit if a match requires it.

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

#### 3532 Inspecting the Operation

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item; currently part of 3530)

Procedure

The inspector performs the following tasks:

a. Inspects the operation to evaluate compliance with minimum standards within 21 days.

b. Cites any deficiencies of minimum standards and set correction dates.

c. Follows up by inspection, phone or mail to ensure that correction has been made.

DFPS Rules, 40 TAC [§745.321](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=321)

d. Ensures any investigation resulting from a report alleging violations of statutes, administrative rules, or minimum standards or of abuse or neglect is complete before issuance.

DFPS Rules, 40 TAC [§](http://www.dfps.state.tx.us/handbooks/Rules/TAC_745/_745_631_1192.htm)[745.327](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=327)

#### 3533 Conducting Background Checks

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item; currently part of 3530)

Procedure

The inspector ensures all background checks have been completed.

The inspector denies a permit if a background check match requires it. See:

[5321](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5321) Acting on Abuse and Neglect Findings in a DFPS Central Registry Report

[5340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5340) Acting on a Report That Indicates a Criminal Record

The inspector does not issue a permit if a background check match has been received and a Central Registry finding is being investigated, including a match indicating an open investigation of child abuse or neglect. In this case, Licensing has good cause to exceed the two-month time period for issuance of a permit.

If information about the Central Registry match cannot be released to the applicant because the perpetrator is someone other than the applicant, Licensing staff may, without releasing any identifying information about the match, explain to the applicant that:

 • there is a problem with the background check; and

 • registration cannot be issued until the background check is cleared. See [5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5300) Central Registry and Criminal History Searches.

DFPS Rules, 40 TAC [§745.631](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=631)

#### 3534 Processing Controlling Person Checks

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item; currently part of 3530)

Procedure

The inspector ensures all controlling person checks have been processed as follows:

Searching the AARS System and CLASS

A search for each controlling person listed on the application and Form 2760 has been conducted in the HHSC Adverse Action Record Sharing (AARS) system and CLASS. See [5420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.jsp#LPPH_5420) Determining the Eligibility of a Controlling Person.

Applicants Listed in the AARS System or Applicants Who Are Designated or Sustained Controlling Persons

The inspector denies the permit under the following conditions:

a. The applicant is listed in the AARS system and a licensing attorney determines that the reason the person is listed in the AARS system qualifies as a substantive reason to deny the application.

DFPS Rules, 40 TAC §[745.8605(15)](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=8605)

b. The applicant is a sustained or designated controlling person.

 See:

[5400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.jsp#LPPH_5400) Controlling Person and Certain Employment Prohibited

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

*DFPS Rules, 40 TAC §*[*745.907*](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=907)

Non-applicants Listed in the AARS System or Non-applicants Who Are Sustained Controlling Persons

If a person other than the applicant is listed on Form 2760 and is listed in the AARS system or is a sustained controlling person, the following applies:

a. A licensing attorney reviews the AARS listing to determine if the applicant must remove the person from a controlling person role before the permit can be issued;

b. The inspector denies the permit if the applicant refuses or is unable to remove the ineligible person from a controlling person role.

DFPS Rules, 40 TAC §§[745.911](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=911); [745.8605(15)](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=8605)

Notifications

If any controlling person submitted by the operation has history that prohibits the person from being a controlling person, the inspector mails:

 • Form Letter [2761](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2761.doc), Identify a Controlling Person, to each controlling person; or

 • Form Letter 2765, Match of an Ineligible Controlling Person, to the operation.

#### 3535 Obtaining Approvals and Documenting

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item; currently part of 3530)

Procedure

The inspector:

a. obtains supervisory approval if the decision is made to issue a registration with any negative information or questionable history;

b. documents other conditions or restrictions in the CLASS system;

c. ensures the registration applicant has attended orientation or a pre-application interview; and

d. prepares the record, including information to support the inspector’s decision to issue a registration permit.

Texas Human Resources Code [§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

#### 3536 Requisite for Issuance

LPPH ~~April 2010~~ DRAFT 5398-CCL (currently 3531; no other changes)

Procedure

Issuance of a registration permit is not authorized if the home does not comply with minimum standards and laws.

Texas Human Resources Code [§42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

DFPS Rules, 40 TAC [§745.321](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=321)

If denial is recommended, submit the documentation to the supervisor. If the supervisor and district director concur with the recommendation, the district director denies the application. See [7600](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7600) Adverse Actions.

See also CLASS Online Help: Process an Issuance / Issue a Full Listing, Registration, License, or Certificate.

