###### 3321.16 Processing Controlling Person Submissions ‑ Applicants for a License or Certificate

LPPH December 2012

Procedure

The inspector ensures all controlling person information that the operation submits is processed according to policies and procedures in 5400 Controlling Persons.

When a Permit Is Denied

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

5452 Eligibility to Receive a Permit After a Match for an Applicant Is Resolved

5453 Eligibility to Serve As a Controlling Person After a Match Is Resolved

##### 3512.1 Content of a Completed Application

LPPH December 2012

Policy

A complete application consists of the following materials provided by the applicant:

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

b. A completed [Form 2971](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2971.doc) Request for Criminal History and Central Registry Check

c. The following related to controlling person information:

• A completed Form [2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2760.doc), Controlling Person, if the operation submits a paper application for a permit

or

• Information on all controlling persons that the operation submitted online through the DFPS website, if the operation submits an e-application for a permit

d. A notarized 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, for any employee or potential employee who has or may have direct interaction with or the opportunity to interact with the children in the operation

The registered child care home applicant is not required to complete the affidavit.

Texas Human Resources Code [§42.059](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.059)

DFPS Rules, 40 TAC §[§747.909(1)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=909); [745.243(2)](http://info.sos.state.tx.us/pls/pub/readtac$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=243)

e. Proof of a current certification in infant, child, and adult CPR

f. Proof of a current certificate in first aid that includes rescue breathing and choking

g. Proof of payment of the registration fee

If an applicant for a registration permit has been issued a listing permit within the 30 days before applying for a registration permit, the $20 fee for the listing permit can be applied toward the $35 fee for the registration permit.

h. Verification that orientation or the pre-application interview has been completed within one year before the date of application

i. Proof of a high school diploma or high school equivalent

#### 3534 Processing Controlling Person Submissions ‑ Applicants for a Registration

LPPH December 2012

Procedure

The inspector ensures all controlling person information that the operation submits is processed according to policies and procedures in 5400 Controlling Persons.

When a Permit Is Denied

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

5452 Eligibility to Receive a Permit After a Match for an Applicant Is Resolved

5453 Eligibility to Serve as a Controlling Person After a Match Is Resolved

#### 3611 Contents of Application

LPPH December 2012

Policy

A complete application consists of the following materials provided by the applicant:

a. A completed [Form 2986p](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2986.doc), Listing Request

b. A completed [Form 2971](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2971.doc), Request for Criminal History and Central Registry Check

c. The following related to controlling person information:

• A completed [Form 2760](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2760.doc), Controlling Person, if the operation submits a paper application for a permit

or

• Information on all controlling persons the operation submitted online through the DFPS website, if the operation submits an e-application for a permit

d. Proof of payment of the listing fee, if a listing fee is required (see [5200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5200) Fees)

If an applicant for a listing permit plans to apply for a registration permit, his or her $20 fee for a listing permit can be applied toward the $35 fee for a registration permit if he or she applies for a registration permit within 30 days of being issued a listing permit.

DFPS Rules, 40 TAC [§745.243(1)](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=243)

#### 3623 Processing Controlling Person Submissions ‑ Applicants for a Listing

LPPH December 2012

Procedure

The inspector ensures 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.

When a Permit Is Denied

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

5452 Eligibility to Receive a Permit After a Match for an Applicant Is Resolved

5453 Eligibility to Serve as a Controlling Person After a Match Is Resolved

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

LPPH December 2012

Procedure

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](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_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. directs the operation to submit updated information according to procedures in 5420 When and How an Operation Submits Controlling Person Information;

c. cites a deficiency of the appropriate administrative rule or minimum standard 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; and

d. 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).if:

• the operation is a residential child care facility, and

• the operation did not notify Licensing within two days of when a person became a controlling person.

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

LPPH December 2012

Procedure

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

a. Contact the operation’s governing body to verify whether an operation’s controlling person list in the CLASS system is accurate

b. Follow procedures in [7773.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7773_4) Reviewing the Status of a Sustained Controlling Person in CLASS, if any controlling person on the list has a status of *Review*

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

d. If the controlling person list has changed:

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

ii. direct the operation to submit updated information according to procedures in 5420 When and How an Operation Submits Controlling Person Information; and

iii 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](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4165) Completing a Supplemental Inspection Form; or

iv. 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; and

• the operation did not notify Licensing within two days of when a person became a controlling person. See [4165](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4165) Completing a Supplemental Inspection Form.

### 5420 When and How Applicants and Operations Submit Controlling Person Information

#### 5421 When Applicants and Operations Submit Controlling Person Information

LPPH December 2012

Policy

Child Care Centers, Licensed Child Care Homes, and Registered Family Homes

The applicant, permit holder, or head of the governing body of a child care center, licensed child care home, or registered family home submits controlling person information:

a. when submitting an application;

b. within two days after a person becomes a controlling person at the operation; or

c. within two days after a person ceases to be a controlling person at the operation.

DFPS Rules, 40 TAC §§[744.305(a)(6)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=305), 745.903, [746.305(a)(6)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=305), [747.303(a)(6)](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=747&rl=303)

Listed Family Homes

The applicant or permit holder of a listed family home submits controlling person information:

• when submitting an application; or

• within two days after a person becomes a controlling person at the operation.

DFPS Rules, 40 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)

Residential Child-Care Operations

The applicant, permit holder, or head of the governing body of a residential child-care operation submits controlling person information:

• when submitting an application; or

• within two days after a person becomes a controlling person at the operation

DFPS Rules, 40 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)

### 5422 How Applicants and Operations Submit Controlling Person Information

LPPH December 2012

Policy

Applicants for a License

An applicant for a license completes Form 2760 Controlling Person to submit controlling person information to Licensing. Before submitting Form 2760, the applicant, designee, or head of the governing body signs the form to indicate that the information submitted is correct.

DFPS Rules, 40 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)

See:

[3311](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.asp#LPPH_3311) Application for a Licensed Child Day Care Operation

[3312](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3300.asp#LPPH_3312) Application for a License to Operate a Residential Child Care Operation

5433 Reviewing Form 2760 Controlling Person for Completeness

Applicants for a Registration or Listing

An applicant for a registration or listing submits controlling person information by:

• completing Form 2760 Controlling Person, if a paper application is being submitted; or

• entering information for all controlling persons online through the DFPS website, if an e-application is being submitted.

If an applicant is submitting Form 2760, the applicant, designee, or head of the governing body must sign the form to indicate that the information submitted is correct.

DFPS Rules, 40 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)

See:

[3510](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3510) Registration Permit Application

[3610](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3610) Listing Application

5433 Reviewing Form 2760 Controlling Person for Completeness

Operations With a Permit – Submit New Controlling Person

An operation with a permit submits information on a new controlling person by:

• entering information for the new controlling person online through the DFPS website, if the operation has an online account; or

• completing a new Form 2760 Controlling Person, if the operation does not have an online account.

