#### 6241 Upgrading a Non-Abuse or Neglect Intake Report to an Abuse or Neglect Intake Report

LPPH ~~December 2012~~ DRAFT 5229-CCL

Policy

A non abuse or neglect report that was processed as an Information and Referral (I&R) in IMPACT may need to be re-entered as an abuse or neglect intake report in IMPACT if:

 • the supervisor determines that the information in the non abuse or neglect intake report constitutes an allegation of abuse or neglect; or

 • after initiating the investigation, the investigator assigned to investigate the non abuse or neglect report learns additional information that constitutes an allegation of abuse or neglect.

Procedure

If a supervisor decides that the investigator must investigate the information as a report of abuse or neglect, the investigator, supervisor, or designee must:

 • call the worker line for SWI support staff; and

 • request that SWI re-enter the information in the IMPACT case management system as an intake report for abuse or neglect.

SWI may backdate the new intake report to the date and time of the original I&R if doing so will not affect the investigator’s ability to adhere to time frames for initiation for investigations of abuse or neglect. Otherwise, SWI may enter the current date and time in the intake report.

Non Abuse or Neglect Investigation Has Not Been Initiated

If the investigator has not yet initiated a non abuse or neglect investigation:

 • the non abuse or neglect intake reportis assigned to the investigator assigned to investigate the abuse or neglect investigation in CLASS; and

 • the investigator of the abuse or neglect investigation links the non abuse or neglect intake report to the abuse or neglect investigation in CLASS.

Non Abuse or Neglect Investigation Has Been Initiated

An investigator who initiates a non abuse or neglect investigation before determining that a change is needed:

1. documents all contacts and marks each minimum standard that the investigator chose to evaluate as *Compliant* on the *Standards Details* page in CLASS if an inspection has already been conducted;
2. deletes the minimum standards if an inspection has not been conducted;

c. sends the Investigation Letter (Form 2896) to the operation and informs the operation that the investigation is being referred for an investigation of abuse or neglect;

d. documents the investigation number of the abuse or neglect investigation and the reason for closure in the *Explanation of the Disposition* box on the *Investigation Conclusion* page in CLASS;

e. closes the non abuse or neglect investigation in CLASS after ensuring that the intake report for abuse or neglect has been entered in IMPACT; and

f. notifies the investigator of the abuse or neglect investigation of any contacts made as part of the non abuse or neglect investigation.

##### 6332.4 Requesting That an Operation Cease Operating (Day Care Only)

LPPH ~~December 2012~~ DRAFT 5992-CCL

Policy

An investigator or supervisor may request that a child care home cease operating if:

a. the investigator or supervisor determines that a person who is alleged to have abused or neglected a child poses an immediate threat of danger to the health or safety of children; and

b. the person is the permit holder of a regulated operation or the primary caregiver of an illegal operation; or

c. the permit holder or primary caregiver of an illegal operation refuses or is unable to remove the alleged perpetrator from the child care home.

DFPS Rules, 40 TAC §[745.705](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=705)

Procedure

If the determination is made that a child care home should cease operating, the investigator must adhere to the following steps:

a. The investigator receives supervisory approval before notifying the provider.

b. The investigator makes the determination and notify the provider as soon as possible during the investigation, and the notification may occur either outside of or during an inspection.

c. The investigator notifies the provider immediately if the investigator obtains information before the completion of the investigation that the provider may resume operation because he or she does not pose a safety threat to children.

d. If the home fails to cease operation and the risk to children remains high, the investigator immediately consults with the supervisor and works with the Licensing attorney to consider immediate legal action. See [7200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7200) Handling Immediate Danger to Children.

A provider of a child care home’s agreement to cease operating may be considered a safety plan.

##### 6413.4 Initiation of an Investigation Involving a Child With Serious Injuries

LPPH December 2012 DRAFT 5992-CCL (title is changed)

Policy

If an intake report alleges that a child involved in the allegation has serious injuries, the investigator must initiate the investigation by making a face-to-face contact with the child so that the child’s injuries (or lack of injuries) may be photographed in a timely fashion.

Regardless of the priority assigned to the investigation, the investigator must observe and interview a child with injuries as soon as possible after receiving the intake report.

If the investigator is unable to photograph the injuries timely, the investigator must notify the supervisor and documents the reason why the injuries could not be photographed in a timely fashion as a contact on the *Investigation Conclusion* page in CLASS.

