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

### 3210 Orientation, Inquiry Meeting, or Pre-Application Interview

LPPH DRAFT 8257-CCL (new item)

The pre-application interview (also known as orientation or an inquiry meeting) teaches a potential applicant or governing body designee about the application process, licensing requirements, and administrative procedures.

DFPS Rules, 40 TAC§[745.213](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=213)

#### 3211 When a Pre-Application Interview is Required

LPPH DRAFT 8257-CCL (new item)

Policy

A pre-application interview is required for an applicant or applicant’s governing body designee seeking a license, certificate, or registration. For a registration, a pre-application interview must have been completed within one year before the application date.

An applicant for a listing may attend a pre-application interview for registered and licensed child care homes, but is not required to do so.

The pre-application interview is not available to applicants for a compliance certificate to operate an employer-based daycare facility or a temporary shelter daycare facility.

DFPS Rules, 40 TAC §§[745.211](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=211), [745.243](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=243)

Procedure

If a potential applicant has not attended a pre-application interview, Licensing staff may schedule one for the potential applicant who inquires.

Licensing staff should encourage the potential applicant to attend a class to take advantage of the class’s benefits. However, if a hardship situation prevents the potential applicant from attending, and there are sufficient resources, Licensing staff gives the potential applicant the option of meeting this requirement at a one-on-one meeting with an inspector.

#### 3212 Approved Locations for a Pre-Application Interview

LPPH DRAFT 8257-CCL (new item)

The inspector may hold the pre-application interview for a child care permit:

• at a DFPS office;

• at the applicant’s or potential applicant’s office;

• at the potential site for the operation;

• as a group meeting, with other Licensing staff or DFPS representatives, at any of the locations identified above; or

• as a telephone interview, if meeting in person is not possible.

DFPS Rules, 40 TAC [§745.215](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=215)

#### 3213 Topics Covered and Forms Provided During the Pre-Application Interview

LPPH DRAFT 8257-CCL (new item)

During a pre-application interview with a person interested in running a child-care operation, the inspector explains the process for obtaining a child care permit.

• If an application is returned three times within one year because it is incomplete, the applicant must wait one year before submitting another application.

• The inspector has 21 days to review each submission for completeness.

• After an application is accepted, the inspector has two months to decide whether to issue or deny a permit.

• An initial license may be issued so that the operation can be evaluated before it is issued a non-expiring license.

The inspector explains the administrative procedures to be followed and the requirements to be met under the permit, including:

• governing body responsibilities;

• controlling person responsibilities; and

• background check responsibilities.

The inspector also discusses the criteria an operation would have to meet to be exempt from Licensing regulation.

See:

[2200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_2000.asp#LPPH_2200) Types of Child Care Permits and Multiple Operations

[2300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_2000.asp#LPPH_2300) Determining Whether a Program Is Subject To or Exempt From Regulation

DFPS Rules, 40 TAC §§[745.37](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=37); [745.113](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=113)

##### 3213.1 Governing Body and Licensing Responsibilities

LPPH DRAFT 8257-CCL (new item)

Procedure

At the pre-application interview, the inspector explains to the applicant or the applicant’s governing body designee that the governing body:

• is responsible for maintaining compliance with statutes, administrative rules, and minimum standards; and

• must complete and submit a separate application for each operation subject to regulation that it plans to operate.

Licensing informs the governing body of any remedial action that may be taken against the operation if it fails to maintain compliance with statutes, administrative rules, and minimum standards.

###### 3213.11 Additional Information for Child Day Care Governing Body Responsibilities

LPPH DRAFT 8257-CCL (new item)

Procedure

At the pre-application interview for a child day care operation the inspector explains all of the following.

The applicant or the applicant’s governing body designee must submit [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2911.doc) Governing Body / Director Designation with the application.

The applicant or applicant’s governing body designee, the permit holder, or the governing body designee must:

• submit a personal history statement each time a new director is named;

• notify Licensing no later than five days after a change is made regarding a director;

• submit Form 2911p or designate a new director through the DFPS website within 10 days of designating the director;

• submit changes in the governing body or the director designation on [Form 2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2760.doc) Controlling Person or through the DFPS website within two days in accordance with controlling person requirements (see 3213.2 Controlling Person Responsibilities); and

• indicate on [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2911.doc) or through the DFPS website whether all routine correspondence should be sent to the head of the governing body (see [Appendix 3000-2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_3000_2.asp#LPPH_apx3000_2): Notifying the Operation, for others who must receive routine correspondence).

DFPS Rules, 40 TAC §§[744.303](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=303); [744.1037](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=1037); [746.303](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=303); [746.1039](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1039); [745.903](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=903)

###### 3213.12 Additional Information for Residential Child Care Governing Body Responsibilities

LPPH DRAFT 8257-CCL (new item)

Procedure

At the pre-application interview for a residential operation the inspector explains all of the following to the applicant or the applicant’s governing body designee.

Reporting a Change of Administrator

A general residential operation or child-placing agency must have a full-time licensed administrator.

The applicant or applicant’s governing body designee, the permit holder, or the governing body designee must report any change of administrator within seven days after the change. This must be done in writing using [Form 2819](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2819.doc) Governing Body/Administrator or Executive Director Designation or through the DFPS website.

DFPS Rules, 40 TAC §§[748.103](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=103); [748.307(3)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=307); [749.103](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=103); [749.507(3)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=507); [749.633](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=633)

Reporting a Change of Governing Body or Administrator

The applicant or applicant’s governing body designee, the permit holder, or the governing body designee must inform Licensing if the governing body or the administrator changes. This must be done within two days of the change, in accordance with requirements for controlling persons.

Licensing may be notified by using [Form 2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2760.doc) Controlling Person or through the DFPS website.

See 3213.2 Controlling Person Responsibilities.

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

Reporting Policy Changes

The applicant or applicant’s governing body designee or the permit holder must report any significant change in the policies to Licensing at least seven days before implementing the change. See [4700](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4700) Reviewing Operation Policies.

If the change requires amending the permit, the amendment must be approved by Licensing before the change is implemented.

DFPS Rules, 40 TAC §§[748.63](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=63); [748.231(f)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=231); [748.1203](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=1203); [749.63](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=633); [749.331(f)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=331); [750.61](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=61); [750.151(f)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=151)

Staffing Plan

The applicant or applicant’s governing body designee or the permit holder must have a written professional staffing plan and must hire qualified staff to meet minimum standards.

DFPS Rules, 40 TAC §§[748.501](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=501); [749.601](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=601); [750.301](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=301)

##### 3213.2 Controlling Person Responsibilities

LPPH DRAFT 8257-CCL (new item)

Procedure

At the pre-application interview, the inspector explains the following to the applicant or applicant’s governing body designee:

• who qualifies as a controlling person; and

• what his or her roles and responsibilities are with an operation.

The inspector also informs the applicant that controlling person information must be submitted:

• online through the DFPS website or by using [Form 2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?Name=2760.doc) Controlling Person with the application; and

• within two days each time a person becomes or ceases to be a controlling person at the operation thereafter.

DFPS Rules, 40 TAC §§[744.305(a)(6)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=305); [745.901](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=901); [745.903](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=903); [745.907](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=907); [746.305(a)(6)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=305); [747.303(a)(6)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=303); [748.103(a)(13)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=103); [749.103(18)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=103); [750.103(11)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=103)

See [5400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5400) Controlling Person.

##### 3213.3 Background Check Responsibilities

LPPH DRAFT 8257-CCL (new item)

Procedure

At the pre-application interview, the inspector informs the applicant or applicant’s governing body designee that a background check, including a criminal history check, is conducted on applicants and household members.

The inspector explains which individuals living or working in an operation require an FBI fingerprint check, and that certain criminal convictions and Central Registry findings preclude applicants from getting a permit.

See [Child Care Licensing Frequently Asked Questions](http://www.dfps.state.tx.us/Child_Care/Information_for_Providers/faqs.asp) regarding background checks.