If the operation is submitting Form 2760, the permit holder, designee, or head of the governing body must sign the form to indicate that the information submitted is correct.

See 5433 Reviewing Form 2760 Controlling Person for Completeness.

**Exception:** Temporary shelter child-care operations and small employer-based child care operations are not required to submit controlling person information.

Operations With a Permit – Submit Updates on Current Controlling Persons

If a person ceases to be a controlling person at an operation or if the controlling person’s contact information has changed, an operation submits this information by:

• entering the information online through the DFPS website, if the operation has an online account; or

• contacts the inspector to provide the updated information, if the operation does not have an online account.

**Exception:** Temporary shelter child-care operations and small employer-based child care operations are not required to submit controlling person information.

###### 5422.1 Controlling Persons at a Child-Placing Agency (CPA)

LPPH December 2012

A person may serve as a controlling person for:

• the CPA’s main office;

• one or more of the CPA’s branch offices; or

• any combination of the above.

The chart below outlines which CPA office can submit controlling person information, based upon which office the person serves as a controlling person:

| If a Person Serves as a Controlling Person for a… | The Office That Can Submit Controlling Person Information Is… |
| --- | --- |
| CPA main office | Main office only |
| CPA branch office | Branch office where the person serves as a controlling person  OR  Main office |

### 5430 Processing and Reviewing Controlling Person Information Submitted by an Operation

#### 5431 Processing Controlling Person Information Before Issuing a Permit

LPPH December 2012

Policy

Before issuing a permit to an applicant, Licensing staff determine whether each person submitted by the operation is eligible to be a controlling person and document the decision, as follows:

a. Reviews the controlling person information the applicant submitted (see 5433 Reviewing Form 2760 Controlling Person for Completeness and 5434 Reviewing Controlling Person Information Submitted Online)

b. Searches the CLASS and HHSC Adverse Action Record Sharing (AARS) systems for records on the person

c. Associates (links) a controlling person’s existing record with the applicant’s record in CLASS or adds a new record for the controlling person, under the applicant’s record in CLASS (see 5442 Searching for and Adding a Controlling Person Record in CLASS)

d. Determines the person’s eligibility to be a controlling person by resolving any matches found as a result of searches conducted in the CLASS or AARS systems

e. Documents the person’s eligibility in CLASS

f. Notifies the controlling person or applicant about the person’s eligibility

**Exception:** Applicants for a permit for a temporary shelter child-care operation or small employer-based child care operation are not required to submit controlling person information.

See:

5420 When and How Applicants and Operations Submit Controlling Person Information

5440 Conducting Searches for Controlling Persons in the CLASS and AARS Systems and Adding Controlling Persons to CLASS

5450 Determining and Documenting the Eligibility of a Controlling Person

5460 Notifying an Applicant, Permit Holder, or Controlling Person About a Person’s Eligibility to Serve as a Controlling Person

#### 5432 Processing New Controlling Person Submissions When an Operation Has a Permit

LPPH December 2012

Policy

Within 10 days after an operation with a permit (other than a temporary shelter child-care operation or small employer-based child care operation) submits information on a new controlling person for the operation (see 5421 When Applicants and Operations Submit Controlling Person Information and 5422 How Applicants and Operations Submit Controlling Person Information), the inspector determines whether each person is eligible to be a controlling person and documents the decision, as follows:

a. Reviews the controlling person information the applicant submitted (see 5433 Reviewing form 2760 Controlling Person for Completeness and 5434 Reviewing Controlling Person Information Submitted Online)

b. Searches the CLASS system for a record on the person

c. Associates (links) the controlling person’s existing record with the record for an operation in CLASS or adds a new record for the controlling person under the record for the operation’s record in CLASS (see 5442 Searching for and Adding a Controlling Person Record in CLASS);

d. Determines the person’s eligibility to be a controlling person by resolving any matches found as a result of the search of the CLASS system

e. Documents the person’s eligibility in CLASS

f. Notifies the controlling person or operation of the person’s eligibility

See:

5420 When and How Applicants and Operations Submit Controlling Person Information

5440 Conducting Searches for Controlling Persons in the CLASS and AARS Systems and Adding Controlling Persons to CLASS

5450 Determining and Documenting the Eligibility of a Controlling Person

5460 Notifying an Applicant, Permit Holder, or Controlling Person About a Person’s Eligibility to Serve as a Controlling Person

##### 5432.1 Processing Updates to Controlling Person Information When an Operation Has a Permit

LPPH December 2012

If an operation notifies Licensing staff of updates to information about a current controlling person for the operation (for example, updating a controlling person’s mailing address), Licensing staff enter the updated information in CLASS within 15 days from when the operation notified staff of the change.

If an operation submits updates to information about a current controlling person online through the DFPS website, the information in CLASS is automatically updated by the system unless CLASS determines that there is a conflict or error with the data entered. If CLASS determines there is a conflict or error, Licensing staff process the update submitted online within 15 days of the day staff received the notice that the update has a conflict or error.

###### 5432.11 Controlling Person Online Updates – Conflict Errors Automatically Entered by CLASS

LPPH December 2012

When an operation or applicant submits updates to controlling person information online in the DFPS website, CLASS determines whether there is a conflict error with the data submitted. CLASS automatically determines and selects the conflict error on the *Controlling Person - Update submitted by Operation – CONFLICT* page. The inspector must review the information on the page and select the *Invalidate Submission* button to clear the inspector’s *To Do* and notify the operation of the error.

Below is a chart that explains the different conflict errors.

| Conflict Error | Is automatically selected by CLASS when… |
| --- | --- |
| Controlling person not active | The operation is attempting to update a controlling person record that the inspector has already end dated in CLASS (that is, the controlling person’s status in CLASS is *Withdrawn*, *Rejected,* or *Inactive*). |
| Duplicate SSN | The operation is attempting to update a controlling person record with an SSN that is already associated with a different CP record (that is, a different person) in CLASS. |
| SSN entered does not match the SSN in CLASS | The operation is attempting to update a controlling person record by entering a SSN for the person, but the inspector has already entered a SSN for the same controlling person record in CLASS and the SSNs do not match. |
| Last active CP cannot be end-dated | The operation is attempting to enter an end date for the only active controlling person in CLASS (that is, there are no other controlling persons in *Pending*, *Identified*, or Review status). |

#### 5433 Reviewing Form 2760 Controlling Person for Completeness

LPPH December 2012

Policy

When an applicant or operation submits Form 2760 Controlling Person, the inspector reviews the form to ensure that it is complete and signed by the applicant, permit holder, designee, or head of the governing body.

