**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.

Revisions to LPPH 4000 (Inspections) and 3000 (Application and Issuance) (PATS 10312)

Revisions to LPPH 4000 (Inspections) and 3000 (Application and Issuance) relate to the review of records, director qualifications, monitoring during night and weekends, follow-ups, documentation requirements, and filing requirements.

Display of Revisions with Changes Highlighted (Word Document)

See:

3331 Evaluating Director and Primary Caregiver Qualifications for Licensed Child Day Care Operations

3331.1 How to Evaluate Qualifications

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#### 3331 Evaluating Director and Primary Caregiver Qualifications for Licensed Child Day Care Operations

LPPH ~~June 2016~~ DRAFT 10312-CCL

Policy

When a director or primary caregiver is designated on [Form 2911](http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?Name=2911.doc) Governing Body/Director Designation, or through the DFPS website, the inspector evaluates the director’s qualifications to determine whether he or she meets the minimum standards.

The inspector ensures the director or primary caregiver does not serve such a role at another operation, including being:

 • the primary caregiver of a licensed child care home or a registered home;

 • the operator of a listed home; or

 • a director of another operation, unless the person is a designated a program director for before- or after-school programs or school-age programs under the same governing body.

DFPS Rules, 40 TAC §§[744.1001](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=1001); [746.1001](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1001); [747.1101](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=1101)

##### 3331.1 How to Evaluate Qualifications

LPPH ~~September 2015~~ DRAFT 10312-CCL

Procedure

To evaluate qualifications, the inspector obtains a completed Form [2982](http://intranet/Application/Forms/showFile.aspx?Name=2982.pdf) Personal History Statementspecifying the education and experience of the operation’s designated director and one of the following:

 1. An original and current CLASS Form 2860 Director’s Certificate; or

 2. An original college transcript or original training certificates which verify the educational requirements and the dates, names, addresses, and telephone numbers that support the required experience.

 For persons educated outside of the United States, the inspector obtains information from the operation to help the inspector interpret and evaluate the director’s educational qualifications.

DFPS Rules, 40 TAC §§[744.1015](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=1015); [744.1017](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=1017); [746.1015](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1015); [746.1017](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1017); [747.1107](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=1107)

For a program director who oversees more than one school-age program or before- or after-school program, the inspector evaluates:

 • whether the director meets minimum standard qualifications for a director according to the procedures outlined in this item; and

 • whether the compliance history of each operation that a program director oversees reflects that the operations are in good standing with Licensing.

Evaluating Director Qualifications for Licensed Child Care Homes Licensed Before September 1, 2003

Policy

When a person owns more than one licensed child care home, that person may only be the primary caregiver or director for one of them.

DFPS Rules, 40 TAC §§[745.373](http://texreg.sos.state.tx.us/public/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=373); [747.201](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=201)

#### 4131 Minimum Requirements for Licensed Operations

LPPH ~~December 2016~~ DRAFT 10312-CCL

First 12 Months After Issuance of a Nonexpiring License

Policy

During the first 12 months following the issuance of a nonexpiring license, the inspector:

 • conducts at least one unannounced monitoring inspection every six months; and

 • evaluates for compliance with all minimum standards within 12 months from the date the license was issued.

For information on conducting a monitoring inspection on an operation that holds an initial license, see [3511](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_3400.asp#LPPH_3511) Conducting Inspections During the Initial License Period.

Subsequent Years After Issuance of a Nonexpiring License

Policy

After the first 12 months following the issuance of a nonexpiring license, the inspector:

 • conducts an unannounced monitoring inspection at least annually (not more than 366 days), based upon an assessment of risk to children; and

 • evaluates for compliance with the following minimum standards, depending on the operation type:

|  |  |
| --- | --- |
| Type of Operation | What Standards and In What Time Frame |
| Licensed Child Care Centers, School-Age Programs, Before- or After-School Programs, and Licensed Child Care Homes |  • All minimum standards every two years. • Core health and safety minimum standards annually.See [4131.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4131_4) Health and Safety Audits for Licensed Child Day Care Operations |
| Licensed residential operations | All minimum standards every two years. |

Texas Human Resources Code [§42.044(b)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044)

45 Code of Federal Regulations [§98.41](https://www.gpo.gov/fdsys/search/pagedetails.action?collectionCode=CFR&searchPath=Title+45%2FSubtitle+A%2FSubchapter+A%2FPart+98%2FSubpart+E&granuleId=CFR-2003-title45-vol1-part98&packageId=CFR-2003-title45-vol1&oldPath=Title+45%2FSubtitle+A%2FSubchapter+A%2FPart+98&fromPageDetails=true&collapse=true&ycord=3834)

Required Inspections During Night or Weekend Hours

Policy

At least once every two years, Licensing staff must inspect an operation that provides night or weekend care during the night or weekend hours that the operation provides care.

