## 5300 Central Registry and Criminal History Searches

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

Terms and Definitions

**CBCU** ‑ Centralized Background Check Unit

**Name-based background check** ‑ Consists of a DPS and Central Registry background check conducted using a person’s identifying information, such as the person’s name, gender, and DOB.

**Fingerprint**-**based background check** ‑ Consists of a DPS and FBI check conducted using a person’s fingerprints.

**Staff shortage** ‑ See [5318](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5318) Allowing Direct Access Before a Background Check is Complete. When a child-care operation would not be able to meet compliance with the minimum standards without allowing a person who has not completed his or her fingerprint check to provide direct care or have direct access to the children in care. Examples include staff who perform essential functions for the day-to-day operation of the child-care operation, such as the director, food preparation staff, treatment directors, and caregivers.

**Professional** ‑ See [5314](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5314) For Whom Background Checks Are Not Required for reference. These individuals include doctors, psychologists, and Early Childhood Intervention caseworkers who are at the child-care operation in an official capacity.

See [Definitions of Terms](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_Definitions_of_Terms.asp) for other related terms and definitions.

### 5310 Staff Responsibilities for Background Checks

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

Background check responsibilities are shared within DFPS between Child Care Licensing and the Centralized Background Check Unit (CBCU). The following chart outlines the roles and responsibilities.

| The Centralized Background Check Unit (CBCU) | Child Care Licensing |
| --- | --- |
| a. Answering all general questions for providers about background checks, including the process for getting a fingerprint-based check completedb. Notifying the Licensing inspector when: 1. urgent background check issues involve serious risk to children2. a risk evaluation is approved or denied3. an emergency release of a Central Registry match is approved or denied by the Legal Division 4. an operation does not provide background check related documentation that is required by policy or rule5. a person at a child-care operation has a pending criminal charge6. a home-based provider indicates that a household member with an offense or abuse or neglect history that is a bar or requires a risk evaluation is no longer living in the home.c. Notifying operations in writing of all DPS, FBI, and Central Registry matches (when appropriate), and handling all associated follow-upd. Troubleshooting assistance for entering background checks onlinee. Responding to any reported IdentoGo fingerprint issues related to the DPS fingerprinting servicef. Responding to inquiries about when a person is eligible for a risk evaluationg. Researching results of background checks and risk evaluations for providersh. Responding to inquiries received to the CBCU Support Linei. Processing risk evaluations, including gathering all required documentation and forwarding that on to the appropriate staff for a final decisionj. Consulting with the Legal Division regarding possible emergency release of a Central Registry match and notifying the operation and the designated perpetrator (*DP*) when an emergency release is approved by Legal (the Licensing investigator requests the emergency release if the Central Registry finding resulted from the investigator’s investigation) k. Reviewing the *Child Abuse / Neglect Central Registry Check Detail Report for Licensing* report from IMPACT to determine possible Central Registry matches and clearing the batch reportl. Researching possible Central Registry matchesm. Offering and tracking a due process hearing request when a due process hearing had not been offered for a CPS or APS finding and notifying Legal when the hearing request is receivedn. Sustaining perpetrators in IMPACT when a due process hearing is waivedo. Ensuring that matches are handled according to the Licensing Policy and Procedure Handbook (LPPH)p. Requesting desk reviews and tracking when they are dueq. Providing written documentation to Licensing staff any time it is determined a provider is not meeting background check requirements | a. Answering questions related to background check rules or policy, which includes:1. Responding to inquiries about who is required to have a name-based background check or fingerprint-based background check, or both2. Responding to inquiries about when a person is required to have a background checkb. Ensuring that pending background checks on each caseload are completedc. Tracking and completing any due process already offered by the Licensing staff person who initiated the processd. Consulting with the Legal Division regarding possible emergency release of a Central Registry finding that resulted from a Licensing investigation and notifying the operation and the designated perpetrator (*DP*) when an emergency release is approved by Legale. Documenting in CLASS whether an emergency release of a Licensing finding is approved by Legal and notifying the CBCU of the resultsf. Evaluating compliance with background check laws and rules, including:1. verifying that background checks, including FBI checks, are being completed within the required time frames for anyone required by law to have a background check2. resolving all FBI checks that are *pending* in CLASS3. following up on pending criminal charges during inspections4. ensuring that persons that are barred from being present at the operation are not present at the operation while children are in care5. following up on any background check matches that require follow up6. evaluating any conditions of a risk evaluation during an inspectiong. Ensuring CBCU staff are informed about actions taken in the field that may effect pending background checks the CBCU is processingh. Assisting the CBCU as needed when questions arise about background checks processed for child-care operations |

#### 5311 For Whom Central Registry and Criminal Background Checks Are Required

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

Central Registry and criminal history background searches must be conducted on certain persons to determine whether that person has:

 • a history of abusing or neglecting a child; or

 • a criminal history that includes an offense listed in the charts on the [DFPS website](http://www.dfps.state.tx.us/Child_Care/Child_Care_Standards_and_Regulations/Criminal_Convictions.asp).

Texas Human Resources Code §§[42.056(g)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056), [42.159](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.159), [42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

DFPS Rules, 40 TAC §§[743.105](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=105); [744.801(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=744&rl=801); [744.901(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=744&rl=901); [744.1103(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=744&rl=1103); [745.613](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=613); [745.651](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=651); [746.801(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=801); [746.901(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=746&rl=901); [746.1103](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=746&rl=1103); [746.1105(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=746&rl=1105); [747.207(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=747&rl=207); [747.801(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=747&rl=801); [747.1205](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=1205); [747.1207(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=747&rl=1207); [747.1401(a)](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=1401); [748.105(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=748&rl=105); [748.363(9)](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=363); [748.505(b)(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=505); [749.105(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=749&rl=105); [749.553(9)](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=553); [749.605(b)(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=605); [749.2447(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=749&rl=2447); [749.2473(a)(2)(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=749&rl=2473); [749.2653(a)(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=749&rl=2653); [749.3623(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=749&rl=3623); [750.105(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=750&rl=105)

[42 U.S.C. 671(a)(20)](http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+2095+0++%28%29%20%20AND%20%28%2842%29%20ADJ%20USC%29%3ACITE%20AND%20%28USC%20w%2F10%20%28671%29%29%3ACITE%20%20%20%20%20%20%20%20%20)

#### 5312 For Whom Name-Based Background Checks Are Required

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

Name-based criminal history and Central Registry checks must be conducted on the following persons:

a. The director, owner, and operator of the operation

b. Each person employed at the operation

c. Each prospective employee at the operation

d. Each current or prospective foster parent providing foster care through a child-placing agency

e. Each prospective adoptive parent seeking to adopt through a child-placing agency

f. Each person at least 14 years of age, other than a client in care, who:

1. is counted in child-to-caregiver ratios in accordance with the relevant minimum standards;

2. will reside in a prospective adoptive home if the adoption is through a child-placing agency;

3. has unsupervised access to children in care at the operation; or

4. resides in the operation;

g. Each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at an operation or prospective adoptive home while children are in care

And

h. Applicants for a child-care administrator’s license

Texas Human Resources Code §[42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056); [42.159](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.159); [42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

DFPS Rules, 40 TAC §§[745.601](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=601); [745.615](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=615); [745.625](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=625)

#### 5313 For Whom Fingerprint-Based Background Checks Are Required

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

Persons in Certain Foster or Adoptive Home Settings

The director, owner, or operator of a child-placing agency, independent foster family home, or independent foster group home that accepts the placement of children in DFPS conservatorship must request a fingerprint-based criminal history check request for the following persons before the placement of children who are in DFPS conservatorship:

 • any person who applies to be a foster or adoptive parent, including a person that has previously adopted a child unless the person is also verified as a foster or adoptive home; and

 • any person 18 years of age or older living in the home of a foster or adoptive parent applicant.