If the inspector receives Form 2760 as part of an application, the inspector cannot accept the application if Form 2760 is not complete and signed by the applicant, designee, or head of the governing body. See [3243](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.asp#LPPH_3243) Checking the Application for Errors and Omissions.

Procedure

The inspector reviews Form 2760 to ensure that the following identifying information is provided for each controlling person listed.

a. Name (first, middle, last), including any maiden names, married names, or aliases

b. Date of birth

c. Current address and phone number

d. Title, position, or relationship

e. Main office or branch office number, for persons associated with a child placing agency

f. Effective date as a controlling person

g. Driver license number or state-issued identification card number *(Optional)*

h. Social Security number (*Optional)*

If Form 2760 Is Not Complete or Signed

Licensing staff contact the operation or the controlling person to obtain the information, if all required fields are not completed and Form 2760 is not signed.

See [3243](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.asp#LPPH_3243) Checking the Application for Errors and Omissions.

If a Person’s Social Security Number Is Not Listed

If a controlling person’s Social Security number is not listed, Licensing staff follow procedures in 5435 If the Controlling Person Submission Did Not Include a Social Security Number.

After Determining Form 2760 Is Complete

After determining that Form 2760 is complete, Licensing staff use the identifying information to search for each controlling person in the CLASS system. If the form was submitted as part of an application, Licensing staff also conduct a search of the HHSC Adverse Action Record Sharing (AARS) system.

See:

5441 Searching for a Controlling Person in the AARS System and Documenting the Results

5442 Searching for and Adding a Controlling Person Record in CLASS

#### 5434 Reviewing Controlling Person Information Submitted Online

LPPH December 2012

Policy

Within three days of when an applicant or operation submits controlling person information online through the DFPS website, the inspector:

a. reviews and invalidates the submission before conducting a search, if necessary (see 5434.1 Invalidating an Online Controlling Person Submission Before Conducting a Search of the CLASS System);

b. reviews the submission for a Social Security number (see 5434.2 Reviewing the Submission for a Social Security Number);

c. conducts searches for an existing controlling person record in the CLASS system (see 5434.3 Conducting Searches in CLASS for an Existing Controlling Person Record); and

d. after conducting the search, either:

• associates an existing controlling person record or adds a new controlling person record (see 5434.3 Conducting Searches in CLASS for an Existing Controlling Person Record); or

• invalidates the submission, if necessary (see 5434.4 Invalidation Reasons That Require a Search of the CLASS System Before the Submission Can Be Invalidated)

After associating or adding a controlling person record, the inspector:

• determines whether the person is eligible to serve as a controlling person; and

• sends the appropriate notification.

See:

5440 Conducting Searches for Controlling Persons in the CLASS and AARS Systems and Adding Controlling Persons to CLASS

5450 Determining and Documenting the Eligibility of a Controlling Person

##### 5434.1 Invalidating an Online Controlling Person Submission Before Conducting a Search of the CLASS System

LPPH December 2012

Procedure

If the online controlling submission meets any of the criteria listed in the chart below, the inspector may invalidate the submission before conducting a search of the CLASS system. To invalidate the submission, the inspector selects the appropriate *Invalidate* reason on the CLASS *Controlling Person – New Submission by Operation* page.

| Invalidate Reason | Is selected by the inspector when… |
| --- | --- |
| Invalid SSN | The SSN provided is obviously incorrect (for example, 111-11-1111). |
| Invalid Driver’s License | The driver license number provided is obviously incorrect (for example, 00000). |
| Not a Valid Controlling Person | An operation is attempting to add a new controlling person who does not meet the definition of a controlling person as defined in [745.901](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=901) (for example, the person entered is a child). |
| Invalid Mailing Address | An operation submits an address for a controlling person that matches the address of the operation (this is not applicable to licensed, registered, or listed homes). |
| Entered in Error | An operation entered information for a controlling person in error and requests to withdraw the submission. |
| Facility Closed | This is reserved for state office use only. |

##### 5434.2 Reviewing the Submission for a Social Security Number

LPPH December 2012

Procedure

The inspector reviews the submission to determine whether the controlling person’s Social Security number was submitted.

If the person’s Social Security number was provided, Licensing staff conduct searches for an existing controlling person record as outlined below.

If the person’s Social Security number was not provided, Licensing staff follow procedures in 5435 If the Controlling Person Submission Did Not Include a Social Security Number before conducting the searches outlined below.

##### 5434.3 Conducting Searches in CLASS for an Existing Controlling Person Record

LPPH December 2012

Licensing staff use the identifying information to search for each controlling person to determine whether there is an existing controlling person record in the CLASS system.

See 5442 Searching and Adding a Controlling Person Record in CLASS.

##### 5434.4 Invalidation Reasons That Require a Search of the CLASS System Before the Submission Can Be Invalidated

LPPH December 2012

Procedure

If the online controlling submission meets any of the criteria listed in the chart below, the inspector must conduct a search of the CLASS system before selecting the appropriate *Invalidate* reason on the CLASS *Controlling Person – New Submission by Operation* page.

| Invalidate Reason | Is selected by the inspector when… |
| --- | --- |
| Duplicate Controlling Person at this facility | An operation is attempting to add a new controlling person, but the person is already an active controlling person at the operation (that is, the person is already in *Pending*, *Identified*, or *Review* status). |
| Invalid SSN | An operation is attempting to add a new controlling person, and:  a. The SSN that the provider submitted already exists for a different controlling person in CLASS;  b. The controlling person information that the provider submitted matches a controlling person record in CLASS (that is, it is the same person), but the SSNs do not match ; or  c. The SSN provided is obviously incorrect (for example, 111-11-1111). |
| Invalid Driver’s License | a. An operation is attempting to add a new controlling person, and the driver license number that the provider submitted already exists for a different controlling person in CLASS; or  b. The driver license number provided is obviously incorrect (for example, 00000). |
| Effective start date overlaps with earlier end date for Controlling Person | An operation is attempting to add a new controlling person who has previously been associated with the operation. The *Start Date* entered for the new association is earlier than the *End Date* for the previous association. |
| Not a valid Controlling Person | An operation is attempting to add a new controlling person who does not meet the definition of a controlling person as defined in [745.901](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=901) (for example, the person entered is a child). |
| Invalid Mailing Address | An operation submits an address for a controlling person that matches the address of the operation (this is not applicable to licensed, registered, or listed homes). |
| Entered in Error | An operation entered information for a controlling person in error and requests to withdraw the submission. |
| Facility Closed | This is reserved for state office use only. |

#### 5435 If the Controlling Person Submission Did Not Include a Social Security Number

LPPH December 2012

Procedure

If a controlling person’s Social Security number was not included with the controlling person information submitted by the applicant or operation, Licensing staff:

• contact the applicant, operation, or controlling person to ask for the person’s Social Security number; or

• obtain the person’s Social Security number by reviewing Licensing records to determine if the operation has submitted a request for a background check on the person.