For an inspection to count towards this requirement for a residential operation (other than a child-placing agency), Licensing staff must begin the inspection after 7 p.m. on a weekday or anytime on the weekend.

For an inspection to count towards this requirement for a daycare operation that provides nighttime care, Licensing staff must conduct at least some portion of the inspection between 9 p.m. and 6 a.m. during hours of operation.

Procedure

If an inspection cannot be made during night or weekend care, Licensing staff:

 a. obtain supervisory approval to conduct the inspection during regular visiting hours;

 b. document the justification for conducting the inspection during regular visiting hours in the CLASS system as a *Chronology* with a category of *Monitoring*; and

 c. document a plan for how night and weekend care will be evaluated for compliance with minimum standards.

Two-Year Period Measurement

Procedure

The inspector measures a two-year period by beginning with the first day of the month in which Licensing issued the nonexpiring license and counting in two-year increments. For example, if the license was issued on September 10, the two-year period would begin on September 1 and end on August 31 two years later.

#### 4131.3 Child Day Care: Annual Meeting With the Designated Director at a Licensed Child Care Center

LPPH ~~January 2013~~ DRAFT 10312-CCL (title, rev)

Policy

The inspector meets with the designated director at least once annually during an unannounced inspection at a licensed child care center, to determine whether the designated director:

 • complies with DFPS rules, 40 TAC [§746.1001](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1001) and [§746.1003](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1003); and

 • meets minimum standard qualifications in 40 TAC [§746.1015](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1015) and [§746.1017](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=1017).

If the director is not present during at least one of the unannounced inspections within a 12-month period, the inspector schedules a meeting with the director to review the director’s qualifications. This meeting must be held at the operation.

Texas Human Resources Code [§42.044(b-2)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044)

Procedure

Annual Review of the Designated Director’s Qualifications

The inspector meets with the designated director of a licensed child care center during at least one monitoring inspection within a 12-month period. During this meeting, the inspector evaluates the director’s qualifications by reviewing:

 a. The original *Child-Care Center Director's Certificate* or approved waiver or variance for director qualifications*;* and

 b. Most recent background check to ensure it is current.

The inspector documents the review of the director’s qualifications by selecting the *Dir Qual Eval* box on the *Inspection Detail* page in CLASS.

The inspector cites the appropriate minimum standard and unchecks the *Valid Director Certificate* checkbox on the *Governing Body Designation* page in CLASS, if:

 • the director does not meet the qualifications or have a current waiver or variance for director qualifications; or

 • the director’s certificate has expired.

If the designated director has an approved waiver or variance for director qualifications, the inspector documents whether the director has made progress toward compliance in the *Narrative* text box on the *Inspection Detail* page in CLASS. The inspector also evaluates whether the director qualifies for a non-expiring director’s certificate if the director has an expiring one.

If there are any changes in how the director qualifies since the last inspection, the inspector documents how the director meets the qualifications by selecting the appropriate option in the *How DC Director Qualified* field on the *Governing Body Designation* page in CLASS and issues a new director certificate that indicates how the director now meets the qualifications.

When the Director Is Not Present for an Annual Review of Qualifications

If the designated director is not present during at least one unannounced monitoring inspection, within a 12-month period, the inspector meets with the director at the center as outlined in the following chart:

|  |  |
| --- | --- |
| Deficiency Cited at the Last Monitoring Inspection? | Complete the Annual Review of Director Qualifications During… |
| Yes | an unannounced follow-up inspection conducted no later than 15 days after the latest compliance date for any deficiency noted in CLASS Form 2936 Child-Care Facility Inspection at the last monitoring inspection |
| No | an announced or unannounced follow-up inspection conducted no later than 15 days after the last monitoring inspection. |

If the director is not present during an unannounced follow-up inspection, the inspector schedules a meeting with the director. The meeting must be held at the operation.

If the director does not respond to a request to meet, the inspector cites the facility for a violation of minimum standards and follows up as appropriate.

When the Annual Review of Qualifications Is Late

If the director’s qualifications cannot be reviewed within the required 12-month period, the inspector:

 • obtains the supervisor’s approval to conduct the inspection at a later date; and

 • documents the supervisor’s approval in CLASS, in the *Chronology/Monitoring Category*.