Persons in agency foster or adoptive homes and independent foster homes who previously completed fingerprint-based criminal history checks must obtain new fingerprint checks if there is a break in service or employment; a break in service or employment occurs when the break occurs for more than a day.

Persons in Child-Care Centers, Before or After-School Programs, and School-Age Programs

Fingerprint checks are required for the following persons at child-care centers, before or after-school programs, and school-age programs:

a. Directors, owners, operators, or administrators of a child-care center

b. Each employee at the operation

c. Each prospective employee at the operation

d. Each person at least 14 years of age, other than a client in care, who:

 • is counted in any child-to-caregiver ratio; or

 • has unsupervised access to the children in care.

Substitute Employees or Substitute Caregivers

A person contracting to provide one or more substitute employees or caregivers to a day care operation (other than a small employer-based child care operation or temporary shelter child care operation) must ensure a substitute employee or caregiver meets the same background check requirements as an employee or caregiver who performs similar duties. The director, owner, or operator of the operation must verify that a substitute employee or caregiver is eligible to be present at the operation before allowing the person to work.

Other Persons Who May Have Out-of-State Criminal History

All child-care operations except small employer-based child care operations are required to complete a fingerprint-based check on any person who is required to complete a name-based background check (see [5312](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5312) For Whom Name-Based Background Checks Are Required) if:

 • the operation has reason to suspect that the person has a criminal history in another state; or

 • the person has lived in another state any time during the previous five years.

Procedure

Per the Federal Bureau of Investigation, persons who are required to have an FBI fingerprint check must be fingerprinted by a qualified person. All fingerprints must be submitted electronically through the DPS assigned applicant fingerprinting service centers. See the [IdentoGo website](http://identogo.com/) for locations.

Texas Human Resources Code §§[42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056); [42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

DFPS Rules, 40 TAC §§[745.615](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=615); [745.625](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=625)

#### 5314 For Whom Background Checks Are Not Required

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

Background checks are not required for a professional (see [Terms and Definitions](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5300) for additional information regarding who qualifies as a professional) who has cleared a background check through another governmental regulatory entity, if the operation does not employ or have a contract with the professional.

Background checks are not conducted for board members of corporations or associations unless a member is also an employee, a volunteer who is counted in the child-to-caregiver ratio, or will regularly or frequently be present at the operation while children are in care.

For foster homes, the following individuals are not considered frequently present at a foster home and are not required to have a background check:

a. A child unrelated to a foster parent who visits the foster home, unless:

 • the child is responsible for the care of foster children, or

 • there is a reason to believe that the child has a criminal history or has previously abused or neglected a child.

b. An adult unrelated to a foster parent who visits the foster home unless:

 • the adult has unsupervised access to children in care, or

 • there is reason to believe that the adult has a criminal history or previously abused or neglected a child.

Background checks are not required for foster homes that are on inactive status. However, if a home is taken off of inactive status, and it has been more than two years since the last background check for any persons at the home for whom a check is required, the background checks – including new fingerprint-based criminal history checks on required persons – must be requested before a child can be placed in the home.

Persons required by DFPS to have a fingerprint-based criminal history check who have had a fingerprint-based criminal check conducted within the previous 24 months, and the fingerprint check result is accessible to DFPS through the Department of Public Safety clearinghouse, are not required to complete another fingerprint check.\*

\*Exception: persons requiring fingerprint-based criminal history checks in agency foster or adoptive homes and independent foster homes must obtain new fingerprint checks if there is a break in service or employment; a break in service or employment is considered more than a day.

Texas Government Code [§411.087](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.411.htm#411.087)

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 §§[745.601](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=601); [745.621](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=621); [749.2823](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=2823)

[42 USC sec. 671(a)](http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+2095+0++%28%29%20%20AND%20%28%2842%29%20ADJ%20USC%29%3ACITE%20AND%20%28USC%20w%2F10%20%28671%29%29%3ACITE%20%20%20%20%20%20%20%20%20)

#### 5315 When Background Checks Are Required

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

An operation must submit a background check request when:

a. he operation submits its application for a permit;

b. the operation hires someone;

c. the operation contracts with someone who requires a background check;

d. a person applies to be a foster or adoptive parent at a home that would be verified by the operation ;

e. a non-client resident 14 years or older moves into a home or operation, or a non-client resident living in the home or operation becomes 14 years old; and

f. the operation becomes aware of anyone requiring a background check under [§745.615](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=615) of the Texas Administrative Code (TAC) (relating to *On whom must I request background checks*?)

Renewal Background Checks

An operation must resubmit a background check request every 24 months to the day of the last background check request for the person.

Texas Human Resources Code §§[42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056); [42.159](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.159); [42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

DFPS Rules, 40 TAC [§745.625](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=625)

#### *Form 2971 is no longer entitled “Request for Criminal History and Central Registry Check.” It is now “Child Care Licensing Request for Background Check.”*

#### 5316 Submitting Background Check Requests

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

Background check requests must be submitted in the following ways:

a. Applicants must submit their initial background check requests according to instructions in [3000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.asp#LPPH_3000) Application and Issuance.

b. For residential child-care operations and child day-care operations (other than child day-care homes) that already have a permit, requests must be submitted online through the [DFPS](http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilityLogin.asp) website.

c. For child day-care homes that already have a permit, background check requests may either be submitted to the local Licensing office using Form [2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Child Care Licensing Request for Background Check*,* or online through the [DFPS](http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilityLogin.asp) website.

##### 5316.1 Requiring Identifying Information

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

When Form [2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Child Care Licensing Request for Background Check is received, the Licensing or CBCU staff who processes the form must ensure that certain identifying information is provided by the director, owner, or operator of the child-care operation in order to conduct the background check. This information includes the following:

a. Name (last, first, middle), including any maiden or married names or aliases

b. Date of birth

c. Sex

d. Social Security number

e. Current and previous addresses

f. Driver license or a state-issued identification card number

g. Race

h. Any addresses, including counties, where a person has lived outside the state of Texas any time during the five years preceding the date of the request for a background check

The Licensing or CBCU staff contacts the operation if any of the identifying information is missing from Form 2971.

DFPS Rules, 40 TAC [§745.623](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=623)

##### 5316.2 Verifying Information

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

When [Form 2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Child Care Licensing Request for Background Check is received, staff must confirm that the director, owner, or operator of the child-care operation has signed the form indicating that he or she has verified the information submitted is correct. Verification means he or she has checked the person’s driver license, state-issued ID, or Social Security card against the information that he or she was given. The submission of an online request is considered the same as a signature.

#### 5317 Initiating Background Checks

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

Upon receiving Form [2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc), Child Care Licensing Request for Background Check and following procedures in [5316.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5316_1) Requiring Identifying Information and [5316.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5316_2) Verifying Information, the Licensing or CBCU staff uses the information on the form to initiate a background check in CLASS.

#### 5318 Allowing Direct Access Before a Background Check Is Complete

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

An operation must always receive a person’s name-based background check results before the operation may allow the person to provide direct care or have direct access to the children in care.

If a fingerprint check is required for a person affiliated with an operation other than a temporary shelter child care operation, the operation must also receive the person’s fingerprint check results before allowing the person to provide direct care or have direct access to a child in care, unless:

 • the operation is experiencing a staff shortage; and

 • the results of the name-based DPS and Central Registry checks do not preclude the person’s presence at the operation while children are in care.

A person who is allowed to provide direct care under the criteria above must submit his or her fingerprints as soon as possible, but not later than 30 days after the earliest date he or she first provides direct care, has direct access to a child, or is hired.

Once the fingerprint-based check results are received, the operation must not allow the person to be present while children are in care if the results contain criminal history that precludes the person from being present at the operation while children are in care.

See [5380](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5380) Determining Compliance With Background Check Requirements.