Texas Human Resources Code [§42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

## 3600 Process for Issuance of a Listing Permit

### 3610 Listing Application

#### 3611 Contents of Application

LPPH ~~December 2011~~ DRAFT 5398-CCL

Policy

A complete application consists of the following materials provided by the applicant:

a. A completed [Form 2986p](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2986.doc), Listing Request

b. A completed [Form 2971](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2971.doc), Request for Criminal History and Central Registry Check

c. A completed [Form 2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2760.doc), Controlling Person

d. Proof of payment of the listing fee, if a listing fee is required. See [5200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5200) Fees

If an applicant for a listing permit plans to apply for a registration permit, his or her $20 fee for a listing permit can be applied toward the $35 fee for a registration permit if he or she applies for a registration permit within 30 days of being issued a listing permit.

DFPS Rules, 40 TAC [§745.243(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=243)

#### 3612 Time Frame for Licensing’s Response

LPPH ~~December 2011~~ DRAFT 5398-CCL

Policy

The inspector must notify the applicant in writing within 21 days of receipt of the application that the application is, or is not, complete.

See [3240](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3240) Reviewing and Accepting the Application for a Permit.

If an applicant withdraws his or her application, The inspector follows procedures in [3250](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3250) Withdrawal of an Application for a Permit.

Texas Human Resources Code [§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

DFPS Rules, 40 TAC §§[745.243(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=243); [745.301](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=301); [745.303](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=135191&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=40&pt=19&ch=745&rl=303); [745.327](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=327)

#### *Some procedures were deleted in 3613 that no longer apply. 3613 was also edited for clarity.*

#### 3613 When Not to Accept an Application

LPPH ~~December 2011~~ DRAFT 5398-CCL

Procedure

The inspector does not accept a listing application in the following situations:

a. Some of the required materials have not been submitted.

b. Some of the materials are not filled out completely.

c. The inspector cannot verify that the listing fee has been paid, if a listing fee is required. See [5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment.

d. The operation is being investigated because of a report of abuse or neglect. Licensing staff must not accept the application until the investigation is complete.

e. A background check match has been received, and the match is still being investigated.

f. The listing applicant is younger than 18 years of age.

DFPS Rules, 40 TAC [§745.243(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=243)

Human Resources Code [§42.072(c)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

g. A review of DFPS files reflects that the applicant is prohibited from obtaining a permit. In these situations, the inspector follows the procedures in the chart below.

| If: | Then the inspector does the following: |
| --- | --- |
| A letter of intent to revoke or deny a child day care permit was dated before September 1, 2009 | Send written notification to the applicant stating that statute prohibits Licensing from issuing the person a permit for two years from the date revocation became final. |
| A letter of intent to revoke or deny a child day care permit was dated on or after September 1, 2009  | Send written notification to the applicant stating that statute prohibits Licensing from issuing the person a permit for five years from the date the denial or revocation became final. |
| A residential child care permit was denied or revoked | Send written notification to the applicant stating that statute prohibits Licensing from issuing the person a permit for five years from the date the denial or revocation became final. |
| An application was returned for the third time as incomplete within the past year | Send written notification to the applicant stating that DFPS rules prohibit him or her from reapplying for a license, certificate, registration, or listing permit for one year from the date a third application was returned as incomplete. |

The notification should include the date that the individual may legally apply for a permit and a statement that acceptance of the application after this date does not indicate approval. See [3730](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3730) Application for a Child Day Care Permit is Received When Denial or Revocation Is Effective on or After September 1, 2009.

##### *A hyphen was deleted from 3615.*

##### 3615 Orientation Not Required

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

Registered and licensed child care home orientation is open to listing applicants, but is not required. District directors can develop policies about inviting listing applicants to orientation.

See also CLASS Online Help: Receiving a Day Care Application / Record a Registered or Listed Family Home Application.

### *Much of the content of 3620 was broken up into segments (3620-3624) for organizational purposes and edited for clarity.*

### 3620 Evaluating for Issuance of a Listing Permit

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

After acceptance of the application, the inspector determines compliance with statutes and administrative rules applicable to issuance.

Texas Human Resources Code [§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046)

Procedure

To evaluate for issuance of a listing permit, the inspector completes all of the following activities unless they have been previously completed for that operation.

#### 3621 Checking the Sex Offender Registry

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3620)

Procedure

The inspector checks the sex offender registry on the Department of Public Safety website that lists the addresses of sex offenders, compares it with the address of the operation, and then documents the findings in CLASS *Chronology*.