Tracking How Frequently a Director Is Present During Inspections

The inspector evaluates how frequently or infrequently the director is not present by reviewing how often the *Director Present* check box in CLASS has been checked in the past year. If the director is frequently not present, the inspector determines a plan of action, which may include contacting the permit holder to acquire the director’s work schedule.

Note: This revision deletes 4131.31.

#### 4131.4 Health and Safety Audits for Licensed Child Day Care Operations

LPPH ~~December 2016~~ DRAFT 10312-CCL

Policy

Licensing must conduct at least one health and safety audit during an unannounced monitoring inspection each year for licensed child care centers, before- or after-school programs, school-age programs, and licensed child care homes.

45 Code of Federal Regulations [§98.41](https://www.gpo.gov/fdsys/search/pagedetails.action?collectionCode=CFR&searchPath=Title+45%2FSubtitle+A%2FSubchapter+A%2FPart+98%2FSubpart+E&granuleId=CFR-2003-title45-vol1-part98&packageId=CFR-2003-title45-vol1&oldPath=Title+45%2FSubtitle+A%2FSubchapter+A%2FPart+98&fromPageDetails=true&collapse=true&ycord=3834)

Procedure

A health and safety audit is a review of core measures related to health and safety, conducted during a monitoring inspection. The inspector completes a health and safety audit by completing the appropriate *Health and Safety Audit Checklist* or conducting a *standard-by-standard* monitoringinspection.

Selecting Subchapters on the Inspection Form

The Licensing inspector selects a minimum standard subchapter on CLASS Form 2936 Child-Care Facility Inspection when:

 • the inspector plans to evaluate the entire subchapter, not just a core measure within the subchapter; or

 • the operation is deficient with two or more core measures within a content area that requires a review of an entire subchapter.

See:

[4161.1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4161_1) Creating a Draft CLASS Form 2936

[4166](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4166) Documenting a Health and Safety Audit in CLASS

#### 4150.1 Additional Requirements for All Inspections on Licensed Child Care Centers

LPPH ~~August 2012~~ DRAFT 10312-CCL (title, rev)

At least once per year, inspectors must meet with the designated director of a licensed child care center during an unannounced monitoring inspection, as outlined in 4131.3 Child Day Care: Annual Meeting With the Designated Director at a Licensed Child Care Center.

#### 4153 Reviewing Records at an Operation

LPPH ~~August 2012~~ DRAFT 10312-CCL

Policy

Licensing staff review the records of licensed, registered, and certified operations to evaluate compliance with Licensing statutes, administrative rules, and minimum standards.

Licensing staff must review a minimum number of records based on the operation’s type and its capacity.

The records are reviewed at the operation or at a central administrative location. Licensing staff may make copies of documents, as needed; but they do not remove original records from the operation.

DFPS Rules, 40 TAC §§[745.8415](http://texreg.sos.state.tx.us/public/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://texreg.sos.state.tx.us/public/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)

After evaluating records, Licensing staff document the type and number of records evaluated on CLASS Form 2936 Child-Care Facility Inspection.

See [4161](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4161) Completing CLASS Form 2936 Child-Care Facility Inspection.

##### 4153.1 Selecting a Sample of Records For a Monitoring Inspection or Two-Year Period

LPPH ~~August 2012~~ DRAFT 10312-CCL (title, rev)

Procedure

Types of Records to Read

Types of records that Licensing staff must read include those that relate to:

a. enrolled in or admitted to the operation;

b. employees;

c. verified foster homes

d. approved adoptive homes, for child-placing agencies (CPAs);

e. birth parents who have applied for services (for CPAs that do private adoptions); and

f. serious incident reports (for residential operations).

Licensing staff do not sample background check records. For policies on reviewing background check records, see [4153.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4153_2) Reviewing Background Check Records During All Inspections.

Determining the Number of Records to Read at a Residential Child Care Operation for Each Monitoring Inspection

At each monitoring inspection, Licensing staff read the minimum number of each type of record based on:

 • the operation’s capacity, if the operation is a general residential operation or independent foster family or group home; or

 • the total number of verified foster homes and/or approved adoptive homes, if the operation is a child-placing agency.

At each monitoring inspection, Licensing staff read the minimum number of records for each type of record according to the operation’s capacity or number of homes in the following chart:

|  |  |
| --- | --- |
| Capacity/Number of Homes | Minimum Number of Each Type of Record to Review During Each Inspection |
| 44 or less | 2 |
| 45-74 | 3 |
| 75-94 | 4 |
| 95 or more | 5 |

\*\*Exception to the chart: If the operation is on evaluation or probation, Licensing staff are only required to read two of each type of record at each monitoring inspection during the corrective action period.

