#### 4141 Preparing for All Inspections Except Investigation Inspections

LPPH ~~August 2012~~ DRAFT 5497-CCL

Policy

Licensing staff prepare for each inspection (except investigations inspections) by reviewing the:

a. operation’s record;

b. last enforcement action recommended for the operation;

c. frequency of inspections made of the operation;

d. operation’s compliance history, as documented in the CLASS system;

e. operation’s fee payment history;

f. operation’s background check records, as documented in the CLASS system;

g. operation's controlling person list, as documented in the CLASS system;

h. recommendations from enforcement team conferences, for inspections of child-placing agencies (CPAs) and general residential operations licensed to provide residential treatment services (RTCs);

i. results of random-sampling inspections of CPA foster homes, for inspections of CPAs.

Licensing staff use the information obtained during this review to determine which minimum standards to evaluate during the planned inspection.

If deficiencies with standards that pose a risk to the health and safety of children were cited during a previous inspection, Licensing staff must reevaluate the same and related standards at the inspection.

Draft Form 2936 Child-Care Facility Inspection

Staff must create and save the initial draft of Form 2936 Child-Care Facility Inspection in CLASS before conducting the inspection. See [4161](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4161) Completing CLASS Form 2936 Child-Care Facility Inspection.

For information on preparing for investigation inspections, see [4142](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4142) Preparing for Investigation Inspections.

Procedure

Reviewing Background Materials

To prepare for an inspection, Licensing staff review all of the following:

a. The most recent information in CLASS on enforcement recommendations for the operation, including the recommendation, the enforcement actions taken by other Licensing staff, and the operation’s recommended monitoring frequency

b. The capacity of the operation, the ages of the children served, the hours of operation (including days and months), and the services provided

c. The operation’s address and the directions to the operation

d. The name of the designated director, operator, or licensed administrator

e. The qualifications of the designated director or operator

f. The last renewal date of the license of a designated director or licensed administrator, if applicable

g. A history of the operation, including all of the following:

• Prior investigations, including investigation and inspection findings and technical assistance provided

• Prior inspections, including findings and technical assistance provided

• Minimum standard rules that may need to be reevaluated for compliance

• Conditions and expiration dates of any waivers, variances, and risk evaluations

• Results of random-sampling inspections for CPA foster homes, for inspections of child-placing agencies (see [4431](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4431) Using Random-Sampling Inspections to Regulate a Child-Placing Agency)

h. The operation’s fee payment history to determine whether the operation is current on all applicable fees, unless the operation is exempt from paying all fees (see [5260](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.jsp#LPPH_5260) Verification of Fee Payment)

i. The operation’s background check records in the CLASS system to verify that the operation has complied with all background check requirements (see [5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5300) Central Registry and Criminal History Searches)

j. The operation's controlling person list in CLASS to determine whether any person on the list has a status of *Review* (see 7773.4 Reviewing the Status of a Sustained Controlling Person in CLASS for procedures to take if a person has a status of *Review)*

k. Recommendations from enforcement team conferences, for inspections of CPAs and RTCs (see [4421](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4421) Enforcement Team Conferences for Child-Placing Agencies and [4441](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4421) Enforcement Team Conferences for General Residential Operations Licensed to Provide Residential Treatment Services)

l. Optional checklists, forms, reading guides, and applicable technical assistance materials

Create a Draft Inspection Form in CLASS

After reviewing the background materials related to an operation but before conducting the inspection, Licensing staff:

• complete a draft inspection Form 2936 Child-Care Facility Inspection, in CLASS; and

• download the draft Form 2936 to CLASSMate.

See [4161](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4161) Completing CLASS Form 2936 Child-Care Facility Inspection.

### 4150 Conducting Inspections

LPPH ~~August 2012~~ DRAFT 5497-CCL

Policy

When conducting any type of inspection, Licensing staff must:

a. identify themselves as DFPS Licensing staff and state the specific purpose of the inspection upon arrival at the site;

b. assess the risk to children;

c. terminate the inspection if the safety of Licensing staff is threatened;

d. document the inspection results in the CLASS system (see [4160](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4160) Documenting the Results of an Inspection);

e. conduct an exit interview at the end of the inspection; and

f. offer technical assistance to help the permit holder identify problems that contribute to deficiencies with the minimum standard rules and understand how to comply the rules.