See [6550](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.jsp#LPPH_6550) Investigating Sex Offender Database Matches for procedures on processing a match. The inspector denies a permit if a match requires it.

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

#### 3622 Conducting Background Checks

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3620)

Procedure

The inspector ensures all background checks have been completed.

 • The inspector denies a permit if a background check match requires it. See:

5330 Acting on Abuse and Neglect Findings

5350 Acting on Criminal History Results

 • For all listing permits, the inspector does not issue if a background check has been received and a Central Registry finding is being investigated, including a match indicating an open investigation of child abuse or neglect. In this case, Licensing has good cause to exceed the two-month time period for issuance of a permit.

If information about the Central Registry match cannot be released to the applicant because the perpetrator is someone other than the applicant, the inspector can, without releasing any identifying information about the match, explain to the applicant that there is a problem with the background check and a listing permit cannot be issued until the background check is cleared.

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

DFPS Rules, 40 TAC [§745.631](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=631)

#### 3623 Processing Controlling Person Checks

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3620)

Procedure

The inspector ensures all controlling person checks have been processed as follows:

Searching the AARS System and CLASS

A search for each controlling person listed on the application and Form 2760 has been conducted in the HHSC Adverse Action Record Sharing (AARS) system and CLASS. See [5420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.jsp#LPPH_5420) Determining the Eligibility of a Controlling Person.

Applicants Listed in the AARS System or Applicants Who Are Designated or Sustained Controlling Persons

The inspector denies the listing under the following conditions:

a. The applicant is listed in the AARS system and a licensing attorney determines that the reason the person is listed in the AARS system qualifies as a substantive reason to deny the application.

DFPS Rules, 40 TAC §[745.8605(15)](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=8605)

b. The applicant is a sustained or designated controlling person.

See:

[5400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.jsp#LPPH_5400) Controlling Person and Certain Employment Prohibited

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

*DFPS Rules, 40 TAC §*[*745.907*](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=907)

Non-applicants Listed in the AARS System or Non-applicants Who Are Sustained Controlling Persons

If a person other than the applicant is listed on Form 2760 and is listed in the AARS system or is a sustained controlling person, the following applies:

a. A licensing attorney reviews the AARS listing to determine if the applicant must remove the person from a controlling person role before issuing the permit.

b. The inspector denies the listing if the applicant refuses or is unable to remove the ineligible person from a controlling person role.

DFPS Rules, 40 TAC §§[745.911](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=911); [745.8605(15)](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=8605)

Notifications

If any controlling person submitted by the operation has history that prohibits the person from being a controlling person, the inspector mails:

 • Form Letter [2761](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2761.doc), Identify a Controlling Person, to each controlling person; or

 • Form Letter 2765, Match of an Ineligible Controlling Person, to the operation.

#### 3624 Obtaining Approvals and Documenting

LPPH ~~April 2010~~ DRAFT 5398-CCL (recommended new item, currently part of 3620)

Procedure

a.  The inspector obtains supervisory approval if the decision is made to issue with any negative information or questionable history.

b.  Issuance of a permit is not authorized if the home does not comply with statute.

Texas Human Resources Code [§42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

c.  The inspector prepares the record, including information to support the decision to issue.

d.  If denial is recommended, the inspector submits the documentation to the supervisor. If the supervisor and district director concur with the recommendation, the district director denies the application. See [7600](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.jsp#LPPH_7600) Adverse Actions.

See also CLASS Online Help: Receiving a Day Care Application / Record a Registered or Listed Family Home Application

Texas Human Resources Code [§§42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046); [42.052](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.052); [42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056)

## 3800 Handling Changes in an Operation

### *Formatting changed slightly for 3810 and edits were made for clarity.*

### 3810 Changes Affecting a License, Certificate, or Registration Permit

LPPH ~~April 2010~~ DRAFT 5398-CCL

Circumstances That May Require Amending the Permit

Policy

The following changes may require amending the permit:

Changes Affecting Restrictions or Conditions

Changes requested by the operation that affect restrictions or conditions on the permit, including:

a. an increase or decrease in outdoor or indoor space to accommodate children;

b. a change in the age range of children in care;

c. a reduction in the number of toilets or sinks;

d. a change in the hours, days, or months of operation;

DFPS Rules, 40 TAC [§746.301](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=301)

e. a change in the type of service, for residential operations;

DFPS Rules, 40 TAC §§[748.63](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=748&rl=63); [748.1203](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=748&rl=1203); [749.63](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=749&rl=63); [749.303](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=749&rl=303); [749.1101](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=749&rl=1101); [750.61](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=750&rl=61); [750.153](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=750&rl=153); [750.501(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=750&rl=501); [750.1009(3)](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=750&rl=1009)

f. the opening or closing of, or a change in the location of, a branch office for child-placing agencies; or

g. a change of location by a child-placing agency.