DFPS Rules, 40 TAC [§745.626](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=626)

#### 5319 Determining a Staff Shortage

LPPH DRAFT 5922-CCL (new item)

Procedure

When an operation indicates it allowed or is currently allowing a person to provide direct care or have direct access to a child in care before receiving fingerprint results as described in [5318](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5318) Allowing Direct Access Before a Background Check Is Complete, Licensing staff requests the following from the operation to ensure a staff shortage (see Terms and Definitions in 5300 Central Registry and Criminal History Searches) did or does exist:

a. Employee attendance records

b. Attendance records (for day-care operations) or placement records (for residential operations) for children in care

c. Any additional documentation that can demonstrate a staff shortage

If Licensing staff determine that a staffing shortage did not exist at the time the operation allowed a person to provide direct care or have direct access to a child before the person’s fingerprint results were received, then Licensing staff cite the operation for violating Human Resources Code [§42.056(g)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056).

DFPS Rules, 40 TAC §§[744.801](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=801); [744.905](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=905); [746.801](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=801); [746.905](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=905); [747.635](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=635)

### 5320 Conducting DFPS Central Registry Searches

#### 5321 Purpose of Central Registry Searches

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

The Centralized Background Check Unit (CBCU) conducts Central Registry searches to determine whether a person’s presence at the operation violates the licensing statute, administrative rules, or minimum standards or presents a risk to the health and safety of children in care.

The DFPS Central Registry is made up of the following individuals (IMPACT codes are shown in parentheses):

a. Designated perpetrator (*DP*)

b. Designated both (*DB*), meaning both victim and perpetrator

c. Sustained perpetrator (*SP*) in a Child Protective Services (CPS) or Licensing abuse or neglect investigation

d. Sustained both (*SB*) in a CPS or Licensing abuse or neglect investigation and

e. Designated perpetrator (*DP*) in an Adult Protective Services Facility investigation with a disposition of *Confirmed* and in which the victim was a child

Texas Human Resources Code §§[42.0445](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.0445); [42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046); [42.159](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.159); [42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

DFPS Rules, 40 TAC §§[745.611](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=611); [745.613](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=613); [745.625](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=625)

A “release hearing” is now called a “due process hearing.”

#### 5333 Handling Unsustained Central Registry Findings

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

The Centralized Background Check Unit (CBCU) staff reviews the investigation to obtain information needed to assess the risk to children in care and to determine whether:

a. the finding is a CPS or APS finding before April 16, 1999;

b. the designated perpetrator has been notified of the findings;

c. the person’s risk to children has already been assessed;

d. an emergency release determination has already been made;

e. a due process hearing has been offered.

For more information, see:

[5322](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5322) Reviewing an Abuse or Neglect Investigation in IMPACT

[5323](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5323) Reviewing an Abuse or Neglect Investigation in CLASS

The Licensing investigator, not the CBCU, handles due process notifications for unsustainedfindings resulting from a Licensing investigation. In addition, the Licensing investigator assesses risk and makes the request for an emergency release if an immediate threat or danger is discovered as a result of a Licensing investigation. See:

[5333.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_2) Assessing Risk

[5333.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_3) Emergency Release of Findings Based on Immediate Risk.

###### 5333.12 Actions Taken for CPS and APS Findings on or After April 16, 1999

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Procedure

The Centralized Background Check Unit (CBCU) staff refers to the following procedures, as appropriate, if:

 • it is determined under [5333.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_2) Assessing Risk that the presence of the *DP* is not an immediate threat to the health or safety of children, *and*

 • the finding was made *on or* *after* April 16, 1999:

[5332](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5332) Determining Whether the Investigation Is Eligible for Purge

[5333.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_4) Notifying the Designated Perpetrator

[5333.5](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_5) Due Process Hearing Actions

##### 5333.2 Assessing Risk

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

Licensing or the CBCU assesses the risk to determine whether the designated perpetrator’s (*DP*’s) presence creates an immediate threat or danger to the health or safety of children.

The factors used to assess risk include, but are not limited to, the following:

a. The nature and severity of the incident

b. The circumstances surrounding the incident

c. The seriousness of any injury to a child

d. The length of time since the incident occurred

e. Whether there has been repeated abuse and neglect

f. The compliance history of the operation

g. The current regulatory status of the operation

h. The role of the person in the incident

i. The current position, role, and responsibilities of the person

j. The degree or immediacy of the threat or danger

Procedure

Emergency Release as a Result of Background Check

When immediate threat or danger to the health or safety of children is discovered as a result of processing a background check, the Centralized Background Check Unit (CBCU):

 • emails Form 2878 Request for Emergency Release to the Licensing Legal Services Mailbox and copies the Licensing inspector and supervisor;

 • completes the steps in [5333.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_3) Emergency Release of Findings Based on Immediate Risk through [5333.5](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_5) Due Process Hearing Actions, if the request for an emergency release is approved.

Emergency Release as a Result of a Licensing Investigation

When immediate threat and danger is discovered because of a Licensing investigation that resulted in a finding of *Reason to Believe* (*RTB*), the Licensing investigator, with the approval of a Licensing supervisor:

 • e-mails Form 2878 Request for Emergency Release to the Licensing Legal Services Mailbox and copies the CBCU inspector;

 • completes the steps in [5333.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_3) Emergency Release of Findings Based on Immediate Risk through [5333.5](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_5) Due Process Hearing Actions, if the request for an emergency release is approved.

See [6930](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6600.asp#LPPH_6930) Actions to Take Following the Investigation of a Regulated Operation.

Risk Does Not Justify an Emergency Release

If the Licensing attorney determines that the designated perpetrator’s (*DP*’s) presence at the operation does not constitute an immediate threat or danger to the health or safety of children, either the CBCU inspector or the CCL investigator:

a. enters the Central Registry finding in CLASS under the person’s *Background Check Results History* page;

b. documents that an emergency release was not approved in the *Information Specific to this Result* narrative box; and

c. completes the steps in [5333.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_4) Notifying the Designated Perpetrator and [5333.5](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_5) Due Process Hearing Actions.

DFPS Rules, 40 TAC §§[745.657](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=657); [745.733](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=733)

##### 5333.3 Emergency Release of Findings Based on Immediate Risk

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

If it is determined in [5333.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_2) Assessing Risk that the designated perpetrator’s (*DP*’s) presence at the operation is an immediate threat or danger to the health or safety of children and the operation has not already received an emergency release notification, then the Centralized Background Check Unit (CBCU) inspector or the Licensing investigator take the following steps, as appropriate. See [5333](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333) Handling Unsustained Central Registry Findings for more information about how to determine whether the operation has received an emergency release notification.

1. Enter the Central Registry findings in CLASS under the person’s *Background Check Results History* page and document information relating to the emergency release of the findings.

2. Notify the operation of the *DP*’s unsustained finding by contacting the director, owner, or operator of the operation by telephone and by sending the Background Check Match Letter found on the *Background Check Results History* page in CLASS.

3. Notify the *DP* of the *DP’*s right to a due process hearing by sending the *Central Registry Match Letter to Perpetrator* found on the *Background Check Results History* page in CLASS. See [7720](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7720) Release Hearings for more information. If the designated perpetrator is a minor, the notification must be sent to the parent or guardian. A Licensing investigator also sends the appropriate due process letters. See [6632.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6600.asp#LPPH_6632_1) For Findings of Reason to Believe.

4. If the CBCU inspector requested the emergency release, the CBCU inspector notifies the Licensing inspector and the Licensing supervisor of the emergency release of the DP’s unsustained finding.If the Licensing investigator requested the emergency release, the Licensing investigator notifies the CBCU inspector of the emergency release of the DP’s unsustained finding.

5. If the *DP* (or *DP*’s parent if the *DP* is a minor) does not request a due process hearing in a timely manner, follow steps in [5333.51](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_51) Actions Taken When No Due Process Hearing Is Requested.

6. If the *DP* (or *DP*’s parent if the *DP* is a minor) requests a due process hearing, then see [5333.52](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_52) Actions Taken When a Due Process Hearing Is Requested.

Additional Steps Taken by Licensing

The inspector follows up with an inspection to ensure that the person is no longer present at the operation. See [4150](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4150) Conducting Inspections.