Licensing staff may read more than the minimum number of records, if necessary, based on the risk identified at the operation or patterns of deficiencies observed.

Determining the Number of Records to Read at a Child Day Care Operation In Each Two-Year Period

During at least one monitoring inspection during the operation’s two-year compliance period as indicated on the *Minimum Standards Evaluated Details* page in CLASS, Licensing staff read the minimum number of each type of record, according to the following chart:

|  |  |
| --- | --- |
| Capacity | Minimum Number of Each Type of Record In Each Two-Year Period |
| 44 or less | 4 |
| 45-74 | 6 |
| 75-94 | 8 |
| 95 or more | 10 |

Licensing staff may read more than the minimum number of records, if necessary, based on the risk identified at the operation or patterns of deficiencies observed.

Records That Are Not Eligible for Sample

When selecting records to read, Licensing staff must not select records of children who are no longer clients of the operation or staff who are no longer employed by the operation, unless Licensing is evaluating standards related to discharge requirements or the availability of records.

###### 4153.11 Sampling Additional Records During a Follow-Up Inspection

LPPH ~~August 2012~~ DRAFT 10312-CCL

During a follow-up inspection conducted to confirm that the operation is now in compliance, Licensing staff may sample additional records to ensure compliance. See [4300](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4300) Conducting a Follow-Up With an Operation.

#### 4155 When a Deficiency Can Be Corrected at Inspection

DRAFT 10312-CCL (new)

Policy

Licensing staff evaluate certain criteria to determine whether a deficiency may be corrected at inspection or whether Licensing staff must follow up on a deficiency with or without an inspection. Licensing staff consider the following criteria:

 • the risk to children;

 • the scope and severity of the deficiency;

 • the time and expense needed to correct the deficiency;

 • the provider's previous compliance history, including previous enforcement actions;

 • the provider's willingness and ability to comply; and

 • action taken by the operation to comply.

Procedure

Licensing staff may indicate that the operation corrected the deficiency at the inspection if Licensing staff determines that:

 • the operation has the ability to correct the deficiency at the time of the inspection; and

 • no follow-up action is needed to further evaluate compliance with the minimum standard.

Before concluding the investigation, Licensing staff documents that the operation corrected the deficiency at inspection. On the CLASS Form 2936 Child-Care Facility Inspection Licensing staff:

 • selects the *Corrected at Inspection* checkbox associated with the deficiency that was corrected; and

 • documents how the operation corrected the deficiency at inspection in the *Narrative* section associated with the deficiency.

Note from Ryan Malsbary: “We’d like to renumber current 4155 as 4156 and renumber current 4156 as 4157. Regarding current 4157, I’ve put the content of it into current 4158 (see this draft).”

#### 4158 Avoiding Duplication of Child Day Care Inspections by State Agencies

LPPH ~~August 2012~~ DRAFT 10312-CCL (title, rev)

Policy

To eliminate redundancy, Licensing uses forms generated in the CLASS system to coordinate with other state agencies that inspect the same operations as Licensing.

Licensing staff do not monitor an operation for compliance with minimum standards when another state agency has inspected it for compliance with equivalent standards.

Licensing staff always investigate reports of alleged violations of minimum standards, regardless of whether another state agency has inspected the operation.

Texas Human Resources Code [§42.044(a)](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.044)

Procedure

The entities that inspect child day care operations for compliance with standards that are equivalent to Licensing’s minimum standards are:

 • the Immunization Branch of the Texas Department of State Health Services (DSHS);

 • the State Fire Marshal’s Office (SFMO);

 • the Child and Adult Care Food Program (CACFP) of the Texas Department of Agriculture; and

 • the child care management services (CCS) contractor for the Texas Workforce Commission’s local workforce development boards.

No Action by Licensing

Licensing staff do not inspect an operation if another agency:

 • inspected the operation for compliance with equivalent minimum standards within a year before the Licensing inspection; and

 • found the operation to be in compliance, or the operation provides documentation showing that it has corrected deficiencies to the satisfaction of the other agency.

Actions Required by Licensing

If a state agency other than Licensing finds that an operation is not in compliance with licensing law, administrative rules, or minimum standards and the operation does not correct the deficiencies, Licensing staff:

 • evaluate the operation’s compliance with applicable DFPS minimum standards to ensure protection of the children;

 • document any compliance or correction issues; and

 • obtain a copy of the other agency’s report for the hard copy record, if possible.