Texas Family Code §[264.8521](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.264.htm#264.8521)

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

DFPS Rules, 40 TAC §§[745.615](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=615); [745.625](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=625)

##### 3213.4 Additional Information

LPPH DRAFT 8257-CCL (new item)

See Additional Information, Forms, and Materials for Pre-Application Interview.

#### 3214 CLASS Documentation Requirements

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector documents in the CLASS chronology that the applicant or applicant’s governing body designee attended a pre-application interview.

#### 3215 Handling Original Certificates of Completion

LPPH DRAFT 8257-CCL (new item)

Procedure

After completion of the pre-application interview, the inspector provides the applicant with a certificate of completion.

### 3220 Reviewing and Accepting the Application for a Permit

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector must:

• determine whether the applicant is eligible to apply;

• review and process the application in a timely manner; and

• notify the applicant in writing of acceptance of the application and, if necessary, the reason for any delays.

#### 3221 Time Frame for Reviewing and Making a Decision on the Application

LPPH DRAFT 8257-CCL (new item)

Procedure

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

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

• the application is incomplete;

• the applicant is ineligible to apply for a permit;

• there is good cause to delay the timeframe for making a determination on the application; or

• Licensing recommends withdrawal of the application.

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

DFPS Rules, 40 TAC §[745.301](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=301)

Military Member, Spouse, or Veteran

The inspector processes an application as soon as practicable for a military member, spouse, or veteran.

See also:

3221.1 Good Cause to Exceed the Time Frame

3222 How to Determine Whether the Applicant Is Eligible to Apply

3223 Evaluating an Application for Completeness

3225 Returning an Application

3226 When to Delay a Decision on an Application

3230 Withdrawal of an Application for a Permit

##### 3221.1 Good Cause to Exceed the Time Frame

LPPH DRAFT 8257-CCL (new item)

Policy

Licensing may have good cause to exceed its time frame for processing an application if:

• there are at least 15% more applications being processed than in the same quarter of the previous year;

• the delay is caused by another public or private entity that must be relied on to process all or part of the applications received;

• the operation is the subject of a pending investigation; or

• other conditions exist that give good cause for exceeding the time frames.

See 3226 When to Delay a Decision on an Application.

DFPS Rules, 40 TAC §[745.327](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=327)

#### 3222 How to Determine Whether the Applicant Is Eligible to Apply

LPPH DRAFT 8257-CCL (new item)

Policy

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

| If … | Then … |
| --- | --- |
| Licensing revoked a permit or denied a permit for a substantive reason… | the applicant is not eligible to reapply for five years from the date the denial or revocation became final. |
| the application was returned for the third time as incomplete within the past year … | the applicant may not reapply for one year from the date the third application was returned as incomplete. |
| Licensing sustained the applicant as a controlling person within the previous five years… | the person is ineligible to apply for a permit because of an adverse action that was sustained during the previous five years. |
| the applicant was a permit holder or controlling person who had a permit denied, revoked, suspended, or terminated by a state health and human services agency in the last 10 years… | depending on the circumstances that led to the previous denial, suspension, revocation, or termination, the applicant may not be eligible to apply |
| the applicant is seeking a permit for a day care home and is younger than 18 years of age (if a listing permit) or 21 years of age (if a registration or license) and will not meet the age requirement within the time frame noted in 3221 Time Frame for Reviewing and Making a Decision on the Application | The applicant is ineligible to apply. |

DFPS Rules, 40 TAC §§[745.303](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=303); [745.403](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=403); [745.911](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=911)

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

Texas Government Code, Chapter 531, [Subchapter W](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.531.htm#W)

Procedure

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

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

If the review of DFPS files reflects that the applicant is not eligible to apply for a permit, the inspector does not accept the application. The inspector informs the applicant in writing of his or her ineligibility by generating a letter in CLASS using the DFPS letterhead.

See:

[1500](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_1500.html#LPPH_1500) Conducting a Search in CLASS

#### 3223 Evaluating an Application for Completeness

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector reviews the information supplied on one of the following application forms for completeness:

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

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

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

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

• [Form 2986](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2986.doc) Listing Request

For information about what a complete application consists of, see Required Application Materials.

**For residential child care licensing:** If an application is received from a foster home that receives children only through the Interstate Compact on the Placement of Children (ICPC), the inspector forwards the application to CPS for verification.

See also:

3223.1 If the Application Is Incomplete or Contains Errors

3230 Withdrawal of an Application for a Permit

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

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

##### 3223.1 If the Application Is Incomplete or Contains Errors

LPPH DRAFT 8257-CCL (new item)

Policy

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

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

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

Providing Technical Assistance

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

DFPS Rules, 40 TAC §[745.301](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=301)

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

###### 3223.11 Resolving Errors and Omissions

LPPH DRAFT 8257-CCL (new item)

Procedure

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

If the inspector is unable to reach the applicant by phone or if the omissions require extensive work by the applicant, see 3225.1 Returning an Application for the First or Second Time.

#### 3224 Accepting the Application

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector accepts the application when:

• the application is determined to be complete;

• the pre-application interview has been completed if required; and

• fee payments have been verified.

Procedure

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

DFPS Rules, 40 TAC §§[745.215](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=215); [745.243](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=243); [745.301](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=301)

#### 3225 Returning an Application

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector returns an application if:

• some of the required materials have not been submitted;

• some of the materials are not filled out completely; or

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

##### 3225.1 Returning an Application for the First or Second Time

LPPH DRAFT 8257-CCL (new item)

If the application is incomplete, the inspector notifies the applicant by mailing CLASS letter 2870 App Return (First or Second). The notification letter must explain what information is needed to complete it and a time frame by which to resubmit the corrected application materials.

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

• review the revised application materials;

• send written notice acknowledging the application is complete and accepted or that the application is incomplete with an explanation of what information is needed and a timeframe to complete it; and

• verify that the fees have been paid if verification was not done previously.

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

• the application is resubmitted; or

• care for children is discontinued.

See How to Return an Application, especially for information concerning e-applications or when an applicant has not been responsive to Licensing’s attempts to contact the applicant.

See also:

3223.1 If the Application Is Incomplete or Contains Errors

CLASS Online Help: Record an Application Decision; View Fee Payments for a Facility.

##### 3225.2 Handling Applications Returned for the Third Time in a Year

LPPH DRAFT 8257-CCL (new item)

Policy

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

DFPS Rules, 40 TAC §[745.303](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=303)

Procedure

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

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

• includes in the notification the earliest date on which the individual may reapply for a license, certificate, registration, or listing permit.

See also:

3230 Withdrawal of an Application for a Permit

CLASS Online Help: Recording an Application Decision

#### 3226 When to Delay a Decision on an Application

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector delays a decision on an application in the following situations:

• The operation is being investigated because of a report alleging violations of statutes, administrative rules, minimum standards, or abuse or neglect. The inspector must not accept the application until the investigation is complete.

DFPS Rules, 40 TAC §[745.327](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=327)

• A background check match has been received, and the match is still being investigated for an applicant or non-client household member.

• The applicant is seeking a permit for a day care home and is younger than 18 years of age (if a listing permit) or 21 years of age (if a registration or license), but will meet the age requirement within the time frame noted in 3221 Time Frame for Reviewing and Making a Decision on the Application.

When there is a delay in making a decision on an application, the inspector notifies the applicant via phone, email, or regular mail and documents the correspondence in CLASS chronology.

##### 3226.1 Reasons to Delay a Decision Specific to Residential Child Care Applications

LPPH DRAFT 8257-CCL (new item)

The inspector determines whether the applicant:

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

• is barred from operating a residential child care operation in another state.

This is accomplished by reviewing:

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

• [Form 2982p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2982.doc) Personal History Statement.

If the inspector’s review of the information from the other state is not complete, the inspector delays a decision on an application.

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

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

The inspector or supervisor takes one or more of the following actions:

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

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

• If adverse action is recommended, the inspector consults with the supervisor, and the supervisor consults with a Licensing attorney. The Licensing attorney may need to review the appropriate state’s regulatory structure to validate a negative compliance history.

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

• If the review of the out-of-state history exceeds the time frame required under 3220 Reviewing and Accepting the Application for a Permit, the inspector obtains approval from the supervisor and documents it in the CLASS chronology.