If the Licensing investigator requested the emergency release, the investigator documents a CLASS *Chronology* (under the category type *Investigation*) of the date the emergency release was approved by a Licensing attorney and the contacts (including type, date, and purpose of each contact) made to the Legal Division, the operation, and the *DP*.

DFPS Rules,40 TAC §§[745.657](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=T&app=9&p_dir=P&p_rloc=159413&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=40&pt=19&ch=745&rl=657); [745.659](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=659)

##### 5333.4 Notifying the Designated Perpetrator

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

Notifying the Designated Perpetrator of a Licensing Investigation

For Licensing investigations, the Centralized Background Check Unit (CBCU) staff reviews the *Investigation Perpetrator Details* page in CLASS to determine whether the designated perpetrator (DP) has been notified of his or her right to a due process hearing. If the *DP* has not been previously notified, then the CBCU alerts the appropriate Licensing investigator. The investigator sends a letter to the *DP* notifying him or her of the right to a due process hearing. If the designated perpetrator is a minor, the appropriate notification must also be sent to the parent or guardian.

Notifying the Designated Perpetrator of a CPS or APS Investigation

For APS and CPS investigations, the CBCU staff reviews the investigation in IMPACT and documentation in CLASS to determine whether the *DP* has been previously notified of his or her right to a due process hearing. If the *DP* has not received notification of the right to a hearing, then the CBCU sends a letter to the *DP* notifying him or her of the right to a due process hearing. If the designated perpetrator is a minor, the notification must be sent to the parent or guardian.

##### 5333.5 Due Process Hearing Actions

Heading change

###### 5333.51 Actions Taken When No Due Process Hearing Is Requested

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised, as is title of 5333.5)

Procedure

CPS or APS Findings

If the designated perpetrator (*DP)* does not request a due process hearing within the time frame, then the finding is sustained, and the Centralized Background Check Unit (CBCU) staff:

 • releases the perpetrator’s sustained finding to the operation according to [5334](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5334) Handling Sustained Central Registry Findings; and

 • changes the person’s role from *DP* to sustained perpetrator (*SP*) in IMPACT.

Exception: If the *DP* is a minor, the CBCU staff refers to CPS or APS policy to determine whether or not to change the *DP*’s role to sustained*.*

Licensing Findings

See [7711.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7711_4) Waiving the Right to an Administrative Review for more information.

###### 5333.52 Actions Taken When a Due Process Hearing Is Requested

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Procedure

CPS or APS Findings

If the designated perpetrator (*DP)* or *DP*’s parent (if the *DP* is a minor) requests a due process hearing, the Centralized Background Check Unit (CBCU) sends copies of the following items to the docket clerk in the Legal Division in state office:

a. Program case records in IMPACT

b. Any other non-electronically stored records related to the investigation

c. The letter notifying the *DP* (or *DP*’s parent, if the *DP* is a minor) of his or her right to a due process hearing

d. The *DP’s* or *DP*’s parent (if the *DP* is a minor) letter requesting a due process hearing

e. The envelope in which the request for a hearing arrived

f. Any emergency release documentation

Licensing Findings

If the designated perpetrator (*DP)* or *DP*’s parent (if the *DP* is a minor) requests a due process hearing, the Licensing investigator sends copies of the following items to the docket clerk in the Legal Division in state office:

a. Program case records in IMPACT

b. Any other non-electronically stored records related to the investigation

c. The letter notifying the *DP* (or *DP*’s parent, if the *DP* is a minor) of his or her right to a due process hearing

d. The *DP’s* or *DP*’s parent (if the *DP* is a minor) letter requesting a due process hearing

e. The envelope in which the request for a hearing arrived

f. Any emergency release documentation

For information on how the Legal Division in state office handles a request for a due process hearing, see [5333.53](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_53) Role of the Legal Division in Due Process Hearings and Related Actions

###### 5333.53 Role of the Legal Division in Due Process Hearings and Related Actions

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Procedure

The docket clerk in the Administrative Hearings Division of the DFPS General Counsel’s Office must determine whether a timely request for a due process hearing has been received.

The docket clerk prepares records for cases that are assigned to the attorney in the Administrative Hearing Division.

The attorney prepares and presents each case. Preparation for the hearing includes gathering and analyzing relevant evidence and identifying and preparing witnesses. Preparing may also include resolving discovery and handling of open records request. Presentation at hearings includes making legal arguments and examining witnesses.

###### 5333.54 When the Finding Is Sustained in the Due Process Hearing

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Procedure

CPS or APS Findings

If the finding is upheld in the due process hearing, it is a sustained finding. The Administrative Hearings Division in state office, Centralized Background Check Unit (CBCU), and CPS or APS then take the following actions:

a. The Administrative Hearings Division sends a copy of the SOAH decision and order to the appropriate persons, which may include the Centralized Background Check Unit and CPS or APS, as appropriate, and notifies them that a release of the perpetrator’s sustainedinvestigationfinding should be made to the operation according to procedure in [5331](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5331) Acting on Abuse or Neglect Findings in a DFPS Central Registry Report.

 If the case was originally an emergency release hearing, then the CBCU contacts the operation to determine whether the person is still affiliated with the operation. If the person is still associated with the operation, then CBCU releases the perpetrator’s sustainedinvestigationfinding to the operation.

b. The Administrative Hearings Division requests that the role of the perpetrator be changed to a sustained finding in IMPACT.

c. The Administrative Hearings Division sends the CPS or APS contact person a copy of the SOAH decision and order, to be filed in the CPS or APS case record.

Licensing Findings

See [7725](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7725) Documenting the Results of the Release Hearing.

###### 5333.55 When the Finding Is Overturned in the Due Process Hearing

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Procedure

CPS or APS Findings

If the finding is overturned in the due process hearing, the Administrative Hearings Division in state office, the Centralized Background Check Unit (CBCU), and CPS or APS, as appropriate, then take the following actions:

a. The Administrative Hearings Division sends a copy of SOAH’s decision and order to the program that conducted the investigation so the finding of abuse or neglect can be removed from the Central Registry and the program can file the decision and order in the CPS or APS case record.

b. The Administrative Hearings Division requests that the role of the perpetrator be changed in IMPACT by creating an *Administrative Review* (*ARI*) stage in IMPACT and changing the disposition of the allegation to *Ruled Out* or *Unable to Determine*, as appropriate; and

c. The Administrative Hearings Division sends a memo to the CBCU representative that explains the SOAH decision and order and what actions should be taken in the matter.

 If the case was originally an emergency release hearing, then the CBCU staff sends a letter to the operation to clarify that the abuse or neglect was overturned by SOAH and the person is no longer barred from working in child care.

Licensing Findings

See [7725](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7725) Documenting the Results of the Release Hearing.

#### 5334 Handling Sustained Central Registry Findings

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

If there is a sustained finding, the Centralized Background Check Unit (CBCU) staff checks the IMPACT purge date of the record.

 • If the purge date is overdue, the CBCU staff contacts the person in the district who is responsible for determining whether the case is qualified for purge. A caseworker in each program area is responsible for making such determinations.

 Some cases may not be eligible for the purge due date because they have been merged with other cases.

 • If the case is eligible for purge, the CBCU staff clears the Central Registry finding.

If the case is ineligible for purge and the finding is ineligible for a risk evaluation, the Licensing inspector may take one or more of the following actions if the person is present at an operation while children are in care:

a. Cite the operation for a violation of minimum standards or rules and set a compliance date. See [4200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4200) Citing Deficiencies With an Assessment for more information regarding how to cite a standard without conducting an inspection.

b. Set special conditions on the license, registration, or certification. Conditions cannot be placed on a listing. See:

[3332](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.asp#LPPH_3332) Setting Special Conditions on the License or Certificate

[3434](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3434) Setting Special Conditions on the Compliance Certificate

[3551](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3551) Setting Special Conditions on the Registration Permit.