##### 6443.1 Obtaining Medical Records

LPPH ~~December 2012~~ DRAFT 5992-CCL

Procedure

The investigator requests that the parent provide a medical release and requests the medical records during an investigation of abuse or neglect when the allegations being investigated include:

a. a child sustained injuries requiring medical treatment;

b. serious physical abuse;

c. medical neglect;

d. physical neglect;

e. sexual abuse, if the child received an exam by a sexual assault nurse examiner (SANE); or

f. a child fatality.

If a child in DFPS conservatorship receives medical treatment or dies, the CPS caseworker obtains the records and provides a copy to the investigator.

If the child is not seen by a medical professional, the investigator must consult with a medical professional to obtain a professional opinion of the child’s medical condition.

The investigator may need to obtain the following types of medical records, depending on the allegations being investigated:

a. Records from emergency medical services (EMS)

b. Emergency room and other hospital records

c. Medical records from the child’s primary care physician

d. Medical records from a specialist who provides care or treatment to a child

e. Records from a sexual assault nurse examiner (SANE)

f. Autopsy report and other related records from the medical examiner, if the child is deceased

g. Star Health records

The medical release and all medical records obtained in an abuse or neglect investigation are filed in the confidential abuse or neglect file, and a summary of the information is documented in a contact narrative on the *Investigation Conclusion* page in CLASS.

An investigator of a non abuse or neglect investigation may request medical records if it is necessary to make a decision regarding the outcome of the investigation.

##### 6443.4 Obtaining Documents From the Operation

LPPH ~~December 2012~~ DRAFT 5992-CCL

Procedure

Licensing has the authority to review and obtain copies of any documentation found at the operation. This documentation includes, but is not limited to:

a. a child’s record, including the service plan;

b. an employee’s record;

c. a foster home’s record, including the home study;

d. training curriculum;

e. operational policy; and

f. incident reports.

The investigator reviews all necessary records and documentation and obtains copies of all documentation that is relevant to refuting or supporting the allegations. Documentation obtained is summarized in a contact narrative on the *Investigation Conclusion* page and filed in the external investigation file.

DFPS Rules, 40 TAC [§745.8419](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=8419)

### 6470 Handling Obstruction of an Investigation

#### 6471 Obstruction by the Operation

DRAFT 5992-CCL (new item; the intro heading above is also new)

Procedure

If operation staff refuse, delay, or obstruct investigation attempts after being told the purpose of the investigation, Licensing staff inform the person in charge that Licensing staff have authority to investigate under applicable laws.

The operation must allow the investigator access to all children in care, staff, records, the physical plant, and any other information needed to conduct the investigation.

DFPS Rules, 40 TAC §§[745.8401](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=8401); [745.8415](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=8415); [745.8417](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=8417)

Human Resources Code [§42.04412](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm%22%20%5Cl%20%2242.04412)

Remedial action may be taken against the operation if the person in charge of the operation refuses, prevents, or delays the inspection or investigation. See [7000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp%22%20%5Cl%20%22LPPH_7000) Voluntary Actions and Remedial Actions.

DFPS Rules, 40 TAC [§745.8425](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=8425)

#### 6472 Alleged Perpetrator Requests Investigation Status

DRAFT 5992-CCL (new item)

During the investigation, an alleged perpetrator may request clarification about the status of the investigation or file a complaint about the conduct of the investigation. If this occurs, the supervisor must conduct an informal review within 15 days after receiving the request or complaint. The review may not be used to delay or obstruct the investigation.

Texas Family Code [§261.309(b)](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm%22%20%5Cl%20%22261.309)

#### 6473 Obstruction by Regulated Operations

DRAFT 5992-CCL (new item)

If a regulated operation obstructs the investigation, the investigator leaves an Inspection Form (Form 2936)citing HRC [§42.044](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm%22%20%5Cl%20%2242.044)12(a) for obstruction of an investigation, violation of Licensing rules allowing inspection, and the possible consequences of the violation.

#### 6474 Obstruction by Unregulated Operations

DRAFT 5992-CCL (new item)

In an unregulated operation, the investigator notifies the person in charge of Licensing’s authority to investigate under the law. If the person remains uncooperative, the investigator leaves the operation. If possible, the investigator documents:

a. any evidence of violation of the Human Resources Code or Texas Administrative Code;

b. any observed hazards to children or situations that would be a violation of standards if the operations were registered or licensed; and

c. any child care practice that puts children at risk.

