**Licensing Policy and Procedures**

**Handbook Revision \_\_**

This revision of the Licensing Policy and Procedures Handbook was published on \_\_\_\_. Summaries of new or revised items are provided below.

For Licensing revisions only: Immediately following signoff, Licensing staff will prepare a highlighted document showing significant changes that we will post with the revision memo.

Voluntary Suspension

The items below have been revised to clarify that an operation's permit cannot be voluntarily suspended and automatically suspended at the same time, and to revise the number of days staff have to contact an operation before the end of the voluntary suspension period. Section numbers may have changed during the editing process and content moved to allow policy to be more in-line with the workflow process.

Display of Revisions with Changes Highlighted (Word Document)

See:

7330 Voluntary Suspension

7331 Assessing a Request for Voluntary Suspension

7332 Granting the Voluntary Suspension

7333 Denying the Voluntary Suspension

7334 Ending the Voluntary Suspension

In addition, the following items are being deleted:

7335 Documenting Granted Voluntary Suspensions

7336 Monitoring During Voluntary Suspension

7337 Reopening the Operation

7338 If the Operation Does Not Reopen or Voluntarily Close at the End of a Voluntary Suspension

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### 7330 Voluntary Suspension

LPPH ~~January 2012~~ DRAFT 7612-CCL

Policy

An operation may request a voluntary suspension of its permit when:

a. changes or repairs must be made to the operation;

b. enrollment is too low to operate, or no children are in care;

c. the owner or caregiver is ill;

d. the owner or caregiver takes an extended leave of absence; or

e. the owner or caregiver have other personal reasons that necessitate a change.

An operation must continue to pay all standard fees during the voluntary suspension period.

Texas Human Resources Code [§42.071](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.071)

DFPS Rules, 40 TAC §§[745.8519](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=8519);[745.8527](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=8527);

#### 7331 Assessing a Request for Voluntary Suspension

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Policy

To assess a request for a voluntary suspension, Licensing staff must receive a written request from the operation that includes the following information:

a. The proposed dates for when the suspension will begin and end

b. The reason for the request

c. Plans for resuming operation

d. A statement about how the permit holder will meet the minimum standard rules at the end of the suspension period

Child care centers and licensed and registered homes may request to have a non-expiring license or registration permit suspended for a maximum of 90 days.

Residential child care operations may request to have a non-expiring permit suspended for a maximum of two years.

A voluntary suspension may not be granted while for a permit if the operation is under:

a. involuntary suspension;

b. automatic suspension;

c. probation; or

d. revocation proceedings.

DFPS Rules, 40 TAC §§[745.8519](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=8519); [745.8521](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=8521); [745.8523](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=8523); [745.8525](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=8525)

Procedure

When the inspector receives a request for voluntary suspension, he or she may grant, deny, or add conditions to the request.

To determine whether to grant a voluntary suspension, the inspector:

a. evaluates the operation’s compliance history;

b. determines the reason for the voluntary suspension and the length of the operation plans to be closed is appropriate;

c. confirms that no children will be in care during the voluntary suspension period; and

d. confirms that the operation is not under involuntary suspension, automatic suspension, probation, or revocation proceedings.

#### 7332 Granting the Voluntary Suspension

LPPH DRAFT 7612-CCL (new)

Procedure

If the inspector grants the voluntary suspension with or without conditions, the inspector:

a. changes the *Operating Status* on the *Operation* main page in CLASS to *No*;

b. checks the *Do Not Display On Public Website* box on the *Operation* main page;

c. competes the *Provider Voluntary Suspension* page in CLASS; and

d. sends the Voluntary Suspension Approval Letter Form 2865, located on the *Provider Voluntary Suspension* page in CLASS to the operation, notifying the operation of the decision to grant the suspension and the expectation that the permit holder to return the permit to the inspector.

If conditions are added to the voluntary suspension request, the inspector sends notice of the conditions with the Voluntary Suspension Approval Letter, Form 2865. The inspector documents the conditions in the *Corrective Action Plan* section of the *Provider Voluntary Suspension* page in CLASS.

