### 6280 Referring a Report of Abuse or Neglect for Investigation When New Allegations Are Received During an Investigation

LPPH ~~December 2012~~ DRAFT 8067-CCL

Policy

An investigator must immediately refer allegations of abuse, neglect, or death of a child to the DFPS Statewide Intake (SWI) division or to another responsible agency when the investigator becomes aware of the allegations, and determines that the allegations have not previously been reported.

The allegations must be reported regardless of if the child is in care of a regulated operation and if the alleged perpetrator is under the auspices of an operation.

Texas Family Code [§§261.001](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm#261.001); [261.401](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm#261.401)

HHSC Rules, 15 TAC [§351.503(g)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=15&ch=351&rl=503)

DFPS Rules, 40 TAC [§700.501](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=700&rl=501)

Procedure

An investigator may become aware of new allegations of abuse or neglect of a child through:

a.   an inspection of the operation;

b.   an investigation of a violation of minimum standards;

c.   an investigation of abuse or neglect of another child or situation;

d.   a media outlet; or

e.   a call to the Licensing office.

The following chart shows which investigating agency to refer a report of abuse or neglect of a child, depending on if the child is in care of an operation and the relationship of the alleged perpetrator to the child. A child living in the verified foster home of a relative or fictive kin is considered "in the care of an operation."

|  |  |  |
| --- | --- | --- |
| If the child: | And the person alleged to have abused or neglected the child is: | Refer to: |
| Is in care of an operation | A person working under the auspices of an operation, including a foster parent who is providing care to a related child in care | CCL |
| Is not in care of an operation | A person who does not have a familial relationship, but lives in the same household as the child | CPS |
| Is either in care of an operation *or* Is not in care of an operation | A caregiver related to the child through either a biological or adoptive relationship, according to HRC 42.002(16) | CPS |
| Is either in care of an operation *or* Is not in care of an operation | A person employed by a school, including a school located on the same campus as a regulated operation | CPS |
| Is either in care of an operation *or* Is not in care of an operation | A person who does not work under the auspices of an operation, does not live in the same household as the child, and does not have a familial relationship with the child | Law enforcement |
| Is either in care of an operation *or* Is not in care of an operation | A person employed by a hospital or nursing home, including an acute unit located on the same campus as a regulated operation | DADS |
| Is either in care of an operation *or* Is not in care of an operation | A person employed at a home or operation regulated by another state agency | The state agency which regulates the operation |

If the child is being cared for in their own home by a caregiver with a Listed Home designation, the investigation is conducted by CPS. If the subject of the investigation is a child care center, Licensing may conduct a joint investigation with CPS of an allegation of abuse or neglect of a child *related* to the caregiver if:

• the caregiver was under the auspices of the operation at the time of the alleged abuse neglect; and

• the child was in care of the operation at the time of the alleged abuse or neglect.

Texas Human Resources Code [§42.002(16)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.40.htm#40.002)

#### 6533 Agencies Responsible for Investigations in CPA and CPS Homes

LPPH ~~June 2014~~ DRAFT 8067-CCL

Policy

Reports alleging abuse, neglect, or exploitation in child placing agencies or agency homes are handled according to the chart below.

Procedure

Regardless of who conducts this investigation, residential licensing staff must obtain a copy of the investigation report and determine what, if any, violations should be cited and what, if any, remedial action should be taken against the child placing agency.

The following chart shows which investigating agency to refer a report of abuse or neglect of a child depending on whether or not the child is in the care of a CPA or CPS home and the relationship of the alleged perpetrator to the child. A child living in the verified foster home of a relative or fictive kin is considered "in the care of an operation."

In the chart below, the term *adoptive* refers to an adoption that is not consummated.

|  |  |  |
| --- | --- | --- |
| If the alleged victim is: | And the alleged perpetrator is: | Refer to: |
| A child who is not in care | A foster or adoptive parent living in the foster or adoptive home | • CPS, if the alleged victim is a minor who is a relative;  • law enforcement, if the alleged victim is another adult; or  • APS, if the alleged victim is an adult age 65 or older or an adult with a disability. Licensing investigates possible standards violations and assesses the risk to children in care. |
| A child in care | A foster or adoptive parent | Licensing |
| A child in care | Someone living outside the foster or adoptive home (such as a neighbor) | Law enforcement |
| A child in care | An adult living in the foster or adoptive home other than the foster or adoptive parent | Licensing |
| A child who is not in care | An adult living in the foster or adoptive home other than the foster or adoptive parent | • CPS investigates the allegations and law enforcement is notified.  • Licensing investigates possible standards violations and assesses the risk to the children in care. |
| A child in care | A foster or adoptive parent who is related to that foster or adoptive child | Licensing |

See 6280 Referring a Report of Abuse or Neglect for Investigation When New Allegations Are Received During an Investigation