See [6550](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp%22%20%5Cl%20%22LPPH_6560) Investigations of Illegal Operations With No Allegations of Abuse or Neglect

#### 6524 Child Death Report

##### 6524.1 Preliminary Child Death Report

LPPH ~~December 2012~~ DRAFT 5992-CCL

Within 24 hours of receiving an intake report or being notified about a child’s death, the investigator:

 • completes a preliminary version of CLASS Form 2899e Child Death Report; and

 • sends a copy of the report to certain DFPS staff.

Before the investigator completes the Child Death Report, the investigator enters the following information on the *Victim and Parent Details* page in CLASS:

a. Incident location

b. Cause and manner of death (see [6527.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6527_1) Cause and Manner of Death)

c. Death related to abuse or neglect

d. Death related to restraint

e. Law enforcement notification (see [6523.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6523_1) Notifying Law Enforcement)

The investigator completes the information according to the information that is known within the first 24 hours after being notified of the child’s death. The investigator may update the information as the investigation progresses.

To complete the Child Death Report, the investigator:

a. selects the *Preliminary* radio button;

b. enters the case name of the IMPACT investigation; and

c. enters a summary of the allegations in the *Brief Incident Summary* narrative box.

The summary of the allegations includes information obtained to date regarding the circumstances surrounding the child’s death, including:

a. where the incident occurred;

b. who was present;

c. events leading up to the child’s death; and

d. suspected cause of the child’s death, if known.

Before the investigator saves a final version of the preliminary Child Death Report, a supervisor or above reviews the report for accuracy. Upon approval from a supervisor or above, the investigator saves a final version of the report.

After receiving approval from the supervisor or above, the investigator forwards the report via email to the program improvement specialist in his or her district for day care, or to the supervisor for residential care.

The email including the 2899e includes:

a. the operation’s name and number and the region, county and city in which the operation is located;

b. the CLASS investigation number;

c. the IMPACT investigation number;

d. the child’s name, date of birth, and date of death;

e. information concerning the involvement of law enforcement; and

f. a summary of the circumstances surrounding the child’s death.

The program improvement specialist for day care, or supervisor for residential care, then forwards the email with the 2899e attached to the:

a. assistant commissioner for Child Care Licensing;

b. director for residential care, or the director for day care;

c. district director for day care, or the manager for residential child care;

d. program specialist at the DFPS state office who is responsible for reporting the death of a child;

e. regional director for CPS (if the victim is a child in CPS conservatorship);

f. CPS conservatorship caseworker (if the victim is a child in CPS conservatorship);

g. lead investigation analyst;

h. division administrator for performance management;

i. residential contract manager (residential only);

j. DFPS Internal Audit director;

k. local public information officer; and

l. any other person designated by the district director or manager

##### 6524.2 Confirmed Child Death Report

LPPH ~~December 2012~~ DRAFT 5992-CCL

Upon receipt of a final autopsy report or a death certificate, the investigator updates the information about the child’s death on the *Victim and Parents Details* page and the Child Death Report (2899e) in CLASS. To complete the confirmed Child Death Report, the investigator:

a. selects the *Confirmed* radio button;

b. enters the case name of the IMPACT investigation; and

c. enters a summary of results of the investigation in the *Brief Incident Summary* narrative box.

The summary of the investigation includes:

a. the events leading up to the child’s death;

b. the cause of the child’s death; and

c. the finding of the investigation.

Before the investigator saves a final version of the confirmed Child Death Report, a supervisor or above reviews the report for accuracy. Upon approval from a supervisor or above, the investigator saves a final version of the report.

After receiving approval from the supervisor, the investigator forwards the report via email to the program improvement specialist in his or her district for day care or to the supervisor for residential care.

The email including the 2899e includes:

a. the operation’s name and number and the region, county, and city in which the operation is located;

b. the CLASS investigation number;

c. the IMPACT investigation number; and

d. the child’s name, date of birth, and date of death.