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

DFPS Rules, 40 TAC §[745.8605](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8605)

When there is a delay in making a decision on an application, the inspector notifies the applicant via phone, email, or regular mail and documents the correspondence in CLASS chronology.

### 3230 Withdrawal of an Application for a Permit

#### 3231 Withdrawal of an Application for an Operation That Is Not Providing Care

LPPH DRAFT 8257-CCL (new item)

Policy

An applicant who is not providing care may withdraw his or her application if the operation:

• has no plans to open;

• needs additional time to comply with law, administrative rules, or minimum standards (the applicant may reapply when ready to proceed); or

• submitted a background check for a person who has an unsustained Central Registry finding that would be eligible for a risk evaluation if sustained and the CBCU indicates that a risk evaluation would likely not be approved. See 3312 Conducting Background Checks.

Procedure

When a request to withdraw an application is received from an applicant who is not providing care, the inspector confirms the request in writing on CLASS Form 2802 Application Withdrawal Letter.

The application fee cannot be refunded, but the initial license fee is refunded. If the applicant reapplies within 30 days, a new application fee is not necessary.

See also:

[5250](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5250) Fee Refund Guidelines

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

CLASS Online Help: Recording an Application Decision; Close an Operation

*DFPS Rules, 40 TAC* [*§745.349*](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=349)

##### 3231.1 Basis to Deny a Permit for an Unsustained Central Registry Finding

LPPH DRAFT 8257-CCL (new item)

Policy

Unless the applicant withdraws the application, the inspector must deny the applicant a permit if:

• a Central Registry search returns an unsustained finding that would be eligible for a risk evaluation if sustained; and

• the CBCU indicates that a risk evaluation would likely not be approved.

See 5377 Obtaining a Risk Evaluation Prediction.

#### 3232 Withdrawal and Resubmission of an Application for an Operation That Is Providing Care

##### 3232.1 Criteria for Withdrawal and Immediate Resubmission

LPPH DRAFT 8257-CCL (new item)

Policy

When circumstances beyond Licensing’s or the applicant’s control prevent the inspector from determining compliance within two months, an applicant who is providing care may withdraw and immediately resubmit an application.

This is permissible only if:

• the applicant is required but is unable to obtain a fire or sanitation inspection required by minimum standards because an inspector is not available in the community; or

• an investigation of a report is in progress.

An operation that withdraws and immediately resubmits an application may continue to operate.

##### 3232.2 When Withdrawal and Immediate Resubmission Is Not Permitted

LPPH DRAFT 8257-CCL (new item)

Policy

An applicant who is providing care may withdraw but not immediately resubmit an application in the following situations:

• the applicant isunable to pass a fire or sanitation inspection required by minimum standards, or

• the applicant has deficiencies to correct before a license, certificate, compliance certificate, registration, or listing permit can be issued.

If by the end of the time frame for acting on an application the applicant is unable to comply with statutes, administrative rules, or minimum standards, the applicant must withdraw the application and cease operating.

If there are circumstances beyond the applicant’s or Licensing’s control, see 3232.1 Criteria for Withdrawal and Immediate Resubmission.

###### 3232.21 Basis to Deny a Permit

LPPH DRAFT 8257-CCL (new item)

Policy

If the applicant does not withdraw the application and does not stop operating, the inspector must deny the applicant a permit based on the applicant’s failure to comply with minimum standards, administrative rules, or the licensing statute.

Procedure

If the inspector denies the applicant a permit, the inspector notifies the applicant that he or she must stop operating and may appeal the decision. The inspector conducts a follow-up inspection to ensure the operation is no longer providing care.

See:

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

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

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

[7730](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7730) Due Process Hearings

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

DFPS Rules, 40 TAC §§[746.3401](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=3401); [746.5101](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=5101); [747.3201](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=3201); [747.4015](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=4015); [747.4901](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=4901)

##### 3232.3 How to Resubmit an Application Immediately

LPPH DRAFT 8257-CCL (new item)

Procedure

The applicant or applicant’s governing body designee must submit a new application or may re-sign and re-date the original application.

An operation that is providing care must resubmit its application immediately upon withdrawing it if eligible according to the reasons listed in 3232.1 Criteria for Withdrawal and Immediate Resubmission.

See also:

[6550](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6550) Investigations of Illegal Operations With No Allegations of Abuse or Neglect

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

CLASS Online Help: Recording an Application Decision

## 3300 Process for Determining Whether to Issue or Deny a Permit

### 3310 Evaluating Before Issuing a Permit

LPPH DRAFT 8257-CCL (new item)

Policy

After accepting an application, the inspector determines:

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

• the risk to children.

Texas Human Resources Code §§[42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048); [42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072); [42.153](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.153); [42.203](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.203)

Procedure

Before determining whether to issue or deny the permit the inspector completes the activities in the items listed below for all operation types. See:

3311 Checking the Sex Offender Registry

3312 Conducting Background Checks

3313 Inspecting the Operation (Except Listed Homes)

#### 3311 Checking the Sex Offender Registry

LPPH DRAFT 8257-CCL (new item)

Procedure

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

See [6540](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6540) Investigations of Matches to the Database of Sex Offenders for procedures on processing a match. The inspector denies the application if a match requires it.

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

#### 3312 Conducting Background Checks

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector ensures all background checks for applicants and non-client household members have been completed before issuing a permit to operate:

• a licensed child care home or center;

• a registered home;

• an independent foster family home;

• an independent foster group home; or

• an operation that has a sole proprietor as a governing body.

A permit may be issued in other cases without waiting for the results of the background searches if all other criteria for issuance are met.

DFPS Rules, 40 TAC §[745.631](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=631)

See:

[5333](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333) Handling Unsustained Central Registry Findings

[5344](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5344) Criminal History Check Results and Permit Issuance

##### 3312.1 Unsustained Central Registry Findings

LPPH DRAFT 8257-CCL (new item)

The inspector may request that the Centralized Background Check Unit conduct a risk evaluation prediction if:

• an applicant or another individual has an unsustained Central Registry finding;

• a *Reason to Believe* finding against that person would result in adverse action being taken against the operation;, and

• the finding:

• is pending a due process hearing;

• has not been released through an emergency release; and

• would be eligible for a risk evaluation if sustained.

See 5377 Obtaining a Risk Evaluation Prediction

When to Deny

The inspector may deny a permit when there is an unsustained Central Registry finding on an applicant or another individual for whom a *Reason to Believe* finding would result in adverse action being taken against the operation.

The permit is denied if:

• the Legal division has approved the denial of the permit; and

• One of the following applies:

• there is an emergency release of that finding;

• the finding would bar the person if it were later sustained (see 5335 Notifying the Operation of Sustained Central Registry Findings); or

• children are in care and the person has requested a due process hearing and the CBCU determines that a risk evaluation would not likely be approved if the finding were later sustained (see 5377 Obtaining a Risk Evaluation Prediction).

When to Issue

If the CBCU indicates that a risk evaluation would likely be approved, and if all other criteria for issuance are met, the inspector may issue the permit with conditions.

When to Delay the Decision

Licensing has good cause to exceed the time period for issuing a permit if the results of the background check indicate there is an active investigation for an applicant or another individual and a *Reason to Believe* finding might result in adverse action being taken against the operation. See 3226 When to Delay a Decision on an Application.

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

#### 3313 Inspecting the Operation (Except Listed Homes)

LPPH DRAFT 8257-CCL (new item)

Policy

After accepting the application for a license, certificate, compliance certificate, or registration, the inspector must conduct an inspection to determine whether the operation is in compliance with all applicable rules and minimum standards.

Procedure

The inspector:

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

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

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

If the operation is providing care without a permit at the time of the inspection, the inspector cites a violation of the law. The inspector completes the procedures in [4159](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4159) Handling Resistance or Refusal to Allow Inspection if the caregiver refuses to:

• admit staff or attempts to delay or obstruct inspection of the operation during hours that care is provided; or

• allow inspection of an area of the operation that affects or could affect the children’s health, safety, or well-being.