 Or:

c. Deny or revoke the permit. See [7600](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7600) Adverse Actions for more information.

All actions taken must be documented in CLASS.

#### 5335 Notifying the Operation of Sustained Central Registry Findings

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

The Centralized Background Check Unit (CBCU) sends the *Background Check Match Letter* in CLASS via email or regular mail to notify the operation that the continued presence of the sustained perpetrator at the operation while children are in care (or the approval of a sustained perpetrator as a foster or adoptive parent) violates minimum standards and could result in one or more adverse actions, including suspension, adverse amendment, and revocation.

The CBCU uses the following chart to determine how to release sustained Central Registry matches and whether to give the operation the opportunity to request a risk evaluation. See [5370](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5370) Risk Evaluation of Criminal History or Findings of Child Abuse or Neglect.

| Type of Central Registry Finding for Child Abuse or Neglect | Should the Central Registry Finding Be Released to the Operation? | Is the Person’s Presence a Minimum Standard Deficiency? | Is the Person Eligible for a Risk Evaluation? | Is Contact With Children Allowed Pending the Risk Evaluation? |
| --- | --- | --- | --- | --- |
| Sustained finding for physical abuse. | Yes | Yes | **No**, this person is permanently barred from being present at a child-care operation while children are in care.\* | **Not applicable**, because this person is not eligible for a risk evaluation.\*\* |
| Sustained finding for sexual abuse. | Yes | Yes | No, this person is permanently barred from being present at a child-care operation while children are in care. | Not applicable, because this person is not eligible for a risk evaluation |
| Sustained finding for emotional abuse. | Yes | Yes, unless contact with children is allowed pending a risk evaluation. | Yes | Yes, if the person continued to work at the operation pending the outcome of due process for the designated finding because DFPS had not determined the person’s presence at the same operation was an immediate threat or danger to the health or safety of children; or if DFPS previously approved a risk evaluation for the same finding, the more recent check does not reveal new information about the finding, and the circumstances of the person’s contact with children at the operation are the same as when DFPS approved the risk evaluation. |
| Sustained finding for neglect (including neglectful supervision, physical neglect, medical neglect, and refusal to accept parental responsibility). | Yes | Yes, unless contact with children is allowed pending a risk evaluation. | Yes | Yes, if the person continued to work at the operation pending the outcome of due process for the designated finding because DFPS had not determined the person’s presence at the same operation was an immediate threat or danger to the health or safety of children; or if DFPS previously approved a risk evaluation for the same finding, the more recent check does not reveal new information about the finding, and the circumstances of the person’s contact with children at the operation are the same as when DFPS approved the risk evaluation. |
| Emergency Release: A finding that has not been sustained, but the CBCU has determined the presence of the person in a child-care operation is an immediate threat or danger to the health or safety of children. | Yes | Yes | No, the person is temporarily barred from being present at a child-care operation while children are in care.Permanent Removal: The removal from contact with children is not permanent until the finding is sustained. If SOAH overturns the finding, then the Central Registry finding is purged, and the person may be present at the child care operation. | Not applicable, because the person is not eligible for a risk evaluation. The person must not be present at an operation while children are in care. |
| A finding of abuse or neglect from another state or jurisdiction, regardless of whether the finding is sustained | Maybe (check with Legal) | Maybe (check with Legal) | The person’s eligibility for a risk evaluation is the same as the relevant DFPS sustained finding noted in this chart. | The person’s ability to be present at an operation while children are in care pending the outcome of a risk evaluation is the same as the relevant DFPS sustained finding noted in this chart. |

Exceptions

\*A prospective foster or adoptive parent, or any person who is required to undergo a background check because of the foster or adoptive parent application, is eligible for a risk evaluation for a sustained finding for physical abuse if it has been more than five years since the finding and the prospective foster or adoptive parent is related to or has a significant longstanding relationship with the foster or adoptive child to be placed.

\*\*Contact with children would be allowed if a risk evaluation is approved for a person meeting the criteria detailed in the exception above.

DFPS Rules, 40 TAC §§[745.611(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=611); [745.613](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=613); [745.657](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=657); [745.659](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=659); [745.695](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=695); [745.751](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=751)

#### 5336 Abuse and Neglect Findings in Out-of-State Registries for Prospective Foster and Adoptive Homes

##### 5336.1 Obtaining Results From Out-of-State Abuse and Neglect Registries

###### 5336.11 Role of the Child-Placing Agency

LPPH ~~October 2010~~ DRAFT 5922-CCL (titles of 5336 and 5336.1 are revised)

Procedure

All prospective foster and adoptive parents must request a child abuse and neglect notice from each state that they resided in during the five-year period that preceded their application to foster or adopt. These notices must be submitted to their child-placing agency (CPA).

If the abuse or neglect notice comes back clear, the child-placing agency (CPA) must file the clearance notice in the foster or adoptive home record for the monitoring staff to review during the inspection.

If a child-placing agency receives anything other than a clearance notice or a notice stating that the state does not release abuse or neglect findings, the CPA must:

a. obtain as much information regarding the match as possible from the foster or adoptive parents before submitting the match to the CBCU for review;

b. submit the match to the Centralized Background Check Unit (CBCU) for review using Form [2944](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2944.doc), Request for Review of an Out-of-State Child Abuse or Finding if the CPA chooses to proceed with verifying the foster home or approving the adoption.

###### 5336.12 Role of the Centralized Background Check Unit

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Procedure

The Centralized Background Check Unit (CBCU) must contact the other state to obtain any missing or necessary information about the match, including the extent of the due process. If the CBCU still cannot determine if the person has exhausted his or her due process even after contacting the other state, the CBCU must determine risk to children based on the information that they have.

##### 5336.2 Evaluating Results From Out-of-State Abuse and Neglect Registries

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Procedure

The Centralized Background Check Unit (CBCU) must evaluate each child abuse or neglect match based on background check rules and determine whether the home may be verified or approved as a foster or adoptive home. The following procedures apply:

a. If there is a match equivalent to a finding of *Reason to Believe* for physical or sexual abuse (sustained or unsustained), the home may not be verified or approved.

b. The child-placing agency (CPA) sends Form [2944](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2944.doc), Request for a Review of an Out-of-State Child Abuse or Neglect Findings, to the CBCU for any eligible request for review of these out-of-state findings*.*

c. After completing the review and determining whether the home can be verified or approved, the CBCU staff must send a Background Check Match Letter for Out-of-State Child Abuse or Neglect to the CPA.

d. CBCU must document the results of the review in CLASS *Central Registry Finding* section in CLASS.

### 5340 Conducting Criminal History Checks

LPPH ~~October 2010~~ DRAFT 5922-CCL

Policy

DFPS conducts a criminal history check to determine whether a person’s presence at a child-care operation:

 • violates statutory law, administrative rules, or minimum standards; or

 • presents a risk to the health and safety of children in care.

Texas Human Resources Code §§[42.056](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.056); [42.159](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.159); [42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

DFPS Rules, 40 TAC §§[745.611(1)(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=611); [745.613](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=613); [745.625](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=625); [745.626](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=626)

A policy was deleted that allowed the acceptance of out-of-state FBI results for adoptive-only homes if the FBI checks were completed in the previous 12 months.

#### 5342 Initiating a Criminal History Check

LPPH ~~October 2010~~ DRAFT 5922-CCL (currently 5343; renumbered due to deletion of 5342 & 5342.1)

Procedure

See [5316](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5316) Submitting Background Check Requests and [5317](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5317) Initiating Background Checks for more information.

If an operation initiates a fingerprint-based check for a person who is not required to submit his or her fingerprints, CLASS notifies the operation by email, provided that the operation has a valid email address on file.

#### 5343 Receiving and Documenting Criminal History Check Results

LPPH ~~October 2010~~ DRAFT 5922-CCL (title revised; currently 5344)

Procedure

Each night an electronic interface sends the information from CLASS to the Department of Public Safety (DPS), and results are sent back electronically from DPS to CLASS. The result is posted to the *Results* section on the appropriate *Background Check Results* page. If there is a match, the Centralized Background Check Unit (CBCU) representative assigned to the operation receives a *To-Do* in CLASS notifying them of the match.

