## 7800 Automatic Actions

### 7810 Automatic Suspensions

LPPH ~~July 2012~~ DRAFT 7587-CCL

Policy

The permit for a licensed operation or a registered or listedfamily home is automatically suspended if the annual permit fee is not paid by the due date.

An operation that is exempt from paying the annual fee is not subject to an automatic suspension for failure to pay the annual fee. See [5211](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5211) Exemptions from Fees.

The permit for a listed family home is also automatically suspended if the listed family home fails to submit the information required for a background check within 24 months of the date the last background check was conducted.

Automatic suspensions are not adverse actions and are not subject to an administrative review or due process hearing.

Texas Human Resources Code §§[42.052(j)-(j-1)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.052); and [42.054](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.054)

DFPS Rules, 40 TAC §§[745.503](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=745&rl=503), [745.505(a)](http://texreg.sos.state.tx.us/public/readtac$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=505)

#### 7811 When to Process an Automatic Suspension

LPPH DRAFT 7587-CCL (new item; replaces current 7811)

Procedure

By the 10th day of the month, Licensing staff enter an automatic suspension in CLASS when a permit has been automatically suspended because:

• the operation did not pay the annual permit fee by the last day of the previous month; or

• the listed family home did not submit the information required for a background check by the due date in the *BGC Reminder Letter*

See [5390](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5390) Background Check Reminder Letter – Listed Family Homes Only.

#### 7812 How to Process an Automatic Suspension

LPPH DRAFT 7587-CCL (new item; current 7812 will become 7814)

Procedure

To document the automatic suspension in CLASS, staff:

a. update the *Operation Main* page by:

i. changing the *Operating Status* to *No*,

ii. changing the *Effective Date* of the permit to reflect the date of the automatic suspension, and

iii. checking the *Do not display on the public/provider website* check box;

b. complete the Provider Voluntary Suspension Plan page by:

i. entering the date the automatic suspension began,

ii. describing the plan for the operation to come into compliance, including the date the automatic revocation is effective if the correction plan is not met, and

iii. selecting the reason for the automatic suspension;

c. draft and save notification to the provider on DFPS letterhead on the *Provider Voluntary Suspension Plan* page using one of the following templates located in the DFPS Automated Forms System:

i. [Form 2741](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2741.doc) Auto-Suspension Letter-Fees is used if the automatic suspension is due to failure to pay the annual permit fee. When Form 2741 is saved to CLASS, Licensing staff save it with the name *AutoSuspend-Fees*

ii. [Form 2742](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2742.doc) Auto-Suspension Letter-BGC (LH Only) is used if the automatic suspension is due to a listed family home’s failure to submit information required for subsequent background checks. When Form 2742 is saved to CLASS, Licensing staff save it with the name *AutoSuspend-BGC*

iii. [Form 2743](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2743.doc) Auto-Suspension Letter-BGC/Fees (LH Only) is used if the automatic suspension is due to a listed family home’s failure to submit information required for subsequent background checks, and failure to pay the annual listing fee. Staff save it with the name *AutoSuspend-BGC/Fees;* and

d. mail the letter to the operation.

#### 7813 Conducting Follow Up to Automatic Suspension

LPPH DRAFT 7587-CCL (new item)

Policy

If a licensed and registered operation's permit is automatically suspended, the inspector conducts a follow up inspection within 15 days of sending notification to the operation that the permit has been automatically suspended. The purpose of the inspection is to verify the operation has stopped providing care to children.

##### 7813.1 The Operation or Home is Caring for Children

LPPH DRAFT 7587-CCL (new item)

Procedure

If the operation is caring for children after the permit has been automatically suspended, the inspector:

a. informs the provider that the permit was automatically suspended for nonpayment of fees;

b. explains that he or she is operating without a valid permit and provides technical assistance for how and where to send the fee payment;

c. explains any child care subsidy program funding has been stopped as a result of the automatic suspension; and

d. issues a citation for providing illegal childcare.

##### 7813.2 If the Operation or Home has Stopped Providing Care or is No Longer Operating

LPPH DRAFT 7587-CCL (new item)

If the operation is no longer caring for children in compliance with the automatic suspension letter, the inspector verifies fee payment before reinstating the permit.