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

DFPS Rules, 40 TAC §[745.321](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=321)

##### 3313.1 Time Frames

LPPH DRAFT 8257-CCL (new item)

Policy

The inspection must occur within:

• 21 days of accepting the application for a license, certificate, or registration; and

• 10 days of accepting the application for a compliance certificate.

Supervisory approval is required to exceed these time frames. The inspector documents supervisory approval in a CLASS chronology.

DFPS Rules, 40 TAC §[745.321](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=321)

##### 3313.2 When to Announce an Application Inspection

LPPH DRAFT 8257-CCL (new item)

Policy

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

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

##### 3313.3 Abbreviated Inspection

LPPH DRAFT 8257-CCL (new item)

Policy

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

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

• is not on corrective or adverse action.

See 3313.4 Evaluating Compliance.

Texas Human Resources Code §§[42.044](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044); [42.153](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.153); [42.203](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.203)

DFPS Rules, 40 TAC §[745.321](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=321)

##### 3313.4 Evaluating Compliance

LPPH DRAFT 8257-CCL (new item)

Procedure

While processing an application for a permit, the inspector develops a plan to evaluate an operation’s compliance with minimum standards.

The inspector uses the guidelines in the following chart. More than one guideline may apply.

| Situation | Plan for Evaluating Compliance |
| --- | --- |
| Operation is not providing care. | Include all applicable statutes, rules, and standards not requiring the presence of children. |
| Operation is providing care. | Include all applicable statutes, rules, and standards. |
| Operation changes type of operation or adds a different type of operation. | Include all applicable statutes, rules, and standards related to the new operation type. |
| Licensed operation changes  ownership (See [3930](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3930) Change of Ownership) and:  • policies and procedures; or  • staff who have direct contact with children (initial license required). | Include all applicable statutes, rules, and standards (including any rules or standards that have grandfather clauses). |
| Licensed operation changes ownership (see [3930](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3930) Change of Ownership), but:  • does not change policies or procedures;  • does not change staff who have direct contact with children; and  • is not on corrective or adverse action. | Evaluate the standards that confirm there is no change in policy or procedures or in staff who have direct contact with children. Also evaluate compliance with any rules or standards that have grandfather clauses. |
| Licensed operation that is not a child-placing agency (CPA) changes location. | Include all standards related to the new operation’s location and building. |
| New owner applies after the operation has received notice of revocation. | Include all applicable statutes, rules, and standards. |
| Renewal of the initial license is required, as noted in 3520 Renewing an Initial License. | Evaluate compliance with all applicable statutes, rules, and standards, if the initial license was renewed because of a pattern of deficiency.  Evaluate compliance with limited standards, if the initial license was renewed because the operation was not operating. Assess the risk to children to determine whether an inspection is needed before issuance. |

DCL may use the following forms when evaluating compliance:

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

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

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

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

[Form 2936sap-bap](http://intranet/application/Forms/showFile.aspx?NAME=2936sap-bap.xls) School-Age and Before or After School Program

[Form 2936TSP](http://intranet/application/Forms/showFile.aspx?NAME=2936TSP.xls) Temporary Shelter Program

RCCL may also use the following forms for this purpose:

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

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

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

##### 3313.5 Processing Controlling Person Submissions (Except Certified Operations)

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector ensures that all controlling person information that the operation submits is processed according to policies and procedures in [5400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5400) Controlling Persons. An applicant for a compliance certificate does not need to submit controlling person information.

When a Permit Is Denied

The inspector denies a permit if a controlling person match requires it. See:

[5452](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5452) Eligibility to Receive a Permit After a Match for an Applicant Is Resolved

[5453](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5453) Eligibility to Serve As a Controlling Person After a Match Is Resolved

##### 3313.6 Confirming Fire and Health Inspections (Except for Listed Homes)

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector ensures that child care centers, school-age programs, before and after-school programs, general residential operations, and independent foster homes have approved fire and health inspections.

The inspector also ensures that a temporary shelter child care facility, small employer-based child care facility, registered child care home, or licensed child care home has obtained approved fire and health inspections in the political subdivision where the operation is located, if required by the political subdivision.

Texas Human Resources Code §§[42.0443](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.0443); [42.153](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.153); [42.203](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.203)

DFPS Rules, 40 TAC §§[744.2501](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=2501); [744.3501](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=3501); [746.3401](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=3401); [746.5101](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=5101); [747.3201](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=3201); [747.4901](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=4901); [748.3001](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=3001); [748.3101](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=3101); [750.1101](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=1101)

### 3320 Additional Activities to Complete for Applicants for a Licensed Residential Child Care Operation

#### 3321 Public Notice and Hearing Requirements for Residential Licensing

##### 3321.1 Entities Subject to the Requirement for Public Notice

LPPH DRAFT 8257-CCL (new item)

Policy

Entities subject to the requirement for public notice and hearing are:

• applicants applying for a license to operate as a residential operation;

• permit holders requesting to amend their license to increase capacity in a general residential operation or a residential treatment center that is located in a county with a population of less than 300,000; and

• independent foster family or foster group homes licensed before January 1, 2007, requesting to amend its license to increase capacity must meet the public notice and hearing requirements if:

• the home is in a county with a population of less than 300,000; and

• the home is not the primary residence of the foster family.

See definition of *primary residence* in the Definitions of Terms.

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

DFPS Rules, 40 TAC §§[745.271](http://texreg.sos.state.tx.us/public/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=271); [745.273](http://texreg.sos.state.tx.us/public/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=273); [749.2485](http://texreg.sos.state.tx.us/public/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=2485)

##### 3321.2 Child-Placing Agency Public Notice Requirements

LPPH DRAFT 8257-CCL (new item)

Policy

When a CPA Fails to Comply

The minimum standards for a child-placing agency prohibit the agency from verifying a home that is not the primary residence of the foster family. However, if a waiver or variance is approved in order to verify a home that is not the foster family’s primary residence, the child-placing agency must comply with public hearing requirements.

If a child-placing agency was required to comply with public notice and hearing requirements but failed to do so, Licensing may invalidate the verification of the agency home that the child-placing agency did not verify as required.

Child-placing agencies subject to public notice and hearing requirements are those that verified the home when:

• the home is located in a county with a population of less than 300,000; and

• the foster home is not the primary residence of the foster family.

See definition of *primary residence* in the Definitions of Terms.

When a CPA Complies But Public Response Was Negative

Licensing may invalidate the verification of an agency home required to comply with the public hearing requirements, if the results of a public hearing for an agency home that was verified show:

• the community has insufficient resources to support the children that the home would serve;

• the home would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program, and the increase would adversely affect the children that the home would serve; or

• the home would have a significant adverse impact on the community and would limit opportunities for social interaction for the children that the home would serve.

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

DFPS Rules, 40 TAC §§[745.275](http://texreg.sos.state.tx.us/public/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=275); [745.277](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=277)

##### 3321.3 Public Notice Requirements for General Residential Operation Providing Human Trafficking Services

LPPH DRAFT 8257-CCL (new item)

Policy

An applicant for a general residential operation who submits an application to provide human trafficking services is waived from all public hearing requirements.

Texas Human Resources Code §42.0462

##### 3321.4 When to Publish Notice

LPPH DRAFT 8257-CCL (new item)

Policy

The applicant or permit holder subject to the requirements must publish notice after:

• an application for a permit to operate is accepted; or

• an inspector evaluates a request to amend the permit to increase capacity.

##### 3321.5 Content Required in the Notice

LPPH DRAFT 8257-CCL (new item)

Policy

The notice must include:

• the name and address of the applicant or permit holder;

• the name and address of the child care operation, if already established, or the address where the applicant proposes to provide child-care services;

• the date, time, and location of the public hearing;

• the name, address, and telephone number of the inspector to contact with comments;

• a statement that a person may submit written comments to the inspector concerning the application or the request to amend the permit to increase capacity; and

• a description of the population to be served, the services to be provided, and the licensed capacity requested.

