#### 4145 When Political Subdivisions Inspect Child Day Care Operations

LPPH July 2012

Policy

Licensing staff do not inspect a licensed child-care center or a licensed or registered child-care home for the minimum standards related to fire safety or health practices, when all of the following are true:

a. The operation has been inspected by a political subdivision of the state. (A political subdivision may include any city, county, school district, junior college district, or public health district.)

b. The operation has documentation from the political subdivision regarding the most recent inspection, and the documentation was provided in the correct format (that is, on the appropriate form, as a letter, or as a checklist)

c. The documentation states that the operation complies with the applicable standards of the political subdivision.

d. Licensing determines that the operation is complying with any corrective action required by the political subdivision.

e. Licensing determines that the operation is complying with any restrictions or conditions placed on it 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)

Civil Practices and Remedies Code [§101.001(3)(B)](http://www.statutes.legis.state.tx.us/Docs/CP/htm/CP.101.htm#101.001)

Required During All Licensing Inspections

During each inspection, Licensing staff:

a. assess obvious risk to children each time children are present in an operation (see [4140](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4140) Conducting the Inspection);

b. cite as deficiencies any obvious violations of the minimum standards for fire safety or health practices observed during an inspection; and

c. report violations to the appropriate political subdivision.

Procedure

Licensing staff take the following actions during each inspection:

a. Determine whether the operation has complied with the restrictions or conditions placed on it by a political subdivision or has corrected the deficiencies noted by the political subdivision.

b. Evaluate the operation’s compliance with the minimum standards for fire safety or health practices, or both, if the operation:

 • does not have documentation from the applicable political subdivision confirming that an inspection was conducted within the required timeframe;

 • has not corrected the deficiencies cited by the applicable political subdivision on the inspection documentation; or

 • has not complied with the restrictions or conditions required by the applicable political subdivision as a result of the inspection.

c. Notify the political subdivision about any deficiency observed.

d. Document all actions in the CLASS system and make appropriate notations on CLASS Form 2936 Child-Care Facility Inspection.

When Not to Evaluate for Compliance With Fire and Health Standards

Licensed Centers

Licensing staff do not inspect licensed centers for compliance with the minimum standards related to fire safety or health practices if:

 • the operation was inspected by the relevant political subdivision within the timeframe outlined in minimum standards; and

 • no deficiencies were cited during that inspection, as explained below.

|  |  |
| --- | --- |
| If … | then …  |
| a licensed child-care center has documentation showing that the political subdivision: • conducted a fire inspection within the timeframe outlined in the minimum standards; and • did not cite any deficiencies … | Licensing does not evaluate the center for compliance with minimum standards [§§746.801(13)](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=801), [746.5101 – 746.5105](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=5101),and [746.5205 – 5501](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=5205). |
| a licensed child-care center has documentation showing that the political subdivision: • conducted a health inspection within the timeframe outlined in the minimum standards; and • did not cite any deficiencies … | Licensing does not evaluate the center for compliance with minimum standards [§§746.3401 – 746.3433](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=3401). |
| a school-age program or a before or after-school program has documentation showing that the political subdivision: • conducted a fire inspection within the timeframe outlined in the minimum standards; and • did not cite any deficiencies … | Licensing does not evaluate the program for compliance with minimum standards [§§744.801(12)](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=801), [744.3501 – 744.3505](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=3501), and [744.3559 – 744.3701](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=3559). |
| a school-age program or a before or after-school program has documentation showing that the political subdivision: • conducted a health inspection within the timeframe outlined in the minimum standards; and • did not cite any deficiencies … | Licensing does not evaluate the program for compliance with minimum standards [§§744.2501 – 744.2531](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=5&ti=40&pt=19&ch=744&sch=K&div=1&rl=Y). |

Licensed and Registered Homes

Although Licensing minimum standards do not require licensed or registered child-care homes to obtain fire or health inspections, a home may have obtained one or both types of inspections from a political subdivision.

If the home was inspected by a political subdivision within the last 12 months and no deficiencies were cited during that inspection, Licensing staff do not evaluate the home for compliance with the relevant minimum standards, as explained below.

|  |  |
| --- | --- |
| If … | then …  |
| a licensed or registered child-care home has documentation showing that the political subdivision: • conducted a fire inspection within the last 12 months; and • did not cite any deficiencies … | Licensing does not evaluate the home for compliance with minimum standards [§747.801(8)](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=801), [§747.4901](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=4901), and [747.5005 – §747.5301](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=5005). |
| a licensed or registered child-care home has documentation showing that the political subdivision: • conducted a health inspection within the last 12 months; and • did not cite any deficiencies … | Licensing does not evaluate the home for compliance with minimum standards [§747.3201– §747.3229](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=5&ti=40&pt=19&ch=747&sch=R&div=1&rl=Y). |

##### 4145.1 When a County or Municipality Reports Fire Safety Deficiencies at a Licensed or Registered Home

LPPH July 2012 (new item)

Policy

A municipality or a county may enforce state law and rules concerning fire safety standards for a licensed or registered home. The municipality or county must report to Licensing any violation of the standards that it observes.

Upon receiving such a report, Licensing must initiate an investigation.

Texas Human Resources Code [§42.04431](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.04431)

Procedure

When a county or municipality makes a report to Licensing about a violation of standards related to fire safety in a licensed or registered home, Licensing staff must initiate an investigation. See [6220](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp#LPPH_6220) Receipt of Reports in Licensing Offices.