If the applicant, operation, or controlling person provides the Social Security number, Licensing staff enter the information in the CLASS system.

If Licensing staff obtain the person’s Social Security number by reviewing Licensing background check records, Licensing staff must be certain that the background check record where the Social Security number is listed is for the same person in the controlling person submission before adding the Social Security number to the controlling person record in CLASS.

If the controlling person refuses to provide his or her Social Security number, Licensing staff:

• select the *Refused to Disclose SSN* indicator in CLASS; and

• use other identifying information to conduct the search.

### 5440 Conducting Searches for Controlling Persons in the CLASS and AARS Systems and Adding Controlling Persons to CLASS

LPPH December 2012

Policy

Licensing staff search the HHSC Adverse Action Record Sharing (AARS) system only when controlling person information is submitted before a permit is issued. See 5441 Searching for a Controlling Person in the AARS System and Documenting the Results.

Licensing staff search the CLASS system when controlling person information is submitted:

• before a permit is issued; and

• when the operation has a permit.

See 5442 Searching for and Adding a Controlling Person Record in CLASS.

**Exception:** Searches are not completed for temporary shelter child-care operations or small employer-based child care operations.

After conducting the appropriate searches, Licensing staff resolve any matches and determine a controlling person’s eligibility to serve as a controlling person. See 5450 Determining and Documenting the Eligibility of a Controlling Person.

#### 5441 Searching for a Controlling Person in the AARS System and Documenting the Results

LPPH December 2012

Policy

Licensing staff search the HHSC Adverse Action Record Sharing (AARS) system only when controlling person information is submitted before a permit is issued for an operation other than a temporary shelter child-care operation or small employer-based child care operation.

A designated Licensing employee that has access to the AARS system conducts the search to determine whether an applicant or each of the persons submitted by the applicant is eligible to be a controlling person. The designated employee documents the results of the search in the CLASS system. The AARS search is completed in addition to the search conducted to determine whether an applicant is qualified to apply for a permit (see [3240](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3000.asp#LPPH_3240) Reviewing and Accepting the Application for a Permit).

**Exception:** An AARS search is not conducted if staff determine that a person does not meet the definition of a controlling person. See 5411 Definition of a Controlling Person.

Procedure

After an applicant submits controlling person information, the inspector assigned to process the application coordinates with a designated user of the AARS system to conduct a search in the AARS system for the controlling person.

If a paper application is submitted, the designated user of the AARS system uses the information on the application and on Form 2760 to conduct the search.

If a registered family home or a listed family home submits an e-application, the designated user of the AARS system conducts the AARS search by using the controlling person information:

• entered on the e-application; and

• submitted online through the DFPS website.

Documenting AARS Search Results

After conducting the AARS search, the designated user of the AARS system creates a *Chronology* in CLASS, with a chronology type of *Application*, to:

• document that a search of the AARS system was conducted for each controlling person; and

• document the results of the search for each controlling person.

##### 5441.1 If a Controlling Person Is Listed in the AARS System

LPPH December 2012

Policy

If the controlling person is found in the HHSC Adverse Action Record-Sharing (AARS) system:

• the designated user of the AARS system follows procedures in 5441 to document the results of the AARS search in the CLASS system; and

• the inspector follows the procedures in 5450 Determining and Documenting the Eligibility of a Controlling Person to resolve the match.

#### 5442 Searching for and Adding a Controlling Person Record in CLASS

LPPH December 2012

Procedure

For applicants and operations with a permit, the inspector conducts a search for the controlling person in the CLASS system, under the CLASS record for the applicant or operation that submitted the controlling person information.

After conducting the search, the inspector:

a. associates (links) a controlling person’s existing record with the applicant’s or operation’s record in CLASS (see 5442.1 Associating a Controlling Person With an Existing Record in CLASS);

b. adds a new record for the controlling person under the applicant’s or operation’s record in CLASS, if an existing record is not found after staff manually enter the controlling person information obtained from Form 2760 to conduct the search in the CLASS system (see 5442.2 Manually Adding a New Record for a Controlling Person in CLASS);

c. accepts the submission to add a new record for the controlling person under the applicant’s or operation’s record in CLASS, if the search was completed using the controlling person information the applicant or operation submitted online through the DFPS website (see 5442.3 Accepting an Online Submission of a New Controlling Person Record in CLASS).

After each search, the inspector associates the record, adds a new record, or accepts the submission of a new record even if the person is found to be ineligible to be a controlling person, unless the submission is invalidated (see 5434.1 Invalidating an Online Controlling Person Submission Before Conducting a Search of the CLASS System and 5434.4 Invalidation Reasons That Require a Search of the CLASS System Before the Submission Can Be Invalidated).

The inspector leaves the *Status* field on the *Controlling Person Details* page as *Pending* until:

a. the search for the controlling person in the CLASS system is complete;

b. the search for the controlling person in the HHSC Adverse Action Record Sharing (AARS) system is complete (see 5441 Searching for a Controlling Person in the AARS System and Documenting the Results), if the operation is applying for a permit; and

c. matches for the controlling person, when found as a result of the searches, are resolved (see 5450 Determining and Documenting the Eligibility of a Controlling Person).

Additional Steps for a CPA Controlling Person Record

Child-placing agency (CPA) controlling person records are entered under the CLASS record for each office (main office or branch office) that the person serves as a controlling person for.

The CPA designates which office the person serves as a controlling person for when submitting Form 2760 Controlling Person or submitting the information online through the DFPS website (See 5422.1 Controlling Persons at a Child-Placing Agency (CPA)).

If Form 2760 was submitted to the inspector for the CPA’s main office, the inspector:

• enters the record under the CPA’s main office; and

• indicates which office(s) the person serves as a controlling person for by selecting the following from the *Main/Branch* drop-down box in the *Selected Association* section of the *Controlling Persons Detail* page:

*• M*, if the person serves as a controlling person for the CPA’s main office; and

• the applicable branch number(s), if the person serves as a controlling person for a branch office of the CPA.

An inspector for a branch office can only enter controlling persons for the office to which they are assigned.

##### 5442.1 Associating a Controlling Person With an Existing Record in CLASS

LPPH December 2012

Procedure

If a controlling person has an existing record in CLASS, the inspector associates (links) the person’s record to the operation’s record in CLASS by:

• selecting the controlling person’s record found through the search; and

• selecting *Associate*.