##### 3321.6 Holding the Public Hearing

LPPH DRAFT 8257-CCL (new item)

Policy

The applicant or permit holder subject to public notice and hearing requirements must hold a public hearing and perform as facilitator. The hearing must be held in a location in or easily accessible to the community where the services are or will be provided.

Scheduling the Hearing

The applicant or permit holder must schedule the hearing and open it for at least four hours during the normal business day (a day on the Monday through Friday workweek) or early evening hours.

| If the purpose of the Hearing is to … | Then schedule the hearing: |
| --- | --- |
| apply for a License … | no later than one month after the date the application is accepted. |
| amend the permit to increase capacity … | after Licensing has evaluated the request for an amendment. |

Providing Notification of the Hearing

At least 10 work days before the hearing the applicant or permit holder must:

• notify the Licensing inspector of the time, date, and location of the hearing; and

• provide a copy of the notice to the:

• school district superintendent;

• governing body of the community; and

• local law enforcement agency.

At least 10 days before the date of the public hearing the applicant or permit holder must publish the notice in a newspaper of general circulation in the community where the child-care services are or will be provided.

The newspaper of general circulation must be directed to the entire population in its area of distribution. Special interest publications or newspapers serving only specific groups in its area of distribution do not meet the definition.

*“Of general circulation”* is defined as the community’s own newspaper, or if this is not available, a newspaper purporting to serve this community as well as others as stated on its masthead, or the daily newspaper of the nearest metropolitan area.

DFPS Rules, 40 TAC §§[745.201(2)](http://texreg.sos.state.tx.us/public/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=201); [745.275](http://texreg.sos.state.tx.us/public/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=275)

##### 3321.7 Licensing’s Role During the Hearing

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector must attend the public hearing in an official capacity for the purpose of receiving public comments when:

• an applicant is applying for a license; or

• a licensed operation requests to amend a permit to increase capacity.

Licensing attends as an observer. Questions about DFPS policy and procedures may be answered by the inspector; otherwise, the applicant or permit holder responds to questions.

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

DFPS Rules, 40 TAC §[745.275](http://texreg.sos.state.tx.us/public/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=275)

#### 3322 Report of Public Comment From the Community

##### 3322.1 How to Submit the Report

LPPH DRAFT 8257-CCL (new item)

Policy

Within 10 work days of the hearing, the applicant or permit holder must submit to the inspector a verbatim record of the hearing and a complete comment summary report on DFPS [Form 2997p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2997.doc) Results of Public Hearing, furnished by Licensing.

##### 3322.2 Contents of the Report

LPPH DRAFT 8257-CCL (new item)

Policy

The report must document that the school district superintendent, local law enforcement, and the governing body of the community were given an opportunity to comment on the application or the request to increase capacity.

The applicant or permit holder must include responses to any negative comments in the report. The applicant or permit holder may attach any documentation available to support his or her position to the report.

The report must document:

• the amount of local resources available to support children proposed to be served. Resources that must be considered are:

• physical and mental health services including, as appropriate to the population, emergency medical and dental care resources, services for routine medical and dental care, ancillary medical care services, emergency psychiatric care, and mental health care providers,

• education services, including special education, vocational training, enriched learning programs, mentoring programs, and other educational resources, and

• law enforcement and related services;

• the impact of the proposed services on the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the effect, if any, on the children proposed to be served including the:

• estimated impact on the current ratio in the school district in relation to the average ratio statewide, and

• ratio in terms of the probability of adverse impact on children in care; and

• the impact of the proposed services on the community and the effect on opportunities for social interaction for the children proposed to be served, including:

• social and youth groups,

• spiritual and religious organizations, and

• youth employment groups or agencies.

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

DFPS Rules, 40 TAC §[745.275](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=275)

##### 3322.3 Denial of a Permit or Amendment for Failure to Comply With Public Notice and Hearing Rules

LPPH DRAFT 8257-CCL (new item)

Policy

Licensing may deny a permit or an amendment to the permit to increase capacity for failure to comply with public notice and hearings rules under TAC §§[745.273](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=273) and [745.275](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=275).

DFPS Rules, 40 TAC §[745.8651](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8651)

Licensing may deny the permit or the amendment to increase capacity if Licensing determines that:

• the community has insufficient resources to support the number of children proposed to be served;

• issuance of the license or amendment of the permit would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the increase would adversely affect the children proposed to be served; or

• issuance of the license or amendment of the permit to increase the capacity would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served.

See also CLASS Online Help: Corrective and Adverse Action; Close an Operation.

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

DFPS Rules, 40 TAC §§[745.273](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=273); [745.275](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=275)

### 3330 Additional Activities to Complete for a Licensed Child Day Care Operation

#### 3331 Evaluating Director and Primary Caregiver Qualifications for Licensed Child Day Care Operations

LPPH DRAFT 8257-CCL (new item)

Policy

When a director is designated on [Form 2911p](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?Name=2911.doc) Governing Body / Director Designation, or through the DFPS website, the inspector:

• evaluates to determine whether the director meets the qualifications in the minimum standards;

• ensures the director is not also:

• the primary caregiver of a licensed child care home or a registered home; or

• a director of another operation unless designated a program director for before or after-school programs or school-age programs under the same governing body;

• requests background check information; and

• requests [Form 2985](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2985.doc) Affidavit for Applicants for Employment With a Licensed Operation or Registered Child Care Home.

DFPS Rules, 40 TAC §§[744.1001](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=1001); [746.1001](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1001); [747.1101](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=1101)

##### 3331.1 How to Evaluate Qualifications

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector obtains the following items to evaluate qualifications:

• [Form 2982](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2982.doc) Personal History Statement; and

• either an original and current CLASS Form 2860 Director’s Certificate, or original college transcripts or certificates documenting the training attended.

For persons educated outside of the United States, the inspector obtains information from the operation to help the inspector interpret and evaluate the director’s educational qualifications.

DFPS Rules, 40 TAC §§[744.1015](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=1015); [744.1017](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=1017); [746.1015](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1015); [746.1017](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1017); [747.1107](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=1107)

For a director who oversees more than one school-age program or before or after-school program, the inspector evaluates:

• whether the director meets minimum standard qualifications for a director according to the procedures outlined in this item; and

• whether the compliance history of each operation that a program director oversees reflects that the operations are in good standing with Licensing.

##### 3331.2 Issuing a Director’s Certificate

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector issues CLASS Form 2860 Director’s Certificate after determining that qualifications are met and a background check is complete. A certificate issued to a qualified director is recognized statewide and must be kept in the personnel file at the operation.

##### 3331.3 When a Director Does Not Meet Qualifications

LPPH DRAFT 8257-CCL (new item)

Policy

If the director does not meet qualifications required by minimum standards, the inspector notifies the applicant or applicant’s governing body designee, the permit holder, or the governing body designee.

If a waiver or variance is requested, the inspector processes it according to [5100](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5100) Waivers and Variances and [Appendix 5000-1A.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_5000.asp#LPPH_apx5000_1A_1): Director Qualifications

## 3400 Issuance of a Permit

### 3410 When to Issue a Permit

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector must determine whether the applicant operation meets the applicable rules and statutes:

• within 30 days after accepting an application for a compliance certificate; or

• within two months (see the definition of *date-to-date* in [Definitions of Terms](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_Definitions_of_Terms.asp)) after accepting an application for a license, certificate, registration, or listing.

The inspector either:

• signs and mails the license, certificate, compliance certificate, registration, or listing permit; or

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

See:

3310 Evaluating Before Issuing a Permit

[5212](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5212) Requesting and Processing Application and Initial Fees

Texas Human Resources Code §§[42.046](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.046); [42.153](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.153); [42.203](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.203)

DFPS Rules, 40 TAC §§[745.321](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=321); [745.345](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=345)

#### 3411 Good Cause to Exceed the Time Frame

LPPH DRAFT 8257-CCL (new item)

Policy

Licensing may have good cause to exceed its time frame for processing an application when:

• there are at least 15% more applications being processed than in the same quarter of the previous year;

• the delay is caused by another public or private entity that must be relied on to process all or part of the applications received;

• the operation is the subject of a pending investigation; or

• other conditions exist that give good cause for exceeding the time frames.