DFPS Rules, 40 TAC §[745.8401](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=8401)

General Procedures

Procedure

Licensing staff must observe the following requirements when conducting any type of inspection on an operation:

a. Carry a valid DFPS identification card and present it to the person in charge.

b. Explain to the person in charge, upon arrival:

• the purpose of the inspection;

• the law, administrative rules, or minimum standard rules by which compliance will be evaluated; and

• that compliance with additional minimum standard rules may be evaluated as the situation demands.

c. Obtain written consent before interviewing biological or adopted children, including when conducted at an operation where a biological or adopted child of the owner or operator may be present, either as a child in care or not in care. Children in care may be interviewed, provided the child’s parent has not previously refused to allow Licensing to interview their children. See [6000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp#LPPH_6000) Investigations.

d. Terminate the inspection at any time when Licensing staff feel unsafe. Staff must not be placed at risk. Report termination of an inspection to the supervisor. If the danger arises from the caregiver’s resistance to the inspection, follow the procedures in [4159](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.jsp#LPPH_4159) Handling Resistance or Refusal to Allow Inspection.

e. Follow the procedures in [7200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.jsp#LPPH_7200) Handling Immediate Danger to Children, if children are at risk.

f. Follow the procedures in [4155](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4155) When An Inspection is Attempted, if there is no one at the operation or no children are in care.

g. Follow the procedures in [6210](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp#LPPH_6210) Receipt of Intake Reports From Statewide Intake, if abuse or neglect is reported or is observed during the inspection.

h. Ensure that the operation has complied with all background check requirements, as specified in [5300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.jsp#LPPH_5300) Central Registry and Criminal History Searches.

i. Ensure that the operation has complied with all controlling person requirements in statute, administrative rules, and minimum standards (see also [5400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5400) Controlling Person).

##### 4153.3 Reviewing Controlling Person Information During Monitoring Inspections

LPPH DRAFT 5497-CCL (new item)

During inspections with a category of *Initial* or *Monitoring,* the inspector reviews the list of controlling persons with the person in charge to determine whether the:

a. list accurately reflects the current status of all controlling persons for the operation;

b. information on each controlling person on the *Controlling Person Detail* page in CLASS is accurate; and

c. operation has complied with all controlling person requirements in statute, administrative rules, and minimum standards.

Controlling Person With a Status of Review

If any controlling person on the list has a status of *Review*, the inspector follows procedures in 7773.4 Reviewing the Status of a Sustained Controlling Person in CLASS.

Controlling Person List in CLASS Is Inaccurate

If the controlling person list in CLASS is inaccurate, the inspector:

a. documents the changes in a *Chronology (*category, *Controlling Persons)*;

b. if the operation is adding a new controlling person, directs the operation to complete a new Form 2760 Controlling Persons Form within two days, (See [5420](http://www.dfps.state.tx.us/handbooks/SWI_Procedures/Files/SWP_pg_5420.asp#SWP_5420) Determining the Eligibility of a Controlling Person for procedures to take after the operation submits the updated Form 2760);

c. if the operation is a licensed center, licensed home, or registered home and the operation did not notify Licensing within two days of when a person became or ceased to be a controlling person, cites a deficiency of the appropriate administrative rule or minimum standard; and

d. if the operation is a residential child care facility or listed family home and the operation did not notify Licensing within two days of when a person became a controlling person, cites a deficiency of TAC [§745.903](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=903).

##### 4153.4 Reviewing Records at a Central Administrative Location

LPPH ~~August 2012~~ DRAFT 5497-CCL (As of August 1, this was 4153.3)

Number change only.

##### 4161.2 Document Inspection Results on CLASS Form 2936

LPPH ~~August 2012~~ DRAFT 5497-CCL

Procedure

Licensing staff document the following on CLASS Form 2936 Child-Care Facility Inspection:

1. The finding (non-compliant, compliant, or pending) for each Licensing statute, administrative rule, or minimum standard, that was evaluated during the inspection

a. If documenting a deficiency, Licensing staff document the following in the *Narrative* field in CLASSMate or CLASS:

• Explain how the operation is deficient. (Describe observations in detail. Do not merely repeat the requirement in the statute, rule, or minimum standard.)

• Describe how the deficiency was corrected during the inspection, if applicable.

b. If further investigation or consultation with the supervisor is needed before determining whether the operation is in compliance with a statute, rule, or minimum standard, Licensing staff document the finding as *Pending*. If Form 2936 is completed in CLASS, rather than in CLASSMate, Licensing staff must type the following statement on the form for all pending deficiencies (the statement automatically prefills in CLASSMate):

*This possible standard violation is under further review. Final notification will be sent at a later time.*

c. If documenting an inspection being conducted as part of an investigation, investigators also:

• code any citations for plain-view violations observed during the walk-through as *Monitoring (MN)*; and

• add appropriate minimum standards with a code of Investigation (IV), if the investigator obtains information regarding a violation related to the allegation being investigated that was not previously identified.