If the inspector associated the controlling person record as a result of an operation submitting Form 2760, the inspector also updates the information entered in the *Person Details, Alternate Names*, and *Selected Association* sections of the *Controlling Person Details* page, as needed.

If the inspector associated the controlling person record as a result of an online submission, the inspector also updates the information entered in the *Person Details* section of the *Controlling Person Details* page, as needed.

##### 5442.2 Manually Adding a New Record for a Controlling Person in CLASS

LPPH December 2012

Procedure

If an existing record for a controlling person is not found after staff manually enter the information obtained from Form 2760 to conduct the search in the CLASS system, the inspector adds a new record for the controlling person to the applicant’s or operation’s record in CLASS by:

• selecting *Add New* on the *Controlling Person Search* page; and

• completing the *Person Details, Alternate Names*, and *Selected Association* sections of the *Controlling Person Details* page.

##### 5442.3 Accepting an Online Submission of a New Controlling Person Record in CLASS

LPPH December 2012

Procedure

If an existing record for a controlling person is not found after staff complete a search of the CLASS system using the controlling person information the applicant or operation submitted online through the DFPS website, the inspector adds a new record for the controlling person to the *Controlling Person – New Submission by Operation* page in the applicant’s or operation’s record in CLASS by:

• updating the *Person Details*, if necessary; and

• selecting *Accept Submission.*

### 5450 Determining and Documenting the Eligibility of a Controlling Person

LPPH December 2012

Policy

After searching the CLASS and HHSC Adverse Action Record Sharing (AARS) systems, as appropriate, for a record on a controlling person and adding or associating a record for the controlling person in CLASS, the inspector:

a. determines whether a match exists;

b. resolves any matches found in the CLASS or AARS system; and

c. updates the status of the controlling person in CLASS.

See:

[5412](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5412) Definition of a Match for Controlling Persons

5451 Resolving Matches Found in the AARS System

5452 Eligibility to Receive a Permit After Finding a Match for an Applicant

5453 Eligibility to Serve As a Controlling Person After Finding a Match

5454 Documenting the Eligibility of a Controlling Person by Updating the Status in CLASS

#### 5451 Resolving Matches Found in the AARS System

LPPH December 2012

Policy

If a search of the HHSC Adverse Action Record Sharing (AARS) system results in a match, Licensing staff resolve the match by:

• determining the reason for the match; and

• consulting with the Licensing attorney to determine whether the match makes the person ineligible to be a controlling person.

Procedure

After determining that a person has a match in the AARS system, the inspector determines whether the person has had a permit denied, revoked, or suspended by another HHSC agency because the applicant or person:

a. committed an act or omission that resulted in physical or mental harm to an individual;

b. is a threat to the health, safety, or well-being of an individual;

c. engaged in the physical, mental, or financial exploitation of an individual; or

d. committed an act or omission that renders the person unqualified or unfit to fulfill the obligations of the license.

The inspector and supervisor then consult with a Licensing attorney to determine whether the person’s listing in the AARS qualifies as a substantive reason to either deny the application or request that the operation remove the person from the role of controlling person.

See:

5452 Eligibility to Receive a Permit After Finding a Match For an Applicant

5453 Eligibility to Serve As a Controlling Person After Finding a Match

#### 5452 Eligibility to Receive a Permit After Finding a Match for an Applicant

LPPH December 2012

Policy

The chart below outlines whether a person is eligible to receive a permit, based on the results found after finding a match found on a controlling person who is also the applicant during a search of the CLASS or HHSC Adverse Action Record Sharing (AARS) systems.

If the controlling person with a match is not the applicant, see 5453 Eligibility to Serve as a Controlling Person After Finding a Match.

| If the applicant is … | Does Licensing Issue a Permit? |
| --- | --- |
| a designated controlling person … | No.  Licensing will not issue a permit until due process is final.  Licensing may deny a permit, if the person applies before due process is final. |
| a sustained controlling person … | No.  Licensing denies the person a permit, if the application is received within 5 years after the designation is sustained. |
| ineligible to apply for a permit because of adverse action … | No.  Licensing cannot even accept an application from a person who is ineligible to apply for a permit. |
| listed in the HHSC Adverse Action Record Sharing (AARS) system … | Maybe.  Licensing may issue a permit only if a Licensing attorney determines that the reason the person is listed in the AARS system does not constitute a substantive reason to deny the person a permit. |

DFPS Rules, 40 TAC [§§745.907](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=907), [745.8605(15)](http://info.sos.state.tx.us/pls/pub/readtac$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)

#### 5453 Eligibility to Serve As a Controlling Person After Finding a Match

LPPH December 2012

Policy

The chart below outlines whether a person (who is not the applicant) is eligible to serve as a controlling person at an operation, based on the type of match found on the controlling person during a search of the CLASS or HHSC Adverse Action Record Sharing (AARS) systems.

If the controlling person with a match is the applicant, see 5452 Eligibility to Receive a Permit After Finding a Match For an Applicant.

| If the person submitted by the operation Is … | Is the person eligible to serve as a controlling person? |
| --- | --- |
| a designated controlling person … | Yes. |
| a sustained controlling person … | No.  This person may not serve as a controlling person at an operation for 5 years after the designation is sustained.  If the operation has a permit, the permit holder must remove the person who is ineligible to serve as a controlling person from the role of controlling person. If the permit holder refuses or is unable to remove the person from the role of controlling person, Licensing must revoke the permit.  If the operation is applying for a permit, the applicant must remove the person who is ineligible to serve as a controlling person from the role of controlling person before Licensing can issue a permit. If the applicant refuses or is unable to remove the person from the role of controlling person, Licensing cannot issue the permit. |
| ineligible to apply for a permit because of adverse action … | Maybe.  If the operation has a permit and if a Licensing attorney determines that the reason the person is ineligible to serve as a controlling person constitutes a substantive reason to prohibit the person from being a controlling person in a DFPS-regulated operation, then the permit holder must remove the person who is ineligible to serve as a controlling person from the role of controlling person. If the permit holder refuses or is unable to remove the person from the role of controlling person, Licensing must revoke the permit.  If the operation is applying for a permit and a Licensing attorney determines that the reason the person is ineligible to serve as a controlling person constitutes a substantive reason to prohibit the person from being a controlling person in a DFPS-regulated operation, then the applicant must remove the person who is ineligible to serve as a controlling person from the role of controlling person before Licensing can issue a permit. If the applicant refuses or is unable to remove the person from the role of controlling person, Licensing cannot issue the permit. |
| listed in the HHSC Adverse Action Record Sharing (AARS) system … | Maybe.  If the operation has a permit and if a Licensing attorney determines that the reason the person is listed in the AARS system constitutes a substantive reason to prohibit the person from being a controlling person in a DFPS-regulated operation, then the permit holder must remove the person who is ineligible to serve as a controlling person from the role of controlling person. If the permit holder refuses or is unable to remove the person from the role of controlling person, Licensing must revoke the permit.  If the operation is applying for a permit and if a Licensing attorney determines that the reason the person is listed in the AARS system constitutes a substantive reason to prohibit the person from being a controlling person in a DFPS-regulated operation, then the applicant must remove the person who is ineligible to serve as a controlling person from the role of controlling person before Licensing can issue a permit. If the applicant refuses or is unable to remove the person from the role of a controlling person, Licensing cannot issue the permit. |

