##### Sections 4153.3 and 4164 have been revised to make the process for citing a violation relating to controlling persons as a result of a monitoring inspection the same as other types of operations.

##### 4153.3 Reviewing Information on Controlling Persons During Monitoring Inspections

LPPH ~~December 2012~~ DRAFT 6062-CCL

Procedure

During inspections with a category of *Initial* or *Monitoring,* the inspector reviews the list of controlling persons with the person in charge to determine whether:

a. the list accurately reflects the status of all controlling persons for the operation;

b. the information entered on each controlling person on the *Controlling Person Detail* page in CLASS is accurate; and

c. the operation has complied with all requirements on controlling person in statute, administrative rules, and minimum standards.

Controlling Person With a Status of Review

If any controlling person on the list has a status of *Review*, the inspector follows the procedures in [7773.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7773_4) Reviewing the Status of a Sustained Controlling Person in CLASS.

List of Controlling Persons in CLASS Is Inaccurate

If the list of controlling persons in CLASS is inaccurate, the inspector:

a. documents the changes in a *Chronology* (category, *Controlling Persons*);

b. directs the operation to submit updated information according to the procedures in [5420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5420) When and How Applicants and Operations Submit Information on Controlling Persons; and

c. cites a deficiency of the appropriate minimum standard, if the operation did not notify Licensing within two days of when a person became or ceased to be a controlling person.

#### 4164 Procedures When the Operation’s List of Controlling Persons Cannot Be Verified During the Inspection

LPPH ~~December 2012~~ DRAFT 6062-CCL

Procedure

If during an Initial or Monitoring inspection the inspector cannot verify whether the operation’s list of controlling persons in the CLASS system is accurate, the inspector does all of the following within 10 days of the inspection:

a. Contacts the operation’s governing body to verify whether an operation’s list of controlling persons list in CLASS is accurate

b. Follows the procedures in [7773.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7773_4) Reviewing the Status of a Sustained Controlling Person in CLASS, if any controlling person on the list has a status of *Review*

c. Documents the contact with and information obtained from the governing body as a *Chronology* (category, *Controlling Persons)*

d. Does as follows, if the controlling persons has changed:

i. Documents the changes in a *Chronology (*category, *Controlling Persons)*;

ii. Directs the operation to submit updated information according to the procedures in [5420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5420) When and How Applicants and Operations Submit Information on Controlling Persons

iii. Cites a deficiency of the appropriate minimum standard by completing a supplemental CLASS Form 2936 Child Care Facility Inspection, if the operation did not notify Licensing within two days of when a person became or ceased to be a controlling person. See [4165](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4165) Completing a Supplemental Inspection Form.

##### 5411.1 Persons Who Are Ineligible to Be a Controlling Person

LPPH ~~September 2012~~ DRAFT 6062-CCL

Policy

A person may not serve as a controlling person at an operation regulated by Licensing if the person:

a. is ineligible to receive a permit (see [3241](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.asp#LPPH_3241) How to Determine Whether the Applicant Is Eligible to Apply);

b. has been denied a permit for a substantive reason;

c. has had a permit revoked;

d. voluntarily closed an operation or relinquished a permit after Licensing notified the operation of the intent to revoke a permit;

e. voluntarily closed an operation or relinquished a permit after Licensing notified the operation of a decision to revoke a permit;

f. was a controlling person for an operation at the time the conduct occurred that resulted in the permit being revoked;

g. was a controlling person for an operation that closed or relinquished a permit after Licensing notified the operation of the intent to revoke a permit; and

h. who was a controlling person for an operation that closed or relinquished a permit after Licensing notified the operation of a decision to revoke a permit.

Human Resources Code §§[42.062](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.062), [42.072(c-1), (g)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

DFPS Rules, 40 TAC [§745.911](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=911)

### 5421 has been revised to indicate that residential operations must also report when a person ceases to be a controlling person.

### 5420 When and How Applicants and Operations Submit Information on Controlling Persons

#### 5421 When Applicants and Operations Submit Information on Controlling Persons

LPPH ~~December 2012~~ DRAFT 6062-CCL

Policy

Licensed Operations and Registered Family Homes

The applicant, permit holder, or head of the governing body of a licensed operation or registered family home submits information on controlling persons:

a. when submitting an application;

b. within two days after a person becomes a controlling person at the operation; or

c. within two days after a person ceases to be a controlling person at the operation.

DFPS Rules, 40 TAC §§[744.305(a)(6)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=305), [745.903](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=903), [746.305(a)(6)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=305), [747.303(a)(6)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=303), [748.103(13)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=103); [749.103(18)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=103), [750.103(11)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=103)

Listed Family Homes

The applicant or permit holder of a listed family home submits information on controlling persons:

• when submitting an application; or

• within two days after a person becomes a controlling person at the operation.