The program improvement specialist for day care, or supervisor for residential care, then forwards the email with the 2899e attached to the:

a. assistant commissioner for Child Care Licensing;

b. director for residential care or the district director for day care;

c. the district director for day care, or the manager for residential child care;

d. program specialist at the DFPS state office who is responsible for reporting the death of a child;

e. regional director for CPS (if the victim is a child in CPS conservatorship);

f. CPS conservatorship caseworker (if the victim is a child in CPS conservatorship);

g. The lead investigation analyst;

h. The division administrator for performance management;

i. residential contract manager (residential only);

j. local public information officer;

k. DFPS Internal Audit Director; and

l. any other person designated by the district director or manager.

### 6540 Investigations of Matches to the Database of Sex Offenders

LPPH ~~December 2012~~ DRAFT 5992-CCL

Policy

Each director or manager develops a plan to ensure that the sex offender batch report (located under the *CLASS Tools* tab) that runs every Tuesday and Thursday is checked at least weekly to determine if there are sex offenders identified as a Match Level 1 or Match Level 2 in his or her region.

A Match Level 1 is considered an exact match; that is, the sex offender’s address matches the address of a regulated operation. A Match Level 2 is considered a proximity match; that is, a sex offender lives within close proximity of a regulated operation.

When staff receive information that a person who is on the database of sex offenders has a home address listed that is the same as a child care operation or within proximity of a child care operation, an investigation must be initiated to determine the risk to the children in care at the operation.

The exception to these procedures is when a child in care is a registered sex offender. No investigation is conducted under these circumstances.

Procedures

Sex Offender Resides at Operation or Home (Match Level 1)

When it is discovered that a person on the sex offender database has an address that matches the address of an operation or home, Licensing staff:

a. create an intake report in CLASS;

b. prioritize the intake report as a *Priority 2 ‑ serious safety or health hazard;*

c. select the *Endangering Person* allegation type; and

d. follow procedures for a Priority 2 investigation.

If a listed sex offender resides in the operation or has a relationship with the provider and lists the operation’s address as a home address, then:

 • the permit holder may choose to have the sex offender relocate to a new address and ensure the sex offender has no contact with the operation while children in care; or

 • the permit of the operation must be revoked or denied. See [7600](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp%22%20%5Cl%20%22LPPH_7600) Adverse Actions.

See:

[6222.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.asp#LPPH_6222_2http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.jsp) Classifying an Intake Report as a Priority 2 (P2) Investigation

[6400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6400) Conducting the Investigation

Sex Offender Resides in Proximity to the Operation or Home (Match Level 2)

When it is discovered that a person on the sex offender database has an address that is in the proximity of an operation or home, Licensing staff:

a. create an intake on a Priority 3 minimum standards violation for possible risk factor with the allegation type of *endangering person*;

b. send the *Sex Offender Proximity Letter 2868* via email or regular mailto the operationand include the name and address of the sex offender;

c. contact the operation by phone for a correct address and re-send if the email or letter is returned due to an incorrect address; and

d. finalize the investigation and send the *Investigation Letter 2896.*

If the sex offender lives within proximity of an agency home, the notification to the child-placing agency includes the following statement:

"The attached letter identifies registered sex offenders in proximity of foster home verified by your agency. It is your responsibility to ensure the foster homes are notified of the sex offenders in their area and provide adequate supervision to ensure the safety of children in care."

**Exception to conducting an investigation of Match Level 2**

If an operation is within proximity of a prison, halfway house, or other type of facility that temporarily houses registered sex offenders, an investigation may be conducted as described above once every six months.

See:

[6222.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.asp#LPPH_6222_3) Classifying an Intake report as a Priority 3 (P3) Investigation

[6400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6400) Conducting the Investigation

#### 6553 Investigations of Abuse or Neglect in Illegal Operations

LPPH ~~December 2012~~ DRAFT 5992-CCL

Procedure

If a report of abuse, neglect, exploitation, or the death of a child is received regarding an alleged illegal operation, the investigator first determines whether the operation is subject to regulation.

If the operation is subject to regulation, the investigator continues the investigation. See 6400 Conducting the Investigation.

If children may be unsafe in the illegal operation, the investigator contacts the parents to notify them of the risk to children.

If after conducting investigative actions, the investigator determines that the operation is not subject to regulation, the investigator notifies law enforcement, CPS, or other state agency with regulatory responsibility and administratively closes the investigation in the IMPACT and CLASS systems.

In IMPACT, the investigator:

 • enters *Administrative Closure* for each allegation; and

 • submits the investigation to the supervisor for closure.