DFPS Rules, 40 TAC §[745.435](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=435)

Changes That Are Not Reported

Changes made by the permit holder that are not reported and that affect either the restrictions or conditions on the permit, or both.

The inspector must address the change as soon as he or she learns of it.

Changes Imposed by Licensing

Changes imposed by Licensing to remedy a failure to comply with the licensing statute, administrative rules, or minimum standards.

Exception to Restrictions and Conditions

Restrictions and conditions do not apply to listings.

#### 3812 When Prior Notification of Change Is Required of Governing Bodies

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

Administrative rules and minimum standards for all types of operations (except listed homes and operations that have compliance certificates) require that an operation’s governing body notify the Licensing division before making any change that would violate the restrictions or conditions on the permit.

DFPS Rules, 40 TAC §§[744.301](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=744&rl=301); [746.301](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=301); [747.301](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=747&rl=301); [748.1203](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=748&rl=1203); [749.1101](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=749&rl=1101); [750.153](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=750&rl=153); [750.1009](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=750&rl=1009)

### 3820 Handling Changes to a License, Certificate, or Registration Permit

#### *Edits were made for clarity in 3822. Subheadings were also added to 3822.*

#### 3822 Documenting Changes in CLASS and the Child Day Care Licensing Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

Licensed or Certified Child Day Care Operations

For licensed or certified child day care operations, if amending the permit is not required but the restrictions recorded on [Form 2910](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2910.doc), Child Day Care Licensing Application, have changed, the inspector updates the form by one of the following methods:

 • Recording the new information on the current Form 2910, signing and dating the form, and sending a copy of the updated form to the permit holder.

 • Sending a copy of the current Form 2910 to the permit holder to record the changes, signing and dating the form, and returning the form.

The inspector documents the changes in the operation’s record in CLASS.

Registered Child Care Homes

For registered child care homes, if amending the permit is not required but the restrictions recorded in CLASS have changed, the inspector documents the changes in the operation’s record in CLASS. Restrictions include the operation’s capacity, the ages of the children, and the hours, days, and months of operation.

## 3900 Handling Changes in the Type of Permit, Location and Ownership

#### 3911 Establishing Compliance with Minimum Standard Rules

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

The operation must establish compliance with the minimum standards applicable to the new type before a new permit is issued.

See [3316](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3316) License Requirements to determine whether to issue an initial or non-expiring permit to a licensed operation.

See [3324](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3324) Conducting Inspections During the Application Phase for a License or Certificate, or 3422 Conducting Inspections During the Application Phase for a Compliance Certificate to determine which administrative rules or minimum standards must be evaluated for compliance before issuance.

#### 3912 Types of Changes

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

Change of type requested by a governing body may include:

a. a licensed operation changing the type of operation;

b. a licensed operation becoming a registered operation;

c. a registered operation home becoming a licensed operation;

d. a registered operation becoming a listed operation;

e. an operation deciding to add an additional permit for a different category of care;

f. a listed operation becoming a registered operation; or

g. an operation with a compliance certificate becoming a licensed operation.

### 3920 Change of an Operation’s Location

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

If a licensed or certified operation (other than a child-placing agency or an operation with a compliance certificate) changes its location, the permit is revoked. The permit holder must notify Licensing as early as possible before the move and reapply for a new permit in order to operate at the new location. Licensed operations must pay new application and license fees. Certified operations and operations with compliance certificates must pay new application fees.

Texas Human Resources Code [§42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048)

DFPS Rules, 40 TAC §§[743.7](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=743&rl=7); [745.429](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=429); [745.435](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=435); [750.1009(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=750&rl=1009)

#### 3922 Relocation of a Licensed or Certified Operation or an Operation with a Compliance Certificate

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

If Licensing staff learns that a licensed or certified operation (other than a child-placing agency) or an operation with a compliance certificate has changed or will change location, the inspector sends CLASS Form *Vol Suspension/Relocation/Clsr Letter 2865e, 2825* to the permit holder confirming the move. New application materials for the new location must be enclosed with the form, if they had not been provided previously.

The application is processed according to the procedures in:

[3200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3200) Processing the Application for a License, Certificate, Compliance Certificate, Registration, or Listing

[3300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3300) Process for Issuance of an Initial License, Non-Expiring License, or Certificate

[3400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.jsp#LPPH_3400) Process for Issuance of a Compliance Certificate

If the operation continues to provide care at the new location, the inspector handles the operation as an illegal operation.

