##### 7716.3 Amending an Action or Decision as the Result of an Administrative Review

LPPH ~~March 2015~~ DRAFT 8072 CCL

If the reviewer determines that the information provided during the review supports a change in the decision or action, the reviewer amends the Licensing decision or action.

Specifically, amending a decision or action may include:

a. changing the conditions of a corrective action, waiver, or variance;

b. editing the original documentation of a decision or action; or

c. overturning the original citation of a minimum standard that was cited incorrectly and adding the citation of a minimum standard that is more appropriate.

The reviewer should discuss the decision to amend the Licensing decision or action with the requester during the administrative review meeting, and notify the requestor that there are no due process rights for the decision or action.

If it is not possible to discuss the decision to amend the Licensing decision or action during the administrative review meeting, the reviewer:

a. calls the requestor to explain the action;

b. allows the requester an opportunity to respond to the decision or action;

c. informs the requester that there are no due process rights related to the decision or action; and

d. sends the decision letter.

Documenting the Decision

The reviewer creates a supplemental Inspection CLASS Form 2936, investigation findings letter, or other appropriate form or letter displaying the amended decision or action, and follows the steps in [7716.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7716_1) Documenting the Outcome of an Administrative Review in CLASS. See [4165](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4165) Completing a Supplemental Inspection Form.

##### 7717.1 Notifying an Operation of the Outcome of the Administrative Review

LPPH ~~December 2013~~ DRAFT 8072 CCL

Policy

Licensing does not offer due process hearings when any of the following decisions or actions are upheld or waived:

a. Licensing determines that the operation is not exempt from DFPS regulation.

b. Licensing denies the operation’s request for a waiver or variance.

c. Licensing cites the operation for a deficiency.

d. Licensing imposes corrective action on an operation.

Licensing does offer the permit holder a due process hearing if the decision to impose adverse action is upheld or waived.

DFPS Rules 40 TAC [§745.8835](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=8835)

Procedure

To notify a designee of the operation about the outcome of an administrative review, the reviewer drafts and sends by both regular and certified mail one of the following letters:

a. CLASS Form 2885 Corrective Action Letter to uphold the decision to impose corrective action. Form 2885 is also mailed if the operation waives the right to administrative review.

b. CLASS Form 2878 Decision to Impose Adverse Action for a decision regarding an adverse action (see [7632.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7632_1) Adverse Action is Overturned at an Administrative Review or [7632.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7632_2) Adverse Action Is Upheld at an Administrative Review or No Administrative Review Is Requested).

c. CLASS Form 2834a DFPS Letterhead, located on the page in CLASS where the action is documented, for all other types of reviews.

The reviewer includes a copy of supplemental forms or letters if changes were made under [7716.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7600.asp#LPPH_7716_3) Amending a Decision or Action as a Result of an Administrative Review.

If CLASS Form 2834a DFPS Letterhead is used, the reviewer composes the notification letter as a direct response to the designee’s request for an administrative review and includes:

a. the specific Licensing decision being disputed and reviewed;

b. the date that the request was received, the date of conference, and the date of the final decision; and

c. the outcome of the review.