In CLASS, the investigator:

a. documents the reason for closure in the *Explanation of the Disposition* box on the *Investigation Conclusion* page;

b. documents all contacts and marks each minimum standard that the investigator chose to evaluate as *Compliant* on the *Standards Details* page;

c. documents the recommended action as *No action*; and

d. closes the investigation.

##### 6611.1 Criteria for Requesting Additional Time to Complete the Investigation

LPPH ~~December 2012~~ DRAFT 5992-CCL

An extension is approved only when an investigation cannot be completed because of circumstances beyond the investigator’s control, such as unavoidable delays in obtaining crucial information. A supervisor may extend the time frame for completion by 30 days if:

a. medical information is still needed;

b. an autopsy report has not been received;

c. law enforcement reports have not been received; or

d. an interview with the alleged perpetrator or other principal source involved in the investigation has been delayed.

Before approving an extension, the supervisor reviews the investigation and ensures the reason for the extension request meets one of these criteria.

To receive an approval for an extension for reasons other than those listed above, staff obtains approval from:

 • the district director for child day care; or

 • the residential manager for residential child care.

An extension should not be approved for the following reasons:

 • The absence of an investigator

 • A staff shortage

During the extension period, the investigator must attempt to obtain the necessary information for completing the investigation at least once per week and document what efforts were made to obtain the information.

Exceptions

Investigators may attempt contact at least monthly, rather than weekly in the following circumstances:

 • The investigator is waiting for autopsy results or a death certificate.

 • The investigator is waiting on the results of a criminal investigation and Law Enforcement has requested not to be contacted until after a scheduled interview or other Law Enforcement action.

See [6526.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6526_2) Completing the Investigation Before the Results of the Autopsy Are Received

##### 6622.2 Types of Abuse or Neglect

LPPH ~~December 2012~~ DRAFT 5992-CCL

Policy

DFPS has defined types of abuse and neglect, based on the definitions in Texas Family Code [§261.401(a)](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm#261.401), which are further defined in 40 TAC [§§745. 8551 – 745.8559](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=5&ti=40&pt=19&ch=745&sch=K&div=5&rl=Y).

Exploitation of children is also defined in Texas Family Code, [§261.401(a)](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm#261.401).

Procedure

Investigators use the definitions in 40 TAC [§§745. 8551 – 745.8559](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=5&ti=40&pt=19&ch=745&sch=K&div=5&rl=Y) to document the disposition of allegations in abuse or neglect investigations. The preponderance statement should address all four elements of the finding.

The four elements of abuse are:

a. any intentional, knowing, or reckless act or omission;

b. by an employee, volunteer, or other individual working under the auspices of an operation;

c. that causes or may cause emotional harm or physical injury to, or the death of;

d. a child that the operation serves.

The four elements of neglect are:

a. an act or omission that is a breach of a duty;

b. by a person working under the auspices of an operation;

c. that causes or may cause substantial emotional harm or substantial physical injury;

d. to a child.

Investigators use the definition in the Texas Family Code to document the disposition of allegations in an exploitation investigation. The preponderance should address all of the elements. Exploitation is the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.

Texas Family Code [§261.401](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm#261.401)

DFPS Rules, 40 TAC [§§745.8551 – 745.8559](http://info.sos.state.tx.us/pls/pub/readtac%24ext.ViewTAC?tac_view=5&ti=40&pt=19&ch=745&sch=K&div=5&rl=Y)

### 6630 Notifying Relevant Parties of the Results of an Investigation

LPPH ~~December 2012~~ DRAFT 5992-CCL

All notifications for investigations of abuse or neglect must be in draft form at the time the investigation is completed and submitted for approval. Within five days of the supervisor approving and closing the investigation in IMPACT, the investigator finalizes and mails the letter after making any changes recommended by the supervisor.

##### 6631.1 Completing the Findings Letter or Compliance Evaluation Form

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6631.2)

Procedure

The Investigation Letter (Form 2896) or the Child Care Facility Inspection (Form 2936) provides the operation with information about the investigation, the findings, confidentiality protections, and next steps for the operation. The notification of deficiencies should only be identified on the inspection form or the investigations form, not both.

The letter or inspection form must contain identifying information, including:

a. the purpose and date of the investigation;

b. the statute, administrative rules, or minimum standards evaluated as a result of the report; and

c. the name of the Licensing staff conducting the investigation.