See [3316](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3316) License Requirements to determine whether an initial or non-expiring permit is needed for licensed operations.

### 3930 Change of Ownership

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

If a change in ownership occurs in an operation, the permit is revoked.

A change in ownership includes the any of the following:

a. The owner stated on the permit no longer owns the operation.

b. The governing body stated on the permit no longer has the ultimate authority and responsibility for the operation.

c. There is a change in the legal organizational structure of the operation.

d. If the permit holder is a type of business entity, and that business entity is sold.

Exception

If the permit holder is a type of business entity, and that business entity is sold, a change in ownership of an operation does not include the acquisition of a corporate permit holder’s publicly traded stock if all of the following conditions exist:

a. The corporate permit holder listed on the application and on the permit will continue to exist as the same corporate entity and to own and operate the operation.

b. There will be no change in the operation’s policy or procedure because of the transaction.

c. There will be no change in the staff who have contact with children in care because of the transaction.

d. Any change in the day-to-day operations that might occur after the sale is in the ordinary course of business and not as a result of the stock transaction.

Texas Human Resources Code [§42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048)

DFPS Rules, 40 TAC §§[745.437](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=437); [745.439](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=439)

#### 3931 Confirmation of Change and Reapplication for Permit

LPPH ~~April 2010~~ DRAFT 5398-CCL

Policy

If Licensing staff learn that an operation has changed or will change ownership, the inspector sends CLASS Form *Vol Suspension/Relocation/Clsr Letter 2865e, 2825*, to the permit holder confirming the change. The inspector also provides application materials to the new owner. The new owner must apply for a permit.

DFPS Rules, 40 TAC §§[745.429](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=429); [746.303](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=303); [748.133(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=748&rl=133); [749.133(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=749&rl=133); [750.123(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=750&rl=123);

#### 3933 Steps to Process an Application

LPPH ~~April 2010~~ DRAFT 5398-CCL

Procedure

For licensed operations, see [3316](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.jsp#LPPH_3316) License Requirements to determine whether an initial or non-expiring license permit is needed.

The application is processed according to the procedures in [3200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.jsp#LPPH_3200) Processing the Application for a License, Certificate, Compliance Certificate, Registration, or Listing.

As with any new application, a new operation number will be issued.

See also:

[6200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp#LPPH_6200) Receipt of Reports

CLASS Online Help:

Close an Operation

Receive a Day Care License Application

## Appendix 3000-2: Notifying the Operation

LPPH ~~April 2010~~ DRAFT 5398-CCL

Use the following chart to determine whom to notify in the following situations:

| Situation | Director, Administrator, or Person in Charge | Applicant, Designee, or Permit Holder | Child Day Care OnlyHead of Governing Body, such as CEO or Board Chair | Controlling Person |
| --- | --- | --- | --- | --- |
| Results of an inspection | Always | Always | If remedial action imposedORIf requested on [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2911.doc), Governing Body/Director Designation |   |
| Receipt of a report of possible deficiency with minimum standard rules\*(verbal notification is acceptable) | Always\* | During the application or initial period ORIf allegations are classified as P1 or P2 | If allegations are classified as P1 or P2ORIf requested on [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2911.doc), Governing Body/Director Designation |   |
| Results of an investigation | Always | Always | If violations were classified as P1 or P2ORIf remedial action imposedORIf requested on [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2911.doc) |  |
| Receipt of relevant criminal history (verbal notification is acceptable) | Always | Within 14 days, if this is the person responsible for hiring staff |   |   |
| Receipt of Central Registry match (verbal notification is acceptable) | Always | If this is the person responsible for hiring staff:Immediately, if presence of person presents a riskORAfter release hearing is offered and refusedORAfter release hearing is held and findings upheld |   |   |
| Remedial action taken against the operation | Always | Always | Always | Always |

\* Licensing staff must inform the applicant or permit holder of the nature of the allegations by the next workday following the first on-site investigation, unless there is reason to believe that the investigation may be compromised. If it appears the investigation may be compromised, the investigator may postpone explaining the nature of the allegations. Licensing staff must inform the appropriate persons of the nature of the allegations as soon as it is decided that our doing so will not compromise the investigation. See [§745.8443](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=8443).

Use the [Form 2857](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2857e.doc) Cover Letter to Governing Body, to notify the heads of a governing body, such as CEOs or board Chairs.