#### 7333 Denying the Voluntary Suspension

LPPH ~~January 2012~~ DRAFT 7612-CCL

Policy

If Licensing denies the request for a voluntary suspension, the operation may request an administrative review of the action.

DFPS Rule, 40 TAC §[745.8525](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=8525)

Procedure

If the inspector determines the request should be denied, the inspector notifies the owner of the operation by drafting notice of the denial on FPS letterhead on the *Corrective/Adverse* action page in CLASS. The letter must include the reason for the denial and information about the permit holder's right to an administrative review.

The inspector documents the denial in a chronology for the operation in CLASS.

#### 7334 Ending the Voluntary Suspension

LPPH DRAFT 7612-CCL (new)

Policy

An operation must have Licensing's permission to reopen after a voluntary suspension. To request permission to reopen, the operation must notify Licensing no later than 15 days before they resume operating.

The inspector may approve an operation’s request to reopen upon determining that the operation is in compliance with applicable minimum standards.

If the inspector determines the operation poses a risk to children in care, the department may impose adverse action to address the concerns.

If the operation does not reopen or voluntarily close by the end of the voluntary suspension period, the operation's permit is revoked. The operation has the right to request an administrative review on the revocation.

DFPS Rules, 40 TAC §§ [745.8529](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=8529); [745.8531](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=8531)

Procedure

If the Licensing inspector does not hear from the operation at least 15 days before the end of the suspension period, the inspector:

a. contacts the permit holder to notify him or her that the voluntary suspension period is ending;

b. informs the permit holder that Licensing must receive notification of and approve the request to resume operation;

c. informs the permit holder that he or she may voluntarily close; and

d. informs the permit holder that if Licensing is not notified of the plans to reopen or to voluntarily close, the permit will be revoked.

Reopening the Operation

If the operation notifies Licensing that it wants to resume operating, the inspector conducts an inspection before reopening the operation.

In order for the operation to reopen, the inspector must:

a. address any concerns with applicable minimum standard violations observed during the inspection;

b. change the *Operating Status* to *Yes* on the *Operation* main page in CLASS;

c. uncheck the *Do Not Display on Public Website* box in CLASS;

d. enter a chronology of any discussion held with the owner to verify compliance with minimum standard rules;

e. enter the results of the voluntary action plan on the *Voluntary Suspension* page in CLASS; and

f. return the permit to the operation.

If the inspector determines that the operation poses a risk to children at the end of the voluntary suspension period, the inspector staffs the situation (consults) with the supervisor and takes the appropriate action depending on risk to children.

If the Operation Requests to Voluntarily Close

If the operation notifies Licensing that it wants to voluntarily close, the inspector follows up to close the operation. See 7340 Voluntary Closure.

If the Operation Fails to Reopen or Respond By the End of the Suspension Period

If the operation does not reopen or does not voluntarily close by the end of the suspension period, Licensing staff contact the DFPS Legal division and the Director of Child Day Care or the Director of Residential Child Care, as appropriate, to discuss revoking the permit.

If the decision is made to revoke the permit, Licensing staff:

a. mail the operation a certified letter stating that:

 • its permit is no longer valid and that the operation must close, as required by Texas Administrative Code [§745.8531](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=8531), and

 • the owner of the operation has a right to request an administrative review and the right to appeal Licensing’s decision to revoke the permit;

b. navigate to the *Provide Voluntary Suspension Plan* page in CLASS to:

 • complete the *Result of Suspension* field,

 • complete the *End Date* field, and

 • document the reason for closure in the *Corrective Plan* field;

c. conduct an inspection to verify that the operation is not caring for children. If the operation is caring for children, Licensing staff follow procedures in [6550](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6550) Investigations of Illegal Operations With No Allegations of Abuse or Neglect; and

d. document the operation’s closure in CLASS.

See:

[7710](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7710) Administrative Reviews

[7730](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7730) Due Process Hearings