In All Cases

In all cases, during each inspection of an operation, Licensing staff:

 • evaluate the operation for obvious fire, sanitation, and safety hazards; and

 • cite in CLASS on Form 2936p2a or Form 2936p2b the deficiencies observed.

When Political Subdivisions Inspect Child Day Care Operations

Licensing staff do not inspect a licensed child-care center or a licensed or registered child-care home for the minimum standards related to fire safety or health practices, when all of the following are true:

 a. The operation has been inspected by a political subdivision of the state. (A political subdivision may include any city, county, school district, junior college district, or public health district.)

 b. The operation has documentation from the political subdivision regarding the most recent inspection, and the documentation was provided in the correct format (that is, on the appropriate form, as a letter, or as a checklist)

 c. The documentation states that the operation complies with the applicable standards of the political subdivision.

 d. Licensing determines that the operation is complying with any corrective action required by the political subdivision.

 e. Licensing determines that the operation is complying with any restrictions or conditions placed on it by the political subdivision.

Texas Human Resources Code [§42.0443](http://www.statutes.legis.state.tx.us/Docs/HR/htm/HR.42.htm#42.0443)

Civil Practices and Remedies Code [§101.001(3)(B)](http://www.statutes.legis.state.tx.us/Docs/CP/htm/CP.101.htm#101.001)

Required During All Licensing Inspections

During each inspection, Licensing staff:

 a. assess obvious risk to children each time children are present in an operation (see [4150](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4150) Conducting the Inspection);

 b. cite as deficiencies any obvious violations of the minimum standards for fire safety or health practices observed during an inspection; and

 c. report violations to the appropriate political subdivision.

Procedure

Licensing staff take the following actions during each inspection:

 a. Determine whether the operation has complied with the restrictions or conditions placed on it by a political subdivision or has corrected the deficiencies noted by the political subdivision.

 b. Evaluate the operation’s compliance with the minimum standards for fire safety or health practices, or both, if the operation:

 • does not have documentation from the applicable political subdivision confirming that an inspection was conducted within the required timeframe;

 • has not corrected the deficiencies cited by the applicable political subdivision on the inspection documentation; or

 • has not complied with the restrictions or conditions required by the applicable political subdivision as a result of the inspection.

 c. Notify the political subdivision about any deficiency observed.

 d. Document all actions in the CLASS system and make appropriate notations on CLASS Form 2936 Child-Care Facility Inspection.

When Not to Evaluate for Compliance With Fire and Health Standards

Licensed Centers

Licensing staff do not inspect licensed centers for compliance with the minimum standards related to fire safety or health practices if:

 • the operation was inspected by the relevant political subdivision within the timeframe outlined in minimum standards; and

 • no deficiencies were cited during that inspection, as explained below.

| If … | then …  |
| --- | --- |
| a licensed child-care center has documentation showing that the political subdivision: • conducted a fire inspection within the timeframe outlined in the minimum standards; and • did not cite any deficiencies … | Licensing does not evaluate the center for compliance with minimum standards [§§746.801(13)](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=801), [746.5101 – 746.5105](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=5101), and [746.5205 – 5501](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=5205). |
| a licensed child-care center has documentation showing that the political subdivision: • conducted a health inspection within the timeframe outlined in the minimum standards; and • did not cite any deficiencies … | Licensing does not evaluate the center for compliance with minimum standards [§§746.3401 – 746.3433](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=746&rl=3401). |
| a school-age program or a before or after-school program has documentation showing that the political subdivision: • conducted a fire inspection within the timeframe outlined in the minimum standards; and • did not cite any deficiencies … | Licensing does not evaluate the program for compliance with minimum standards [§§744.801(12)](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=801), [744.3501 – 744.3505](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=3501), and [744.3559 – 744.3701](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=3559). |
| a school-age program or a before or after-school program has documentation showing that the political subdivision: • conducted a health inspection within the timeframe outlined in the minimum standards; and • did not cite any deficiencies … | Licensing does not evaluate the program for compliance with minimum standards [§§744.2501 – 744.2531](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=744&rl=2501). |

Licensed and Registered Homes

Although Licensing minimum standards do not require licensed or registered child-care homes to obtain fire or health inspections, a home may have obtained one or both types of inspections from a political subdivision.