2. Technical assistance provided, if any (see [4154.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4154_2) Documenting Technical Assistance)

3. The review of restrictions and conditions, for all inspections except investigation inspections (see [4152](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4152) Reviewing Restrictions and Conditions)

4. A list of any hazards that must be corrected immediately, if this may be the operation’s final inspection before its permit is revoked or its application is denied

5. Whether Licensing staff assessed risk to children as required during the operation walk-through by checking the *Items Regarding Risk to Children c*heckbox

Licensing staff do not check the box if they are visiting an operation:

• during an investigation inspection; or

• as part of an investigation to interview a child or an adult to gain information for the investigation and the operation is not involved in the allegations.

See:

[4151](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4151) Operation Walk-Throughs

[4156](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4156) Visiting an Operation to Conduct an Investigation Interview When the Operation Is Not the Subject of the Investigation

6. If conducting an *Initial* or *Monitoring* inspection, the inspector checks the *Controlling Persons Have Been Verified* checkbox on CLASS Form 2936 to document whether the inspector discussed or attempted to discuss the list of controlling persons, as documented in the CLASS system, with the person in charge

See:

4153.3 Reviewing Controlling Person Information During Monitoring Inspections

[4171](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4171) Discussing the Results of the Inspection

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

7. If conducting a *Follow-up* inspection, Licensing staff document:

• a list of all of the deficiencies or conditions being followed-up on and a finding of *NC* (deficient) or *CO* (compliant); and

• a narrative explaining how the operation is compliant or the efforts the operation has made toward compliance.

8. If conducting an inspection at a licensed child-care center, Licensing staff document whether the designated director is present during the inspection. See [4133](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4133) Minimum Frequency of Monitoring Inspections for Licensed Operations.

Limits to Documenting Names of Children

When documenting inspection results, Licensing staff:

• do not include the names of children when entering information that could be published on the DFPS public website. See [8230](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_8000.jsp#LPPH_8230) Confidential Information Not to Be Released to the Public; and

• use only a child’s first name and last initial on hard copy forms (such as inspection guides) and in sections of CLASS that are not published on the DFPS public website, such as the *Chronology* and *Contact* fields.

Limits to Documenting Names of Operation Employees

When documenting inspection results, Licensing staff:

• do not include the names of operation employees in documentation that is published on the DFPS public website. See [8230](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_8000.asp#LPPH_8230) Confidential Information Not to Be Released to the Public; and

• may use staff names on paper copies of forms, such as inspection guides, and in sections of CLASS that are not published on the DFPS public website, such as the *Chronology* and *Contact* fields.

#### 4164 Procedures When the Operation's Controlling Person List Could Not Be Verified During the Inspection

LPPH DRAFT 5497-CCL (new item)

Policy

If, during an *Initial* or *Monitoring* inspection, the inspector could not verify whether the operation's controlling person list in the CLASS system was accurate, the inspector does all of the following within 10 days of the inspection:

• Contact the operation's governing body to verify whether an operation's controlling person list in the CLASS system is accurate

• Follow procedures in 7773.4 Reviewing the Status of a Sustained Controlling Person in CLASS, if any controlling person on the list has a status of *Review*

• Document the contact with and information obtained from the governing body as a *Chronology* (category of *Controlling Persons)*

• If the controlling person list has changed:

• direct the operation to complete a new Form 2760 Controlling Persons Form within two days if the operation is adding a new controlling person. See [5420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5400) Determining the Eligibility of a Controlling Person for procedures to take after the operation submits the updated Form 2760,

• cite a deficiency of the appropriate minimum standard by completing a supplemental CLASS Form 2936 Child Care Facility Inspection if the operation is a licensed center, licensed home, or registered home and the operation did not notify Licensing within two days of when a person became or ceased to be a controlling person. See 4165 Completing a Supplemental Inspection Form, and

• cite a deficiency of TAC [§745.903](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=903) by completing a supplemental CLASS Form 2936 Child Care Facility Inspection if the operation is a residential child care facility or listed family home and the operation did not notify Licensing within two days of when a person became a controlling person. See 4165 Completing a Supplemental Inspection Form.