DFPS Rules, 40 TAC §[745.327](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=327)

#### 3412 Criteria for Issuing an Initial License

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector issues an initial license to an applicant operation upon determining that the operation is in compliance with statutes, administrative rules, and minimum standards, the operation has paid all required fees, and one of the following situations exists:

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

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

• The operation has changed ownership, which has resulted in changes to policy and procedure or direct care staff (see [3930](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3930) Change in Ownership).

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

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

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

DFPS Rules, 40 TAC §[745.345](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=345)

#### 3413 Criteria for Issuing a Compliance Certificate, Registration, or Listing

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector issues a compliance certificate, registration, or listing when the operation:

• has met statutes, administrative rules, and all appropriate minimum standards, as applicable; and

• has paid all required fees.

### 3420 How to Prepare the Permit

#### 3421 How to Prepare an Initial License

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector issues the initial license with restrictions.

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

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

Procedure

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

*If all requirements are met during the initial licensing period, you will be issued a full permit. The initial license permit is valid for six months and may be renewed for an additional six months only.*

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

DFPS Rules, 40 TAC §[745.241](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=241)

##### 3421.1 Child Day Care

LPPH DRAFT 8257-CCL (new item)

Procedure

Form 2910 Child Day Care Licensing Application

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

• capacity:

• for licensed child care centers, the capacity for infants through age 17 months and capacity for children age 18 months and older;

• for licensed child care homes, the total capacity;

• exact hours, days and months of operation;

• children’s ages; and

• any conditions.

Statute provides for the issuance of a permit to care for children under age 14. If an operation also provides care for children ages 14 through 17, the inspector records this information on the application.

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

Form 2830 Child Day-Care Permit

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

• total capacity; and

• age categories of children (infants, toddlers, pre-kindergarten, and school age)

Ages 5 through 17 are included as school age.

Form 2803 Child Care Issuance Letter

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

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

DFPS Rules, 40 TAC §[745.345](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=345)

##### 3421.2 Residential Child Care

LPPH DRAFT 8257-CCL (new item)

Procedure

Form 2907 Residential Child Care Permit

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

• capacity (except for a CPA);

• gender and ages of children; and

• types of services offered by the operation, as shown in 3421.21 Types of Services Included as Restrictions.

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

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

DFPS Rules, 40 TAC §§[748.63](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=63), [749.63](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=63); 749.303; [749.1101](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=1101); [750.61](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=61)

Form 2803 Child Care Issuance Letter

The inspector mails the permit to the permit holder with CLASS Form 2803 Child Care Issuance Letter, showing the specific conditions noted on Form 2960 Application for a License to Operate a Residential Child Care Facility or Child-Placing Agency, then records applicable information in CLASS.

###### 3421.21 Types of Services Included as Restrictions

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector may document on the license that the operation may care for children up to 18 years of age.

DFPS Rules, 40 TAC §§[748.1931](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=1931); [749.1103](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=1103); [749.1105](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=1105); [749.2651](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=2651); [750.501](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=501)

The inspector must select the applicable care type and services from the following sections on the *Residential Care Main Operation* page in CLASS:

• *Care Type*

• *Child Care Services Provided (not optional)*

• *Programmatic Services Provided*

• *Treatment Services Provided*

• *Child Placing Services (CPA only)*

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

DFPS Rules, 40 TAC §§[748.75](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=75); [748.4261(b)](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=4261)

#### 3422 How to Prepare a Compliance Certificate

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector issues the compliance certificate with restrictions. The effective date of the permit is the date it is prepared and signed.

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

DFPS Rules, 40 TAC §[745.321](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=321)

Procedure

Form 2841 Small Employer Based Child Care or Temporary Shelter Child Care Facility Application

The inspector records the following restrictions in CLASS and on [Form 2841](http://intranet/application/Forms/showFile.aspx?NAME=2841.doc) Small Employer Based Child Care or Temporary Shelter Child Care Facility Application:

• exact hours, days, and months of operation; and

• any conditions.

When the permit is issued the inspector signs and dates Form 2841 and records applicable information in CLASS.

Form 2845 SEBCC or Form 2846 TSP Certificate

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

• the total capacity (no more than 12 for small-employer based operations and at least 7 for temporary shelter child care operations); and

• all age categories of children (infants, toddlers, pre-kindergarten, and school age).

Form 2843 SEBCC Issuance Letter or Form 2843a TSP Issuance Letter

The inspector mails the permit to the permit holder with [Form 2843](http://intranet/application/Forms/showFile.aspx?NAME=2843.doc) SEBCC Issuance or [Form 2843a](http://intranet/application/Forms/showFile.aspx?NAME=2843a.doc) TSP Issuance Letter, showing the specific conditions noted on the application and in CLASS.

Texas Human Resources Code §§[42.151](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.151); [42.201](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.201)

#### 3423 How to Prepare a Registration and Listing

LPPH DRAFT 8257-CCL (new item)

Policy

The effective date of the registration or listing permit is the date the permit is signed by the inspector.

The inspector issues a registration or listing in both English and Spanish if the most recent federal census shows that more than one-half of the population is of Hispanic origin or Spanish-speaking in:

• a municipality; or

• a commissioner’s precinct in a county.

See the [U.S. Census website](http://quickfacts.census.gov/qfd/index.html) for more information.

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

Procedure

For a registration, the inspector:

• prepares the registration permit using CLASS Form 2834 Registered Child-Care Home Permit; and

• routes the permit to the permit holder with CLASS Form 2834a Child Care Home Issuance Letter.

For a listing, the inspector prepares and sends CLASS Form 2871 LH Issuance Letter to the permit holder.

DFPS Rules, 40 TAC §[745.341](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=341)

#### *Note to Licensing Staff: conditions may now be placed on listing permits. Prohibitions on the placing of conditions on listing permits have been removed from the LPPH.*

#### 3424 Applying Additional Types of Conditions or Restrictions

LPPH DRAFT 8257-CCL (new item)

Policy

After obtaining supervisory approval, the inspector may set additional conditions or restrictions if circumstances warrant based on

• risk to children, including an unsustained Central Registry finding; or

• failure to comply with minimum standards.

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

##### 3424.1 Results of Background Checks

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector may impose conditions because of information obtained through a Central Registry or criminal history check. However, conditions are not acceptable measures to limit the presence of a person who resides in an operation if he or she is:

• a permit holder; or

• a person who must not be present in an operation while children are in care.

See:

[5331](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5331) Acting on Abuse and Neglect Findings in a DFPS Central Registry Report

[5350](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5350) Acting on the Results of a Criminal History Check

##### 3424.2 Deficiencies That Require Limits on Certain Activities

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector may impose conditions to limit certain activities such as providing infant care or providing transportation because of previous deficiency with applicable minimum standards.

Examples of Special Conditions

*Condition: Children under six years old are restricted to the first floor.*

*Condition: The permit holder’s spouse must not transport children in care.*

The inspector adds a more complete explanation to the issuance letter if needed.

##### 3424.3 Fire and Sanitation Reports and Other Local Ordinances

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector is not responsible for enforcing local rules and ordinances unless those rules or ordinances relate to:

• the operation receiving approved fire and health inspections; or

• other requirements in the minimum standards relating to health and safety.

The inspector takes into consideration the following when setting the capacity on a permit:

• an inspection report (fire or sanitation) prohibits the use of certain levels of the operation for all or for certain age groups or prohibits the use of certain space; or

• a Certificate of Occupancy related to a fire, health, or building restriction sets a capacity lower than licensing standards would normally allow.

See 3313.6 Confirming Fire and Health Inspections (Except for Listed Homes)

##### 3424.4 Special Services for Residential Operations

LPPH DRAFT 8257-CCL (new item)

Procedure

If a type of service offered by an operation is not listed as a restriction on the permit and is a service included in the applicable minimum standards, the inspector adds it as a condition to the permit.

Special services include:

*• ICPC* (Interstate Compact on the Placement of Children)

*• Young Adult Care*

*• International Adoptions*

*• Physically Challenged*

*• Human Trafficking*

If more than one type of programmatic service is offered in addition to therapeutic camp services at a GRO, add it as a condition to the permit to reflect the appropriate age range for that program.