If the home was inspected by a political subdivision within the last 12 months and no deficiencies were cited during that inspection, Licensing staff do not evaluate the home for compliance with the relevant minimum standards, as explained below.

| If … | then …  |
| --- | --- |
| a licensed or registered child-care home has documentation showing that the political subdivision: • conducted a fire inspection within the last 12 months; and • did not cite any deficiencies … | Licensing does not evaluate the home for compliance with minimum standards [§747.801(8)](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=801), [§747.4901](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=4901), and [747.5005 – §747.5301](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=5005). |
| a licensed or registered child-care home has documentation showing that the political subdivision: • conducted a health inspection within the last 12 months; and • did not cite any deficiencies … | Licensing does not evaluate the home for compliance with minimum standards [§747.3201 – §747.3229](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40&pt=19&ch=747&rl=3201). |

##### 4161.1 Creating a Draft CLASS Form 2936

LPPH ~~December 2016~~ DRAFT 10312-CCL

Procedure

Licensing staff follow the procedures below to create a draft version of CLASS Form 2936 Child-Care Facility Inspection.

Enter the Details

To enter the inspection details in CLASS, on Form 2936 Child-Care Facility Inspection, Licensing staff take the following steps:

 1. On the *Operation* main page, select the *Monitoring* tab.

 2. On the Inspection/Assessment List page, select *Add New Inspection*.

 3. On the *Inspection Details* page in the *General* section, select the appropriate *Inspection Type* (see [4120](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4120) Types of Inspections).

 4. Choose the investigation numbers, if the inspection type is *Investigation* or *Monitoring and Investigation*.

 5. Choose the appropriate *Follow Up to Inspections IDs* (select up to three IDs), if the inspection type is *Follow Up*.

 6. Enter the *Inspection Start Date* (The inspection start date may be updated after the inspection, if necessary).

 7. If the licensed child care center, school-age program, before- or after-school program, or licensed child care home is receiving a health and safety audit, document this in the *Narrative* section.

 8. Complete other applicable fields and select *Save*.

Add Standards

Add any applicable statutes, administrative rules, or minimum standards for which compliance must be evaluated:

 1. On the Inspection *Summary* page, select *Add New*.

 2. On the *Standard Details* page, in the *Standard Information* section, click the *Search* button found next to the terms *Standard/Rule/Law* to conduct a search of the minimum standards, administrative rules, or statutes applicable to the inspection.

 3. On the *Standards Search* page, enter a keyword or select the appropriate option from the *Section* drop-down list and select *Go*. (The minimum standard, administrative rule, or statute number can be used as a keyword to perform the search function.)

 4. Select the appropriate statute, administrative rule, or minimum standard.

 5. Select Choose from the *Finding* drop-down menu, and select *Save*.

Save and Download

 1. Save the draft form.

 2. Download the saved draft to CLASSMate before conducting the inspection.

##### 4161.2 Documenting Inspection Results on CLASS Form 2936

LPPH ~~June 2016~~ DRAFT 10312-CCL

Procedure

Licensing staff use CLASS Form 2936 Child Care Facility Inspection to document inspection.

All Inspections

Licensing staff documents:

 1. the finding (non-compliant, compliant, or pending) for each Licensing statute, administrative rule, or minimum standard that was evaluated during the inspection (see [4161.21](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4161_21) Documentation of the Findings Evaluated From the Inspection);

 2. technical assistance provided, if any (see [4154.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4154_2) Documenting Technical Assistance); and

 3. a list of any hazards that the operation must correct immediately.

If conducting an inspection at a licensed child care center, before- or after-school program, or school-age program, and the designated director is present during the inspection, Licensing staff selects the *Director Present* checkbox. See 4131 Minimum Requirements for Licensed Operations.

If conducting an inspection at a licensed child care center and the inspector evaluated the director’s qualifications during the inspection, Licensing staff selects the *Dir Qual Eval* checkbox. See 3331 Evaluating Director and Primary Caregiver Qualifications for Licensed Child Day Care Operations).

Initial and Monitoring Inspections

Licensing staff documents the review of restrictions and conditions by checking the …*items regarding risk to children…* checkbox (for initial and monitoring inspections only; see [4152](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4152) Reviewing Restrictions, Conditions, Waivers, and Variances);

Application, Initial, and Monitoring Inspections

Licensing staff documents whether Licensing staff assessed risk to children as required during the operation walk-through by checking the *…items regarding risk to children…* checkbox. Licensing staff check the *…items regarding risk to children…* checkbox for all application, initial, and monitoring inspections.