DFPS Rules, 40 TAC §§[745.403](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=403); [745.907](http://info.sos.state.tx.us/pls/pub/readtac$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=907); [745.911](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=911), [745.8605(15)](http://info.sos.state.tx.us/pls/pub/readtac$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)

Human Resources Code §[42.072(c-1)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072)

#### 5454 Documenting the Eligibility of a Controlling Person by Updating the Status in CLASS

LPPH December 2012

Policy

The inspector updates the status of a controlling person in the *Status* field of the *Controlling Person Details page* in CLASS after determining that the person:

a. is eligible to serve as a controlling person;

b. is ineligible to serve as a controlling person;

c. has ceased to serve as a controlling person at an operation; or

d. was entered in error.

Procedure

The following chart explains the meaning of each option in the *Status* field.

| The *Status* selected is … | when… |
| --- | --- |
| *Pending …* | a new record on a controlling person is entered for the operation.  *Pending* is the default value when adding or associating a controlling person record. |
| *Identified …* | a controlling person has no history that prohibits the person from being a controlling person (that is, the person is eligible to be a controlling person).  *Identified* is the status for each person who is:  1) currently serving as a controlling person for the operation; and  2) is eligible to serve as controlling person. |
| *Rejected …* | an operation submits the name of a controlling person for consideration, but the person has a history that prohibits the person from being a controlling person (that is, the person is ineligible to be a controlling person). See 5454.1 Entering the Reason for Rejecting a Controlling Person. |
| *Review …* | a controlling person is sustained because the person’s record is associated with an operation that had its permit revoked.  CLASS automatically updates the status to *Review* when this occurs. See [7000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7000) Voluntary Actions and Remedial Actions |
| *Inactive …* | a controlling person ceases to be a controlling person at an operation.  A status is changed to *Inactive* only when an end date is entered. |
| *Withdrawn …* | a person is entered into CLASS in error (for example, entered under the wrong operation), or the operation withdraws the person from consideration. See 5454.2 Entering the Reason for Withdrawing a Controlling Person.  This does not include when an operation removes a person from a controlling person role after being notified by Licensing that the person is ineligible to be a controlling person. |

##### 5454.1 Entering the Reason for Rejecting a Controlling Person

LPPH December 2012

Procedure

If the *Status* selected in the CLASS system for a controlling person is *Rejected,* the inspector selects a reason for the rejection from the *Rejection or Withdrawal Reason* drop-down box.

The following chart explains the meaning of each *Rejection* reason.

| The option selected under *Rejection Reason* is or  has a (an)… | and when the person is rejected from being a controlling person because … |
| --- | --- |
| *Sustained Controlling Person* | the person is listed as a sustained controlling person in CLASS. |
| *AARS History* | • the person is listed in the HHSC Adverse Action Record Sharing (AARS) system; and  • a licensing attorney has determined that the person is ineligible to be a controlling person. |
| *Previous Application Denied* | the person is ineligible to receive a permit. |

##### 5454.2 Entering the Reason for Withdrawing a Controlling Person

LPPH December 2012

Procedure

If the *Status* selected in the CLASS system for a controlling person is *Withdrawn,* the inspector selects a reason for the withdrawal from the *Rejection or Withdrawal Reason* dropdown box.

The following chart explains the meaning of the each *Withdrawal* reason.

| The option selected under *Withdrawal Reason* selected is … | when … |
| --- | --- |
| *Operation Request* | the operation withdrew the person’s name from consideration as a controlling person. |
| *Entered in Error* | the person was entered in error; for example, a person was entered for the wrong operation.  Do NOT chose this option if Licensing staff made a data entry error. In these instances, staff must request that the CLASS IT team complete a data fix.  Examples of data entry errors include:  • Licensing staff created a controlling person record when a record for the person already existed.  • Licensing staff made an error when entering a Social Security number. |

### 5460 Notifying an Applicant, Permit Holder, or Controlling Person About a Person’s Eligibility to Serve as a Controlling Person

LPPH December 2012

Policy

If the person submitted for consideration as a controlling person by an applicant or operation is determined to be eligible to be a controlling person, the inspector notifies the *controlling person* about the determination. See 5461 Notifying a Controlling Person About Eligibility.

If the person submitted by an applicant or operation is determined to be ineligible to serve as a controlling person, the inspector notifies the *applicant* or *permit holder* about the determination. See 5462 Notifying an Operation About an Ineligible Controlling Person.

DFPS Rules, 40 TAC §§[745.907](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=907); [745.911](http://info.sos.state.tx.us/pls/pub/readtac$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=911); [745.915](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=915)

#### 5461 Notifying a Controlling Person About Eligibility

LPPH December 2012

Procedure

If a person submitted as a controlling person by an operation is eligible to be a controlling person, the inspector notifies the person of their eligibility by creating and sending CLASS Form 2761 Identifying a Controlling Person to the controlling person.

Additional Requirement for Child-Placing Agencies

If the inspector assigned to a CPA’s main office creates Form 2761 regarding a controlling person at a branch office for the CPA, the inspector for the main office sends a copy of the completed Form 2761 to the inspector for the branch office.

#### 5462 Notifying an Applicant or Permit Holder About an Ineligible Controlling Person

LPPH December 2012

Procedure

If an inspector determines that a person submitted as a controlling person by an operation is ineligible to be a controlling person, the inspector does as follows:

• Notifies the applicant or permit holder about the person’s ineligibility to be a controlling person by creating and sending CLASS Form 2765 Match of an Ineligible Controlling Person to the applicant or operation

The form includes a compliance date and directs the operation to complete and return the Operation Action Form (located on the last page of CLASS Form 2765) to Licensing by the compliance date.

• Discusses with the applicant or permit holder the accuracy of the details on the person’s ineligibility, if the person who is ineligible to be a controlling person contacts the local Licensing office that sent the notice to say that he or she believes that the details are inaccurate

Unless Licensing determines that the details on the person’s ineligibility are inaccurate, the permit holder must remove the person from the operation.

Additional Requirement for Child-Placing Agencies

If the inspector assigned to a CPA’s main office creates Form 2765 regarding a controlling person at a branch office for the CPA, the inspector for the main office sends a copy of the completed Form 2765 to the inspector for the branch office.