A child-placing agency or independent foster home that requests to provide emergency services must have that service included as a condition on the permit.

DFPS Rules, 40 TAC §§[745.4201](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=4201), [748.4403](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=4403)

###### 3424.41 Emergency Services for Child-Placing Agencies and Independent Homes

LPPH DRAFT 8257-CCL (new item)

Procedure

A child-placing agency or independent foster home that requests to provide emergency services must have that service included as a condition on the permit.

The inspector also follows these procedures for a child-placing agency (CPA) or independent foster home that wants to accept a child for placement from law enforcement

• Before accepting a child from a law enforcement officer, the operation must ask the inspector for authorization by submitting [Form 2961](http://intranet/application/Forms/showFile.aspx?NAME=2961.doc) Request to Accept Children From a Law Enforcement Officer.

• After receiving the request, the inspector must:

• review the operation’s compliance history to ensure the operation is not on corrective action or under any adverse action;

• review the operation’s emergency admissions policy to determine if it is equipped to accept this type of emergency admission; and

• add that condition to the permit if the inspector determines that the operation should be authorized to accept this type of emergency admission.

DFPS Rules, 40 TAC §§[745.4201- 745.4205](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=40&pt=19&ch=745&sch=H&div=2&rl=Y); [749.1181-749.1189](http://texreg.sos.state.tx.us/public/readtac%24ext.ViewTAC?tac_view=5&ti=40&pt=19&ch=749&sch=H&div=4&rl=Y); [750.501(3)](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=501)

##### 3424.5 Temporary Conditions

LPPH DRAFT 8257-CCL (new item)

Policy

A temporary condition may be set for deficiencies with minimum standard rules that do not pose a risk to children if compliance will be achieved within three months.

#### 3425 Amend the Permit When Necessary

LPPH DRAFT 8257-CCL (new item)

Procedure

Adding conditions may require amending a current permit. See [3810](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3810) Circumstances That May Require Amending the Permit.

### 3430 Recommending Denial of a Permit

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector does not issue a permit if the operation:

• does not comply with administrative rules, minimum standards, or the law; or

• the applicant knowingly and willfully provides false information during the application process.

Texas Human Resources Code §§[42.052](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.052); [42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072); [42.163](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.163); [42.210](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.210)

DFPS Rules, 40 §[745.8605(1)](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8605)

If recommending denial, the inspector submits the documentation to the supervisor.

If the supervisor and district director or manager concurs with the recommendation, the inspector consults with a Licensing attorney before denying the permit.

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

## 3500 Steps to Take After Issuing the Initial License

### 3510 Evaluating During the Initial License Period

LPPH DRAFT 8257-CCL (new item)

Policy

The initial license period allows an operation to demonstrate understanding of minimum standards and ensure a safe environment for children with minimal monitoring by Licensing.

The inspector provides technical assistance during this time to help the provider develop the knowledge needed to maintain compliance.

If an operation’s deficiencies result in the inspector making a determination that the operation poses a risk to the health and safety of children, Licensing denies the non-expiring license.

Texas Human Resources Code §§[42.047](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.047); [42.048](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.048); [42.072](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

DFPS Rules, 40 TAC §§[745.343](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=343); 745.347; [745.8605](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8605); [745.8607](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8607)

See also:

3511 Conducting Inspections During the Initial License Period

3520 Renewing an Initial License

3531 Time Frame for Issuing a Non-Expiring License

[4154](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4154) Technical Assistance

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

#### 3511 Conducting Inspections During the Initial License Period

LPPH DRAFT 8257-CCL (new item)

Policy

In order to determine whether law, administrative rules, and minimum standards are met on a continuing basis, the inspector conducts inspections while children are in care.

##### 3511.1 Frequency of Inspections

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector conducts at least three unannounced inspections while children are in care to determine whether law, administrative rules, and minimum standards are met on a continuing basis.

The inspector obtains supervisory approval before making an announced inspection.

DFPS Rules, 40 TAC §[745.351](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=351)

Procedure

The inspector inspects the operation within two months after issuance of the initial license, if it is operating. The final (usually third) inspection must be made at least 14 days before expiration of the permit.

The inspector reevaluates compliance with all applicable law, administrative rules, and minimum standards during the initial period, and does the following:

• plans and conducts the inspections according to the information in [4140](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4140) Preparing for Inspections and [4150](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4150) Conducting Inspections;

• discusses the results of the inspection and any deficiencies with the person in charge at the conclusion of each inspection as required by [4170](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4170) Conducting the Exit Conference; and

• sends a copy of the CLASS Form 2936 Child Care Facility Inspection to the permit holder and those as required by [Appendix 3000-2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_3000_2.asp#LPPH_apx3000_2): Notifying the Operation.

Inspecting Child-Placing Agency (CPA) Branch Offices During the Initial License Period

Procedure

If a CPA opens a branch office during the initial license period, the inspector conducts a monitoring inspection at the branch office and evaluates all minimum standards within two months after the branch office opens.

Additional monitoring inspections are conducted at the same interval as those conducted for the CPA’s main office.

### 3520 Renewing an Initial License

LPPH DRAFT 8257-CCL (new item)

Policy

An initial license is valid for six months from the date it is issued and may be renewed for one additional six-month period with supervisory approval.

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

DFPS Rules, 40 TAC §[745.347](http://texreg.sos.state.tx.us/public/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=347)

Procedure

The inspector renews an initial license when an operation:

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

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

#### 3521 How to Renew an Initial License

LPPH DRAFT 8257-CCL (new item)

Procedure

The inspector discusses the recommended decision to renew the initial license with the permit holder. The inspector informs the operation that a new application must be submitted and a fee for the new initial license must be paid.

The governing body may submit a new application or may re-sign and re-date the original. If the permit holder agrees, the inspector proceeds with acceptance of the new application and renewal of the initial license.

The second initial permit may be entered into the CLASS system any time up to the first day after the first initial permit expires. For example, if the initial permit expires August 31st, the second initial permit must be entered in CLASS no later than September 1st.

The inspector develops a plan of action for the operation to achieve compliance during the second initial period, as appropriate. If the permit holder does not agree, the inspector informs the permit holder that a denial of the non-expiring license will result and the operation must close.

DFPS Rules, 40 TAC §§[745.347](http://texreg.sos.state.tx.us/public/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=347); [745.349](http://texreg.sos.state.tx.us/public/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=349); [745.353](http://texreg.sos.state.tx.us/public/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=353)

See also:

[4331](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4331) Developing a Provider Plan of Action

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

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

### 3530 Non-Expiring License

#### 3531 Time Frame for Issuing a Non-Expiring License

LPPH DRAFT 8257-CCL (new item)

The inspector signs and mails the non-expiring license and issuance letter (which are both generated in CLASS) within six months after the date the initial license is issued or renewed.

The non-expiring license must be issued no later than the first day after the initial permit expires. For example, if the initial permit expires August 31st, the non-expiring license must be entered in CLASS no later than September 1st.

The effective (issuance) date of the permit is the date that the inspector signs the permit. The non-expiring permit supersedes the initial license.

##### 3531.1 Criteria for Issuing a Non-Expiring License

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector issues the non-expiring license when:

• the initial license has been in effect for at least three months;

• the operation has satisfied initial licensing requirements by maintaining compliance on a continuing basis;

• three inspections have been made while children are in care, unless supervisory approval has been secured to make fewer inspections;

• payment of the non-expiring license fee has been verified; and

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

DFPS Rules, 40 TAC §[745.351](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=351)

If an investigation is in progress at the end of the initial period, the inspector delays the decision to issue the non-expiring license until the investigation is complete, or recommends denial. The initial license continues in effect and does not expire until a decision to issue or deny is made. The inspector documents the reason for the delay in CLASS.