Notification Requirements for All Investigations

The letter or form must contain the results of the investigation, including:

a. specifics of violations;

b. corrections needed, if any, and time limit set for corrections, unless the investigation findings may result in revocation, suspension, or denial;

c. the requirement for posting the investigation results for child day care (see [4173](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4173) Posting the Day Care Inspection Form or Assessment Form); and

d. a statement explaining the operation’s right to an administrative review and an explanation of the procedures for requesting one.

DFPS Rules, 40 TAC [§745.8447](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=8447)

##### 6631.2 Additional Notification for Abuse or Neglect Investigations

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6631.4)

When notifying the alleged perpetrator (see [6632](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6600.asp#LPPH_6632) Notification to the Alleged Perpetrator for an Abuse or Neglect Investigation), the Licensing staff member also cites the operation for the minimum standard relating to abuse, neglect, or exploitation, if appropriate.

The notification letter to the operation includes the same information needed for minimum standard violations as outlined in 6631.1 Completing the Findings Letter or Compliance Evaluation Form. To protect the confidentiality of the alleged victim, alleged perpetrator, or reporter, the investigator does not include their names in the letter.

DFPS Rules, 40 TAC §§[745.8485](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=8485); [745.8487](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=8487)

##### 6631.3 Release of Necessary Information

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6631.6)

Certain circumstances make the release of information concerning the alleged perpetrator necessary before the results of a release hearing have been determined. The operation may be informed of the identity of the alleged perpetrator before the results of the release hearing have been determined if the presence of the alleged perpetrator constitutes an immediate threat or danger to the health, safety, or welfare of the children and the operation or family home must take action to safeguard children’s health, safety, or welfare.

A release hearing must be offered even if the information is released under circumstances considered necessary.

The investigator must obtain supervisory approval and must consult with a Licensing attorney before releasing necessary information to the operation.

See [7726](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7726) Emergency Release

##### 6632.1 For Findings of Reason to Believe

LPPH ~~December 2012~~ DRAFT 5992-CCL

If the finding for an investigation is *Reason to Believe*, the investigator sends CLASS Form 2894, Abuse or Neglect Findings Letter to the Perpetrator, which informs the perpetrator that he or she has been found responsible for abuse or neglect of a child in care.

The letter to the alleged perpetrator must include:

a. the applicable definitions of abuse, neglect, or exploitation from the Texas Family Code [§261.401](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm#261.401);

b. a brief description of the allegation and the basis of the finding;

c. notification that the individual’s name will be entered into the Central Registry as described in Texas Family Code [§261.002](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm#261.002);

d. notification that the individual’s name has been released to the employer if an emergency release has been completed; and

e. the right to request an administrative review within 15 days. See [7710](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7710) Administrative Reviews and DFPS Rules, 40 TAC [§745.8805](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=8805).

When completing the narrative box for Form 2894 for the allegation description the investigator avoids:

a. including first or last names of children or adults;

b. including specific ages or gender of children, or any other identifying information;

c. using abbreviations of words or phrases;

d. using legal terms, such as “abuse” or “neglect,” that are defined in the Texas Family Code and Texas Administrative Code; and

e. using inflammatory or prejudicial words or phrases.

When writing an allegation, the investigator must:

 • use good grammar and proper spelling; and

 • be concise, yet descriptive.

If no administrative review is requested within 15 days, the investigator sends Form 2886, Decision Letter to Perpetrator, notifying the perpetrator of his or her right to request a release hearing within 30 days. See:

[7713.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7713_1) Determining Whether a Request for an Administrative Review Meets the Due Date

[7720](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7720) Release Hearings

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If an Administrative Review Is Requested

If an administrative review is requested and the decision is upheld, Licensing staff include in the decision letter the perpetrator’s right to request a due process hearing within 30 days.

If the abuse or neglect determination was overturned in the administrative review, no due process hearing is offered.

See [7716](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7716) Deciding the Outcome of an Administrative Review

##### 6632.4 If a Due Process Hearing Is Requested

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After the due process hearing is held and the supervisor is informed of the judge’s decision, the investigator or supervisor must send the final letter, Form 2889, Letter to the Perpetrator – SOAH Decision, that states the judge’s decision.

The supervisor then documents the status of the perpetrator in IMPACT and the status of the due process in CLASS.