For DPS clearinghouse results, the CBCU must copy and paste the results manually into CLASS. For additional information regarding documenting DPS results, see the DPS Documentation Guide on the [*Background Check Q&A*](http://intranet/CCL/Background_Checks/) page on the DFPS Intranet. For documenting FBI check results, see the FBI Check Documentation Guide on the [*Background Check Q&A*](http://intranet/CCL/Background_Checks/) page on the DFPS Intranet.

#### 5344 Criminal History Check Results and Permit Issuance

LPPH ~~October 2010~~ DRAFT 5922-CCL (title revised; currently 5345)

Policy

Licensing must receive the results from the background checks before issuing a permit to operate a licensed center, a licensed child-care home, a registered child-care home, a listed family home, an independent foster family home, or an independent foster group home. For all other permits, Licensing may issue a permit to an applicant before receiving the results of the background checks.

See [3321](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.asp#LPPH_3321) Evaluating Before Issuing an Initial or Non-Expiring License or 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); [745.633](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=745&rl=633)

### 5350 Acting on Criminal History Check Results

#### 5351 Determining Appropriate Actions Based on Criminal History

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

When notified that a person at an operation has a criminal history, the Centralized Background Check Unit (CBCU) uses the charts on the [DFPS website](http://www.dfps.state.tx.us/Child_Care/Child_Care_Standards_and_Regulations/Criminal_Convictions.asp) to determine whether the person’s criminal history contains criminal offenses that:

a. are minimum standards violations;

b. are eligible for a risk evaluation; or

c. permanently bar the person from the operation while children are in care.

The CBCU inspector notifies the appropriate Licensing inspector if a person is permanently barred from the operation.

Criminal offenses that result in deferred adjudication are treated like convictions when the person is an applicant for a permit or an administrator’s license.

A person required to register as a sex offender in Texas may not be present at an operation while children are in care.

DFPS Rules, 40 TAC §§[745.651](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=651); [745.655](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=655); [745.656](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=656)

#### 5352 Handling Juvenile Offenses

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

In the legal system, juvenile offenses are civil adjudications and are not considered to be criminal convictions. The Centralized Background Check Unit (CBCU) sends an email to the DFPS Licensing Legal Services mailbox if the CBCU questions whether an offense should be released to the operation. All juvenile offenses are marked with a *Cleared* status on the DPS *Background Check Results* page unless Legal determines the offense poses a risk to the children in care and must be released to the operation.

#### 5353 Notifying the Operation of the Criminal History

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

The Centralized Background Check Unit (CBCU) sends the *Background Check Match Letter* in CLASS via email or regular mail to notify the operation of the criminal history record. The CBCU staff may not send the operation a copy of the criminal history record, but must paraphrase the information from the record stating the relevant convictions and arrests on the report. The CBCU may also telephone the provider to share criminal history results in addition to sending the letter.

##### 5355.3 Other Actions Related to Criminal Matches

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

The Centralized Background Check Unit (CBCU) should take the following actions when appropriate:

a. Process an operation’s request for risk evaluation (see [5370](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5370) Risk Evaluation of Criminal History or Findings of Child Abuse or Neglect)

b. Make a recommendation to the Licensing inspector to cite minimum standard or rule deficiencies related to obtaining background check information

c. Notify the Licensing inspector if a person is barred from the operation based on his or her criminal history

The Licensing inspector should take the following actions when appropriate:

a. Cite the operation for any violations of minimum standards or rules and set a compliance date.

b. Conduct an inspection, when necessary, to verify any person that has been determined to be a risk to the children in care is not present at the operation.

c. Set special conditions on the permit (see [3332](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.asp#LPPH_3332) Setting Special Conditions on the License or Certification Permit); conditions cannot be placed on a listing

d. Deny or revoke the permit

###### 5355.31 When to Deny or Revoke a Permit Based on Criminal History

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Policy

Licensing must deny or revoke a permit when:

 • the applicant or permit holder has a criminal history that would preclude him or her from being present at the operation while children are in care; or

 • the applicant or permit holder’s spouse or any other person is barred from being present at an operation and the applicant or permit holder refuses to or is unable to remove the person from the operation.

See [5351](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp%22%20%5Cl%20%22LPPH_5351) Determining Appropriate Actions Based on Criminal History for more information about who is permanently barred from being present at a child-care operation while children are in care.

The inspector denies or revokes a permit based on the person’s criminal history if the applicant or permit holder:

a. is not eligible for a risk evaluation;

b. is eligible for a risk evaluation, the operation requests a risk evaluation for the person, and the risk evaluation is not approved; or

c. is eligible for a risk evaluation, but the operation does not request one.

See [5351](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp%22%20%5Cl%20%22LPPH_5351) Determining Appropriate Actions Based on Criminal History for more information regarding who is eligible for a risk evaluation.

If the applicant or permit holder is a business entity, such as a corporation, there may be room for the person with the criminal history to leave the business entity without Licensing having to revoke or deny the permit. However, if the person with the criminal history remains in charge of the business entity, then Licensing takes adverse action against the permit. In such cases, the Licensing inspector seeks advice from the state office Legal Division.

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

DFPS Rules, 40 TAC §§[745.653](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=653); [745.709](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=709)

See:

[3711](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3711) Types of Deficiencies That Cannot Be Corrected

[7621](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7621) Circumstances That May Call for Adverse Action

###### 5355.32 Denial of Foster or Adoptive Home Verification for Drug-Related Convictions

LPPH ~~October 2010~~ DRAFT 5922-CCL

Based on federal regulations, foster or adoptive parents or applicants may not be verified if they have a felony drug-related conviction within the last five years. Alcohol-related convictions are considered drug convictions.

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

DFPS Rules, 40 TAC §§[745.653](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=653); [745.651](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=651); [745.709](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=709)

[42 USC sec. 671(a)](http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+2095+0++%28%29%20%20AND%20%28%2842%29%20ADJ%20USC%29%3ACITE%20AND%20%28USC%20w%2F10%20%28671%29%29%3ACITE%20%20%20%20%20%20%20%20%20)

###### 5355.33 Actions Taken for Arrests, Indictments, or Criminal Complaints

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

When DFPS receives criminal history information indicating that a person employed or in contact with children at the operation has either been arrested, indicted, or is the subject of an official criminal complaint accepted by a county or district attorney, the Centralized Background Check Unit (CBCU) determines whether that person may be present in an operation while children are in care.

The person must not be present if a conviction for the arrest or charged offense would permanently or temporarily bar the person from being at the operation pending the outcome of a risk evaluation, or if the CBCU determines that the person poses an immediate threat to the health or safety of children. If the person is arrested or charged with a crime and would be eligible for a risk evaluation if convicted, DFPS may place conditions or restrictions on the person’s presence at the operation while children are in care pending the resolution of the criminal matter.

See the charts on the [DFPS website](http://www.dfps.state.tx.us/Child_Care/Child_Care_Standards_and_Regulations/Criminal_Convictions.asp) for more information on what criminal offenses are eligible for a risk evaluation and whether presence at an operation may be allowed while children are in care during the risk evaluation process if there is a conviction.