#### 3532 Non-Expiring License for an Operation That Changes Ownership or Location

LPPH DRAFT 8257-CCL (new item)

Procedure

If a licensed or certified operation (other than a child-placing agency or an operation with a compliance certificate) changes its ownership or location, the permit is automatically revoked. However, an operation that was licensed at the time it changed ownership or location qualifies for a non-expiring license without going through the initial license period if the operation does not change:

• policy and procedure, including the type of child care services offered; and

• the staff who have direct contact with the children.

A child-placing agency that changes location is not required to submit an application for a new permit.

Exception for an Operation Not in Compliance

The inspector may issue an initial license in lieu of a non-expiring license to a previously licensed operation that:

• changed ownership or location; and

• has not demonstrated full compliance with statute, rule, and minimum standards.

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

DFPS Rules, 40 TAC §§[745.321](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=341); [745.345](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=345)

See also:

3313.4 Evaluating Compliance

[3920](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3920) Change of an Operation’s Location

[3930](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3910) Change of Ownership

### 3540 Decision Not to Recommend Issuance

LPPH DRAFT 8257-CCL (new item)

Policy

The inspector obtains supervisory approval if recommending that the initial license be allowed to expire without issuing a non-expiring license. See 3230 Withdrawal of an Application for a Permit.

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

DFPS Rules, 40 TAC §[745.347](http://texreg.sos.state.tx.us/public/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=347)

### 3550 Denying a Non-Expiring License

LPPH DRAFT 8257-CCL (new item)

Procedure

If the recommendation is to deny issuance of a non-expiring license, the inspector sends documentation to the supervisor before the end of the initial period so that the intent to deny letter can be signed within the six months. See:

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

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

#### 3711 Denial Because of Background Information

LPPH ~~April 2010~~ DRAFT 8257-CCL (title is revised)

Policy

Central Registry, criminal history, or sustained controlling person background check results that involve an applicant, controlling person, or a non-client residing at the operation may require staff to deny a permit.

See

3231.1 Basis to Deny a Permit for an Unsustained Central Registry Finding

3312 Conducting Background Checks

[5333](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333) Handling Unsustained Central Registry Findings

[5334](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5334) Handling Sustained Central Registry Findings

[5355.31](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5355_31) When to Deny or Revoke a Permit Based on Criminal History

### 3810 Circumstances That May Require Amending the Permit

LPPH ~~September 2012~~ DRAFT 8257-CCL (title is revised)

Policy

Changes Affecting Restrictions or Conditions

The permit may need to be amended because of changes requested by the operation that affect restrictions or conditions on the permit, including:

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

• a change in the age range of children in care;

• a reduction in the number of toilets or sinks;

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

DFPS Rules, 40 TAC §[746.301](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=301)

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

DFPS Rules, 40 TAC §§[748.63](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=63); [748.1203](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=1203); [749.63](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=63); [749.303](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=303); [749.1101](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=1101); [750.61](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=61); [750.153](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=153); [750.501(1)](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=501); [750.1009(3)](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=1009)

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

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

DFPS Rules, 40 TAC §[745.435](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=435)

Changes That Are Not Reported

The permit may need to be amended because of changes made by the permit holder that are not reported and that affect either the restrictions or conditions on the permit, or both.

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

Changes Imposed by Licensing

The permit may need to be amended because of changes imposed by Licensing to remedy a failure to comply with the licensing statute, administrative rules, or minimum standards.

### 3920 Change of an Operation’s Location

LPPH ~~September 2012~~ DRAFT 8257-CCL

Policy

If a licensed or certified operation (other than a child-placing agency or an operation with a compliance certificate) changes its location, the permit is automatically revoked. However, an operation that was licensed at the time it changed location qualifies for a non-expiring license without going through the initial license period. This applies only if the operation does not change:

• policy and procedure, including the type of child care services offered; and

• the staff who have direct contact with the children.

The permit holder must notify Licensing as early as possible before the move and reapply for a new permit in order to operate at the new location.

Licensed operations must pay new application and license fees. Certified operations and operations with compliance certificates must pay new application fees.

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

DFPS Rules, 40 TAC §§[743.7](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=743&rl=7); [745.429](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=429); [745.435](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=435); [750.1009(1)](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=1009)

See 3532 Non-Expiring License for an Operation That Changes Ownership or Location.

#### 5333 Handling Unsustained Central Registry Findings

LPPH ~~April 2013~~ DRAFT 8257-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:

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

• the designated perpetrator has been notified of the findings;

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

• an emergency release determination has already been made; or

• 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 investigator, not the CBCU, handles due process notifications for unsustained findings resulting from a Licensing investigation. In addition, the 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:

3312 Conducting Background Checks

[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.

#### 5334 Handling Sustained Central Registry Findings

LPPH ~~April 2013~~ DRAFT 8257-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, the finding is ineligible for a risk evaluation or the CBCU did not approve the risk evaluation, and the person is present at an operation while children are in care, the inspector may:

• 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);

• set special conditions on the permit (see 3424 Applying Additional Types of Conditions or Restrictions); or

• 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.

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

LPPH ~~April 2013~~ DRAFT 8257-CCL

Procedure

When appropriate, the Centralized Background Check Unit (CBCU):

• processes 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);

• makes a recommendation to the inspector to cite minimum standard or rule deficiencies related to obtaining background check information; or

• notifies the inspector if a person is barred from the operation based on his or her criminal history.

When appropriate, the inspector:

• cites the operation for any violations of minimum standards or rules and sets a compliance date;

• conducts 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;

• sets 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); or

• denies or revokes the permit.

#### 5377 Obtaining a Risk Evaluation Prediction

LPPH DRAFT 8257-CCL (new item)

A risk evaluation prediction can be requested from CBCU for applicants who have unsustained Central Registry findings.

Procedure

A risk evaluation prediction is a process to determine whether a risk evaluation would likely be approved for a person who has an unsustained Central Registry finding that:

• is pending a due process hearing;

• has not been released through an emergency release; and

• would be eligible for a risk evaluation if sustained.

To determine whether a risk evaluation would likely be approved for a person who has requested a due process hearing, the inspector emails the CBCU manager of the CBCU staff assigned to the operation to request a risk evaluation prediction.

The inspector includes in the request:

• the name, Social Security Number, and date of birth of the person with the unsustained finding;

• the operation’s name and number;

• the person’s role (both in the investigation and at the operation);

• a brief synopsis of the investigation and concerns, including the IMPACT investigation number;

• whether the person is currently present at the operation, if applicable (see [5383](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5383) Defining Presence at an Operation);

• whether a safety plan was implemented and if the person’s presence at the operation was precluded pending Licensing’s completion of the investigation;

• the status of due process; and

• any information that CCL has communicated to the person regarding the unsustained finding.

The inspector provides any additional information to the CBCU upon request. Once the information has been provided, the following steps are taken as appropriate:

1. The CBCU documents the risk evaluation prediction in CLASS, including whether the risk evaluation would likely be approved and if so, what conditions on the permit are recommended.

2. The inspector coordinates with the Legal division to determine if a permit can be denied (if applicable) and, if so, what information can be released to the applicant regarding the reason for the denial.

3. The inspector subsequently notifies the CBCU on whether the permit will be denied, if applicable. If a permit will be denied, the inspector also notifies the CBCU of what information will be released to the applicant regarding the reason for the denial (see [7633](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7633) Notice of Decision to Revoke, Deny, or Suspend an Application or Permit).

### 7310 Withdrawal of an Application

LPPH ~~December 2009~~ DRAFT 8257-CCL

Policy

An operation may voluntarily withdraw an application for a permit.

See 3230 Withdrawal of an Application for a Permit.

## Definitions of Terms

LPPH ~~March 2015~~ DRAFT 8257-CCL

**military member:** A person who is currently serving full-time in the armed forces (army, navy, air force, coast guard, and marine corps) of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state (such as the Texas National Guard or the Texas State Guard).

**military spouse:** A person married to a military member.

**military veteran:** A person who has served as a military member and was discharged or released from service.

**risk evaluation prediction:** A process to determine whether a risk evaluation would likely be approved for a person who has an unsustained Central Registry finding that:

• is pending a due process hearing;

• has not been released through an emergency release; and

• would be eligible for a risk evaluation if sustained.