If the caregiver informs the inspector that the operation has closed, the inspector follows procedure in [7340](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7340) Voluntary Closure to close the operation.

#### 7814 Ending an Automatic Suspension

LPPH ~~July 2012~~ DRAFT 7587-CCL (currently 7812)

Policy

A permit that has been automatically suspended is reinstated once the permit holder has either paid the annual fee or submitted the required background check information before the end of the suspension period.

Procedure

To reinstate a permit, staff:

a. update the Operation main page in CLASS by:

i. changing the *Operating Status* to *Yes*,

ii. updating the *Effective Date* to reflect the *End Date* of the automatic suspension, and

iii. unchecking the *Do not display on public/provider website* box;

b. update the *Provider Voluntary Suspension* page in CLASS page by:

i. documenting how the operation came into compliance in the *Correction Plan* field,

ii. entering *Auto-Suspension, Compliance Met* in the *Result of Suspension* field, and

iii. entering the date the automatic suspension ends in the *End Date* field.

c. complete Form 2744 *Auto-Suspension End* located in the DFPS Automated Forms System and saves the form on the *Provider Voluntary Suspension Plan* page in the CLASS system by:

i. copying the text from Form 2744 *Auto-Suspension End* and pasting the information onto DFPS letterhead found on the *Provider Voluntary Suspension Plan* page in CLASS, and

ii. saving the letter with the appropriate name; and

d. Mail the letter to the operation.

### 7820 Automatic Revocations

LPPH ~~July 2012~~ DRAFT 7587-CCL

Policy

The permit for alicensed operation, or a registered or listed family home, is automatically revoked if the annual permit fee is not paid within six months of the permit being automatically suspended.

The permit for a listed family home is automatically revoked if the home fails to submit the information required for a renewal background check within six months after the listing is automatically suspended.

Automatic revocations are not considered corrective or adverse actions and are not subject to an administrative review or a due process hearing.

If an operation's permit has been automatically revoked the permit holder may re-apply at any time.

Texas Human Resources Code §§[42.052(j)-(j-1)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.052); and [42.054](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.054)

Procedure

To process the automatic revocation of a permit in CLASS, staff:

a. enter the date the automatic suspension ended in the *End Date* field;

b. enter *Auto-Revocation* in the *Result of Suspension* field; and

c. draft the notification using CLASS Form 2865e, 2825 *Vol Suspension/Relocation/Clsr Letter* found on the operation's *Application/Closure* page, selects the appropriate statement about automatic revocation, and mails notification to the operation.

If the operation is a listed family home, staff notifies the appropriate Licensing inspector that the permit has been automatically revoked and a follow-up inspection is needed.

Intake note below: This item was numbered 7822 in the draft, but since they show 7821 as being deleted (see the original submission), then this would now become 7821. Jackie

#### 7821 Conducting Follow-Up to an Automatic Revocation

LPPH DRAFT 7587-CCL (new item)

Policy

Within 15 days of sending notification that the permit has been automatically revoked, the inspector conducts a follow-up inspection to verify that the operation no longer cares for children.

A permit holder may not pay the overdue annual fee or submit overdue background check information at the time of the follow-up inspection. The permit holder must reapply for a permit.

##### 7821.1 The Operation or Home is Caring for Children

LPPH DRAFT 7587-CCL (new item)

Procedure

If the operation is caring for children after the permit has been automatically revoked, the inspector:

a. informs the provider that the permit was automatically revoked and the reasons why;

b. explains that there are no due process rights related to automatic revocation and that the permit holder may reapply for a new permit at any time;

c. provides an application for a permit; and

d. issues a citation for providing illegal childcare.

If the permit holder does not submit a new application at the time of the follow-up inspection, the inspector enters a new illegal operation investigation to ensure the operation closes or becomes permitted. The inspector or staff assigned to the operation then closes the operation in CLASS.

If the operation submits an application at the time of an inspection, the inspector closes the operation that had the permit automatically revoked and creates a new operation in CLASS.

##### 7821.2 Closing an Operation or Home Due To Auto-Revocation

LPPH DRAFT 7587-CCL (new item)

Procedure

To close an operation in CLASS, staff select the appropriate Auto-Revocation closure reason and date on the *Application/Closure* page.