#### 4165 Completing a Supplemental Inspection Form

LPPH ~~August 2012~~ DRAFT 5497-CCL (As of August 1, this was 4164)

Number change only.

##### 4165.1 Contacting the Permit Holder

LPPH ~~August 2012~~ DRAFT 5497-CCL (As of August 1, this was 4164.1)

Number change only.

### 4170 Conducting the Exit Conference

LPPH ~~August 2012~~ DRAFT 5497-CCL

Policy

After completing an inspection, Licensing staff conduct an exit conference with the person in charge at the operation. During the conference, staff:

a. discuss the results of the inspection, including the reason for any deficiency issued;

b. provide any technical assistance that may assist the operation in addressing issues that have been identified and documented;

c. review the requirements and time frames to request an administrative review, if any deficiencies were issued; and

d. provide a copy of CLASS Form 2936 Child Care Facility Inspection to the person in charge.

See [7711.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7711_3) Explaining the Right to an Administrative Review

Texas Human Resources Code [§42.0441](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.0441)

DFPS Rules, 40 TAC [§§745.8801 – 8811](http://info.sos.state.tx.us/pls/pub/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=8801)

When conducting the exit conference for an initial or monitoring inspection, Licensing staff also:

• verify the operation’s contact information; and

this requirement was expanded and moved to 4150 and 4153.3. • review the operation’s compliance history, including concerns or patterns, with the person in charge.

#### 4171 Discussing the Results of an Inspection

LPPH ~~August 2012~~ DRAFT 5497-CCL

Procedure

During each exit conference, Licensing staff:

• allow the person in charge the opportunity to discuss the findings; and

• inform the person in charge about the following, if applicable:

a. Information about how high-risk deficiencies or a pattern of deficiencies may affect the frequency of inspections

b. Any technical assistance that may assist the operation in addressing issues that were identified and documented during this inspection (see [4154](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4154) Technical Assistance)

c. Failure to comply within specified deadlines or repeated deficiencies may result in remedial action without further opportunity to correct the deficiencies

d. Comments regarding the inspection may be made by responding to the [CCL Inspection Feedback Survey](http://www.dfps.state.tx.us/Child_Care/Information_for_Providers/default.asp) that is provided at the inspection and is available on the DFPS website

e. The operation may request an administrative review in writing within 15 days of receiving the results of the inspection and what information the request must include in order to be considered complete (see [7713](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7713) Receiving a Request for an Administrative Review)

Additional Requirements for Initial and Monitoring Inspections

This is a new section, but the information was already in policy as stated below (one bullet point about Controlling Persons was moved to 4150 and 4153.3.

During each exit conference for an inspection with a category of *Initial* or *Monitoring*, Licensing staff also:

• review the operation’s compliance history since the previous monitoring inspection, including a discussion of any concerns or patterns of deficiencies with the person in charge; and

• verify the accuracy of mailing, email, and other operation information on the *Operation Main* page in CLASS.

##### 4171.1 Discussing Pending Results

LPPH DRAFT 5497-CCL (new item; previously part of item 4171)

This was previously part of the main 4171. It was taken out so it could be given its own policy number. It was NOT edited.

Except for inspection findings coded as *Investigation*, if a determination cannot be made on any aspect of an inspection, Licensing staff explain to the person in charge that Licensing:

• will mail a final determination, in the form of a supplemental inspection form, within 10 days; and

• may include additional information on the supplemental inspection form that was not included on the original CLASS Form 2936 Child Care Facility Inspection.

See:

[4161](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4161) Completing CLASS Form 2936 Child Care Facility Inspection

[4164](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4164) Completing a Supplemental Inspection Form

##### 4171.2 Addressing an Operation’s Concerns About Inspection Findings

LPPH DRAFT 5497-CCL (new item; previously part of item 4171)

This was previously part of the main 4171. It was taken out so it could be given its own policy number. It was NOT edited.

Licensing staff work with the person in charge to address any concerns relating to:

• minor changes to a deficiency narrative, if the change does not impact the meaning of the citation and does not minimize the scope or severity of the violation; and

• compliance dates, if the person in charge has a valid reason for not being able to come into compliance sooner than the proposed date, as long as the change does not compromise the health or safety of children in care.

Immediately after changing any documentation on CLASS Form 2936 Child Care Facility Inspection as a result of feedback from the person in charge, Licensing staff enter a *Chronology* in the CLASS system that includes:

a. the CLASS inspection number;

b. a description of the changes requested by the person in charge; and

c. a description of what changes were made.