DFPS Rules, 40 TAC §§[744.305(a)(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=744&rl=305); [745.688](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=688); [745.699](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=699); [745.701](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=701); [746.305(a)(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=746&rl=305); [746.1105](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=746&rl=1105); [747.207(9)](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=207); [747.303(a)(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=747&rl=303); [747.1205](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=1205); [747.1207(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=747&rl=1207); [748.105](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=105); [749.105](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=105); [748.505](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=505); [749.605](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=605); [749.2653](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=2653)

#### 5371 Persons Who Are Eligible or Ineligible for a Risk Evaluation

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised)

Policy

For more information on what criminal history offenses and Central Registry findings make a person eligible or ineligible for a risk evaluation, see [5351](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5351) Determining Appropriate Actions Based on Criminal History and [5335](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5335) Notifying the Operation of Sustained Central Registry Findings

#### 5372 When Risk Evaluation Is Not Required

LPPH October 2010 DRAFT 5922-CCL (currently item 5373; no changes to policy or revision date)

#### 5373 When a Risk Evaluation Is Required

LPPH October 2010 DRAFT 5922-CCL (currently item 5374; no changes to policy or revision date)

##### 5373.1 Exceptions for Contact With Children While Risk Evaluation Is Underway

LPPH ~~October 2010~~ DRAFT 5922-CCL (currently item 5374.1)

Policy

See the chart in [5335](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5335) Notifying the Operation of Sustained Central Registry Findings for more information about when an individual who has a Central Registry match may be present while a risk evaluation is being considered.

See [5351](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5351) Determining Appropriate Actions Based on Criminal History for more information about when an individual with a criminal history match may be present while a risk evaluation is being considered.

DFPS Rules, 40 TAC §§[745.703](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=703); [745.697](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=697); [745.657](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=657)

#### 5374 Documents Required for Risk Evaluations

(introductory heading; currently item 5375)

##### 5374.1 Documentary Evidence Required for Criminal History Matches

LPPH ~~October 2010~~ DRAFT 5922-CCL (currently item 5375.1)

Procedure

Documentation Required for All Risk Evaluations for Criminal Convictions

The Centralized Background Check Unit (CBCU) requires the operation requesting a risk evaluation to submit the following documentary evidence regarding criminal history for consideration in determining rehabilitation:

a. A completed Form [2974](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2974.doc), Request for Risk Evaluation Based on Past Criminal History or Central Registry Findings

b. A valid rationale from the operation’s director, owner, operator, or administrator explaining why the person who has the criminal history does not pose a risk to the health and safety of children

c. An official copy of the final record of judicial finding or conviction (signed by the judge and file stamped)

d. Age of the person at the time the crime was committed

e. A detailed, signed statement from the person regarding the nature and seriousness of the crime including:

1. why the person was arrested;

2. who else was involved in the criminal incident;

3. whether anyone was injured;

4. the extent and nature of other arrests within the person’s past criminal history;

5. what has changed for this person since the time of the arrest; and

6. why the person does not feel that he or she poses a risk to children in care

f. Evidence of rehabilitative effort

g. The work history of the person over the past 10 years, including names of employers, dates of employment, and positions held

h. Letters of recommendation from at least three references (such as professionals, employers, law enforcement) who are not related to the person and who have knowledge about the person’s character and ability to work with children

i. Information related to the person’s role (or prospective role) with the operation, including:

1. job title (for employees);

2. hours and days of service;

3. job responsibilities;

4. nature and amount of interaction with children in care;

5. plans for supervision of the person; and

6. anticipated amount of unsupervised time with children in care.

j. The ages and any special needs of children in care for whom the person will be responsible or with whom the person may interact, or both

k. Any additional items requested by the CBCU manager to assist with the determination of risk

Additional Documentation Required if the Person Is Related To or Has a Significant Longstanding Relationship With the Child to Be Placed in a Foster or Adoptive Placement

The operation submits information to the CBCU pertaining to:

 • any person eligible for a risk evaluation who is part of a relative foster or adoptive placement or a foster or adoptive placement; and

 • who has a significant longstanding relationship with the foster or adoptive child, including:

a. the names and dates of birth of any foster or adoptive children who have been or are expected to be placed in the home (if known);

b. a description of the foster or adoptive parent’s relationship to each child; and

c. a copy of a home assessment or home screening if one has been completed

Additional Documentation Required if the Person Was Incarcerated

The CBCU requires the operation requesting a risk evaluation to submit the following documentary evidence regarding criminal history, if the individual was incarcerated:

a. A copy of local, state, or federal release order

b. The date that the individual was released from incarceration

 And

c. The terms and conditions of parole

Additional Documentation Required if the Person Received a Probated Sentence, Including Deferred Adjudication

The CBCU requires the operation requesting a risk evaluation to submit the following documentary evidence regarding criminal history, if the individual was given a probated sentence (including deferred adjudication):

a. Dates of the probation and details related to the terms and conditions of probation including documentation of whether or not the person successfully completed the terms of the probation

b. Proof that the person paid all court costs, supervision fees, and court-ordered restitution and fines (if the person is presently on probation, a statement from the person’s probation officer regarding the status of the person’s probation)

c. The date that the probation was or will be completed, if the individual received deferred adjudication

DFPS Rules, 40 TAC [§745.687](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=687)

##### 5374.2 Documentary Evidence Required for Central Registry Matches

LPPH ~~October 2010~~ DRAFT 5922-CCL (currently item 5375.2)

Procedure

Documentation Required for All Risk Evaluations for Central Registry Matches

The Centralized Background Check Unit (CBCU) requires the operation requesting a risk evaluation to submit the following documentary evidence regarding Central Registry findings for consideration in determining risk:

a. A completed Form [2974](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2974.doc), Request for Risk Evaluation Based on Past Criminal History or Central Registry Findings

b. A valid rationale from the operation’s director, owner, operator, or administrator explaining why the person who has a Central Registry finding does not pose a risk to the health and safety of children

c. Age of the person at the time of the abuse or neglect

d. The amount of time that has elapsed since the person’s last abuse or neglect finding

e. A detailed, signed statement from the person regarding the nature and seriousness of the abuse or neglect finding, including:

1. The circumstances involved in the abuse or neglect incident and investigation;

2. The extent and nature of the person’s past abuse or neglect history;

3. What has changed for this person since the time of the abuse or neglect finding; and

4. Why the person does not feel that he or she poses a risk to children in care

f. Evidence that the factors impacting the risk of future abuse or neglect have changed

g. Letters of recommendation from at least three references (such as professionals, employers, law enforcement) who are not related to the person and who have knowledge about the person’s character and ability to work with children

h. The work history of the person over the past 10 years including names of employers, dates of employment, and positions held

i. Information related to the person’s role (or prospective role) with the operation, including:

1. Job title (for employees);

2. Hours and days of service;

3. Job responsibilities;

4. Nature and amount of interaction with children in care;

5. Plans for supervision of the person; and

6. Anticipated amount of unsupervised time with children in care

j. The ages and any special needs of children in care for whom the person will be responsible or with whom the person may interact, or both

k. Any additional items requested by the CBCU manager to assist with the determination of risk

Additional Documentation Required if the Person Is Related To or Has a Significant Longstanding Relationship With the Child to Be Placed in a Foster or Adoptive Placement

The operation submits information to the CBCU pertaining to:

 • any person eligible for a risk evaluation who is part of a relative foster or adoptive placement or a foster or adoptive placement; and

 • who has with a significant longstanding relationship with the foster or adoptive child including:

a. the names and dates of birth of any foster or adoptive children who have been or are expected to be placed in the home (if known);

b. a description of the foster or adoptive parents’ relationship to each child; and

c. a copy of a home assessment or home screening if one has been completed

DFPS Rules, 40 TAC [§745.689](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=689)

#### 5375 Requests for Risk Evaluations

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised; currently item 5376--subitems came from the original 5376 or are added)

##### 5375.1 Incomplete Requests for Risk Evaluations

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised; currently item 5376)

Procedure

The Centralized Background Check Unit (CBCU) does not accept incomplete requests for risk evaluations. To return a risk evaluation to the operation as incomplete, the CBCU staff use Form [2849](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2849.doc), Incomplete Request for Risk Evaluation.

##### 5375.2 Time Frames for Requesting and Completing Risk Evaluations

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised; currently item 5376)

Time Frame Relating to Persons Who Cannot Be Present Pending a Risk Evaluation

Upon receiving notification from the CBCU that the person is eligible for a risk evaluation but may not be present at the operation pending the risk evaluation, the operation has 21 calendar days to submit a complete risk evaluation packet.

