##### 7713.1 Determining Whether a Request for an Administrative Review Meets the Due Date

LPPH ~~November 2011~~ DRAFT 9222-CCL

Policy

Licensing must receive a request for an administrative review in writing, including by e-mail or fax, within 15 days of the date that the individual or permit holder received notice about the Licensing decision or action.

DFPS Rules 40 TAC [§745.8806](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=8806)

When determining the due date for an administrative review request, Licensing allows 3 days for the individual or permit holder to receive notice about the Licensing decision or action through the mail, unless Licensing staff provided notification of the inspection results at the time of the inspection. This is in addition to the 15 day time frame.

If the request for an administrative review is within the specified time frame, Licensing honors the request and conducts the review. If the request is received after the due date, it is considered late and Licensing does not conduct an administrative review.

Procedure

To determine whether the request for an administrative review is received by the date it is due to Licensing, the reviewer determines whether Licensing left notification at the operation at the time of inspection or mailed a notification letter to the individual or permit holder explaining the right to an administrative review.

If the notification letter was mailed, the reviewer:

• adds three calendar days to that mail date to estimate the date that the individual or permit holder is presumed to have received the notification letter by regular mail;

*•* adds 15 calendar days to that date of presumed receipt for the request; and

*•* identifies the first date after that time period that is not a Saturday, Sunday, or legal holiday.

If notification was provided at the time of the inspection, the reviewer:

*•* adds 15 calendar days to that date; and

*•* identifies the first date after that time period that is not a Saturday, Sunday, or legal holiday.

If the request is received within the time frame calculated by the reviewer, Licensing staff follow the procedures in [7713.11](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7713_11) When the Request for an Administrative Review Meets the Due Date.

If the request is received after the date calculated by the reviewer, Licensing staff follow the procedures in [7713.12](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7713_12) When the Request for an Administrative Review Does Not Meet the Due Date.

##### 7716.1 Documenting the Outcome of an Administrative Review in CLASS

LPPH ~~December 2013~~ DRAFT 9222-CCL

The reviewer documents the outcome in the CLASS system by:

*•* changing the status of the administrative review from *Requested* to *Overturned* or *Upheld*;

*•* clearly explaining the decision in the *Due Process Documentation* field;

*•* entering a date in the *Decision Date* field; and

*•* drafting a letter to notify the individual or designee of the operation of the decision (see [7717](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7717) Notifying a Requestor About the Outcome of an Administrative Review).

Documenting the Administrative Review Status for an Abuse or Neglect Citation in CLASS

Licensing staff change the status of the administrative review for the abuse or neglect citation from *Pending* to *Requested* if:

• an individual who was designated as a perpetrator of abuse or neglect requests a review of the investigation finding; or

• a designee of the operation requests an administrative review of the citation for abuse or neglect.

The finding for an abuse or neglect citation must remain as *Requested* until the due process for all designated perpetrators is complete. Once the due process for all designated perpetrators is complete, licensing staff change the administrative review status for the abuse/neglect finding in CLASS from:

• *Requested* to *Upheld* if the abuse/neglect finding was upheld; or

• *Requested* to *Overturned* if the abuse or neglect finding was overturned.

If both the individual and the operation waive the right to an administrative review, Licensing staff change the status of the administrative review for the abuse or neglect citation from *Pending* to *Waived.*

Publication note below (do not remove this note): The item below is changed only to add an x-ref to the item above. The revision date will not be changed, since we’re just adding a link. No need to include this item in the revision memo. Jackie

#### 7726 Documenting the Final Disposition for Abuse or Neglect Investigations in CLASS

LPPH December 2013

Policy

If the original disposition is *Reason to Believe*, the investigation cannot be closed until the *Final Disposition* has been entered in CLASS. The final disposition must be entered after due process for all perpetrators associated with the investigation has been completed.

Procedure

Once due process has been completed, Licensing staff must:

• select the appropriate final disposition from the *Final Disposition* drop-down menu on the *Investigation Conclusion* page; and

• document the reason for the final disposition, including whether the due process hearing was waived, upheld, or overturned, and the date the decision became final in the *Summary of Due Process* narrative box.

See [7716.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7716_1) Documenting the Outcome of an Administrative Review in CLASS.