##### 5462.1 Following Up With an Applicant or Permit Holder That Does Not Return the Operation Action Form

LPPH December 2012

Policy

If an applicant or permit holder fails to return the Operation Action Form to Licensing by the compliance date specified on the form, the inspector contacts the applicant or permit holder to ensure that the ineligible person has been removed from the role of controlling person. (The Operation Action Form is located on the last page of the CLASS Form 2765 Match of an Ineligible Controlling Person.)

If appropriate, the inspector takes one or more of the following actions:

a. Cites an operation with a permit for a violation of TAC §§[745.915(c)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=T&app=9&p_dir=P&p_rloc=147969&p_tloc=&p_ploc=1&pg=18&p_tac=&ti=40&pt=19&ch=745&rl=915); [748.103(12)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=748&rl=103), [749.103(16)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=749&rl=103), or [750.103(10)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=750&rl=103), as applicable, when the violation is for a sustained controlling person

b. Cites an operation with a permit for a violation of TAC [§745.911](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=911) when the violation is because the person:

• has been denied a permit by Licensing because of compliance history in another state; or

• is associated with an operation that had its permit denied, revoked, suspended, or terminated by another state health and human services agency within the last ten years.

c. Revokes the permit

d. Denies the permit

DFPS Rules, 40 TAC §§[745.907](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=907); [745.911](http://info.sos.state.tx.us/pls/pub/readtac$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=911); [745.915](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=915)

Texas Government Code [§531.953](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.531.htm#531.953)

### 5470 Additional Duties of Inspectors in Relation to Controlling Persons

LPPH December 2012

Policy

In addition to the duties explained in 5400 Controlling Person, inspectors also are responsible for the following:

a. Monitoring operations for compliance with the requirements related to an operation's controlling persons in statute, administrative rules, and minimum standards (see [4000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4000) Inspections)

b. Ensuring that a person who is ineligible to be a controlling person at an operation that is regulated by Licensing does not serve in the role of a controlling person (see [7773.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7773_4) Reviewing the Status of a Sustained Controlling Person in CLASS)

c. Notifying controlling persons about corrective or adverse action taken against an operation (see [7110](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7110) Notifying an Operation When Licensing Takes Remedial Action)

d. Designating a controlling person (see [7771](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7771) Choosing the Persons to Designate as Controlling)

e. Sustaining a designated controlling person (see [7770](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7770) Administrative Review and Due Process Hearing for a Designated Controlling Person)

### 7770 Administrative Review and Due Process Hearing for a Designated Controlling Person

LPPH December 2012

Policy

Within seven days of notifying a permit holder about the intent to revoke the permit of a child care operation, the inspector designates the controlling persons whose actions contributed to the revocation of the operation’s permit. See [5400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5400) Controlling Person.

The inspector may designate a person at an operation as controlling, regardless of whether the person’s name is submitted by the operation, if the person meets the definition of a controlling person.

DFPS Rules, 40 TAC [§745.905](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=905)

Each person designated as controlling is offered an opportunity to review and appeal the designation through the following:

• An administrative review conducted by Licensing staff

• A due process hearing conducted by the State Office of Administrative Hearings (SOAH)

At Licensing’s discretion, the administrative review regarding the designation may be combined with the review regarding the revocation of the operation’s permit. In addition, the administrative law judge may combine SOAH hearings that involve issues related to the same decision.

DFPS Rules, 40 TAC [§745.909](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=909)

A designated controlling person becomes a sustained controlling person when the revocation is final and:

• when the person has waived due process rights regarding the designation; or

• when the designation was upheld after exhausting due process rights.

DFPS Rules, 40 TAC [§745.907(b)](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=907); [745.8855](http://info.sos.state.tx.us/pls/pub/readtac$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=8855)

##### 7771.1 Notifying Persons About the Intent to Designate

LPPH December 2012

Procedure

Within seven days of sending an intent to revoke letter (CLASS Form 2880 Intent to Impose Adverse Action) to a permit holder, the inspector sends a copy of the intent to revoke letter and CLASS Form 2762 Intent to Designate a Controlling Person, by both certified and regular mail, to each person who has been designated as a controlling person for the operation.

Content of the Letter

The Intent to Designate a Controlling Person letter includes the following information:

a. The date that Licensing received information from the operation naming the person as a controlling person (or, if the person was not named as a controlling person by the operation, the date that Licensing decided to designate the person as controlling)

b. A statement explaining the intent to revoke the operation’s permit, indicating the operation’s address, and explaining that a copy of the intent to revoke letter is enclosed

c. A statement explaining the intent to designate the person as controlling due to the intent to revoke the operation’s permit

d. The facts to support Licensing’s decision to designate the person, if Licensing intends to designate the person as controlling and the operation did not submit the person’s name to Licensing as a controlling person

e. A statement explaining that the legal authority for the action is Human Resources Code [§42.072(g)(2)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.072) and (g)(4), and [§42.062](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.062)

f. A statement explaining the controlling person’s right to an administrative review and the procedures for requesting an administrative review, including the name of the person to whom a written request for an administrative review must be addressed

g. Notice of the right to request an administrative review within 15 days after receipt of the letter, if the person disagrees with the designation

h. A statement that the designation will be sustained when the revocation for the operation is final, and if:

• the designated controlling person has waived due process rights regarding the designation; or

• the designation for the controlling person is upheld after due process rights are exhausted

i. A statement explaining the consequences of being a sustained controlling person

j. The signature of the director of residential child care licensing, the district director, or his or her designee

Enclosures

The inspector encloses:

a. Form 2880 Intent to Impose Adverse Action letter;

b. a copy of the Human Resources Code, [Chapter 42](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm); and

c. a copy of DFPS Rules, 40 TAC [§§745.8809-745.8817](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=8809).

Delivering the Letter

The inspector:

• delivers the letter (Form 2880) to the controlling person either in person or by courier, and obtains a signed receipt; or

• sends the letter by both regular and certified mail, with a return receipt requested.

The inspector also sends a copy of the letter to the:

a. district manager;

b. Licensing attorney; and

c. supervisor.

## Definitions of Terms

**controlling person:** See [5411](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5411) Definition of a Controlling Person.

**designated controlling person:** a controlling person is designated by Licensing as a *designated controlling person*, if DFPS intends to revoke an operation’s permit. The designated controlling person has not exhausted his or her due process rights. See 40 TAC [§745.905](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=905).

**sustained controlling person:** A person who was designated by Licensing as controlling at the time revocation was initiated for an operation’s permit, and the revocation for the operation is now final and the person either:

• waived due process rights regarding the designation; or

• the designation was upheld after exhausting due process rights.