DFPS Rules, 40 TAC [§745.903](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=903)

### 5430 Processing and Reviewing the Information on Controlling Persons Submitted by an Operation

#### 5431 Processing Information on a Controlling Person Before Issuing a Permit

LPPH ~~December 2012~~ DRAFT 6062-CCL

Policy

Before issuing a permit to an applicant, Licensing staff determine whether each person whose name was submitted by the operation is eligible to be a controlling person and document the decision, as follows:

a. Reviews the controlling person information the applicant submitted (see [5433](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5433) Reviewing Form 2760 Controlling Person for Completeness and [5434](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5434) Reviewing Controlling Person Information Submitted Online)

b. Searches the CLASS and HHSC Adverse Action Record Sharing (AARS) systems for records on the person

c. Associates (links) a controlling person’s existing record with the applicant’s record in CLASS or adds a new record for the controlling person, under the applicant’s record in CLASS (see [5442](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5442) Searching for and Adding a Controlling Person Record in CLASS)

d. Determines the person’s eligibility to be a controlling person by resolving any matches found as a result of searches conducted in the CLASS or AARS systems

e. Documents the person’s eligibility in CLASS

f. Notifies the controlling person or applicant about the person’s eligibility

**Exception:** Persons applying for a permit to operate a temporary shelter child-care operation or small employer-based child care operation are not required to submit information on controlling persons.

See:

[5420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5420) When and How Applicants and Operations Submit Information on Controlling Persons

[5440](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5440) Conducting Searches for Controlling Persons in the CLASS and AARS Systems and Adding Controlling Persons to CLASS

[5450](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5450) Determining and Documenting the Eligibility of a Controlling Person

[5460](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5460) Notifying an Applicant, Permit Holder, or Controlling Person About a Person’s Eligibility to Serve as a Controlling Person

DFPS Rules, 40 TAC [§745.913](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=155151&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=40&pt=19&ch=745&rl=913)

#### 5432 Processing Information on New Controlling Persons When Submitted by an Operation That Has a Permit

LPPH ~~December 2012~~ DRAFT 6062-CCL

Policy

Within 10 days after an operation with a permit (other than a temporary shelter child-care operation or small employer-based child care operation) submits information on a new controlling person for the operation (see [5421](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5421) When Applicants and Operations Submit Information on Controlling Persons and [5422](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5422) How Applicants and Operations Submit Controlling Person Information), the inspector determines whether each person is eligible to be a controlling person and documents the decision, as follows:

a. Reviews the information that the operation submitted (see [5433](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5433) Reviewing Form 2760 Controlling Person for Completeness and [5434](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5434) Reviewing Controlling Person Information Submitted Online)

b. Searches the CLASS system for a record on the person

c. Associates (links) the controlling person’s existing record with the record for an operation in CLASS or adds a new record for the controlling person under the record for the operation’s record in CLASS (see [5442](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5442) Searching for and Adding a Controlling Person Record in CLASS);

d. Determines the person’s eligibility to be a controlling person by resolving any matches found as a result of the search of the CLASS system

e. Documents the person’s eligibility in CLASS

f. Notifies the controlling person or operation of the person’s eligibility

See:

[5420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5420) When and How Applicants and Operations Submit Information on Controlling Persons

[5440](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5440) Conducting Searches for Controlling Persons in the CLASS and AARS Systems and Adding Controlling Persons to CLASS

[5450](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp" \l "LPPH_5450) Determining and Documenting the Eligibility of a Controlling Person

[5460](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5460) Notifying an Applicant, Permit Holder, or Controlling Person About a Person’s Eligibility to Serve as a Controlling Person

DFPS Rules, 40 TAC [§745.913](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=155151&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=40&pt=19&ch=745&rl=913)

##### 5462.1 Following Up With an Applicant or Permit Holder Who Does Not Return the Operation Action Form

LPPH ~~December 2012~~ DRAFT 6062-CCL

Policy

If an applicant or permit holder fails to return the Operation Action Form to Licensing by the compliance date specified on the form, the inspector contacts the applicant or permit holder to ensure that the ineligible person has been removed from the role of controlling person. (The Operation Action Form is located on the last page of CLASS Form 2765 Match of an Ineligible Controlling Person.)

If appropriate, the inspector takes one or more of the following actions:

a. Cites an operation with a permit for a violation of TAC §§[745.911(1)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=911); [748.103(12)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=103), [749.103(16)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=103), or [750.103(10)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=103), as applicable, when the violation is for a sustained controlling person

b. Cites an operation with a permit for a violation of TAC [§745.911(2)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=911) when the violation is because an adverse action sustained within the previous five years makes the person ineligible to apply for a permit;

c. Cites an operation with a permit for a violation of TAC [§745.911(3)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=911) when the violation is because the person is associated with an operation that had its permit denied, revoked, suspended, or terminated by another state health and human services agency within the last 10 years

d. Revokes the permit

e. Denies the permit

DFPS Rules, 40 TAC §§[745.907](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=907); [745.911](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=911); [745.915](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=915)

Texas Government Code [§531.953](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.531.htm#531.953)