See:

[4151](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4151) Operation Walk-Throughs

[4156](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4156) Visiting an Operation to Conduct an Investigation Interview When the Operation Is Not the Subject of the Investigation

Background Check Requirements During an Application, Initial, or Monitoring Inspection

If conducting an application, initial, or monitoring inspection, Licensing staff documents information to indicate whether Licensing staff has ensured the operation has complied with background check requirements by selecting the *Background Checks have been Verified/Evaluated* checkbox (see [5380](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5380) Determining Compliance with Background Check Requirements); and

Background Check Requirements During an Investigation Inspection

If conducting an investigation inspection, Licensing staff documents information to indicate whether Licensing staff has ensured the operation has complied with background check requirements for principals and collaterals known at time of the inspection by selecting the *Background Checks have been Verified/Evaluated* checkbox (see [5380](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5380) Determining Compliance with Background Check Requirements).

Controlling Persons Verified During an Application, Initial, or Monitoring Inspection

If conducting an application, initial, or monitoring inspection, Licensing staff documents information to indicate that the inspector has discussed the list of controlling persons, as documented in CLASS, with the person in charge. If appropriate, the inspector checks the *Controlling Persons Have Been Verified* checkbox.

See:

[4153.3](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4153_3) Reviewing Information on Controlling Persons

[4171](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4171) Discussing the Results of an Inspection

[5400](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5400.asp#LPPH_5400) Controlling Person

Follow-Up Inspection

If conducting a follow-up inspection, Licensing staff document:

 • a list of all of the deficiencies or conditions being followed-up on and a finding of NC (deficient) or *CO* (compliant); and

 • a narrative explaining how the operation is compliant or the efforts the operation has made toward compliance.

#### 4165 Completing a Supplemental Inspection Form

LPPH ~~September 2012~~ DRAFT 10312-CCL

Policy

Staff create a supplemental Form 2936 Child Care Facility Inspection in the CLASS system only to:

 • document the final determination about an operation’s compliance with Licensing statutes, administrative rules, or minimum standards that were left pending during an inspection; or

 • correct errors in spelling, grammar, or content on the original CLASS Form 2936 Child Care Facility Inspection.

If deficiencies unrelated to an inspection must be cited, Licensing staff use CLASS Form 2939 Child-Care Facility Assessment. See [4200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4200) Citing Deficiencies With an Assessment.

Procedure

To complete a supplemental Form 2936 Child Care Facility Inspection, Licensing staff follow these steps:

 1. Select the appropriate inspection in CLASS.

 2. Update pending findings to NC (deficient) or CO (compliant).

 3. Enter the all of the following information in the Narrative field on the supplemental Form 2936:

 a. Description of the change that is being made.

 b. Statement that the supplemental Form 2936 replaces the original Form 2936 Child-Care Facility Inspection that was left at the operation on the date of the inspection.

 c. The date of the previous inspection.

 d. The posting requirements, if any apply. 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.

 4. Change the date of notification in the CLASS system to the date the supplemental Form 2936 is created.

 5. Save and finalize the second version of CLASS Form 2936 by selecting Save Final and Lock.

### 4310 How to Conduct a Follow-Up With an Operation

LPPH ~~March 2015~~ DRAFT 10312-CCL

Policy

When following up with an operation is required due to deficiencies, Licensing staff verify that deficiencies were corrected, which may include:

 a. reviewing records that had deficiencies;

 b. inspecting areas of the physical plant that had deficiencies; and

 c. observing activities related to health and safety.

Corrections of deficiencies must be documented within 15 days after the latest compliance date has passed.

#### 4311 Following Up With an Inspection

LPPH ~~March 2015~~ DRAFT 10312-CCL (title, rev)

Procedure

If Licensing staff determine that any deficiency requires a follow-up inspection, Licensing staff conduct the follow-up inspection as soon as possible, but no later than 15 days after the latest compliance date noted on CLASS Form 2936 Child-Care Facility Inspection. If Licensing staff determine that an operation is not in compliance, staff follow the procedures explained in [4313](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4313) When an Operation Continues to Be Deficient.

See also:

[4152](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4152) Reviewing Restrictions and Conditions

[4320](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4320) Exceptions to Time Frames for Completing a Follow-Up With an Operation

[4322](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4322) Granting an Operation Additional Time to Comply With a Requirement Cited as a Deficiency

[4510](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4510) The CLASS Risk Review and Enforcement Recommendations

[5120](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5000.asp#LPPH_5120) Setting and Monitoring Conditions for the Waiver or Variance

[5370](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_5300.asp#LPPH_5370) Risk Evaluation of Criminal History or Findings of Abuse or Neglect

#### 4312 Following Up Without an Inspection

LPPH ~~December 2015~~ DRAFT 10312-CCL (title, rev)

Procedure

If Licensing staff determines a follow-up inspection is unnecessary, the operation may demonstrate compliance by:

 • submitting information, such as inspection reports, invoices, photos, or videos, to Licensing by mail, fax, email, phone, or other electronical means that demonstrate the deficiency is corrected; and

 • submitting the information within 15 days after the latest compliance date noted on CLASS Form 2936 Child-Care Facility Inspection.