## Appendix 1000-2: Organizing Licensing Records

LPPH December 2012

All Licensing staff follow the same guidelines for maintaining Licensing records, although some information and documentation described in this appendix may not apply to all types of operations or licensed administrators. Licensing staff, therefore, include in the record only the information that applies to the type of operation or licensed administrator.

Licensing staff document work in the CLASS system, the hard copy record, and the IMPACT system (if applicable). Documentation must be objective, concise, and clear.

CLASS documentation is printed and filed as hard copy only when appropriate; for example, to file an open records request or file the documentation of hearings conducted through the State Office of Administrative Hearings (SOAH).

What to Enter in the *Chronology* Field in CLASS

The *Chronology* field in CLASS is used to document an operation’s activities during the pre-application phase, the application phase, and regulatory activities, in order of occurrence.

All chronologies are documented in the CLASS and CLASSMate. Some chronologies are generated automatically by CLASS, while others are entered by Licensing staff.

Entries Made by Staff

When documenting an activity as a chronology in CLASS, Licensing staff:

• do *not* repeat the details that appear in a DFPS letter or form; and

• enter in the *Entry Date* field the date of the *activity*, not the date of the entry.

Most letters and forms completed by Licensing staff are documented in the CLASS system, but some are documented only in the hard copy record.

Licensing staff must enter the following information in the *Chronology* field in CLASS:

a. Contacts and decisions made during the pre-application phase

b. Contacts with and actions taken on illegal operations

c. Significant telephone conversations and correspondence

d. Exceptions to the licensing process

e. Instructions from the supervisor, district director, or manager

f. Court actions

g. Court-related documents, such as correspondence requesting court action, petitions, and court orders

h. Changes of location (*listed and registered homes only*)

i. Remedial actions that are not automatically generated in CLASS

j. Documentation and results of searches for controlling persons in the HHSC Adverse Action Record Sharing system (AARS); and

k. Other actions related to a controlling person that are not automatically generated in CLASS.

Entries Made by CLASS

Based on information entered in CLASS by Licensing staff, CLASS automatically generates a chronology for the following:

a. Application decisions

b. Inspections and investigations made at an operation

c. Waiver and variance requests and decisions

d. Issuance of a permit

e. Notification for an administrative review, responses to the notification, and the outcome

f. Appeal requests, actions, and all decisions made through the appeal process

g. Change of ownership

h. Change of location (**Exception:** Chronologies for a change of location for a listed home or registered home are entered by Licensing staff).

i. Finalization of letters

j. Transferring a record

k. Closing a record

l. Controlling person decisions

If there is a need to file the chronology in the hard copy record, Licensing staff:

• print the chronology from CLASS; and

• file it on the left side of the hard copy record, with the most recent chronology entry on top.

Organizing the Hard Copy Record

Licensing staff include in the hard copy record the paperwork necessary to show that the licensing and regulatory process has been carried out according to statute, administrative rules, and the policies and procedures published in this handbook.

For a face sheet, staff may print a copy of the *Operation Main* page from CLASS or a copy of the Compliance History Report from CLASS and file it on top of the most recent chronology.

Examples of the paperwork filed in the record include:

a. forms and correspondence related to licensing, certification, registration, or listing permits;

b. correspondence from the applicant or permit holder; and

c. correspondence from others involved in the regulatory process.

Licensing staff:

a. organize the hard copy record so that it includes dividers that are tabbed and labeled by subject;

b. organize the hard copy record chronologically, starting with the current monitoring period;

c. file all documentation on the right side of the record, with the most recent documents on top within each tabbed section;

d. ensure that documentation in the hard copy record is legible; and

e. print and file CLASS documentation only when appropriate; for example, printing open records requests or the documentation of hearings conducted through the State Office of Administrative Hearings (SOAH).

Licensing staff do *not* include schedules for case readings and other internal monitoring forms in the hard copy record.

Recommended Tabs for the Hard Copy Record

It is recommended that Licensing staff file paperwork in the hard copy record under the tabs listed below.

Tab 1: Application and Permit

The following paperwork is filed under this tab:

a. A copy of the current permit

b. The issuance letter

c. The issuance summary report

d. Amendment summary

e. The operation’s floor plan

f. Information related to public hearing requirements, when applicable

g. Form 2910 Child Day Care Licensing Application or Form 2960 Application for a License to Operate a Residential Child Care Facility or Child-Placing Agency

h. [Form 2911](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2911P.doc) Governing Body/Director Designation (child day care)

i. CLASS Form 2860E Director’s Certificate

j. [Form 2982](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2982.doc) Personal History Statement

k. [Form 7257](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=7257.xls) Day Care Space Computation (or calculator tape showing the computation)

l. [Form 2948](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2948.doc) Plan of Operation for Licensed Center Operations (or the documentation required when applying for residential licensing, as indicated on [Form 2784](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2784.doc) General Residential Operation and Residential Treatment Center - Documentation Required at Application, [Form 2785](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2785.doc) Child-Placing Agency — Documentation Required at Application, or [Form 2786](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2786.doc) Independent Foster Home — Documentation Required at Application)

Tab 2: Regulation

The following paperwork is filed under this tab:

a. [Form 2936](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2936-P2A.doc)-P2a Child Care Operation Inspection Form

b. Compliance letters

c. Administrative review letters

d. Corrective action plans

e. Correspondence on revocation, denial, or suspension of a permit

f. Other regulatory correspondence

g. Correspondence related to judicial actions

h. Petitions

i. Court orders

Tab 3: Non-Abuse and Neglect Investigations

The following paperwork is filed under this tab:

a. Any documentation not found in the CLASS system

b. Any paperwork with original signatures

c. Cross references to the *Regulation* tab, as appropriate

Tab 4: Waiver/Variances

The following paperwork is filed under this tab:

a. [Form 2937](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2937.doc) Child Care Waiver/Variance Request

b. Correspondence related to waivers and variances

c. Supporting documentation

Tab: 5: Miscellaneous Documentation

The following paperwork is filed under this tab:

a. Correspondence related to the pre-application process

b. Inspection reports from other agencies or organizations, if provided

c. [Form 2962](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2962.doc) Verification of Insurance and proof of liability insurance or an exception to liability coverage and notification to the parent about the exception

d. Miscellaneous correspondence

Tab 6: Confidential

The following paperwork is filed under this tab:

a. [Form 2971](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2971.doc) Request for Background Check

b. The results of criminal history and Central Registry checks

c. Matches from either the Central Registry or criminal history checks and any subsequent documentation

Tab 7: Controlling Person

The following paperwork is filed under this tab:

• Form 2760 Controlling Person Form

• Other external documentation related to controlling persons

Appendix 5000-3 is deleted.