See [7725](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7725) Documenting the Results of a Release Hearing

#### 6723 Contact List

LPPH ~~December 2012~~ DRAFT 5992-CCL

Procedure

The investigator enters a contact by selecting *Add New* under the *Contact List* section of the *Investigation Conclusion* page. Details of the following types of contacts are entered on the *Add/View Contacts* page:

a. Face-to-face contacts

b. Telephone conversations and attempted telephone calls

c. Correspondence whether sent or received

d. All staffings or consultations including interim staffings, dispositional staffings, and risk assessments

e. Any approvals received from management regarding the investigation

Face-to-Face Contacts

During the course of an investigation, all face-to-face contacts should be documented in the following manner on the *Add/View Contacts* page in CLASS:

a. Choose *Face-to-Face* from the *Contact Type* drop down box, including face-to-face interviews conducted at the operation during the course of an inspection.

b. If a face-to-face contact is attempted, but not conducted, the investigator chooses *Other* from the drop down box and notes that it was an attempted face to face interview in the subject line of the contact.

See:

[6420](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6420) Conducting Interviews

[6440](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6440) Collecting Evidence

[6460](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6460) Interim Staffing With Supervisor

[6340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.asp#LPPH_6340) Assessment of Risk During Abuse or Neglect Investigation

If interviews are recorded, a summary of the interview is entered in the contact and the location of the recording is documented. Documentation regarding children should include the first name and last initial of the child only.

### 6730 Updating the Person Detail Page

LPPH ~~December 2012~~ DRAFT 5992-CCL

By the conclusion of the investigation, the investigator must ensure that identifying information and certain other information has been obtained and updated for each alleged victim and alleged perpetrator involved in the investigation.

Any child identified through the process of an abuse or neglect investigation or a non abuse or neglect investigation as being directly involved in the allegations of the investigation is listed as a victim on the Investigation Persons list in CLASS.

## 6900 Recommending Action as a Result of Investigation Findings

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6800)

Policy

After Licensing staff complete an investigation, the investigator must decide what action to recommend.

### 6910 Conducting a Case Review Before Recommending an Action

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6810)

Procedure

After an investigation is completed, if the recommendation is for remedial action or increased monitoring, the investigator initiates a case review.

The review may be conducted in a face-to-face meeting, by telephone, or by email.

The review team includes the:

a. monitoring inspector;

b. investigation supervisor;

c. monitoring supervisor; and

d. investigator (if different from the inspector).

### 6920 Issues to Consider Before Recommending an Action

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6820)

Before making a recommendation, the investigator consults with the supervisor to consider the:

a. findings of the investigation;

b. level of risk to children in care; and

c. operation’s compliance history.

### 6930 Actions to Take Following the Investigation of a Regulated Operation

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6830)

The recommended actions to take following the investigation of a regulated operation may include:

a. adverse action;

b. corrective action;

c. no action;

d. re-evaluate monitoring frequency; or

e. routine monitoring.

If corrective or adverse action is implemented, the monitoring inspector or monitoring supervisor handles the action.

Emergency Release

If there is a *Reason to Believe* finding and the supervisor and investigator determine there is an immediate threat, the investigator requests an emergency release by following the procedures outlines in [5333.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_3) Emergency Release of Findings Based on Immediate Risk.

See [5333.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5333_2) Assessing Risk

### 6940 Actions to Take Following an Investigation of an Unregulated Operation

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6840)

The recommended actions to take following the investigation of an unregulated operation may include:

a. setting time limits for the operation to submit an application if no risk to children is identified;

b. ensuring the operation is not providing care to children if risk to children has been determined;

c. follow-up to ensure that the application is submitted or the care subject to regulation is no longer offered; or

d. a referral for legal action if the operation continues to care for children and does not submit an application timely.

See also [Appendix 7000-1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_7000.asp#LPPH_apx7000_1): Assessing the Need for Remedial Action

### 6950 Documentation in CLASS

LPPH ~~December 2012~~ DRAFT 5992-CCL (currently item 6860)

The investigator documents the case review, if required, on the *Contact List* on the *Investigation Conclusion* page in CLASS. The documentation includes:

a. who was present for the review;

b. the outcome of the review; and

c. information regarding the risk assessment as it applies to the recommended action.

The investigator documents the recommendation by choosing the correct option from the *Recommended Action* drop-down field on the *Investigation Conclusion* page.