Time Frames Relating to Persons Who Can Be Present Pending a Risk Evaluation

Upon receiving notification from the CBCU that the person may continue to work or be present at the operation pending a risk evaluation, the operation has seven calendar days to notify the CBCU that a risk evaluation will be requested.

The operation must submit a completed risk evaluation packet to the CBCU within 14 calendar days of notifying CBCU of the intent to request a risk evaluation. Two 14-calendar extensions may be requested for good cause.

The CBCU has 14 calendar days to review the risk evaluation packet and to notify the operation that the packet is either complete and accepted for processing or incomplete. If incomplete, the notification letter would explain what is needed to complete the packet and the operation would have one additional 14-calendar-day period to submit the information to complete the packet. If complete, the CBCU has 21 days to make a determination on the risk evaluation; however, the CBCU may exceed this time frame for good cause.

When Time Frames Are Not Met by the Operation

If the operation is outside the time frames for compliance with the request for a risk evaluation, the CBCU sends written notice to the operation that the risk evaluation packet is either incomplete or the deadline for requesting a risk evaluation has passed. The written notice states the person who is the subject of the background check may not continue to be present at an operation pending the outcome of the risk evaluation.

The CBCU sends the Licensing inspector a copy of the written notice. The Licensing inspector then follows up with an inspection to ensure the person who is the subject of the background check is no longer present at the operation while children are in care pending the outcome of the risk evaluation. If the Licensing inspector determines the person is still present at the operation while children are in care, the Licensing inspector cites the operation for not complying with TAC [§745.686](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=686).

##### 5375.3 Conditions and Restrictions Pending the Outcome of a Risk Evaluation

LPPH ~~October 2010~~ DRAFT 5922-CCL (title is revised; currently item 5376)

Pending the outcome of a risk evaluation, the CBCU may place conditions or restrictions on a person’s presence at an operation in order to protect the health or safety of children.

DFPS Rules, 40 TAC §§[745.685](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=685); [745.686](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=686); [745.688](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=688)

#### 5376 Making a Risk Evaluation Determination

LPPH ~~October 2010~~ DRAFT 5922-CCL (currently item 5377)

Procedure

When making risk evaluation determination, the Centralized Background Check Unit (CBCU) considers the following:

| For Both Criminal History and Central Registry Findings | In addition, for Central Registry Findings |
| --- | --- |
|  • The operation’s completed Form 2974, Request for Risk Evaluation Based on Past Criminal History or Central Registry Findings • All of the documentary evidence submitted by the operation • The compliance history and regulatory status of the operation • The person’s roles and responsibilities that are included on the Form 2974, Request for Risk Evaluation Based on Past Criminal History or Central Registry Findings |  • The child abuse or neglect case • Nature and seriousness of the abuse or neglect findings • The extent and nature of the person’s past abuse or neglect history • Age of the person at the time of the abuse or neglect • The amount of time that has elapsed since the person’s last abuse or neglect activity  |

In addition, the CBCU manager consults and follows any federal requirements related to adoptive and foster parents.

The CBCU notifies the operation of the risk determination results. The CBCU manager’s determination of risk is final. Applicants or operations do not have the right to request an administrative review of a risk evaluation.

DFPS Rules, 40 TAC §§[745.625](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=625); [745.681](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=681); [745.683](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=683); [745.685](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=685); [745.686](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=686); [745.687](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=687); [745.688](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=688); [745.689](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=689); [745.695](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=695); [745.697](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=697); [745.707](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=707); [745.711](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=711)

##### 5376.1 Documenting Risk Evaluations

LPPH ~~October 2010~~ DRAFT 5922-CCL (currently item 5377.1)

Procedure

Risk evaluations are tracked in CLASS in the *Risk Evaluation* section of the *Background Check Results* pages.

### 5380 Determining Compliance With Background Check Requirements

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

During each inspection, , other than an *Investigation* inspection, Licensing staff must determine whether

 • the names of persons described in [5311](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5311) For Whom Central Registry and Criminal Background Checks Are Required have been submitted to DFPS for background checks at the required times; and ,

 • the operation has complied with all background check requirements.

See [5315](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5315) When Background Checks Are Required for more information.

When conducting a monitoring or follow-up inspection, the Licensing inspector must ask the operation for a list of all persons at the operation that are required to have a background check. For child-placing agencies this list must include any foster or adoptive parents who have been verified since the last monitoring visit. The Licensing inspector must then compare this list with the *People List* in CLASS or CLASSmate to determine whether any names were not submitted. This list should be kept in the operation’s case record.

Licensing staff should determine whether the operation has allowed anyone to have access to a child in care before receiving the results from the complete background check. If so, then the Licensing staff must verify the following:

a. the person’s DPS and Central Registry check does not contain information that would preclude the person from working or being present at the child-care operation while children are in care;

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b. the operation was experiencing a staffing shortage (see the Terms and Definitions in 5300 Central Registry and Criminal History Searches and 5319 Determining a Staff Shortage); and

c. the person’s fingerprints were submitted within 30 days of having access to a child in care.

For FBI checks that are pending in CLASS, the Licensing inspector resolves them by following the steps in the [FBI Tip Sheet](http://intranet/CCL/Background_Checks/FBI.asp) on the DFPS Intranet.

Licensing staff evaluates compliance with any risk evaluation conditions or restrictions that apply to persons at the operation.

See [4140](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp%22%20%5Cl%20%22LPPH_4140) Preparing for Inspections and [4150](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4150) Conducting Inspections for more information.

If the operation does not or has not submitted the required background requests or did not comply with background check requirements, the Licensing staff cites the operation for violating the Human Resources Code or the appropriate rule from the Texas Administrative Code, Chapter 745, [Subchapter F](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=5&ti=40&pt=19&ch=745&sch=F).

Texas Human Resources Code §§[42.056](http://www.statutes.legis.state.tx.us/SOTWDocs/HR/htm/HR.42.htm#42.056); [42.159](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.159); [42.206](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.206)

DFPS Rules, 40 TAC §§[745.623](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=623); [745.625](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=625)

#### 5381 Documenting Background Check Information

LPPH ~~October 2010~~ DRAFT 5922-CCL

Procedure

For information regarding where to document background check related information, see the DPS, Central Registry, or FBIdocumentation guide on the [Background Check Q&A](http://intranet/CCL/Background_Checks/FBI.asp) page on the DFPS Intranet.

### 5390 Background Check Reminder Letter – Listed Family Homes Only

LPPH ~~December 2011~~ DRAFT 5922-CCL

Policy

By the last day of each month, Licensing staff send a letter to each listed family home that has a 24-month background check due during the following month.

Procedure

By the 15th day of each month, Licensing.staff in state office send the *LH 24 month BC Reminder Report* to regional staff. This report lists all background checks that are due for listed family homes the following month.

By the last day of each month, Licensing staff notify each home on the *LH 24-month BC Reminder Report* that a background check is due by taking the following steps:

1. complete [Form 2740](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2740.doc) LH BGC Reminder Letter, located in the DFPS Automated Forms System, by:

 • entering the third Friday of the month the background check is due as the date the information is due to Licensing; and

 • completing the other required fields.

2. save Form 2740 LH BGC Reminder Letter to the operation’s electronic record by:

 • copying the text from the completed Form 2740 into Form 2834A FPS Letterhead, available on the *Corrective and Adverse Action History* page in the CLASS system; and

 • saving the form with the name of *BGC Reminder Letter*.

3. print a copy of the final version of the *BGC Reminder Letter* from CLASS;

4. mail the printed *BGC Reminder Letter* and [Form 2748](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2748.doc) Voluntary Closure Request to the home through regular mail; and

5. enter a *Chronology* documenting when the letter was mailed to the home.

See [7800](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp%22%20%5Cl%20%22LPPH_7800) Automatic Actions if a listed family home does not submit the information required for a background check within the required timeframe.