Licensing staff then reviews the information received from the operation to determine whether it has corrected the deficiency.

If Licensing staff determines that an operation is not in compliance, staff follows the procedures explained in [4313](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4313) When an Operation Continues to Be Deficient.

#### 4313 When an Operation Continues to Be Deficient

LPPH ~~March 2017~~ DRAFT 10312-CCL

Procedure

If an operation continues to be deficient after the deadline for correcting a deficiency, Licensing staff re-cite the deficiency during the follow-up inspection or by assessment (see [4200](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4000.asp#LPPH_4200) Citing Deficiencies With an Assessment).

In addition to taking one of the above actions, Licensing staff may:

 a. issue a warning letter and conduct a follow-up with an inspection;

 b. expedite the next monitoring inspection; or

 c. recommend enforcement action such as a plan of action, corrective action, adverse action, or administrative penalties.

See:

[4330](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4330) Sending a Warning Letter and Following Up With an Inspection

[4510](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4510) The CLASS Risk Review and Enforcement Recommendations

[7000](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_7000.asp#LPPH_7000) Voluntary Actions and Enforcement Actions

[Appendix 7000-1](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_7000_1.asp#LPPH_apx7000_1): Factors to Consider for Enforcement Actions

#### 4321 Granting Staff Additional Time to Complete a Follow-Up With an Operation

LPPH ~~December 2015~~ DRAFT 10312-CCL

Policy

Licensing staff may extend the established time frames for completing a follow-up with an operation if:

 • the operation unexpectedly closes; or

 • a condition exists that is beyond Licensing’s control (examples include weather-related office closures or natural disasters).

Licensing staff must obtain approval from a supervisor, program administrator, or district director to extend the follow-up time frame.

Procedure

If Licensing staff determines that an extension of the time frame for completing a follow-up is needed, staff consults with the supervisor, program administrator, or district director to request approval.

If the extension of the time frame is approved, Licensing staff documents the extension date, the date that Licensing approved the extension, and reason for the extension in the *Additional Documentation* field on the *Standard Details* page in CLASS.

#### 4322 Granting an Operation Additional Time to Comply With a Requirement Cited as a Deficiency

LPPH ~~December 2015~~ DRAFT 10312-CCL

Policy

Licensing staff may extend the time an operation has to comply with a requirement cited as a deficiency if the operation:

 • provides the reasons that an extension is being requested; or

 • has requested an administrative review of the deficiency, and the deficiency does not pose an immediate danger to children in care (see definition of immediate danger in [Definitions of Terms](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_px_Definitions_of_Terms.asp)).

Procedure

If an Extension Is Approved

Licensing staff notifies the operation about the approval (unless the extension is based on an administrative review of a citation) and then documents the extension in CLASS by completing the following steps:

 a. Open the inspection or assessment where the citation was originally issued;

 b. Change the date in the *Compliance Date* field to the new compliance date;

 c. Complete the following actions in the *Follow Up Information* section on the *Standard Details* page in CLASS:

 • Select the follow-up method in the *Follow Up Method* field

 • Enter the date the extension was granted in the *Follow Up Date* field;

 • Select *Extension granted* in the *Results* field;

 • Enter the following information in the *Additional Documentation* text box:

 • the date of the follow-up,

 • the follow-up method,

 • a statement that the extension was granted,

 • the date that Licensing staff approved the extension,

 • the original compliance date, and

 • the new compliance date (see [Examples of An Extension Documented in CLASS](http://intranet/CCL/Policy_and_Procedures_Plus/documents/Examples_Extensions_Documented_in_CLASS.pdf)); and

 d. Manually create a *To-Do* alert in CLASS to notify staff to follow up by the compliance date.

If an Extension Is Denied

Licensing staff:

 • notifies the operation about the decision; and

 • enters on the *Standard Details* page in the *Additional Documentation* box the date that Licensing denied the extension.

If the compliance date has passed and Licensing staff determines that the operation is still not in compliance, staff follows the procedures explained in [4313](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_4300.asp#LPPH_4313) When an Operation Continues to Be Deficient.